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Commentary

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COMMENTARY

Professor George Haimbaugh*

Hard by the areas discussed by Professor Loeber lies Germany, which, due to its current separation into two entities, provides another area for the study of contrasting attitudes toward nonconformity. I would like to consider two factors contributing to conformity or diversity in one medium of expression — the cinema.

For me, such diversity may depend less on constitutional guarantees than on whether a government seeks conformity through centralized control of the film industry or promotes diversity by the diffusion of economic power over it.

Looking back, first, to the years before the partition, or the Zusammenbruch of 1945, it is interesting to note that when General Von Ludendorff was impressed by such Allied propaganda films as "The Beast of Berlin," and got the German Imperial Government to buy a majority of the shares of the leading German film company, Ufa, he had the sensitivity to warn that "it must not become known that the State is the buyer." And we may note that the public disclosure, in the early '20's, of secret investment by the Republican government in Phoebus Films resulted in the resignation of the War Minister and in the liquidation of Phoebus. And we note, also, that lacking a Sherman Act, by which it could obtain a Paramount-type decision, the German government, from 1929 to 1931, held stock in Emelka Films in order to keep it from being purchased by Dr. Alfred Hugenberg, the political leader, who already controlled the Ufa and Deulig film companies.

When the National Socialists came in, in 1933, the powers given the new Propaganda Ministry to control film scripts, tax rebates, and prize money, did not satisfy Dr.

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Goebbels, who directed the government's heavy reinvestment in Ufa and the establishment of the Reich Film Chamber, the powerful industrywide organization by means of which Goebbels was able to eliminate anti-Nazis from key positions and use the industry to propagate what he called "the ideas of the New State."

After the conquest of Germany, Truman, Stalin and Attlee announced the Potsdam Agreement, the most important part of which, for film makers, was Article Twelve, a commitment to the elimination of excessive concentration of economic power. In the East, Article Twelve has been observed only in the breach. Rather than break up the lion's share of Ufa, which fell to them, the Soviets, in their zone of occupation, licensed it under the name of DEFA, as the sole producer of films. They organized a State-owned, State-directed corporation, Progress, as the one distributor of films. They expropriated almost all motion picture theaters and turned them over to the Land governments and the Party; and they have recently organized a film school near Berlin, which is modeled after the film school that Mussolini established in the '30's near Rome. Ticket prices were then subsidized.

Hadn't Lenin said, "The cinema is, for us, the most important of all the arts"? As Dr. Loeber and Dr. Schibel have made clear, under these circumstances, censorship, in the ordinary sense, is redundant.

Zhdanov, at the founding meeting of the Cominform in Warsaw in 1947, warned that artistic expression must not stray from political channels. And Minister-President Grotewohl announced that art was subordinate to politics and that "art for art's sake does not exist."

After the Berlin riots of 17 June 1953, however, Grotewohl asked that films be "more interesting and more entertaining." But he added that all DEFA films, whether war epics or love stories, must conform to the principle of socialist realism.

As a guest of DEFA the following year, I remember seeing them work on a Grimm's fairy tale on one set, and then being taken to see an elaborate Hamburg waterfront set, built for the film "Dangerous Cargo," the heroes of
which were longshoreman who had refused to unload the first shipment of NATO supplies to arrive in Europe. And DEFA had just completed a costly film biography of the early German Communist Party leader, “Ernst Thälmann,” made with the technical assistance of Russians who had produced the Soviet film “The Fall of Berlin,” which shows how Stalin won the Second World War in spite of Roosevelt and Churchill, who were portrayed as being secretly in cahoots with Hitler!

In East Germany, DEFA is still the only producer of feature films. Progress is still the only distributor, and the State and Party maintain their joint control over exhibition. After all, there are the examples of Hungary and Czechoslovakia, and there are also twenty Soviet divisions in East Germany—fifteen more Soviet divisions than are stationed anywhere else outside the Soviet Union.

After the War, the Allied governments in West Germany ordered their share of Ufa liquidated and turned back into private hands. Today there are many competing producers, distributors, and exhibitors there. Except for regulations affecting children, the only censorship is of a voluntary nature, carried out by the industry according to a production code patterned after Hollywood’s. During the system’s first twenty years of operation, 1949 to 1969, the code administration, known as FSK, viewed eleven thousand one hundred and twenty feature films, of which eleven thousand twenty-nine were approved. Films classified as “especially valuable” get tax benefits. James Joyce’s “Ulysses” and Andy Warhol’s “Trash” are recent recipients of this valuable award.

The nonconformity in expression resulting from decartelization is reinforced in the West by constitutional guarantees. In 1951 the City of Lüneburg forbade, in the interest of public order, “The Sinner,” a film about seduction, prostitution, alcoholism, murder, and suicide, and it also included an erotic party of fallen youth in Nazi Germany. The Constitutional Court decided that the people of Lüneburg didn’t need protection from the film as much as the film needed protection from priest-led demonstrators. The court was faced with the same question as the monkey who painted his tail green, looked in the mirror, and observed, “It’s pretty, but is it art?” The court found that the film was
art and, therefore, entitled to the protection of Article Five, Paragraph Three, of the Basic Law.

More recently an extension of the rule laid down by the United States Supreme Court, in the case of Stanley v. Georgia, was applied in Germany in a decision permitting an individual to receive pornographic film, in this case from Denmark, for his private use.

Both Germanies are pledged to the realization of a united nation. When that is achieved, the possibility of nonconformity on the German screen will depend at least as much upon the economic philosophy of the government of the re-unified country as upon constitutional guaranties of freedom of expression.