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Free Speech for Me—But Not for Thee: How the American Left and Right Relentlessly Censor Each Other

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FREE SPEECH FOR ME — BUT NOT FOR THEE: HOW THE AMERICAN LEFT AND RIGHT RELENTLESSLY CENSOR EACH OTHER. By Nat Hentoff. New York: Harper Collins. 1992. Pp. 405. \$25.

With *Free Speech for Me — But Not for Thee*, Nat Hentoff¹ joins a growing number of critics decrying the resurgence of censorship in education, government, and mainstream society.² Hentoff collects approximately fifty examples, ranging from journalists and educators who cleanse their colleagues' texts of oppression or verbal violence (pp. 55-62) to Professor Catharine MacKinnon's bizarre alliance with religious fundamentalists that would outlaw expression that sexually subordinates women (pp. 336-55). Some of the examples are famous, some obscure, but regardless of whether the incidents he describes have attracted public attention, Hentoff typically expands upon the factual renditions by exploring the perspectives of the actors involved. Employing his skills as a newspaper columnist, Hentoff subjects the censors to libertarian scrutiny and discloses the interest-group politics that drive the suppression.

Hentoff's greatest asset, his ability to enliven the often predictable ingredients of these cases, ineluctably produces a prejudiced analysis. Like Justice Hugo Black, Hentoff is by all appearances a free speech absolutist, routinely dismissing arguments for censorship peremptorily and refusing to give credence to the humanitarian or egalitarian motives that underlie them.³ When he does acknowledge meritorious reasons for restricting expression in a case, he usually ridicules the reasoning as hypocritical, warns of dire results, and subordinates any potentially legitimate reasons for restricting expression beneath the higher ideals of a free and open society.

This book is not a polemic in the style of Rush Limbaugh, however. Hentoff distinguishes his book from commentary advocating political ends, and thoroughly secures his liberal credentials,⁴ by in-

1. Hentoff is best known for his syndicated newspaper column and his weekly contribution to the *Village Voice*.

2. See, e.g., ALLAN D. BLOOM, *THE CLOSING OF THE AMERICAN MIND* (1987); DINESH D'SOUZA, *ILLIBERAL EDUCATION* (1991); RUSH H. LIMBAUGH, *THE WAY THINGS OUGHT TO BE* (1992); JONATHAN RAUCH, *KINDLY INQUISITORS: THE NEW ATTACKS ON FREE THOUGHT* (1993).

3. For an often-cited defense of speech codes, for example, see Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 MICH. L. REV. 2320 (1989).

4. Throughout this piece I use Mill's classic definition of the word *liberal*, perfectly captured by this often-quoted passage:

Were an opinion a personal possession of no value except to the owner, if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation — those who dissent from the opinion, still more than those who hold it. If the

cluding examples of censorship from both sides of the political spectrum.⁵ By meting out the same treatment to the transgressions on both "sides," Hentoff subdues the instinctive reaction readers may have when an opinion or belief they hold is challenged. For example, after a withering attack on *Rust v. Sullivan*,⁶ the "gag order" case (pp. 90-98), Hentoff goes on to assail "the pall of orthodoxy on the nation's campuses."⁷

Indeed, the determined censorship efforts of educators draw particular ire. Hentoff paints an unglamorous picture of policies designed to safeguard the feelings of protected groups. His portrayal of academic speech codes is particularly unflattering. He provides powerful documentation of their dangers by relating the experiences of people who have challenged such policies, and he explores at length the inconsistency and hypocrisy of speech code proponents. What most disturbs Hentoff, however, are the implications such policies hold for the future. "Those of all colors who would beat down the devils of racism, sexism, homophobia, *et al.* by suppressing speech will . . . find that, inescapably, they . . . have no protection when the winds blow" (p. 184).

Hentoff devotes an entire chapter to "The Education of Yale in the Glories of Free Speech," documenting the rocky course that institution has charted since 1963, when Provost Kingman Brewster, who later became Yale's president, prevented Governor George Wallace from speaking at the university in order to protect "'the feelings of the New Haven Negro population'" (p. 103). After a fascinating review of Yale's turbulent history, Hentoff rescues its reputation by lauding the efforts of Benno Schmidt, who as president of Yale steadfastly and eloquently defended the imperative of speaking freely on campus.⁸

opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error.

JOHN STUART MILL, ON LIBERTY 16 (Elizabeth Rapaport ed., 1978) (1859).

5. Hentoff also offers up "liberal" credentials of another sort. As a columnist for the *Village Voice*, he has championed various causes, from opposing United States involvement in Vietnam to scathingly criticizing the policies of the Reagan administration.

6. 111 S. Ct. 1759 (1991) (upholding regulations prohibiting medical personnel from discussing abortion at publicly funded clinics).

7. P. 146; *see also* pp. 99-192.

8. Pp. 131-36. I cannot resist following Mr. Hentoff's example and offering a small sample of Mr. Schmidt's articulate rhetoric:

Moreover, universities have become saturated with politics, often of a fiercely partisan kind. Universities have indeed become the anvil on which young people, and often old as well, beat out their resentments at the incompleteness of life. The economic and political insecurities of universities, from within and without, have produced a style of academic leadership that tends to be highly risk-averse, queasy about defending academic values, and inclined to negotiate and propitiate about almost anything.

Thus, on many campuses around the country, perhaps most, there is little resistance to growing pressure to suppress and to punish, rather than to answer, speech that offends notions of civility and community. These campuses are heedless of the oldest lesson in the history of freedom of expression, which is that offensive, erroneous, and obnoxious speech is

The book occasionally suffers from Hentoff's efforts to provide a varied perspective. Those without a background in the erosion of federalist principles after the New Deal, for example, will not appreciate the significance of Hentoff's documentation of the Jehovah's Witnesses cases that reached the Supreme Court during the 1930s and 1940s; those who are aware of the conflict will probably find the legal analysis ponderous and incomplete. More irritating are the gratuitous references to Duke Ellington and jazz music and musicians,⁹ which add nothing to the book's message except as a pleasant diversion for those who share Hentoff's passion for that genre.

On the whole, however, Hentoff has written a book that reads quickly while it entertains and informs. Some may object to the billing in the book's subtitle, *How the American Left and Right Relentlessly Censor Each Other*, as deceptive — a quick classification of the examples discussed reveals five cases of censorship by the "left" for every case of censorship by the "right." Nevertheless, Hentoff's attempt at parity forces the reader to confront positions easy to embrace but difficult to defend. As he states, "censorship — throughout this sweet land of liberty — remains the strongest drive in human nature, with sex a weak second" (p. 17).

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the price of freedom. Offensive speech cannot be suppressed under open-ended standards without letting loose an engine of censorship that cannot be controlled. Vague and unpredictable possibilities of punishment for expression on campus not only fly in the face of the lessons of freedom, but are in addition antithetical to the idea of the university P. 134 (quoting Benno Schmidt, Speech at the 92nd Street Y in New York (Mar. 1991)).

9. The book's index identifies seven separate references to Ellington and jazz.