**A First Amendment Junkie** by Susan Jacoby

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 It the argument used by some Jews who have withdrawn their support from the American Civil Liberties Union because it has defended the right of American Nazis to march through a community inhabited by survivors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 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 coal mines. The responsible adults should be prosecuted, just as adults who use children for backbreaking farm labor should be prosecuted.

Susan Brownmiller, in “Against Our Will: Men, Women and Rape,” has described pornography as “the undiluted essence of anti‐female propaganda.” I think this is a fair description of some types of pornography, especially of the brutish subspecies that equates sex with death and portrays women primarily as objects of violence.

The equation of sex and violence, personified by some glossy rock record album covers as well as by *Hustler*, has fed the illusion that censorship of pornography can be conducted on a more rational basis than other types of censorship. Are all pictures of naked women obscene? Clearly not, says a friend. A Renoir nude is art, she says, and *Hustler* is trash. “Any reasonable person” knows that.

But what about something between art and trash—something, say, along the lines of *Playboy* or *Penthouse* magazines? I asked five women for their reactions to one picture in *Penthouse* and got responses that ranged from “lovely” and “sensuous” to “revolting” and “demeaning.” Feminists, like everyone else, seldom have rational reasons for their preferences in erotica. Like members of juries, they tend to disagree when confronted with something that falls short of 100 percent vulgarity.

In any case, feminists will not be the arbiters of good taste if it becomes easier to harass, prosecute, and convict people on obscenity charges. Most of the people who want to censor girlie magazines are equally opposed to open discussion of issues that are of vital concern to women: rape, abortion, menstruation, contraception, lesbianism—in fact, the entire range of sexual experience from a woman's viewpoint.

Feminist writers and editors and film makers have limited financial resources: Confronted by a determined prosecutor, Hugh Hefner will fare better than Susan Brownmiller. Would the Memphis jurors who convicted Harry Reems for his role in “Deep Throat” be inclined to take a more positive view of paintings of the female genitalia done by sensitive feminist artists? *Ms*. magazine has printed color reproductions of some of those art works; *Ms.* is already banned from a number of high school libraries because someone considers it threatening and/or obscene.

Feminists who want to censor what they regard as harmful pornography have essentially the same motivation as other would‐be censors: They want to use the power of the state to accomplish what they have been unable to achieve in the marketplace of ideas and images. The impulse to censor places no faith in the possibilities of democratic persuasion.

It isn't easy to persuade certain men that they have better uses for $1.95 each month than to spend it on a copy of *Hustler*? Well, then, give the men no choice in the matter.

I believe there is also a connection between the impulse toward censorship on the part of people who used to consider themselves civil libertarians and a more general desire to shift responsibility from individuals to institutions. When I saw the movie *Looking for Mr. Goodbar*, I was stunned by its series of visual images equating sex and violence, coupled with what seems to me the mindless message (a distortion of the fine Judith Rossner novel) that casual sex equals death. When I came out the movie, I was even more shocked to see parents standing in line with children between the ages of 10 and 14.

I simply don't know why a parent would take a child to see such a movie, any more than I understand why people feel they can't turn off a television set their child is watching. Whenever I say that, my friends tell me I don't know how it is because I don't have children. True, but I do have parents. When I was a child, they did turn off the TV. They didn't expect the Federal Communications Commission to do their job for them.

I am a First Amendment junkie. You can't OD on the First Amendment, because free speech is its own best antidote.