NEW YORK SOCIETY FOR THE SUPPRESSION OF VICE

“Morals, not art or literature.”

—Anthony Comstock, New York Society for the Suppression of Vice

The New York Society for the Suppression of Vice, founded in 1873, sought to combat the corrupting influences of the growing city. Anthony Comstock served as the Society’s guiding force for 42 years. Under his leadership, the Society targeted lotteries, mail fraud, and “objectionable” art and literature.

To determine whether a particular work was objectionable, Comstock proposed a single question: “Can this book or picture or play hurt any one morally, even the weak?” If the answer was yes, he explained, “All else is of minor consequence.”

In 1873, Comstock successfully lobbied the United States Congress for tougher obscenity laws. The Society worked by pursuing the enforcement of these laws as well as exerting pressure on publishers and booksellers. By 1905, Comstock claimed that the Society had made over 23,000 arrests and destroyed 98 tons of “unfit matter.”

Upon Comstock’s death in 1915, John S. Sumner assumed leadership of the Society. His prosecution of popular, mainstream literature from major publishing houses and his use of intimidation soon created a censorship furor.
NEW ENGLAND WATCH AND WARD SOCIETY

“Massachusetts knows what decent literature is.”

—Rev. J. Frank Chase, New England Watch and Ward Society

Originally founded in 1878 as a branch of the New York Society for the Suppression of Vice, the New England Society for the Suppression of Vice severed ties with New York and adopted its new name, the New England Watch and Ward Society, in 1891.

In 1890, the Society successfully lobbied for the expansion of Massachusetts’s obscenity statute to cover materials “manifestly tending to the corruption of the morals of the youth.” This allowed them to prosecute printed materials based on subject matter alone, even if the works did not specifically contain “obscene, indecent, or impure language” as outlined by the original statute.

When Methodist minister J. Frank Chase assumed leadership of the Watch and Ward in 1907, he immediately and unapologetically began pursuing vice in its various forms: raffles, gambling, prostitution, provocative photographs, and art. Chase and his committee of like-minded booksellers began making national headlines in the mid-1920s as they removed Sinclair Lewis’s *Elmer Gantry*, Ernest Hemingway’s *The Sun Also Rises*, Theodore Dreiser’s *An American Tragedy*, and a host of other works from their shelves.

By the end of the 1920s, the phrase “Banned in Boston” was sweeping the country, and writers including Upton Sinclair and H. L. Mencken were reaping the benefits of the publicity.

The Society’s influence began to wane in the 1930s, but new Boston censors emerged to challenge Lillian Hellman’s play *The Children’s Hour* and the very disparate novels *Strange Fruit* and *Forever Amber*. 
BOOK-OF-THE-MONTH CLUB

“Publishers submit all their important books to us. These go through the most careful reading routine now in existence. At the end of this sifting process, our five judges choose one book as the book-of-the-month.”

—Book-of-the-Month Club advertisement, Life Magazine, October 30, 1939

In 1916, Harry Scherman left his work as a successful copywriter for the J. Walter Thompson advertising agency to join forces with publishers Charles and Albert Boni to produce the Little Leather Library. These small format editions of the classics were offered as premiums with other products, sold at department stores, and eventually offered through mail order.

Scherman realized that selling only classics necessarily limited the purchases any one customer would make over time. So in 1926 he founded the Book-of-the-Month Club to offer new works to readers by mail. He attempted to overcome potential resistance to new titles and authors by offering books pre-screened by a panel of highly-qualified judges.

To judge the manuscripts submitted by publishers, Scherman selected journalist Heywood Broun, professor and editor of The Saturday Review Henry Seidel Canby, writer and advocate of education reform Dorothy Canfield Fisher, writer and columnist Christopher Morley, and respected newspaper editor William Allen White.

Being a Book-of-the-Month Club selection promised increased sales, so many publishers and writers willingly eliminated material that Scherman or his judges thought might offend their readers.

By expurgating manuscripts before they went to press, the Book-of-the-Month Club altered the way Americans read the works of writers from Erich Maria Remarque to Richard Wright.
“I think I should be inclined to favor some kinds of censorship, except for the fact that the censors almost invariably prove themselves stupid and reactionary. On this account I almost always find myself opposing censors; and sometimes the censors have been opposed to me.”

—Upton Sinclair in Laughing Horse, 1930

Though rarely with a unified voice, American writers challenged the censorship that had come to dominate American literary culture.

Many banned writers, including Ben Hecht and James Branch Cabell, turned to satire to ridicule those who found their works offensive. Publisher Samuel Roth mocked New York Society for the Suppression of Vice leader John Sumner in his Diary of A Smut Hound.

Increasingly nervous and frustrated, some writers and publishers sought legal advice in advance of publication or edited down their own work to avoid prosecution. Others who were not content to alter their work turned to European publishers who would handle manuscripts that American publishers were afraid to touch.

The growing power of Adolf Hitler made European publishers more difficult to find, especially for writers like Sinclair Lewis whose work took aim at established religious and political structures. The infamous 1933 Nazi book burnings galvanized American opposition to censorship and years later became a central image in American World War II propaganda.
“We now have 27000 new censors, for every village p.m. is barring books at will. This seems incredible, but it is a literal fact.”

—H. L. Mencken, Letter to Frank Harris, July 19, 1926

On March 3, 1873, the United States Congress passed the Comstock Act and the Post Office assumed new powers to restrict distribution of obscene materials through the mail. This included any “obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image on or of paper or other material.” The act also prohibited the mailing of contraceptives and information about contraception or abortion.

A 1922 Supreme Court decision upheld the right of the Post Office to revoke second-class mailing privileges for publishers who issued “non-mailable matter.” Justice Oliver Wendell Holmes, Jr. dissented arguing that the Postmaster General should not have the power to become “universal censor of publications.” Writing twenty years later, the Postmaster General explained that the second-class mailing privilege was looked upon as “a certificate of good moral character.”

Individual postmasters were at liberty to determine the obscenity of any particular item, so seizure of materials varied widely. At stake were not only the mailing privileges of magazines like *The Little Review* and *Two Worlds Monthly*, but also informational pamphlets like Marie Ware Dennet’s *The Sex Side of Life* and advertisements for “obscene” books.
“All these books are worse than opium... I would rather have a child of mine use opium than read these books.”

—Senator Reed Smoot, *Congressional Record*, March 17, 1930

The Customs Service was created in 1789 by the fifth act of the first Congress of the United States. In April 1927 the Customs Service was formalized into the Customs Bureau within the Treasury Department.

The earliest customs agents focused on the collection of tariffs, but their duties soon expanded to include issues related to immigration and public health. By 1842, customs officials had been tasked with preventing “obscene” materials from entering the country.

Individual agents were empowered to decide if items were obscene, thus there was a wide discrepancy in the seizure and destruction of works that crossed American borders. One customs official might not take issue with a book that another official deemed obscene. When an inspector could not reach a decision, he or she could send a questionable book on to the Treasury Department for a ruling.

In an effort to regularize this process, postal and customs officials met in 1928 to draw up a list of books that could neither be imported nor mailed. The resulting list of 700 books established a more standardized approach to literary censorship.

However, in 1929, when Senator Reed Smoot (Utah) and Representative Willis Hawley (Oregon) introduced a new tariff bill to the United States Congress, the debate over the role of customs officials in determining the obscenity of literature raged with renewed vigor.

Four years after the passage of the Smoot-Hawley Tariff, a new position was created within the Treasury Department and a thoughtful attorney named Huntington Cairns became the official censor of materials that came in through the Customs Bureau.
"We wish to advise you that a copy of James Joyce’s novel, entitled ULYSSES, has been despatched [sic] into this country, addressed to our client. We are informed that the volume left on the “Bremen” on April 28, and is due at the Port of New York on Tuesday, May 3, 1932."

—Letter to the Collector of Customs from Greenbaum, Wolff & Ernst, May 2, 1932

During the interwar years, many obscenity trials were instigated by organizations like the New York Society for the Suppression of Vice and representatives of federal agencies. Writers, booksellers, and publishers frequently were surprised by prosecution and bewildered by the legal system.

However, in the case of the Ulysses trial of 1933, attorney Morris L. Ernst and publisher Bennett Cerf actively sought a trial. Excerpts of Ulysses had been legally printed in The Little Review and pirated by publisher Samuel Roth, but no American publisher had produced an authorized edition of Ulysses. Cerf wanted his firm of Random House to do so, but he wanted to clear the book of obscenity charges before it went to press.

Materials from the Morris L. Ernst Collection reveal the extensive preparation for this obscenity trial: planning for the confiscated edition of Ulysses to have critical opinions pasted in, sending surveys to libraries and booksellers, and gathering support from noted writers and cultural figures.

The decision by Judge John Munro Woolsey in the initial case cleared the novel of obscenity charges and Random House started producing Ulysses. The government appealed, but on August 7, 1934, the United States Court of Appeals for the Second District upheld the decision.

Anti-censorship activists were hopeful that the Woolsey decision would lay the groundwork for fewer restrictions on literary work in the future, but obscenity debates in the United States would take on a renewed intensity following World War II.
THE END OF OBSCENITY?

“...obscenity as the term has been commonly understood—the impermissible description of sex in literature—approaches its end. So far as writing is concerned, I have said there is no longer any law of obscenity. I would go farther and add, so far as writing is concerned, that not only in our law but in our culture, obscenity will soon be gone.”

—Attorney Charles Rembar, The End of Obscenity, 1968

In the years after World War II, new organizations like the National Organization for Decent Literature and Americans for Moral Decency replaced the vice societies of the interwar years. Publishers again became nervous about obscenity charges. Out of fear of prosecution, Rinehart & Company decided not to publish Norman Mailer’s The Deer Park even though it had already been typeset. Many of the books that had occupied pro- and anti-censorship advocates in the interwar years returned to the public’s attention.

D. H. Lawrence’s Lady Chatterley’s Lover had been the focus of censorship efforts of the New York Society for the Suppression of Vice, the New England Watch and Ward Society, the Post Office Department, and the Customs Bureau. Its confiscation by a customs agent had been largely responsible for Senator Bronson Cutting’s effort to remove obscene books from the 1929–30 tariff bill. When Grove Press printed an unexpurgated edition in 1959, the book again became the center of controversy and legal proceedings until a court of appeals put an end to the matter in March 1960, and the book was permitted to circulate freely in the United States.

Following the success of Lady Chatterley’s Lover, Grove Press released Henry Miller’s Tropic of Cancer, a novel that had been banned from American shores since its publication in 1934. On the basis of the Lady Chatterley decision, customs officials lifted the ban and the Post Office declared the novel mailable. Local district attorneys, however, were not persuaded, and over fifty cases against the novel were brought to various state and local courts. In 1964, after a Florida case made its way to the U. S. Supreme Court, Tropic of Cancer was legally sold and distributed throughout the United States.
J. FRANK CHASE ON “THE NEW PURITANISM”

As I read officially the product of the New York Publishers of novels, I have to recognize that the writers have 57 varieties of creeping things, and abominable beasts in their hearts… Sit in my office day in and day out, and hear the moral tragedies recited, and you will realize that out of the heart are the issues of life, and these tragedies are often connected with vile books and pictures. A whole High School Class of unwedded mothers may be the result of a lascivious book…

The modern writer of best sellers seems to me to make money not only because he is a fine story teller, but because he is so shameless as to expose his mind indecently in a public place. Indecent exposure has always been penalized under our common law, and consists in uncovering the parts of the body which decency requires to be covered in a public place.

An author who shocks the sense of public decency differs little from a lewd and wanton and lascivious person—“a common night walker; both male and female,” who earns money by pandering to the passions of either sex.

I will not mention any of the titles of these recent books as I do not care to advertise them. The test of whether a book is, or is not illegal is very clear according to our United States decisions. Here is the decision as laid down by our courts.

This system of enforcing the law against the purveyors of indecent literature is the American System of Censorship. It is censorship by the people who are represented by the average citizens on our new juries. It seems the best method yet devised. However, in Boston we are fortunate in having a fine highminded set of booksellers and their association has appointed a Booksellers Committee. When a bad book appears if it is convictable the Booksellers Committee itself notifies the trade throughout the State, and quietly it is immediately withdrawn. If it be sold thereafter, the law is applied by law enforcement agencies. Many books have thus been suppressed…

Massachusetts does not mean to have her boys and girls, her young men and women polluted by books which the New York Publishers put forth as money makers. Massachusetts knows what decent literature is… and Massachusetts intends to see that her opinion is respected.

Speech delivered April 13, 1926
Text courtesy of Enoch Pratt Free Library
SENATOR REED SMOOT ON OBSCENE LITERATURE

On the conclusion of my remarks I shall submit for the examination of Senators a number of typical importations rejected by the Customs Service. These are but a few illustrations of the filthy books that are being imported by various individuals. Thousands of these books are seized and destroyed by the customs officials every year...

I am not objecting to the admission of these books for any political reason, but I am objecting to the admission purely on my understanding of the duties of a father and an American citizen and a legislator in the interests of the great mass of our American citizenry...

The principal point made by the opposition probably is that there is no excuse for barring the so-called classics on account of the obscene portions thereof.

I repeat what I said in the debate referred to that “it were better, to my mind, that a few classics suffer the expurgating shears than that this country be flooded with the books, pamphlets, pictures, and other articles that are wholly indecent both in purpose and tendency, and that we know all too well would follow the repeal of this provision” and that even if in one of these old and rare books there is any obscene matter it ought to be kept out and never permitted to go to the youth of the land.

In submitting to the Senators for inspection the books which have been obtained from the Treasury Department, I call particular attention to the book [D. H. Lawrence’s *Lady Chatterley’s Lover*] for whose admission the Senator from New Mexico made a special appeal to Secretary Mellon, which book is pronounced by the man in the Customs Bureau who handles these books to be the vilest one that ever came into the bureau.

*Congressional Record, March 17, 1930*
NEGOTIATING OBSCENITY

In 1928, David Moss was charged with possession of obscene materials following a raid on the Gotham Book Mart. John Sumner, the head of the New York Society for the Suppression of Vice, and his agents seized over 800 books from the famed bookstore.

When the case came before the judge, Moss pled guilty on the basis of the obscenity of only six titles: *My Life and Loves, The First Temptation of St. Anthony, The Wild Party, Advice on Marriage, Woman and Puppet*, and *Sex Histories*. Moss contended, however, that the remaining books were not obscene.

Following his conviction, Moss wanted to limit the store’s financial losses and sought to reclaim the books not specifically addressed in court. Moss’s attorney, Edward S. Greenbaum, colleague of famed anti-censorship attorney Morris Ernst, wrote to Sumner regarding the disposition of the remaining seized books.

What ensued was a lengthy correspondence between Greenbaum and John Sumner in which they debated the merits of a wide variety of books from the *Joy Peddler* to the seemingly innocuous *A Key to the Ulysses of James Joyce*.

While both men were clear during the course of their correspondence that any decisions regarding these works should not be considered legally binding, Sumner publicly exploited Greenbaum’s concession of *The Adventures of Hsi Men Ching* in the Society’s 1931 annual report.
SECTION 305, SMOOT-HAWLEY TARIFF

In 1929, Senator Reed Smoot (Utah) and Representative Willis Hawley (Oregon) introduced a new tariff bill to the United States Congress. The primary motivation for the new bill was economic, but, like previous tariff bills, it also included a section devoted to restrictions on the importation of obscene materials.

When the House of Representatives added a clause that included a ban on printed matter “advocating or urging treason, insurrection, or forcible resistance to any law of the United States,” protests against the act began to emerge. Senator Bronson Cutting (New Mexico) extended the critique to the proposed ban on obscene literature, prompting a volatile and divisive debate on the Senate floor.

Cutting offered several amendments before the successful approval of one that removed “books” from the list of obscene materials and limited the scope of the House of Representative’s added treason clause.

Smoot, however, reserved the right to vote on the amendment when the full bill reached the Senate, so in March 1930, book censorship again took center stage on the Senate floor. After much debate, the Senators approved a new amendment that returned “books” to the bill, but allowed for the admission of “classics” and works of “established literary and scientific merit,” and mandated that obscenity cases be heard in federal courts with the right to a jury trial and appeal.

On June 17, 1930, the Smoot-Hawley Tariff became law.