

Downs (ed.): The First Freedom

Abner J. Mikva

Follow this and additional works at: <https://via.library.depaul.edu/law-review>

Recommended Citation

Abner J. Mikva, *Downs (ed.): The First Freedom*, 13 DePaul L. Rev. 184 (1963)
Available at: <https://via.library.depaul.edu/law-review/vol13/iss1/22>

This Book Reviews is brought to you for free and open access by the College of Law at Via Sapientiae. It has been accepted for inclusion in DePaul Law Review by an authorized editor of Via Sapientiae. For more information, please contact wsulliv6@depaul.edu, c.mcclure@depaul.edu.

the ever expanding power that enters into their determination limited and guided, however, as Schwartz explains, by the rule of law—the absence of arbitrary power, the subjection of the state and its officers to the ordinary law, and the recognition of principles superior to the State itself.

ROBERT G. WECLEW*

* Associate Professor of Law, De Paul University; J.D., Northwestern University, 1935.

The First Freedom. Edited by ROBERT B. DOWNS. Chicago: American Library Association, 1960. Pp. 469. \$8.50.

Among the booked people, censorship is frequently like the weather—everybody complains about it but nobody does anything about it. The American Library Association, therefore, has kudos coming for putting together a first-rate (and readable!) compilation entitled *The First Freedom*.

The bias of the book is clear and admitted, and book burners will find no solace in the work. As said in the Introduction, "No attempt has been made to prepare a debater's manual, with the pros and cons nicely balanced. In any case, such a balance would be difficult to strike, for the weight of the evidence is on the other side. . . . With rare exceptions, the banners and burners of books have not been highly literate folk." For one who agrees with that premise, and everyone should, the book is reassuring in the distinguished parade of contributors who cross its pages. Judges, both in their robes and wearing their citizens' hats, take healthy whacks at every form of censorship that has been propounded both in this country and abroad. The opinions of such judges as Curtis Bok, Augustus Hand, Jerome Frank and William O. Douglas in some of the landmark cases in the field are reprinted almost verbatim. In that respect the book is a most helpful research tool for the small bar that engages in the field of censorship.

This is not the paramount usefulness of the book, however. It is rather the breadth of opinion. Joining the judges are some of the best known names in literature and the arts, each with a different way of expressing their hostility to and the danger of censorship. Aldous Huxley describes the impossibility of a writer living within the fetters of the censorious. Ring Lardner's son, John, demolishes the Detroit Keystone Cops who are willing to purify literature for the whole country. George Bernard Shaw and John Galsworthy try to mesh the desires of the author and his readers in their relationship to censorship.

Throughout all of it, however, is the constant theme that censorship is not compatible with a free society. It is on this theme that the evidence is damning. Henry Steele Commager testifies in terms of "political censorship": "In every case it is society that is the loser. Our society can doubtless afford to lose the benefits of ideas or character in any one instance, but the cumulative costs of the intimidation of thoughtful and critical men and women is something no society can afford. . . . A society that discourages experiment will find that without experiment there can be no progress, and that without progress, there is regress."

To comment on Commager, it is easy to rationalize that a particular movie, a particular book, a particular magazine cannot spell the difference between

freedom and non-freedom. This is especially true since many of the current individual examples are less than spectacular on the merits: the comic book, the movie about the nudist colony, the book which has more four-letter words than plot—all of these can easily be swept under the rug even by the “liberals” who oppose censorship. How exercised can one get over the banning of a movie in which the propaganda zeal of the sunbathers is somewhat over-balanced by the money-making zeal of the producer? Yet, as Commager says, the cumulative loss of all of these *plus* the fettering effect on movies to be made and books to be written becomes unbearable.

The book, therefore, should be read by the liberals who are beginning to wonder if such items as sexy pocketbooks, “Playboy” magazine and nudist movies are really the causes for which the battlements should be mounted. There is a large and healthy dose of theory to sustain the practice in *The First Freedom*.

One could also wish that the proponents of censorship would read the book, if for no other reason than to cause them to re-examine the basis of their convictions. To this prejudiced reviewer, they would have to ask themselves, are they really protecting others from weaknesses or is it a personal vulnerability that is being assuaged. Leo Alpert, one of the lawyers writing in *The First Freedom*, recalls Samuel Johnson’s answer to the lady who objected to the presence of “improper” words in his dictionary: “Madame, you must have been looking for them.”

And the fact that the censorious are “looking” for these words is in turn a strong indication that they and many others suffer not from reading the wrong books but from not having read enough of the right books. Currently, a controversy is raging in England over a play entitled “The Representative.” Much can be said for the play and has been said by reviewers who have seen it. Much can be said against the play but thus far it has been said in almost every instance by people who have refused to see the play. Thus, the material for an enlightened debate on the subject matter can never be found. To carry forward that argument is to get at the very core of the complaint against censorship. How do you determine the true merits of “Lady Chatterley’s Lover” when (in most instances) only the people who like the book have read it?

Perhaps then, the most important chapter in the book is the twenty-six pages devoted to pressure groups and the problems they create. There is a sharp distinction between a “review” which says that a play or movie is not worth seeing and a “proscription” which says the play or movie must not be seen and even further, that the theatre which plays it will be boycotted. In the first instance, the pressure group (whether it is a movie critic or the National Organization for Decent Literature) is performing a useful function to those who desire to follow the advice. In the second instance, the pressure group is destroying the scale on which the merits of such works can be weighed. In a free society, the people shall judge and how can they judge if they cannot hear the evidence?

In other words, the right books are not only the books with which one agrees; frequently they must be the books that provoke, that upset, that disturb, that destroy shibboleths, in short, the troublemakers. For the censorious, *The First Freedom* is one of those right books.

ABNER J. MIKVA*

* State Representative, State of Illinois; J.D., University of Chicago, 1951.