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BOOKS AND BIBLIOGRAPHY

BOOKS AND
THEIR RIGHT
TO LIVE

Elmer Gertz

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it for the first time, and it was as if an unrevealed part of my life suddenly flowered—which explains my calling this a sentimental journey.

When I was a youth there was a man in Kansas named Haldeman-Julius, a nephew by marriage of Jane Addams. He is one of the unsung heroes of America. The great paperback industry owes its existence to him. I think that in my generation we learned more about literature through Haldeman-Julius and his Little Blue Books than through any other means. My own first writing was done for him, and I have never ceased to be grateful to the man who first gave me a complete view of Shakespeare, the Greek and Latin dramatists, Molière, Strindberg, Ibsen and Shaw, and of many other writers whom I might otherwise never have read. And among those he introduced me to was Frank Harris. The unique Harris, a literary adventurer, had a particular appeal for people like myself. Regardless of his qualities or lack of them, he was the kind of writer who could stir up an interest in the arts, in letters, in public life. He was able to make you think of the written word as more important than any worldly goods. I began reading everything by and about Frank Harris: first, the Little Blue Books, and then every other source; and before long I found myself corresponding with Harris himself, although I was only a high school student at the time. I found myself thinking of writing a book about him, and it turned out to be the first serious study of him. (It was done in collaboration with Dr. A. I. Tobin, a Brooklyn dentist, which perhaps goes to illustrate the uncertain roots of literature!)

At about that time, Harris' *My Life and Loves* had been published privately abroad. Harris sent me copies of the work, but because the United States Post Office per-

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sisted in the opinion that I ought not to receive or read the books, the books did not get to me for a long while. Finally, a set got into my hands, and I prized it very much. Many years later, when my own son was all of 12, I saw him in my library reading *My Life and Loves* and was rather startled. I debated for a moment whether or not I ought to tell the venturesome Ted that he should wait at least until he was 13 or 14 before reading the book. Instead, I remained silent, thinking that he could not finish the book at one sitting, and that irreparable damage could not be done in an hour or two. Finally he stopped reading and went on to other pursuits, and I surreptitiously took the set and put it in a strongbox. I placed the strongbox in a concealed spot in our basement and forgot about it until our basement was flooded and that treasure of mine was ruined. Thus I learned the lesson that one should not censor any reading matter, not even for the young. The lesson may not have been proved with scientific objectivity, but this I know with certainty—something priceless vanished because I, as a parent, became a censor. It may be wrong to generalize from this episode, but at any rate it made a lasting impression on me.

But to go back to this early period when Frank Harris' *My Life and Loves* was the most forbidden of books. I knew that Harris had attended the University of Kansas in the early 1870's—at least, he said so—and I decided to check up on it. I got a list of his surviving classmates, and it seems that there was something about the Kansas air that bred longevity and memory during those years, and a number of those who had known Frank Harris when he was called James Thomas Harris or Jim Harris were still alive, including Hannah Oliver and Kate Stephens, professors of Latin and Greek at the university. Kate Ste-

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phens herself is worthy of study. I got to know her well in the last decade or so of her life, and became one of her close friends, even though we differed on Frank Harris and many other subjects. She was an Anglo-Saxon; I was an exotic "foreigner", although, like her, native-born. Despite my being one of those who had a kind of idolatry for Harris, I proofread her book, *The Lies and Libels of Frank Harris*. Even then I was walking both sides of the street—I have always embraced opposites. Kate Stephens paid tribute to my work in her behalf, and I treasure her warm words. Ambivalent at times, she generally summed up in my favor, although with misgivings. One of the things that I enjoyed doing this morning at the university was to look at my correspondence with Kate Stephens so piously preserved in the library. A doctoral dissertation, in which I am quoted frequently, was of special delight to me and to my wife. And with this, I relived part of the story of myself and Frank Harris and those who once surrounded him.

In my book on Harris, I had some very unkind things to say about *My Life and Loves*. I thought that, in part at least, it was in bad taste. I thought that, in part, it was motivated in an unworthy manner, and I presumed to pass judgment upon the man and the book. Yet I suggested, very doubtfully, that someday it might be published openly—never dreaming that when it was eventually so published I would be instrumental in the achievement. It happened in a very peculiar way, which illustrates how foolish it is to attempt to pass final fiat upon books. Now, Harris was an unholy creature with whom the professors of another era would not have cared to associate, but some professors at Michigan State University rated him very highly and published his *Oscar Wilde: His Life and Con-*

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fessions, with a very learned introduction, and announced that they were going to issue Harris' autobiography. This was something I really looked forward to—*My Life and Loves* with a university imprint! I waited and waited. Apparently the heads of the press decided that the trustees were less knowing, less tolerant, than they, and the next thing I heard was that St. Martin's Press of New York was going to publish the book. And I waited and I waited for St. Martin's Press to do so, but no definite word was forthcoming from them.

At this point, I resumed contact with my old friend, Arthur Leonard Ross, who was the executor of Frank Harris' estate, and suggested to him that I thought the publisher whom I represented would be interested in the book. This was Grove Press, publisher of *Lady Chatterley's Lover*, *Tropic of Cancer* and other such mild outpourings. I arranged a luncheon with Ross and the presidents of St. Martin's Press and of Grove Press, and John Gallagher, who was editing the Harris book, and of course my wife was present to see that we observed the proprieties. As a result of that luncheon, Grove Press issued *My Life and Loves* in unexpurgated form (with not a sexual act omitted) and waited for the heavens to fall. But they did not fall! Nowhere in the United States, as far as I know, has any distributor of this unexpurgated edition of *My Life and Loves* been prosecuted. It sold as a matter of course, and I suppose many people who read it wondered what all the shouting was about. It is mild fare, by today's standards.

Frank Harris will be looked upon as a back number in the company of my friend Henry Miller and others like him. The world has changed a bit—whether for better or for worse, I do not know. The *Saturday Evening Post*, in a

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surprising editorial at the time the *Tropic of Cancer* case was pending, asked the question, "After obscenity, what?" And it is a good question. The *Saturday Evening Post* has said that our old rules were wrong. Obviously, censorship is out of place. Obviously, too, the outspoken writing of our day is a protest against the Nice Nellyism of the past. It is good to have the atmosphere cleared, but it is good, also, to know that there is something more than sex in its naked form. It is good to know that there are things that transcend even the most delirious passionate passages. One day it is quite possible, perhaps even in my life time, that writers will discover that sex is not all. I would like to see publishers one day wake up to it, although it will probably put me out of a job, because very much of my time has been devoted to defending the freedom of the press—a perilous occupation! I am told that in Kansas the son of E. Haldeman-Julius, my boyhood mentor, has been having difficulty with the courts because of the alleged publication of obscenity. I am told, also, that members of the student body of the University of Kansas have shown a degree of responsibility for freedom of utterance and, in tangible ways, have assisted in the defense. I applaud them, if only out of tribute to the memory of E. Haldeman-Julius. I hope Henry Haldeman is freed from the fearful shadow of prison. I do not think any person ought to be under that shadow because of books. Books should open doors, not close them. I tend to believe with Justice Black that the first amendment to the Constitution of the United States means what it says. I was privileged to be present at the famous public interview of Justice Black when Professor Edmund Cahn of New York University Law School propounded a series of questions about the first amendment, and the judge made the very startling statement

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that when in the first amendment to the Constitution of the United States it says that the Congress shall make no laws abridging the freedom of speech or of the press, it means exactly that. Justice Black believes there should be no legal inhibitions in the right to read, to write, to publish. It may very well be that we are progressing in that direction. Certainly, recent Supreme Court decisions would indicate a very limited area for permissible banning of books.

Now, does that mean there are no bad books, that there are no books that should not be read? Of course not. There are many books that ought not to be written, ought not to be published, ought not to be read. But censorship is not the answer. By way of proof, I would like to call your attention to certain human failings that we have learned not to regulate by law. We do not call in the corner cop when our neighbor overeats and becomes as fat as a hog. We say he should not overeat, he should exercise more care, that too much weight leads to heart ailments and death. That is unquestionably true, but the policeman does not enforce good eating habits by scale. You know the only time a policeman enforces the law with respect to overweight is when you happen to be a truck. You have to be at the proper weight if you are a vehicle on the highway, but if you are a human being you are free to travel about regardless of weight. And this is well—not that overeating is good, but that we know that standards of intake are not to be enforced by the law.

In the same way, we have learned that you cannot use the law to enforce sobriety. We attempted it with tragic consequences in the case of Prohibition—that was really, as President Herbert Hoover said, a noble experiment. Drink is terrible: nobody should drink some of the stuff

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that they sell. And I suppose all of us ought to curb the quantity of what we drink. But we owe the present so-called Syndicate system of crime, large-scale organized crime, to Prohibition, and we also owe some valuable lessons to it. You do not enforce sobriety by the law and you do not enforce smoking or non-smoking habits by law. We know cigarettes are supposed to cause cancer. I anticipated that opinion by not smoking them, but I would be the first to fight against legal prohibition of the use of cigarettes. It therefore puzzles me when most of us, in fact practically all of us, accept the thesis that you do not enforce smoking, or drinking, or eating habits of any kind through the law, and then jump to the notion that you should use a policeman or the courts to enforce reading habits. And what reading habits? My tastes—your tastes—whose tastes are going to be enforced? Even those who ostensibly advocate complete freedom, place serious limitations upon it. In his great classic on the freedom of the press, *Areopagitica*, John Milton was for absolute freedom of the press, except for Papists. A lot of people are for absolute freedom of the press except for communists. I am amused by the recollections of one of my competitors in the field of Harris biography, the poet, E. Merrill Root, who wrote a lyrical account of Harris, and was very critical of me because my book was less than worshipful. Well, E. Merrill Root apparently would permit anything in the way of sex literature, but he has made a career, a crusade, of pouncing upon textbooks in the high schools and colleges because they are too radical or communistic in his judgment. And some of the writers who have themselves been the subject of obscenity battles are very intolerant of pornography. Pornography is what they themselves do not write. D. H. Lawrence, the author of *Lady Chatterley's Lover*,

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said he would suppress severely anything pornographic in intent. Pornography, he said, dirties sex; it leers at what is clean in life. He was rather shocked that anyone thought that *Lady Chatterley's Lover* was that kind of book. My friend Henry Miller is opposed to pornography, too. He is dubious about some novels that are widely read. He is dubious about a lot of the trash that is sold in every community. His own tastes run to Knut Hamsun and Isaac Bashevis Singer.

And that points up the real problem with any kind of censorship. Even if we assumed that books can do harm to the young or the old, how in the world are we going to enforce those standards? Take any book you can mention, and somewhere or other that book is permitted and somewhere or other it is banned. Who is right? Take *Tropic of Cancer*, for example. In the state of California alone there were three prosecutions of purveyors of the book. In one county, a bookseller was acquitted; in Los Angeles county, he was convicted and sentenced to prison—this was later reversed; in La Jolla, he was acquitted. The California higher courts wandered all over the lot; the appellate court upheld another Los Angeles court ruling against the book, and ultimately the California Supreme Court, in a magnificent opinion, overruled that decision. In Chicago, I was fortunate enough to win a case involving *Tropic of Cancer*. In Milwaukee, the judge in the lower court held the book obscene; the state's Supreme Court reversed. In Boston the book was declared obscene, and the Massachusetts Supreme Judicial Court reversed the ruling. In New York the book had been selling like mad for months and suddenly the Court of Appeals held it to be obscene. Everywhere there were different results, and it indicates to me a very obvious response. If it is so difficult to be sure

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that even as well read a book as *Tropic of Cancer* is, or is not, obscene, how in the world can we be confident about any choice? How do you know what is going to be the history of any book? Take *Ulysses*, for another example. *Ulysses* was banned everywhere—in Ireland, in England, in the United States, just about everywhere you can think of, even though for most readers it was unreadable because of its complexity. Suddenly, in an historic opinion in 1934, Judge Woolsey, upheld by the United States Court of Appeals, declared *Ulysses* to be not obscene, and, therefore, protected by the Constitution.

In the Chicago area, there is a highly esteemed Catholic girls' school, Barat College. At Barat College, a few years ago, there was a seminar on James Joyce, particularly *Ulysses*, and Cardinal Stritch himself delivered the keynote address. This once dirty book has become holy scripture, the subject of study by Jesuit scholars. Listen to the lesson of history. What I would suggest is that you ought to start at the finishing point and say that ultimately the issue is to be resolved in favor of freedom. Why not start there here and now?

There are all sorts of peripheral areas to this field that I ought to touch upon. You have a lot of people who fight vigorously for freedom. They are in favor of the right to read, to publish, and to sell *Tropic of Cancer*, *Tropic of Capricorn*, *My Life and Loves*, and every such work you can think of. But somebody publishes an anti-Semitic book, or an anti-Catholic book, or an anti-Negro book, and those lovers of freedom arise in arms. That's different, they say. Well, is it different? Does freedom mean freedom simply to publish what we agree with? Or does freedom mean the right to publish the wrong, the bad, what we don't agree with? Freedom includes the right to publish

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what is dangerous, and it is well that it should because it is only by taking a chance with the dangerous that we grow. The same impulse which has led us to conquer the skies will lead us to conquer the mind if we are not afraid of freedom. And the place to learn this is in a great university, or any place where the young are taught.

I think that one of the great needs of our day is to overcome this fear of books, this fear of words, this dread of the unorthodox, the unpopular. In a sense our whole age has been blighted by this fear. McCarthyism is in essence that kind of dread, and its variants today, here and behind the Iron Curtain, are the same thing. The nation which does more censoring of books than any other, except possibly the United States, Ireland and Spain, is Russia. In Russia they have very puritanical standards in literature. Far from being the haven of free love and free expression, it is a haven of the puritanical. The most bitter attack upon *Tropic of Cancer* that I have ever read appeared in a Russian literary publication. But even behind the Iron Curtain there are changes: the winds blow all things to all shores. An edition of *Tropic of Cancer* in Slovenian has been published recently in Yugoslavia. An edition of *Tropic of Cancer* has been published in Poland, one has been published in Czechoslovakia, and a Russian edition has been published in the United States. I suppose that is the next step to a Russian edition in Moscow. I would love to be able to present Khrushchev's successor with *Tropic of Cancer*, not because it is his particular kind of reading matter, but because it would be a symptom of the kind of changed world he ought to believe in with us. We will know that strife between nations is at an end when no nation fears the words of another nation. As a matter of fact, I sometimes think we fear words tossed at

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each other more even than the Atomic bomb. We have a sneaking feeling that, somehow, the Atomic bomb won't be used, but we know that words are going to be used. It may be that those words will defeat us with the kind of blast that the Communist Manifesto was more than a century ago. However one reacts to Marx and Engels and the Communists generally, that is one of the exciting chapters of world literature. Regardless of its contents or context, it was a call for a certain kind of intellectual freedom. That kind of manifesto ought to be issued in every age—a call for people to drop their fears of the new and unexplored; a call for people to embrace what they have previously called unembraceable. It may very well be that we run certain risks in the process; but we ought to run those risks. We have divine authority for our belief that in order to save our life we must risk losing it.

I would like to suggest this, too, while we are considering the matter of books, and what they do and what they don't do. We have many people, well-meaning people—parents, clergymen, teachers, and very often congressmen—telling us that pornography is a terrible thing, that dirty books are terrible things, and that even if they are not pornographic, an over-emphasis on sex is undermining our civilization, and not causing, as appears to be the case, today's population explosion. Normally, when we make strong statements, we are prepared to offer proof of what we say. Strange to say, there is little except what I call "cigarette testimonials" to prove that books—even the worst books—do harm to adults or even to children. It could very well be that some books do harm. I am not dogmatic enough to say that it is impossible that they do harm, but what I do say is that we ought to have evidence of this. Surely, it is hard to prove the case one way or the

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other, but we ought to make an attempt at it, particularly if we favor the burning of books. I do know this, that no experts who have made objective studies believe that sex-oriented books cause harm. Indiana University has its famous Kinsey Institute, which has studied the subject. Dr. Gebhart has told me that none of their studies indicate any adverse effect of pornographic books. Judges who handle rape cases and cases of sexual aberrations in general, say that there is no evidence that those who commit such crimes read *Tropic of Cancer* or *Lady Chatterley's Lover* or the like. They may read comic books, they may read scribblings on wash-room walls, but there is no evidence that they read literature before they commit their heinous crimes. The Psychology Department of Brown University made a study and reached the same conclusion. However, a lot of very fine people have asserted that books do have an adverse effect, but they have not attempted to prove it.

Some of them make the plausible argument that if books have a good effect, why should not they have a bad effect as well? If you are having a debate, that might be a good argument, but generally we decide such issues not with the technique of the court room, or the method of the debating team, but scientifically, with the disciplines of the social sciences, of psychiatry, and the rest. Some psychiatrists have told me that, far from causing harm, the reading of pornography may do good in some instances. It may domesticate passion, and, instead of raping co-eds, some young men may read the right kind of wrong book. That is a comforting thought. I am sure that many publishers would like some scientific evidence on the matter. I don't know if that is true, either, but I do know that nobody's say-so is enough in this field. We ought to begin to

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have something more than that. That does not mean necessarily that if we find that books have an adverse effect the corner cop or the courts ought to jump into the field. It means that it will place added responsibilities upon society as a whole: parents, teachers, clergymen, and others. There are other means of enforcing taste than in the courts: the courts are the least effective means. Generally, what happens is this. A book is published in hard-cover form and it costs five or six dollars, and thus by definition, as it were, it is not pornographic. Let it be published in a paper-back edition selling for 50c or 95c; then it is assured of wide audience, and it becomes pornographic. In other words, the poor cannot read; what they attempt to read is pornographic. If you are rich enough to buy the expensive books, then you are reading literature. It seems to me that in a democratic world this is not the kind of philosophy we ought to have. We should not have first and second class readers. We ought to have the same privileges for all readers. Even if you merely borrow a book from a library, you ought to have the same rights with respect to reading it as the people who can afford to buy the expensive editions. That seems so simple as not to require argument, but we have all sorts of rules in our society that are irrational. We say a library has to enforce standards of taste. Does it? Or is it supposed to be a repository simply of what is published, subject only to budget limitations, or to the particular requirements of the school or the community? Does a librarian have any more right to pass literary judgment than the policeman who reads the top paragraph on page 5 of the paperback edition of *Tropic of Cancer* and instantly decides it is obscene? It seems to me that freedom is a very broad terrain. It requires free scope. Whenever you think of any limitation, you are instantly setting up

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rules that are going to make real freedom impossible. In other words, freedom requires self-discipline; it requires surroundings that will breed taste; but essentially it requires the absence of restrictions.

If I were to say what is wrong with our civilization, I would say that people do not read enough; they do not even read enough junk. You often form taste by reading junk and you gradually progress to the better. I know, to be autobiographical, which is always a joy, that when I was young I read at the same time the books of Horatio Alger, Victor Hugo, and Charles Dickens. Hugo and Dickens and others like them survived; Horatio Alger disappeared. My children never heard of him, the youth of today have never heard of him. A natural process of attrition sets in, and the better material survives. I have confidence in that process of the better books surviving. And you will never know the better unless you sample the worse.

How do you form judgments? Is it by having only what somebody has decided is the best presented to you? Or is it when you have an atmosphere in which you read almost everything from A to Z, from the worst to the best, and gradually, if the proper influences come to bear upon you, you will choose the best. Now that does not mean that everyone would choose the same thing, because your best may be my worst. I know of many highly esteemed authors whom I find unreadable. And I have many favorites whom nobody else likes. That is their eccentricity and my good taste. At the same time, one of my eccentricities is that I am glad to let everyone else have the same freedom I ask for myself.

When you have a system of censorship, you imperil the souls of the censors, so to speak. Why should any persons, whether the policemen, the judges, or the jury, be

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subjected to what is bad? If it is bad, if it is corrupting, then the judges are going to be corrupted. Now, when they become corrupted, they will no longer be able to judge fairly. And I suspect that has happened. Some of the opinions of the judges bear every mark of moral and intellectual and literary corruption. In one country, Guatemala, I believe, the basis of censorship is that a work is lacking in artistic merit. So far as I know, in Guatemala there is no other test of what can be censored—if a work lacks artistic merit, it can be censored. I am not aware of any world masterpieces that have come out of Guatemala, but they are quite satisfied that they are tolerating only works of artistic merit.

In the course of the *Tropic of Cancer* litigation, I had an interesting experience in the field of theology that has given me a good deal of pause. I was cross-examining one of the adverse witnesses, a clergyman whom I had known well; I had worked with him and I respected him a great deal. He had testified that in his judgment *Tropic of Cancer* is obscene. In the course of cross-examination, I found all sorts of interesting things about this man. He thought the police were better equipped to act as censors than were preachers. I don't think that he wanted them to occupy his pulpit. He just wanted them to exercise judgment for him. Finally I said to him, "Reverend, do you agree with St. Paul when he says that to the pure all things are pure", and he replied, "No", and I then decided that if a Methodist minister did not agree with St. Paul, I could not argue further. It seems to me that St. Paul, whatever his intentions (and I am sure that he did not have *Tropic of Cancer* in mind) uttered a profound truth when he indicated that what is good and bad in reading or in life is largely a subjective matter—a thing that comes out of our experi-

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ences, out of our minds, out of our souls, if you will. Each one of us has his own inviolable soul which is entitled to equal respect.

A good many people ask, why should one individual decide that he is going to read, sell, or publish a particular work if the overwhelming majority think of the work as bad, as obscene, as harmful? That misses the very point of the Bill of Rights, the essence of the first amendment, the exaltation of the freedom of speech and press and religion. What the first amendment means is this: that you have certain rights that nobody can interfere with; no group can interfere with them; the entire population of the United States cannot interfere with your right to read what you please. It is not a matter of majority vote; it is not a matter of a consensus. It is a matter of individual determination. That is the spirit, not simply of the first amendment, but of the entire Bill of Rights. It is not democracy, it is a kind of tyranny when you believe that the majority, whether in a university or a city or in a state or nation, can enforce taste, can determine whether this thing or that ought to live or die. Judgments are not always infallible, even when delivered by a Pope or from Sinai. That is why a judgment should always be on the side of freedom rather than suppression. That is why nobody has the right to be cocksure about his petty personal likes or dislikes. You can take the vote of every human being and they may all reach a particular judgment. Socrates, they may say, has corrupted the young and they may kill him—and then Socrates lives to be the inspiration of generations. Wycliffe publishes the first unauthorized Bible in England and is burnt; his memory is cherished thereafter. A man is clapped into prison; he becomes a hero in due time. I do not know how many great books

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have been written in prison. Nehru used to say that he got his post-graduate education in English prisons. Of course, Adolf Hitler might have said a similar thing about *Mein Kampf*. Others got enlightenment and grace from prisons: Cervantes, Bunyan, Wilde, Villon—you can run through a glorious roll call of literature and be amazed at how many received their education in prison. I happen to have a client who was once under sentence of death, and we were fortunate enough to save his life. He has published one book, called *Burn, Killer, Burn*, and is in the process of writing another. He will not be able to publish it while he is in prison, because the prison authorities have decided that a prisoner does not have the freedom to publish. As a matter of fact, Paul Crump was thrown into solitary confinement some months ago because one of the prison guards did not like his literary style. That is not a burlesque; it is the truth. In a sense, I suppose, the whole world is a prison. We get clapped into solitary, as it were, because we run counter to the mores of the community. It is a rough, tough thing to stand up and speak out in spite of that overwhelming pressure of the community. Almost everything that endures runs counter to that community pressure. What is popular in its day is often enough dead the next day, whether in books, in thought, or in any respect. That is why it is so important to have a climate in which books live.

How do you translate what I have said into your daily lives? You can determine that you are going to support freedom in your own community, even if you are disgusted with the particular writer or a particular book or idea. It is not enough to applaud a speaker or to applaud Judge Woolsey's opinion in the *Ulysses* case, Judge Epstein's opinion in the *Tropic of Cancer* case, or any num-

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ber of other opinions. Freedom really begins right here at home, on the college campus, or in any village or town. Nobody should permit local tyrants or little bigots to determine what is permissible reading matter. Nobody should stand by while a librarian is terrorized or teachers tormented. That is how freedom dies—when one does not stand up in each and every instance for the crackpot, the crank, the extremist, the one who is so unused to life that he thinks he can do as he pleases, regardless of the community. He is the man who is going to make the world safe for our children; he is the man who is going to make the great inventions which are often the crazy ideas of dreamers; and he is the man who is going to give a new birth to freedom everywhere—a freedom that will assure our safety more than nuclear strength, more than big battleships, and more than almost anything you can think of. The word alone endures. When the word is killed, life dies. Without speech, spoken and written, life is meaningless; we become only as the animals. I hope none of us takes joy in a bovine existence: I hope we are men, not cattle.

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