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A First Amendment Junkie

By: Susan Jacoby

Susan Jacoby (b. 1946), a journalist since the age of seventeen, is well known for her feminist writings. "A First Amendment Junkie" (our title) appeared in the Hers column in the New York Times in 1978.

It is no news that many women are defecting from the ranks of civil libertarians on the issue of obscenity. The conviction of Larry Flynt, publisher of *Hustler* magazine—before his metamorphosis into a born-again Christian—was greeted with unabashed feminist approval. Harry Reems, the unknown actor who was convicted by a Memphis jury for conspiring to distribute the movie *Deep Throat*, has carried on his legal battles with almost no support from women who ordinarily regard themselves as supporters of the First Amendment. Feminist writers and scholars have even discussed the possibility of making common cause against pornography with adversaries of the women's movement—including opponents of the equal rights amendment and "right-to-life" forces.

All of this is deeply disturbing to a woman writer who believes, as I always have and still do, in an absolute interpretation of the First Amendment. Nothing in Larry Flynt's garbage convinces me that the late Justice Hugo L. Black was wrong in his opinion that "the Federal Government is without any power whatsoever under the Constitution to put any type of burden on free speech and expression of ideas of any kind (as distinguished from conduct)." Many women I like and respect tell me I am wrong; I cannot remember having become involved in so many heated discussions of a public issue since the end of the Vietnam War. A feminist writer described my views as those of a "First Amendment junkie."

Many feminist arguments for controls on pornography carry the implicit conviction that porn books, magazines, and movies pose a greater threat to women than similarly repulsive exercises of free speech pose to other offended groups. This conviction has, of course, been shared by everyone—regardless of race, creed, or sex—who has ever argued in favor of abridging the First Amendment. It is the argument used by some Jews who have withdrawn their support from the American Civil Liberties Union because it has defended the right of American Nazis to march through a community inhabited by survivors of Hitler's concentration camps.

If feminists want to argue that the protection of the Constitution should not be extended to any particularly odious or threatening form of speech, they have a reasonable argument (although I don't agree with it). But it is ridiculous to suggest that the porn shops on 42nd Street are more disgusting to women than a march of neo-Nazis is to survivors of the extermination camps.

The arguments over pornography also blur the vital distinction between expression of ideas and conduct. When I say I believe unreservedly in the First Amendment, someone always comes back at me with the issue of "kiddie porn." But kiddie porn is not a First Amendment issue. It is an issue of the abuse of power—the power adults have over children—and not of obscenity. Parents and promoters have no more right to use their children to make porn movies than they do to send them to work in

First Amendment Junkie Essay

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Table of Contents First Amendment Junkie Essay

1. Understanding the eBook First Amendment Junkie Essay
 - The Rise of Digital Reading First Amendment Junkie Essay
 - Advantages of eBooks Over Traditional Books
2. Identifying First Amendment Junkie Essay
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an First Amendment Junkie Essay
 - User-Friendly Interface
4. Exploring eBook Recommendations from First Amendment Junkie Essay
 - Personalized Recommendations
 - First Amendment Junkie Essay User Reviews and Ratings
 - First Amendment Junkie Essay and Bestseller Lists
5. Accessing First Amendment Junkie Essay Free and Paid eBooks
 - First Amendment Junkie Essay Public Domain eBooks
 - First Amendment Junkie Essay eBook Subscription Services

- First Amendment Junkie Essay Budget-Friendly Options
- 6. Navigating First Amendment Junkie Essay eBook Formats
 - ePub, PDF, MOBI, and More
 - First Amendment Junkie Essay Compatibility with Devices
 - First Amendment Junkie Essay Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of First Amendment Junkie Essay
 - Highlighting and Note-Taking First Amendment Junkie Essay
 - Interactive Elements First Amendment Junkie Essay
- 8. Staying Engaged with First Amendment Junkie Essay
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers First Amendment Junkie Essay
- 9. Balancing eBooks and Physical Books First Amendment Junkie Essay
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection First Amendment Junkie Essay
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine First Amendment Junkie Essay
 - Setting Reading Goals First Amendment Junkie Essay
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of First Amendment Junkie Essay
 - Fact-Checking eBook Content of First Amendment Junkie Essay
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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