a right to obtain pornography or a right in someone to supply it was soon dispelled.[1347] The Court has consistently rejected *Stanley's* theoretical underpinnings, upholding morality-based regulation of the behavior of consenting adults.[1348] Also, *Stanley* has been held inapplicable to possession of child pornography in the home, the Court determining that the state interest in protecting children from sexual exploitation far exceeds the interest in *Stanley* of protecting adults from themselves.[1349] Apparently for this reason, a state's conclusion that punishment of mere possession is a necessary or desirable means of reducing production of child pornography will not be closely scrutinized.[1350]

Child Pornography.—In *New York v. Ferber*,[1351] the Court recognized another category of expression that is outside the coverage of the First Amendment: the visual depiction of children in films or still photographs in a variety of sexual activities or exposures of the genitals. The reason that such depictions may be prohibited was the governmental interest in protecting the physical and psychological well-being of children, whose participation in the production of these materials would subject them to exploitation and harm. The state may go beyond a mere prohibition of the use of children, because it is not possible to protect children adequately without prohibiting the exhibition and dissemination of the materials and advertising about them. Thus, "the evil to be restricted so overwhelmingly outweighs the expressive interests, if any, at stake, that no process of case-by-case adjudication is required."[1352] But, because expression is involved, the government must carefully define what conduct is to be prohibited and may reach only "works that *visually* depict sexual conduct by children below a specified age."[1353]

[1347] Paris Adult Theatre I v. Slaton, 413 U.S. 49, 65–68 (1973). Transportation of unprotected material for private use may be prohibited, United States v. Orito, 413 U.S. 139 (1973), and the mails may be closed, United States v. Reidel, 402 U.S. 351 (1971), as may channels of international movement, United States v. Thirty-seven Photographs, 402 U.S. 363 (1971); United States v. 12 200–Ft. Reels of Film, 413 U.S. 123 (1973).

[1348] Paris Adult Theatre I v. Slaton, 413 U.S. 49, 65–70 (1973) (commercial showing of obscene films to consenting adults); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991) (regulation of non-obscene, nude dancing restricted to adults).

[1349] Osborne v. Ohio, 495 U.S. 103 (1990).

[1350] 495 U.S. at 109–10.

[1351] 458 U.S. 747 (1982). Decision of the Court was unanimous, although there were several limiting concurrences. *Compare*, *e.g.*, 775 (Justice Brennan, arguing for exemption of "material with serious literary, scientific, or educational value"), *with* 774 (Justice O'Connor, arguing that such material need not be excepted). The Court did not pass on the question, inasmuch as the materials before it were well within the prohibitable category. Id. at 766–74.

[1352] 458 U.S. at 763–64.

[1353] 458 U.S. at 764 (emphasis original). Child pornography need not meet *Miller* obscenity standards to be unprotected by the First Amendment. Id. at 764–65.