I!Se to the NEWS

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PORNO SHOP DECISION

Although many people have mistakenly been led to believe otherwise during the last decade, the rights guaranteed in the Bill of Rights are not and were never intended to be absolute. They all have limits defined by the U.S. Supreme Court. The only right that is absolute is the right to believe.

The First .Amendment right to freedom of speech and press, for example, is not, was never intended to be, and should not be an absolute right to say or print anything you want. Your right to free speech and press ends where the rights of others begin. You have no right to utter obscenities, blasphemies, profanities, libels, or slanders because those acts interfere with the rights of others. You have no right to commit a public nuisance, a public indecency, or a public disturbing of the peace. In Oliver Wendell Holmes' famous phrase, you have no right to cry "fire" in a crowded theater.

One of the unfortunate legacies of the Earl Warren Court was the overturning of the law on obscenity that .Americans had respected for 178 years. By ruling FOR obscenity dealers in 36 out of 38 cases in 1967, 1968, and 1969, the Warren Court enshrined the pornographer's right to commit his public nuisance above the right of all the rest of the people to live in an orderly and decent community.

In many of these cases, the Supreme Court did not issue any opinion supporting its decision or even reveal which of the Justices approved the decision. The Court just handed down anonymous per curiam decisions that reversed the convictions of smut peddlers found guilty

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by l(l;'C!eil ,jt.1.rh SJ, an.d ther by st1'·:i.pped tlte cmmunities of all legal powt'-r to c1£,:fern:, tbemselve again t ol)sctmi ty. The result of permitting the smut peddlers to clothe themselves in radical new interpretations of the !"1.rst .. .mem.11:nent has 1,eer; the pomogrRphy explosion of the 1970s.

(:ue of the nmjor changes tl1.iZ!t Cbie:f Justice Burger ma.de was to reaffirm the law on obscenity that had existed prior to the Warren Court. Jn 1973 Burger wrote tl:\E- optniciu specifically holding- that "obscene material is not protected by the First Amendment," that it can be regulated by the states, ano tbat the courts will honor corn muni ty st,mdards rather tha11 enforce a national standard.

I'be latest decision on pornography shows that the Supreme court :re;,l i?:es that civilized cities must hevA adclt t,i.onal mea.ns of prc,tecting their <Ji tizens against the rn.1bli<': <"li$rli1y Of moral garbage. 1'he ::,upreme Gou1·t 110,, recognizes that pornogrHpb.y is an na(unittedly :;erlm.ts p:;roblen,," that cities must be permitt1'.)d to try "to preserve the quality of urban life,n and therefore must. be allowed "a reasonable opportunity to experiment with solutions."

l'e can thank the Court's 11ewest .Justice, Jobn l1aul Stevens of <;lltcago, for recognizing the problem in t,be b!.g ci tieo and permi tttng t.h,>.iti to deal with it by zoning laws whieh either disperse X-rated movie theaters and so-called ttadult"' bookstores, as Uetroit does, or r.<.•.i.1cer..trate f3t1Cb ob,.jectionable busine-tiuHH;i in one area, as Roston does in what is called its 1'com_bat zone." .At any rate, it is for tile c.lity to decide, not the Federal courts.

The new supreme Court decision won't Dliminate the porno !)lague, but it is a big step in the xight tiirection. It should encourage city cotmc ll.$ and local lnw cnforet m•:nt oft'i iala to go into action ,s ;;fifn,:.,t ?Ul>l ic nuisances such a porno shops and movies anc.', mos sage ,:.:,nrlors.

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