

YES!

By JOSEPH C. WILLIAMS

FORUM

Justifiable I

IN March of this year, some 2,000 books were seized in Philadelphia bookstores on "obscenity" charges. The books *Gentlemen's Agreement* and *Focus* were recently refused as gifts to a New York high school library. In both Newark and New York City, school library subscriptions to *The Nation* were cancelled because of its publication of violent and intolerant anti-Catholic articles. Examples of censorship in the United States could be endlessly multiplied; in some cases, of course, the censorship has been unwise and harmful, in other cases, wise and beneficial to the community.

Those who oppose censorship *per se* believe that it has no justification in a democracy regardless of its possible beneficent effect. They contend that since democracy pre-supposes man a reasoning being, he must be able to judge for himself what is harmful and what not. By the same token, then, censorship is a denial of the democratic principle.

This, we contend, is a misunderstanding of the democratic philosophy. Man, we believe, is capable of reasoning; he is, in other words, educable. This is not to say, however, that he *wants* to be educated, or that he tries to *use* his critical reasoning powers. A glance at the United States on the eve of a national election should make these points clear. Man is a reasoning animal; he is also an emotional one, and when strong appeal is made to his emotions through the written and spoken word, he *unthinkingly* responds. In all truth, there can be little argument with this premise. Falsehoods, prejudices, hatreds,—unscrupulous or ignorant writers and speakers can appeal to all that is animal in man for their own ends. The question, then, is whether a democratic society has any justification for protecting itself against those who would distort its values, corrupt its moral standards, or destroy its basic philosophy. Those who say "no" point to the liberal Anglo-Saxon tradition of free speech. They quote Milton's *Areopagitica*:

"... as good almost kill a man as kill a good book," without scrupuling to quote the preliminary phrase "*Unless wariness be used.*" They quote the First Amendment to the Constitution without mentioning its interpretation by the courts. Let us then re-examine the evidence for and against a limited censorship, to determine its standing for ourselves.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

The clear wording of the First Amendment to the Constitution of the United States seems to grant an unconditional and uncensorable right of free expression. This is not, however, the traditional interpretation of the First Amendment, nor should it be. On the contrary, under any form of government, in any society, freedom is necessarily accompanied by social restraint. In a dictatorial government, the individual is limited in his personal liberty by the arbitrary desires of the dictator; in a democracy, the individual is restrained by law. Liberty, as we have come to understand it, is "liberty under law," "freedom of action so far as this may be without trespassing on the rights of others." "Freedom without limitation," writes William Ernest Hocking, "is a chimera. Concrete freedom is proportional not to the absence of rule but to the amount of rule it can absorb and turn into a ladder to achievement."

Accepting these premises, we accept also the doctrine that there has never been and can never be such a thing as unconditional freedom of expression in organized society. The

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Is Censorship A Democracy?

ONE of the basic tenets of democratic government is the liberty of the individual, and the most important liberty any individual possesses is freedom of thought, speech, and expression. It was in recognition of this basic truth that the framers of the Constitution added the First Amendment, guaranteeing freedom of speech and expression without *any* possibility of abridgement. And when we ourselves recognize this truth we see plainly that censorship is not justifiable in any democracy. In the United States today, censorship is practiced on both national and local levels. Nonetheless, it is legally, morally, and practically unjustified.

Legally, the words of the Constitution cannot be plainer. Despite cynical "wisdom," it is not true that "the Constitution is what the Supreme Court says it is." As we all know, the members of the Supreme Court agreed to a limitation of the freedom of speech and press in the *Schenk Case*, when Mr. Justice Holmes remarked that the character of every act depended on its circumstances. Despite the clear wording of the Constitution, he held it to be the right of the court to decide whether the utterance or printing of certain words constituted a "clear and present danger" to the government.

On the other hand, in the case of *The Associated Press v. National Labor Relations Board* (301 U.S. 103, 1937), the Court held that the National Labor Relations Act abridged the freedom of the press as it applied to the Associated Press. Mr. Justice Roberts declared in the course of this opinion:

. . . . those liberties enumerated in the First Amendment are guaranteed *without qualification*, [italics mine] the object and effect of which is to put them in a category apart and make them incapable of abridgement by any process of law. . . .

The destruction or abridgement of a free

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press—which constitutes one of the most dependable avenues through which information of public and governmental activities may be transmitted to the people—would be an event so evil in its consequences that the least approach toward that end should be halted at the threshold.

My opponent makes a somewhat hazy appeal to war and emergency powers in his efforts to justify political censorship today. I challenge him to show me one place in the United States Constitution which provides for the temporary abridgement of the right to free expression. There is no such provision! This is at once a dilemma and a protection for American democracy in crisis. In wartime, unfortunately, some small censorship may seem advisable; but insofar as democratic government exercises such control, it ceases to be democracy. We can understand this point more clearly if we use the Weimar Republic in Germany as an example. The abridgement of the right to free expression was expressly permitted in crisis. This dangerous exception helped to dig the grave of the German Republic.

All the supreme courts in the world cannot alter the plain meaning of the American Constitution; in the United States today censorship is legally unjustifiable; in plain words, it is unconstitutional.

Secondly, there is absolutely no moral justification for censorship in a democracy. Basic to democratic philosophy is the concept that the individual must be free to hold and to express his own opinions without interference or the fear of interference from the government, or from any organized group. As John Stuart Mill wrote of censorship in 1859:

Let us suppose . . . that the government is entirely at one with the people and never thinks of exerting any power of coercion unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by

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