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Who is the Enemy; Anthony Comstock or You?

.....

By *Edwin C. Walker*

.....

There can be no defeat in freedom's cause
Save for the moment. Though its flag may fall,
Yet it will rise again, and sweep in light;
For all our hope is in its glowing folds—
The hope of ages, the undying hope
That beamed on Marathon and Salamis,
And ever yet hath grown more sweet and great.

—*Samuel P. Putnam.*

.....

As I stand aloof and look there is to me something pro-
foundly affecting in large masses of men following the
lead of those who do not believe in men.

—*Walt Whitman.*

.....

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2. To create a fund for the printing and free distribution of leaflets, tracts, and pamphlets.
3. To systematically increase the circulation of the periodical publications devoted to the cause of sex rationalism and freedom.
4. To devise ways and means to reach the people through the ordinary papers, magazines, and reviews, and from the platform.
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*I'm a moral regulator, and I feel it is my mission
To keep my fellow-citizens from traveling to perdition;
I feel my mission in my bones, I'm made to regulate
The morals of my fellow-men and keep my neighbors straight.*

*I hunt for sin on every trail, through wood and swamp and mire,
And when I drive it from its lair I lift my gun and fire;
I hunt the sin through bidden ways, through many a covert path,
And pulverize the sinner with the thunder of my wrath.*

*Born was I in a sinful age, a sinful neighborhood;
My fellow-townsmen all were bad and not a soul was good.
So, in this town of Shadigand, when I was young and strong,
I told the Shadigandians that they were foul with wrong.*

*My neighbors' sins filled me with grief almost beyond control.
The weight of Shadigandian sin was heavy on my soul
"I'll make this place as virtuous as any in the land,
I'll make," said I, "a virtuous town this town of Shadigand.*

*"The time will come," I said, "'twill come when sin will disappear,
When in this town will not be found a single sinner here."
And I have done the thing I said—a work of some renown—
For now, to-day, there is not left one sinner in the town.*

*I'd meet men on the highways and I'd show them they were bad,
And give them all a catalogue of all the sins they had;
I'd greet them in the fields at work and look them in the eye,
And cry aloud and spare them not and smite them hip and thigh.*

*I'd follow them to market, and I'd follow them to mill,
And show their gross perversities of thought and deed and will;
And then I'd seek them in their homes, and preach for days and days,
And show to them the fearful wrong and error of their ways.*

*And I convicted them of sin; they all began to go;
Yes, they all trickled out of town in one continuous flow;
And my own wife and family departed with the rest,
And left this town of Shadigand an unpolluted nest.*

*And so my prophecy came true that sin would disappear—
There's not one sinner left in town—I'm all the soul that's here.
But you, Sir, you're a sinful man—foul sin your soul has bid—
What's that? you're going to leave the town? Just what the others did.*

SAM WALTER FOSS, in "Songs of War and Peace"

WHO is the ENEMY;
Anthony Comstock.
or You?



By EDWIN C. WALKER



Difficult as it will be, it has become, in my opinion, imperative to achieve a shifted attitude from superior men and women towards the thought and fact of sexuality, as an element in character, personality, the emotions, and a theme in literature. I am not going to argue the question by itself; it does not stand by itself. The vitality of it is altogether in its relations—like the clef of a symphony.—WALT WHITMAN.



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CONTENTS

THE "MORAL" CENSORSHIP

The Inspiration of the Censor,	7
A "Protection" that Betrays,	10
Utter Lack of Discrimination,	12
Vain Denial of Facts,	18
A Greater Wrong to the Child,	15
Some Officers' Zeal,	16
Imagined "Plots,"	18
The Law as Administered,	19
The Vicious Law of Obscene Libel,	21
Obscene Libel and Expert Testimony,	28
Judge and Jury and "the Facts,"	25
Some Criticisms Answered,	27
The Common Law Yesterday and To-Day,	29
Wrong Principles of Action,	31
The Censorship and the Bible,	32
Moncure D. Conway on Censors,	35
Where Lies Responsibility—on Censor or You?	36
The Cause of Slow Advance,	38
Sex a Mistake—"Somebody Blundered,"	41
Superstition Not Seriously Crippled,	48
The Worship of Death and Decay,	45
Characteristic Eruptions of Sex Panic,	47
THE "FRAUD ORDER" FRAUD,	49
Remarkable Deliverance by Judge Thomas,	50
The Courts and the Constitution,	52
The Persecution of "Freedom,"	54
Grateful for Injuries Received,	57
THE CENSORSHIP OF SECOND-CLASS MATTER,	58
The Department's Rules of Exclusion,	59
Statistics of Official Financiering,	60
Two Arguments About Government Socialism,	62



Summary
Fr. 602
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WHO IS THE ENEMY; ANTHONY COMSTOCK OR YOU?

[These pages, in the main as here printed, were read before The Manhattan Liberal Club on Friday evening, January 23, and Friday evening, February 6, 1903.]

That is to say, whence comes this Censorship, from the Censor or from the people? Who is responsible?

But, first, of what censorship am I speaking? As regards our postal facilities, we have at least five forms of surveillance and suppression.

First, there is the fundamental interference, the immediate cause of all the others, the government monopoly of mail distribution, a monopoly which enables any fanatical and active clique to dictate what may or may not be carried in the mails, on any grounds of inclusion or exclusion.

Second, there is the censorship on moral (sexual) grounds, to which I shall here confine my attention.

Third, there is the indirect censorship made inevitable by the absurd regulations of the Department concerning "second-class" mail matter, a censorship due to business incompetency inseparable from governmentalism, an incompetency naturally at its worst in a nose-counting democracy or republic, a "collectivity." The evil once implanted cannot be reached be-

cause of the lack of individual initiative and responsibility.

Fourth, there is the censorship created by anti-lottery legislation, and,

Fifth, the censorship which is operated through the "fraud order" sub-division of the Postal Department, by means of which an unconventional publication easily may be suppressed.

Leaving out of particular consideration now the basic interference with the free circulation of written, printed, and otherwise expressed thought—the *immediate* source of all subordinate forms of interference—that is, monopoly by government of carrying and distribution, which we must assume to be a permanent evil, so far as we can see, while the *primary* cause, human stupidity, remains the colossal and dense mass which it is now, we come to the moral (sexual) censorship known in the vernacular as "Comstockism."

This is to be examined, First, in relation to the initiative and responsibility of the Censor, ANTHONY COMSTOCK, Agent of The Society for the Suppression of Vice, and, Second, in relation to the responsibility of the people.

In his address before the Brooklyn Philosophical Association, on December 7, 1902, and in his replies to his critics on that occasion, he unclothed himself to us with a fulness and a frankness that were alike startling and saddening. Even those of us who had followed him closely from 1873, when he procured the passage of the "Comstock" postal law, until the present time, even those of us who have watched his proceedings in court, were not prepared for the revelation he made that Sunday afternoon in Brooklyn. We were not prepared, even with our knowledge of his methods, for his evasion of issues, for his reckless denials of matters of record, for his mocking professions of belief in the principle of freedom of utterance, for his fervent piety that subordinates to its demands all the requirements of fair play, justice, equity, and truth. And yet—paradoxical as it may seem—I am much less inclined to doubt his sincerity than I was before I heard him

speak. I do not know in what sense Mr. PENTECOST uses the word when he speaks of the Agent as sincere, and I am not sure that I shall make you perceive the sense in which I use it in the same connection. I do not mean, of course, that he does not know that some of the statements he makes are unequivocal untruths, as, for instance, when he denies that D. M. BENNETT was prosecuted for mailing BRADFORD'S "How Do Marsupial Animals Propagate Their Kind?" and his own "Open Letter to Jesus Christ." But three facts must not be ignored: (1) The Censor is deeply religious; (2) he is ignorant of literature, and (3) he is the victim of incurable sex-phobia. He is a monomaniac; he believes he has a mission, the extirpation of what he calls obscenity. He believes, with many noted Christian apologists of earlier ages, that no faith is to be kept with the infidel, that bearing false witness is a smaller sin than the toleration of iniquity. In a word, he has become convinced that the end justifies the means. He is at war with vice and in war the moral code is suspended. I know many critics of the Censor and his methods who profess the same faith in other fields of "reform." It is a state of war, they say; we choose the lesser of two evils. They are sincere, beyond doubt, for they, too, have missions, but they are wrong and the Censor is wrong. No end, however laudable, justifies suppression of investigation, experiment, and expression. And this denial of the justifiableness of suppression is not based on an abstraction, a theory, but on the experience of mankind. It is an induction from the records of our race. The Censor has not learned this all-important lesson. He can not learn it. He is wedded to a moral delusion, as was TORQUEMADA, as was LOYOLA, as was CALVIN. He is energetic and determined, as they were energetic and determined, and a man with a mission, who has energy and determination, but is without scientific understanding of his kind and who believes in the freedom of the human will, is bound to be a scourge to his race, and his power for mischief is in direct ratio to his sincerity and the singleness of his idea and purpose. Such a

man is the Censor, the Agent of the Vice Society, and his sincerity consists not in devotion to the word of truth but in his intense conviction that the world is going straight to hell through the gateway of sex unless he can stop its mad gallop in *some* way, and *any* way is to be used if the *best* way, the way of truth, will not avail. Sincerity is a great virtue if it have brains and a fine sense of justice behind it; without brains to guide it and the impulse of justice to temper it, it is damnation.

In his opening speech in Brooklyn, the Censor gave himself full credit for the enactment of the federal statute under which he has committed nearly all his worst outrages, and yet when he was confronted with some of those outrages he sought to escape responsibility therefor by saying that other persons had instigated the prosecutions. But the prosecutions in the federal courts would not have been had there been no federal law on the the subject, and if the Censor is to be permitted to congratulate himself on the adoption of the law, is he to be allowed to escape first responsibility for what takes place under the law? I think not. If a publication can be prosecuted which "*may* have a tendency to excite lustful thoughts in those into whose hands it *may* fall," is not the man who drew such a loose and catch-all provision morally liable for the acts of other informers and prosecutors, saying nothing of his first responsibility as drafter of the law as a whole? I think he is. Such a definition of "obscenity" is no definition. As I said during the discussion, there is scarcely a book in the world but some part or parts of it might have that effect upon some individuals. "May have" and "may fall" scarcely give sufficient basis for the confiscation of property and incarceration in the penitentiary. It can not be told beforehand what effect the publication may have, it is extremely difficult to trace a given effect to a certain publication, and if, in rare instances, such tracing is possible, it remains to be shown that the effect is evil. Who is to decide as to this—the Censor or a man or woman of broader culture, deeper sympathy, and greater respect for the sexual work of

“god”? And if this book *may* fall into the hands of some in whom it *may* excite sexual feelings, and *if* this supposed stimulation of sexuality in certain unknown individuals *may* be an injury to those individuals, shall we consent that the whole body of the literature and art of all the people be put into the keeping of one narrow, uncultivated man, that freedom of speech and press cease to be in all our domain within the boundaries of the seas? I say “uncultivated” advisedly, for no man of refined instincts and broad culture would seek or accept such a commission. *He* would shrink in disgust from the thought of the impertinence and presumption which must constitute the main equipment of a censor.

In Brooklyn the Censor told his audience that its members had the “broadest scope” for their opinions. He omitted to say he was sorry this was so in so far as he had been unable to prevent. And he also failed to say that he was doing all he could to make it impossible for them to act upon their opinions if his opinions and theirs did not coincide. He knew there were many classical works he had suppressed or kept out of the regular channels of trade, making them inaccessible to many persons who desire to possess them. He knew that he had suppressed a number of reformatory works and had tried to suppress others. What, then, becomes of the asserted freedom of opinion of those among us who think these books are good or who desire to read them that we may form our own opinions? That day MONCURE D. CONWAY was one of the audience of the Censor. If Dr. CONWAY had wanted to procure EMIL REUDUBUSCH’s “Old and New Ideal” the Censor would have informed our foremost man of letters that *he*, the Censor, considered the work to be immoral and it had been suppressed under his law. And yet Dr. CONWAY is told that he has the “widest scope” for his opinion of this work! And there were hundreds in that audience who had no opinion of IDA C. CRADDOCK’s books because this professing lover of freedom of opinion had driven the books into hiding and the woman herself into the grave. It is a fine thing to hold a

position of authority which enables one to use his hands in gagging the mouth and bandaging the eyes of a man and at the same time glibly employ his tongue in telling his victim what a wonderful amount of freedom he has to see and to describe what he has seen!

A "PROTECTION" THAT BETRAYS.

In his Brooklyn defense the Censor made the most possible, as he always does, of the "protection" which he says he and his society give to the children of the land. In fact, this alleged service is the only even apparently valid reason for the existence of his law and his society. The way in which he has enforced the law shows that there is not even an apparent reason for his own existence. Practically all the work he has done which has lifted him out of obscurity and given him the notoriety of the mediocre fanatic has consisted in attacks on the masterpieces of literature and art and on the productions of earnest humanitarian reformers whose argumentative and often heavy philosophic style in itself was sufficient to keep their works out of the hands of children. This, however, is the very opposite of an admission that those reform publications would injure children if children were able to procure them and possessed a taste for such reading. The two crying needs of the age are men and women who can write down to the comprehension of children, write interestingly and instructively on the science of sex, and have liberty for the wide dissemination of their works. As it is, the vast majority of our children, in all ranks of society, get their first information regarding sex and get the bulk of it from sources and in forms that can not fail to make them feel that it is a degrading factor in their natures, something of which to be ashamed, to be spoken of in ribaldry, and indulged in secret and in the least healthful ways. The chief effect of the Censor's law and of his own mischievous activity has been to check the progress of the sexual education of the young. Every time he has prosecuted a writer or publisher who was putting forth books on this subject which were calculated to

make their readers think seriously and seek for the causes of social ills, he has done far more to degrade and destroy our girls and boys than all his alleged suppressions of "really" obscene publications have availed to elevate and preserve them. Our reform writers and publishers are the mental creators of teachers for the young, and if they may not do their part of the needful work there will not be the teachers to do their part. The ignorance, indifference, cowardice, and prudery of parents and other teachers are great enough, bad enough, and destructive enough without having them put under the protection of special statutes and of a society the positions of whose agents would be valueless to their holders if the society ever made those statutes really effective. The ignorance, indifference, cowardice, and prudery of parents and other instructors are great enough, bad enough, and destructive enough without making felons of those who try to put knowledge in place of ignorance, substitute sympathetic interest for indifference, give to those who have the young in their care the courage of their knowledge, and crush into death the harlot-snake of prudery under the throne whereon sex sits as queen-creator of all we love and respect.

That the Censor's object is more the suppression of religious and social heresy than the "protection" of children against mercenary dealers in books treating of sex with Christian and conventional disrespect, is proven by the facts of a score of his most famous "cases," the cases that have given him nine-tenths of the notoriety of which he seems to be so proud. The history of his work proves this or it proves that he is woefully lacking in the power of intelligent and honorable discrimination. That he has *some* ability to discriminate, that he can discriminate in his own way, is apparent when we see the weak whom he has attacked and the strong whom he has left untouched. It is clear that he does not intend to cripple himself or end his mission by frontal or even flank assaults on purveyors who are well-intrenched. A conspicuous instance in point was the *Knoedler-Evening Telegram* episode,

of several years ago. The art dealers were prosecuted on the ground that they had exhibited obscene pictures, but when the newspaper reproduced in its columns the incriminated paintings the hot zeal of the Censor underwent a wonderful transformation. The mercury of his moral wrath dropped from the boiling point, passing zero with meteor speed and landing plump in the bulb of do-nothing. To be sure, where one of his wards, one poor child, had seen the paintings in the windows of the art-store on the fashionable thoroughfare, a thousand children, newsboys and others, saw them when reproduced in the newspaper which went into every nook and corner of the city and its environs, yet the Censor disdained to pick up the glove dropped by the challenger, the powerful publisher. It was one thing to hunt little birds in the orchard; quite another to go after big game in the jungles of wealth and power. To some natures "sport," to be really enjoyable, must be all on one side. That is why pigeon-shooting has more adepts than has pugilism.

UTTER LACK OF DISCRIMINATION

The apparent utter inability of the Censor to distinguish between the publications which popularly are supposed to be the particular objects of his vigilance and indignation, and books and papers which deal seriously with sex-social problems, proves, as I have said, either that the real object of his enmity is heresy of various kinds, or that he is, on other grounds than that of disqualification because of conservatism and bigotry, completely incompetent for the position he holds, granting momentarily for argument's sake that that position is a necessary one in the social economy. It is not necessary, I am convinced, but grant it and then measure his actions by the standard of supposed utility thus created: If he is after what is commonly known as "obscenity," and after that only, as his misguided defenders claim, why the prosecution of Dr. Foote for sending "Words in Pearl" to his adult patients? why the repeated attacks upon E. H. Heywood for the publication and circulation of earnest discussions of vital

social questions? why the arrest and long-continued persecution of MOSES HARMAN for the circulation in print of the "MARKLAND Letter," a letter protesting in perfectly scientific terms against a peculiarly atrocious case of rape in marriage? why the arrest of D. M. BENNETT for the sale of Rev. A. B. BRADFORD'S scientific treatise, "How Do Marsupials Propagate?" and Mr. BENNETT'S "Open Letter to Jesus Christ"? why the later arrest and imprisonment of Mr. BENNETT for mailing "Cupid's Yokes," a dry discussion of marriage? why the suppression of EMIL RUEDEBUSCH'S "The Old and the New Ideal"? why the repeated prosecution of persons in the colony at Home, Washington, for honest writing on issues of interest to all thinking beings? why the many assaults on the works of IDA C. CRADDOCK, a series of assaults ending in her death, and why more than thrice this number of other equally vicious attacks on men and women because their views were not the views of the Censor?

VAIN DENIAL OF FACTS

In the discussion following his address in Brooklyn, I confronted the Censor with a few of the many outrages named or indicated in the foregoing paragraph; he ignored all except the prosecution of D. M. BENNETT for mailing "Marsupial Animals" and "Open Letter." In regard to this matter he said that Mr. BENNETT was *not* prosecuted for mailing these two pamphlets. Possibly he salved his conscience by the reservation that arrest is not synonymous with "prosecution," the word I had used; but his reply was a direct and unrelieved falsehood in effect, in so far as its intended impression upon all uninformed persons in the audience was concerned. The facts that destroy his denial are: In 1877 the Censor visited the premises of Mr. BENNETT, looked over his stock, and included among his purchases the "Marsupial Animals" and "Open Letter." To get the case into the federal court, he wrote to Mr. BENNETT from Squan Village, New Jersey, over the signature of "S. BENDER." This decoy—I beg his pardon, this "test" letter—called for several publications, includ-

ing the two now famous pamphlets. Receiving them, on November 12, 1877, he appeared before the Editor of *The Truth Seeker*, armed with a warrant from a United States Commissioner and accompanied by a United States Marshal. He arrested Mr. BENNETT, seized all copies of the two tracts that he could find, and took his prisoner before United States Commissioner Shields, who fixed bail at \$1,500, which was given. Then the Censor went before the grand jury, told his story, and a bill of indictment was found against BENNETT. A little later Colonel INGERSOLL called the attention of the Washington officials to the two pamphlets and they were asked if such publications, in their opinion, came under the operation of the law against obscenity. The result was that about the First of January, 1878, instructions came from Washington to drop the case. And now, in the face of these matters of record, the Censor, our guardian of morals, coolly asserts that D. M. BENNETT was *not* prosecuted for mailing the scientific tract and the theological tract, meaning his hearers to understand that MR. BENNETT was not proceeded against in any way for sending these pamphlets through the mails. I harbor a suspicion, not particularly vague, that the Censor would have denied himself the pleasure of that disclaimer if he had not known he had the last word on that platform.

He said, as those present may remember, in making the denial, that Mr. BENNETT was prosecuted and imprisoned for selling "a free-love pamphlet," "Cupid's Yokes." Very true, but he knew that many of his hearers would not know that that was an entirely distinct as well as a subsequent affair. But why was "free love" mentioned in this connection? Plainly, to arouse prejudice against Mr. BENNETT in the minds of all susceptible to the *odium moralismus*. For where in his law does the Censor find a clause or word which says that one's views on "free love" or any other subject are under the ban? At the beginning, under the administration of the law, obscenity was supposed to be found in the words used, not in the sociological opinions expressed. But tyranny grows upon its own

crimes, and so in several of the more recent cases the offense has been found in the opinions promulgated, there not being anything in the phraseology that would have convicted the accused.

A GREATER WRONG TO THE CHILD

The Censor declares that his Society has "not been faithless to its trust," and he speaks in terms of glowing eulogy of its officers and supporters. Well, much depends upon the point of view. I should say that a greater wrong is done to the child and through the child to the race when it is permitted to grow up in ignorance than when it is instructed by competent teachers, when it is limited to the half-information it picks up in scraps out of the gutter of common contempt of sex than when it receives ample information from earnest speakers and writers, when it looks upon hideously-garbed caricatures of the human form than when it beholds the unclothed and beautiful creations of art and nature. Truth is better for the child than falsehood, revelation is better than concealment, nudity is better than deformity. If parents and other instructors were prudent they would forestall all oblique teaching of their charges by outsiders. Did I believe in censorship and were I the censor there are a hundred sights I would strive to keep from the eyes of children before I interdicted the nude in nature and art or even the view of that which made the climax of horror for the Censor, the association of men and women. There are a hundred things done that are infinitely more coarsening, to the forming mind of the child, more hardening, more strongly tending to develop callousness and cruelty, to deprave the artistic sense, to ruin the mental and emotional nature of the girl or boy. Better for our children and better for the race that the little ones be familiar with every detail of human sexual life that they can see by means of pen and types, or brush and chisel, and of nature, than that they should look upon the degrading caricatures of the body of woman which are blazoned shamelessly upon our bulletin boards, than that they should become familiar

with the sight of the mangled bodies of birds upon the hats of women, suggesting always bird babies left to starve in bird homes in every land beneath the sun, than that they should gloat over pictures of human carnage in war, than that they should know of and be indifferent to the mutilation and slavery to which man subjects other living things, than that they should be brought up to accept as a matter of course the human degradation and misery that are seen all about us. Better for the child to know of and see every expression of love and re-adjustment of life than to look without disgust and horror upon expressions of hate and cruelty and needless destruction of life. Many a mother who would send out her boy with a gun to frighten, wound, and kill the song-makers of field and wood, or welcome him home with pride when he returns with a prize from a pigeon massacre, would snatch from his hands with loathing a book on sex-life or a representation of the ungarmented human form, and punish him for having them in his possession. Our moral coins are counterfeit, and light-weight at that. The dies for them were cut in the foundries of supernaturalism.

SOME OFFICERS' ZEAL.

The Censor praises the officers of his Society. Well, again. There are officers and officers, no doubt. Pres. SAMUEL COLGATE was one of one kind. The Censor's federal law makes it a crime to give any information concerning the prevention of conception or to sell or advertise any article for that purpose. President COLGATE'S soap company made and widely advertised a preparation one of the uses of which was the prevention of conception, as stated in the company's circular describing its virtues. D. M. BENNETT exposed this violation of the Censor's law by the President of the Censor's Society and did it so vigorously and thoroughly that the advertisement was withdrawn. All over the country in the late Seventies and the early Eighties the traveler could find Freethinkers who were boycotting all of the Colgate Company's goods. They objected to both the law and the hypocrisy. The two, as usual,

were very intimately related, each strengthening the other.

There is another officer of the Censor's Society about whom many true and pleasant tales could be told did time permit. This officer is the Agent, the Censor himself. Two incidents must be mentioned here. "At a public meeting of clergymen in Boston, May 30, 1878, he was questioned by the Rev. JESSE H. JONES in this wise: '1. Mr. COMSTOCK, did you ever use decoy letters and false signatures? 2. Did you ever sign a woman's name to such decoy letters? 3. Did you ever try to make persons sell you forbidden wares and then, when you had succeeded, use the evidence thus obtained to convict them? To each of these questions COMSTOCK answered 'Yes.'" ("Trial of D. M. BENNETT," page 264). Those who were at the Brooklyn meeting will recall that the Censor then indignantly drew a line of demarcation between "decoy" letters and "test" letters; he had written "test" letters, but never would stoop to the infamy of writing "decoy" letters. It would appear by the foregoing bit of history that in 1878 his evolution in morals was only in its beginning. This perhaps may be better understood by what immediately follows: Two weeks after he was catechised by the Rev. Mr. JONES, that is, on June 16, 1878, he entered the place at 252 Greene Street, New York, hired three girls to exhibit themselves naked for an hour and a quarter before himself and five other men, and then dragged them off to prison for doing what he had paid them a sum of money to do. When these facts were brought out at the trial of the girls before Judge H. A. GILDERSLEEVE, September 24 and 25, 1878, the Judge discharged the girls because of the disreputable means employed to induce the commission of the offense. This was the incident I started to narrate in the Brooklyn discussion, when I thought of the Chairman's ruling against "personalities," and stopped, for this, surely, was personal to the Censor. Right here let me say, —referring to the objection that there has been unjustifiable indulgence in personalities, that what is needed is logical argumentation— that the objector overlooks the fact that logical

argument is dependent upon data and that frequently data are very personal. I do not believe that vituperation is either just or permanently effective. But the statement of matters of record, while personal, is perfectly legitimate in every case where the subject of the record assumes to be a guide, a censor, and yet is guilty of conduct as bad as or worse than that which he censures and seeks to punish. The prosecutor must come into court with clean hands if he desires to escape "personalities." Else, the retort is obvious, if not conclusive.

IMAGINED "PLOTS."

The Censor had something to say about an alleged "plot" to get his federal law repealed. Now to "plot," as the word is commonly used and understood, means to devise in secret, to conspire, to use underground and underhanded ways and means for the accomplishment of the object sought, to try to overcome by surprise and treachery, and it was apparent that the Censor meant it to be understood that he used the word in this sense. The simple truth is, there was no "plot," nothing that could be so described. The petition to Congress was circulated all over the country without concealment; it was announced and printed in *The Truth Seeker* and other papers; the whole campaign for the repeal of the Censor's law was conducted avowedly and openly for the end desired by the petitioners. The Censor also said that the man at the head of this repeal movement, or very prominent in the movement, at least, had written a work concerning the Censor which was entitled, "Life and Crimes of Anthony Comstock," and that this man had tried to seduce a young girl. When I said that the "young girl" who made charges against D. M. BENNETT, which were so flimsy that she did not bring them into court, was a woman of mature years, the Censor hastened to say that he did not mean Mr. BENNETT, that it was some other man who wrote the exposé in question. Now the facts are that the pamphlet, the title of which was, "ANTHONY COMSTOCK, His Career of Cruelty and Crime," was written by Mr. BENNETT and, I think, was known to be his work by every-

body connected with either side during all those "battle years." I do not know if the presence of Mr. E. M. MACDONALD that day induced the Censor to make this hasty and unfounded denial. Anyway, it was a most unwise denial.

THE LAW AS ADMINISTERED

Talking of the administration of his law, the Censor said that "court and jury judge these matters," and "The jury is to judge of the fact whether the book tends to corrupt." This is not so, as the law has been enforced from the days of Judge BENEDICT down to the present hour, and the Censor knows that it is not so; he has done all that lay in his power to make it not so, and it is less true each year that passes. In the latest conspicuous case, that of IDA C. CRADDOCK, the jurymen were only twelve automatons, of no more use in the case than so many Italian laborers digging in a Bronx or Brooklyn sewer. But even if it were true, even if the judge and jury really did honestly try to get at the purpose and probable effect of the publication, even if it were true that "the jury is to judge of the fact whether the book tends to corrupt," it would not justify the existence of the law. This has been shown most admirably by MONCURE D. CONWAY in his "Liberty and Morality," and I can not do better than quote a few sentences therefrom:

"A man publishes and sells a certain book. Somebody dislikes the sentiments of that book, and believes the perusal of such sentiments would corrupt the community. He asks the judge to restrain his neighbor from circulating that book. The judge calls about him a jury, and asks them if they think the book will tend to deprave public morals. They say, Yes. Then the judge orders the book to be suppressed, and the seller of it to be punished. From first to last, the whole procedure is speculative. It is not shown that any injury has been done; it is not shown, or even suggested, that any evil was intended; it is a decision based upon the powers of imagination, at best; more correctly, perhaps, upon capacities for panic.

"Such a decision reverses the chief aim of all real law,

which is to protect the weak from the strong, to protect the individual from the brute force of majorities. It changes the jury from defenders of right to inquisitors of opinion. The judges of Athens put SOCRATES to death on the ground that his opinions tended to corrupt the youth of the city. The High Court of Jerusalem sentenced JESUS to death on similar grounds. Practical PILATE asked, "What evil hath he done?" but he got no answer. JESUS had done no evil; he had only advanced opinions which the majority considered subversive of the moral foundations of society. And, in short, there is no persecution, no oppression of conscience, no massacre in history, which may not be justified on the principle that you may punish a man for the evils which may be imaginatively and prospectively attributed to the influence of his opinions. Nay, all contemporary discussion of vital problems, all new ideas, are thus placed at the mercy of nervous apprehensions. It is very possible that you might take the first twelve men you happen to meet on the street, and find that, put on oath, they would affirm their belief that the opinions of Dr. MARTINEAU, of the Jewish Rabbins, of our own chapel, must tend to deprave public morals. [This was written while Mr. CONWAY was pastor of South Place Chapel, London.] Such doctrines, they would say, by taking away hell, remove the restraints of fear from human passions, and by denying the authority of the Bible, tend to destroy the influence of the clergy, of Christianity, and the Ten Commandments. The same arguments which imprisoned EDWARD TRUETOLOVE would imprison any liberal thinker if his jury happened to be orthodox, and the same authority which suppresses one honestly-written book would suppress another if it happened to be distasteful to a jury,"

This is a clear and forcible description of the situation as it is under a censorship of press and mails, but even so it is a description of it only at its best; at its worst, it is indescribable. No doubt Mr. CONWAY proceeded upon the assumption that the work in its entirety would be examined and that it would be examined by both judge and jury, But from the

first under our censorship the book or other publication could not be considered as a whole, either as to its author's intention or its probable effect, and in the present, our worst estate, the jury sits in the box only to pile up expenses and record the decision of the court. Judge BENEDICT set the pace—in legal parlance, established the precedent—regarding the exclusion of all the book but certain passages picked out by the prosecution, and in recent years other judges, most conspicuously Judge THOMAS in the CRADDOCK case, have fixed the rule that the jury has nothing to do with any of the charges against the book except the one that it was deposited by the accused person for mailing. So, if the prisoner does not deny the mailing, as Mrs. CRADDOCK did not, the admission of mailing is in effect a plea of "Guilty," and the "trial" resolves itself into merely the official recording of the personal opinion of the judge. There is no trial of the accused "by the country," as the fundamental law intends and provides; the whole performance is a farce with inquisitorial adjuncts, the judge being first comedian and chief inquisitor, the two in one. And yet in the face of these indisputable facts the Censor has the hardihood to stand before an audience and assert that "court and jury judge these matters," that "the jury is to judge of the fact whether the book tends to corrupt."

THE VICIOUS LAW OF OBSCENE LIBEL

In our jurisprudence, the principle is established that murder is the intended taking the life of another, and not in self-defense or in the defense of some other, one's child, for instance. Theft is the appropriation of the property of another, without the consent of the owner. Criminal libel consists in the publication or circulation or both of false and injurious statements concerning another. Even including the offenders, there is substantial agreement in these cases as regards definition. But when we come to what is known as obscene libel, we come to confusion. Even substantial agreement is impossible, unless it is an agreement which palpably denies equity. It is a matter of opinion, of predisposition, of prejudice, of

capacity for panic, as Dr. CONWAY has shown so admirably. It is never attempted to demonstrate the mischievous character of the book by pointing to evil it has done; its bad effects are somewhere in the future; they are shadows; they are dreamed of, imagined, feared. But this is not all of the indictment against obscene libel. Its position in law is anomalous, unparalleled, so far as I know. It stands in a class by itself, the class of guesswork, of chaos. Neither before nor after trial may his fellows judge for themselves as to the guilt or innocence of the accused, unless they were in the court room during the proceedings. If a man is charged with criminal libel, what he has said or written about the plaintiff may be read by everybody, provided only that those who print his accusations print them *as* accusations, not as facts, prefixing some such phrase as "BROWN alleged that SMITH," or "BROWN had made these assertions about SMITH's conduct toward," etc. The public, supposedly the court of last resort, thus is enabled to judge for itself of the justice or injustice of the verdict of the jury. The man is not left under a cloud of damning mystery. So in the case of all other charges except that of obscene libel. When this charge is made the victim is at the mercy of court and jury, *now* at the mercy of the court alone. If you attempt to inform others regarding the real merits of the prosecution, which can be done only by letting them read the suspected publication, you repeat the offense of the original "criminal" and run the risk of the same untoward fate that jeopardizes him. When a MOSES HARMAN is arrested for mailing a MARKLAND letter and his friends appeal for funds to help him fight the prosecution, uncertain but generally well-meaning souls, before they put their hands in their pockets, want to know what he has circulated, and they ask for the Letter. No, they can not have it; to send it is to run the risk of more indictments, to run the risk of prejudicing the court against you in the original case, if you are the HARMAN who is asked to send the publication. If you are convicted, and your friends are trying to raise funds to take an appeal, the same difficulty pre-

sents itself. You are *incommunicado*, although you are not supposed to be living under Spanish law. Unless he or she has previously read the work for which you are accused or condemned, no man or woman in all the country may form an opinion as to your guilt or innocence *except by taking the opinion of some one else*, probably your enemy or a fool friend who does not know the difference between an opinion and an assault. The principle and procedure of obscene libel are monstrous, *ab initio*; travesties on human intelligence, in gross denial of liberty of thought and utterance, flagrant outragers of equity, promoters of lying and treachery, breeders and feeders of spies and censors.

OBSCENE LIBEL AND EXPERT TESTIMONY.

The use of expert testimony has been abused, no doubt, but such testimony has its legitimate place in both civil and criminal jurisprudence, and is not totally excluded except in obscene libel trials. If a juror who knows nothing of chemistry may be assisted by experts in chemistry, if a juror who is unacquainted with civil engineering may have the benefit of the knowledge of civil engineers, if a juror who is not familiar with the business of printing may be helped to a just decision by the aid of compositor, pressman, and accountant, why may not a juror who knows little or nothing of books be enlightened by the testimony of men who have given much time and thought to the making, reading, and selling of books? Why is the line of exclusion of expert testimony drawn right here? To aid the Censor and bolster up what is called "morality," Judge CHARLES L. BENEDICT said "objection sustained" a hundred or so times when the prosecution in the BENNETT case interposed to prevent the introduction of expert testimony, and the precedent he set has been followed religiously ever since. The defense was not allowed to show by the evidence of the author what his intentions were in writing "Cupid's Yokes," it was not allowed to show by his testimony what authors had been consulted in writing the pamphlet, what the classification of the work was in the trade, that it

was sold at a uniform low price, which "obscene" works are not, that the persons who bought the pamphlet were of good repute in their communities, and so on. It was not permitted to show anything by the evidence of authors, booksellers, clergymen, and philologists as to the classification of the work by the book dealers, anything as to the appearance of similar matter in books and other publications never disturbed by the vice hunters, anything as to the impression made by the pamphlet upon the minds of scholars and moralists, anything as to the meaning of words used by the author, anything as to the scope of the word "obscene," anything as to the length of time the work had been upon the market and unmolested. Evidence touching any or all of these facts, if admitted, would have gone strongly to show that Mr. BENNETT had no reason to suppose he was violating the law when he sold the pamphlet, a point of great importance when we remember the vital part "intention" plays in determining the guilt or innocence of an accused person. And counsel was not allowed to draw comparisons between the indicted work and other books.

If in the trial of a civil cause growing out of the filling of a street by contractors, the untechnical jury may have the assistance of the judgment of other contractors and of engineers as to what material went into the street, the kind and amount of filling, the shrinkage and sinkage, and about other matters in dispute, why may not an untechnical jury in a criminal cause of obscene libel have the assistance of the judgment of experts in trade, literature, and language as to what went into the book? Is a juryman who may not have read three books in his life and who thinks the Smugtown *Picayune* is the greatest paper in the world, a better judge of the character and probable influence of a certain book than is a man of wide and varied reading, a student of languages, a man familiar with the literatures of many peoples, a dealer in books of many kinds and from many ages? Of course, this argument against the exclusion of expert testimony in obscene libel causes is equally an argument against the whole system

of official meddling with letters and art and I intend it to perform both functions. There is no possibly valid reason why any man, ignorant or learned, should sit in other than literary and moral judgment on the brain productions of any other man, learned or ignorant, and least of all should such a man as the Censor.

JUDGE AND JURY AND "THE FACTS"

"The jury is to judge of the fact whether the book tends to corrupt," says the Censor. But if I go to the jury with a word on one page, a line on another, part of a paragraph on yet another, and tell the jurymen that they must judge the whole work by these marked parts, that they may read only these fragmentary portions of the writer's argument, or, if reading more, must as jurymen take cognizance of only the marked parts, that they must determine from these bits whether the book is good or bad, whether or not it is obscene, whether the intention of the writer was benevolent or malevolent, whether or not it may corrupt the readers thereof—if I do this, if I tell the jurors that this is the law, that upon their oaths they are bound to do as I say or be in contempt of court, then it is I, prosecuting officer or judge, as the case may be, who is deciding "the fact whether the book tends to corrupt." I have marked and stacked the cards; I am playing every hand that has been dealt; the jurors are only ornamental partners in the corrupt and cowardly game. It is trite to say that there are a thousand of the world's greatest books that would go into the Censor's collection of bawdy literature if this infamous procedure were applied to them. Yea, there are ten thousand of them! I will take twelve men from a jury panel; I will give them ten passages from a certain book, they not knowing what book has furnished the excerpts, for not many Christians read it; that jury will bring in a verdict of "guilty" in fifteen minutes "without leaving their seats." That book is the Bible. A Mr. WISE, of Kansas, sent some passages from this volume through the mail to a minister of Bible gospel. Mr. WISE should have been wiser; of course he was arrested;

of course he discovered that the law applied to his case, and equally of course we all discovered what we knew before, that the law does not apply to the book as a whole. No censor or jurist has yet appeared to tell us why isolated passages in "Cupid's Yokes" or "The Old and New Ideal" condemn the whole work while isolated passages in the Syrian Scriptures do not in the least affect adversely the legal standing of that collection as a whole.

"The jury will take the definition [of obscenity] from the court," said Judge BENEDICT in the BENNETT trial, so-called. Judge THOMAS in the CRAEDDOCK trial, so-called, went very much further than this; he would not permit the jury to have a word to say concerning the character of the pamphlet for selling which its author was brought into court for sentence. Judge BENEDICT had held that the court should give the jury the definition of obscenity, the jury being left free to apply it to the passages marked for condemnation—not to the whole work, you understand, except as the verdict of "guilty" against the marked passages would carry with it the verdict of "guilty" against the whole publication. But this was giving the jury altogether too much of a show to suit Judge THOMAS. Not only should the court formulate the definition of obscenity but it should apply it to the work under examination, so-called. The jury was there merely to say whether it was established that the publication named had been deposited by the defendant for mailing. Still the booklet was put into the hands of the jurymen, although they were expressly told that they had absolutely nothing to do with a word of its contents. Although it was a judge upon the federal court bench who did this, it was a trick, a mean and cruel trick, a shyster's trick, unworthy of the most ignorant and insignificant political heeler who ever was rewarded for his services in the registration room by a police court assignment.

"The jury is to judge of the fact whether the book tends to corrupt," asseverates the Censor. But how can the jury form an adequate judgment, a fair judgment, a decent judg-

ment when they have for examination only broken threads, torn-out fragments of the garment of thought? The Censor heartlessly mocks the victims caught in the net of his iniquitous law; every judge who has given this ruling in his favor has heartlessly mocked and thrust down into want and misery the men and women whom he sat upon the bench to protect in their equal rights as citizens and human beings. The law in its letter and spirit is impolitic, unjust, dangerous; as it has been enforced it is an instrument of fiendish torture, partial, cruel, damnable. As the law was written in the statute-book it was bad enough; as it has been put into action by the Censor and the courts it is too bad for description, no words in any tongue of man can fitly indict it. If the law were a person and if to-day we put the brand of shame upon the face of a person, this law would bear a stigma worse than its own shame, this law would have seared deep into the forehead slanting backward from the prognathous jaws three names, COMSTOCK, BENEDICT, THOMAS.

CRITICS ANSWERED

To restate the contention that the jury should decide as to all matters of fact in obscene libel: A legal critic said that only in criminal libel trials could the jury pass upon all the facts, and this by authority of special statutes. He probably meant that the truth of an allegation was a legal defense, that if the facts were as asserted in the publication, then the matter was not libelous. True, but when he added that in all other criminal causes a ruling like that of Judge THOMAS in the CRADDOCK case would be good law, he showed that he had missed the point entirely. In the first part of my address I was not maintaining that the jury should pass upon the law as well as the fact, but that the alleged obscenity of any publication is a matter of fact and not of law, and hence goes to the jury; and, consequently, that if the judge assumes to decide this, as Judge THOMAS did, he usurps the functions of the jury. Judge BENEDICT in the BENNETT case gave the jury the legal definition of obscenity, as he understood it, but he did *not* take from the

jury the right to apply his definition to "Cupid's Yokes" to determine the fact of its obscenity or non-obscenity. Thus there remained with the jury the right and opportunity to pass upon all questions of fact in obscene libel causes. Judge THOMAS, on the contrary, not only gave the definition of obscenity, as a matter of law, but assumed the authority to apply the definition to "The Wedding Night" and to find, as a matter of fact, that the book was obscene, indisputably usurping the functions of the jury and refusing to the defendant the opportunity to "go to the country" with her cause on matters of fact.

To the objection that it is a waste of time to inquire into the relative duties of judge and jury, both being instruments of oppression, I reply, First, that while I agree that neither should deal with questions of taste and opinion in literature and art, I do not intend to passively surrender such defenses as the jury system gives; Second, that we have to defend ourselves under the conditions and procedure that prevail, and, Third, that the jury has a legitimate place. I need amplify only under part of the first head and under the second head, for on the proposition that the law should have nothing to do with the matter and manner of literary and artistic productions, I already have argued at length and later shall have still more to say, while the third affirmation, that there is a legitimate place in society for the jury, raises a question not under discussion in these pages.

However ardently I hope for the day when there shall be no official censor, I can not shut my eyes to the fact that we have one now, nor to the further fact that he is here with the conscious, active, approval of many and the tacit consent of the mass of the people. He is able, and for a long time to come will be able, to cause the arrest and prosecution of men and women with whose opinions he disagrees or whose productions his uncultivated mind conceives to be immoral and dangerous. The jury was created as a defense of the people against the tyrannies of the powers that were. Originally the

jury passed upon both law and fact, as it should now. Under the existing system of jurisprudence, the jury deals only with questions of fact. Now it is sought, as in the CRADDOCK case, to take the last vestige of power out of the hands of the jury and concentrate all powers in the hands of the judge. I call upon all to resist this fresh aggression. Earnestly as we strive for greater liberty, let us not tamely surrender what was won for us by others at such terrible cost. There are certain guarantees of individual freedom to which we must tenaciously cling while doing all we can to wrest greater security from the clutches of ignorance and authority. The jury, properly chosen, by lot, is the people as against the majority-elected or the appointed Censor. Maintain the jury in its first condition and you nullify majorityism. That is why there is so much talk nowadays about changing the law so that a majority may bring in a verdict. Such a change would sweep away the last legal defense of the minority. Keep the unanimous jury between you and the Censor. It is not a sure defense, true, but the unanimous jury and the judge are better by far than the judge alone or the judge with the echo, the majority jury. Insist that so much of good as the past has given us shall be retained; if you can not keep the good that has come to you, how do you expect to win greater good? Do not throw out the baby with the bath.

THE COMMON LAW YESTERDAY AND TO-DAY.

Returning to the regular course of presentation:

The Censor, in his Brooklyn address, said very much concerning the attitude of the common law toward blasphemy and immorality, quoting decisions and precedents. "Offenses against religion," "what *tends* to corrupt society is to commit a breach of the peace," and like phrases were often on his lips in his reply to the critics. In fact, nearly the whole of this reply was an appeal to mediævalism in law and sociology. He seemed to be unaware of the great change that has taken place since the common law began to grow. He did not realize that the law that was normal in a state where religion was

officially a part of the government is abnormal, an anachronism, in a state where religion is separated from the government. The same mistake was made by that judge of Special Sessions who characterized Mrs. CRADDOCK'S ideas as "blasphemous." It would appear that in the judge's eyes her worst crime was this alleged "offense against religion," that in reality she was convicted for "blasphemy," a crime unknown to the law of New York. After listening to the Censor one could understand how he could write in one of his official reports years ago that "Freethought and Freelove" publications "must be stamped out."

Laws against blasphemy were not enforced to prevent "a breach of the peace" but to maintain the religion of the state, and the Censor's appeal to the old English law is a call upon the dead to arise and aid him in the work of persecution. C. C. MOORE was prosecuted in Kentucky on a charge of "blasphemy." Judge PARKER, rendering his decision in July, 1894, said, among other excellent things:

"Under this constitution [that of Kentucky] no form of religion can claim to be under the special guardianship of the law. The common law of England, whence our law of blasphemy is derived, did have a certain religion under its guardianship, and this religion was part of the law. The greatest concession made to religious liberty was the right of learned persons to decently debate upon controverted points. The essence of the law against blasphemy was that the offense, like apostasy and heresy, was against religion, and it was to uphold the established church, and not in any sense to maintain good order, that there was a law against blasphemy. The most superficial examination of the chapter in BLACKSTONE treating of offenses against god and religion, must convince any mind that the sole aim and object of these laws was to preserve the Christian faith, as it was then understood and accepted by the established church. It may seem to us that the punishments for these offenses were severe in the time of BLACKSTONE, but they had then been greatly mitigated, as the

stake and fagot had been of too frequent use in propagating what was deemed to be the true religion. Even BLACKSTONE complains that the definition of heresy had been too uncertain [like *our* definition of obscenity] and that the subject had been liable to be burnt for what he had not understood to be heresy until it was decided to be so by the ecclesiastical judge who interpreted the canonical scriptures. To deny any one of the persons of the trinity, or to allege that there were more gods than one, was a heresy and was punished in the same manner as apostasy.

“Blasphemy is a crime grown from the same parent stem as apostasy. It is one of a class of offenses designed for the same general purpose, the fostering and protecting of a religion accepted by the state as the true religion, whose precepts and tenets it was thought all good subjects should observe. In the code of laws of a country enjoying absolute religious freedom there is no place for the common-law crime of blasphemy. Unsited to the spirit of the age, its enforcement would be in contravention of the constitution of this State, and this crime must be considered a stranger to the laws of Kentucky.”

And yet the Censor of our literature and a judge in our courts talk of “offenses against religion” and of “blasphemy” as crimes in the State of New York!

Reading the admirable argument of Judge PARKER in the MOORE case, every thoughtful person must ask, How long before we shall hear an American judge reasoning as clearly and justly concerning the fictitious crime of obscene libel as Judge PARKER has reasoned concerning the fictitious crime of blasphemy?

WRONG PRINCIPLES OF ACTION

The Censor assumes that he knows what is the best sexual instruction for children. No serious fault could be found with this presumption of superiority if he confined his efforts to arguments and to practice in teaching. Then reason freely could combat reason and comparison of results would be help-

ful to all. But he does not attempt to teach children and he physically assaults, through the law, many of those who do engage in educational work. This is his first wrong principle of action, this resort to force to compel acceptance of his opinions on sexual matters. He errs again when he fails to distinguish between the earnest reformer and humanitarian and the mere commercial purveyor. His third erroneous principle of action is his theological partiality, his discrimination on religious grounds. His fourth error is his classification of sociological treatises with pornographic works, as his law defines the latter. He appears to think that the term "obscenity" is applicable equally to phraseology and to ideas, to plainness of speech and to criticism of the accepted, to descriptions and pictures of sexual acts and to suggestions of changes in sexual institutions. Such confusion of thought, such stupidity, would seem to be impossible outside an asylum for the insane if we did not have the record of the Censor's work for thirty years. We deduce his thoughts, his principles of conduct, from his actions, and in every instance he confirms our induction by his utterances. He admits all our charges.

THE CENSORSHIP AND THE BIBLE

Let us pause a moment and examine the Censor's attitude toward the Bible of the Christians and Jews. When, while replying to his critics in Brooklyn, he was urged to tell why he does not prosecute the Bible on the charge of obscenity, he ignored the question so long as he could and then retorted with a pious phrase that, palpably, was an evasion of the issue raised. In my remarks, I had challenged him to compare the offending sentences in *IDA CRADDOCK'S* works with passages in the Bible. I agreed to read to the audience the portions of *Mrs. CRADDOCK'S* writings which he had selected and upon which he had relied, and successfully relied, to convict her of obscenity, if he would read to the same audience fifty paragraphs in the Bible, these paragraphs to be selected by me. Of course the Censor paid no attention to this challenge—neither he nor any other book-worshiper would dare to open the

gate of his citadel by such a comparison. And yet the demand was a just one and a just man and brave would have picked up the glove. If a book may be condemned as obscene and its writer legally branded as a writer of obscenity on the strength of isolated passages in that book, why is the Bible made an exception when that rule of condemnation is applied? By his refusal to read those passages in the Bible, the Censor proclaims in a voice to be heard above the roar of the wildest storm that he knows the Bible is as amenable to his law, as he and his judges interpret that law, as were "The Old and the New Ideal," "The MARKLAND Letter," "Cupid's Yokes," and "The Wedding Night." He simply dare not be fair and honest and impartial in his treatment of "Cupid's Yokes," by E. H. HEYWOOD, and "The Bible," by God. He discriminates along the line of known or reputed authorship.

If the four publications named, and many more of similar character and style, written for adults and likely to be read by very few but adults, and having very limited circulations at most, were so dangerous to the morals and physical health of the young that the whole power of the United States government must be called into action for their suppression and the imprisonment of their authors and publishers, why has not the Censor been shocked into preventive activity by the enormous circulation of the Bible, which contains at least fifty passages that he does not dare to read to a mixed audience? Here is this book which is printed by the tens of millions, sent to every quarter of the earth, put into homes everywhere in Christian lands, taught from in Sunday schools, in secular schools (save the mark!) in Bible classes, deposited in racks in railway stations, chained in reading rooms, and sworn upon in courts of law! It is the one book that every boy can get at without exciting suspicion, and it does not take a bright-witted youngster long to be as expert in finding certain passages as was the good woman who hunted in Dr. JOHNSON'S Dictionary for certain words which she was so pleased to find were not there!

We all understand why the Censor would rather be drawn

and quartered than begin a prosecution against the Bible. He knows that such a proceeding would cost him his position, that his society, if it indorsed his action, would die of starvation. It is quite possible, too, that, in spite of the fact that he knows the Bible contains matter that he could not bring himself to read in the company of men and women, and in spite of the further fact that he would prosecute a Freethought work containing the same matter, he has such a superstitious reverence for it as "the word of God" that he shrinks from attacking it more through fear of divine vengeance than because such attack would cost him his position and salary. Perhaps we may credit or charge his inactivity in this connection to his Christian faith.

Let no one for a moment suppose that any Freethinker who understands why he is a Freethinker desires to have the Bible suppressed by this Censor or by any other censor. Our protest is against the partiality, the unfairness, the hypocrisy, the cowardice, the insincerity of this crusade in the interest of morality, so-called, a crusade that has its source in a fear and distrust of sex of which every thinking man and woman should be ashamed, a crusade that picks its victims here and there among the unfortunate and the earnest, shutting its eyes that it may not see rich and powerful offenders against its pet dogmas, refusing to consider the real causes of sexual vice—which are ignorance, religious and moral superstitions, and economic confusion—and, most conspicuous of all, falling on its knees in abject worship of the Bible, a book that for rugged plainness of speech has no rival of wide circulation in the English language. No, we have no wish to suppress the Bible; we have no sympathy with the Miss Nancys who are trying to give us an "expurgated Bible," a "Bible for family reading," an "unobjectionable Bible for the schools." Let the text of the Bible stand as it has come to us, plus such changes as the best, the most fair, scholarship in translating finds to be necessary to interpret as correctly as may be the meaning of the writers. Keep the "nasty nice" refiners out of our libra-

ries and book shops; we want faithful pictures of the times in which any book was written, not the gloss of some modern weakling. Let the Bible take its place on its merits, as every other book must, and wipe out any law that presumes to select for us what we may or may not read.

MONCURE D. CONWAY ON CENSORS.

Speaking of the prosecution in England many years ago of Dr. KNOWLTON'S "Fruits of Philosophy" by the transatlantic twin of our Vice Society, Dr. MONCURE D. CONWAY said:

"I can not believe that this is any *bona fide* effort to suppress immorality. There are too many signs about it which compel to the sorrowful conclusion that there has grown up among us a society whose original aim may have been to suppress vice, but which has now fallen under the control of persons with other aims. It would appear that to these the circulation of many thousands of a book they call vicious is of little importance compared with making a sensation and parading their own spotlessness before the public; and beyond this it is to be feared that a still baser influence has been at work to degrade this association of (originally, no doubt) well-meaning, though weak-minded people. There is money in it. A good deal of patronage and wealth has gone to it in the past, and its agents are highly paid; and if this stream of money and patronage is to continue to flow and gladden the host of agents, they must keep up a show of activity. They must always be attitudinizing as purifiers of society. If the nests of crime and vice are trampled out, and the funds begin to fall low, they must try to make their subscribers think there are nests where there are none; and, knowing well how unpopular Freethinkers are, how few friends they have in high places, they found amongst them a book which repeated the details of ordinary physiological and medical books—a book whose pages, with all their faults, are nowhere of biblical impurity. It must have brought their secretaries, their lawyers, and their secret service agents a golden Pactolus from orthodox purses to thus prove that the society might do injury to Freethinkers

under cover of attacking immorality. The old privilege of the orthodox to imprison their opponents—the privilege so loved, but lost—must seem about to come back again, when it has been decided that facts familiar in the libraries of medicine and science can not be printed by Freethinkers in a form accessible to the people without imprisonment. They know that many of these Freethinkers value their freedom highly enough to go to jail for it, and they are, no doubt, hoping for more victims and a flourishing business with plenty of vice to suppress. . . .

“Lucifer began, mythologically, as a heavenly detective. He was the lawyer retained by the gods for the suppression of vice; and, from long engaging in that business, he came to love it. When he had nobody to accuse, he was in distress, and went about accusing innocent people. So he was called the Accuser. And then he fell lower still, and went about tempting people to sin in order that he might prosecute them; and then he was called Satan. That was the course of the first Vice Society, and the end of its attorney.”

WHERE RESPONSIBILITY LIES

I come now to the second part of my title-question, “Is the real enemy ANTHONY COMSTOCK or the People?” It might seem that I have given an undue proportion of space to the Censor, and have reserved too little for the people. But a moment’s review of what I have said will convince the reader, I am sure, that nearly all that has gone before bears directly upon what is to follow. In determining how great a degree of responsibility for the Censorship rests upon the shoulders of the people, it was necessary to know somewhat in detail the nature and extent of the Censor’s work. Manifestly, if the Censor had refrained from attacks upon works self-evidently intended for the benefit of the people, if he had been impartial and just in his methods and the scope of his activities, there would have been found in these facts a measure of excuse for the supineness and indifference of the people under his rule. The masses could not be expected to reason acutely

as to the inevitable but remote results of a censorship which was fair upon its face and seemed to be aimed only at coarse and slighting exposure of sexual secrets. They could not be expected to see that any censorship, no matter how honest in intention and impartial in execution, must in time degenerate into the insincere and partial crusade that the American censorship has been from the very first. They could not be expected to abstractly follow the course of its deterioration in advance of the events, for, as Dr. CONWAY has well said, "the lessons of history are not yet wisdom for the people." And right here let me say that the most short-sighted of reformers are those who exclaim against the study of history, who protest that it is a waste of time to familiarize the people with the issues and struggles of the ages gone. The shell-game men of the present, the confidence operators in authority to-day, ask nothing better for themselves than the ignorance of the people concerning the tricks and subterfuges, the schemes and misleading cries, the false side-issues and progressive tyrannies of their predecessors, the shell-game men and confidence operators in authority in the centuries that have passed. But our censorship was *not* fair upon its face and it was not impartial, and so our people should not have been fooled by it, but they were and are, and one of the causes of this befoolment was their failure to read the present in the light of the past. Again quoting MONCURE D. CONWAY: "All history has shown that when oppression has been foiled on every other side, its last resort is to alarm the moral sentiment of the masses, to confuse their common sense with black specters of immorality. In that fear, that confusion, selfish power has often found a community's vulnerable heel, and there planted its fang. We can see through such masks in the past; we can recognize in many massacres which pretended to defend virtue the concealed hand of vice; but, alas, the lessons of history are not yet wisdom for the people, and the old device may still, it seems, be tried with success."

Then, inasmuch as the American censorship was one-

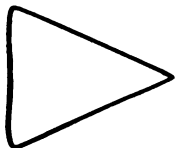
sided and unjust from the beginning, inasmuch as transparently it has been largely a raid on unpopular innovators, a raid in the interest of the vested religion and established moral institutions, and inasmuch as its remaining factor was the usual attempt to destroy an evil by attacking effects while leaving causes untouched, the conclusion is unescapable that what the Censor has done the people in mass have approved and sustained, in so far as they have cared to acquaint themselves with the work. . They have given this approval and support, First, as I said, because they know so little of the past life of their race that they are unable to perceive whither this censorship is tending. They know too few of the lessons learned and taught by their fathers to realize that every attempt to gag and bind the people begins with experiments on some unpopular class, and, if successful there, is tried on a class a little stronger, and so on, each victory giving excuse and precedent for a more ambitious campaign. This is the warning that comes to us from the past of our race, but it is a warning heard by only a few, the few only who know the language of history and can think, can collate and classify, can separate factors of motive and action that are like one another from factors of motive and action that are unlike these.

THE CAUSE OF SLOW ADVANCE

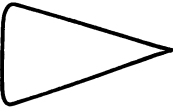
The Censor has had the active or passive support of the great body of the people because, Second, the position of the units in the mass of humanity is such that only a very few can be at the front at any given time. All evolution simply is departure from the old types. There are only a few, relatively, of these variations in the beginning and fewer still that survive.

No matter how far advanced a small part of the race becomes, the comparative positions of the leaders and the ranks are altered but a little. Humanity is a wedge, an obtuse wedge, the planes proceeding from the base and converging to the apex being little if any longer than the base.

Such a wedge drives slowly, very slowly, through the gnarled



log of heredity, ignorance, prejudice, and unfavorable environment. It "bucks" frequently, and these buckings we call reactions, retrogressions, decadences. But no matter whether the wedge moves perceptibly or imperceptibly, the relative positions of the apex and the base remain about the same. In periods of unusual prosperity or exceptional mental activity there may be a slight elongation of the converging lines and a corresponding narrowing of the base, but the apex is no less sharp, there are no more individuals, units, at the extreme front than there were when the wedge had the more blunt form, and there is no more sympathy between the units at the base and the fewer units at the front, the entering, advancing, edge of the wedge, than there was before. Rather, less sympathy, for the longer the wedge becomes the greater is the distance from the base to the apex. The whole body moves faster, it is true, for there is less lateral pressure, less resistance to overcome, but the leaders and the rearmost masses are farther apart than were the leaders and the rearmost masses when the wedge was more obtuse than the most obtuse form I have shown.



JOHN BOYLE O'REILLEY, in one of his finest poems, says that, "Mankind is a marching army, with a broadening front the while." A pretty thought, but its prettiness exhausts its wealth. Only under pressure of despotism, only through the stress of military discipline, does the race, or any considerable part of the race, assume even the appearance of equality, of marching with a widely-extending front. Remove the pressure at any moment, and the reality reappears. The ranks break, the units straggle, the few forge ahead, the many drag behind. Watch a train emptying at an Elevated station: So long as the crowd is confined to the platforms and the stairways, some old person, some dawdler, or some woman with trailing skirts, at the head of the procession, holds all down to an equal snail pace, but the moment the more open street is reached, behold the instant change! Notice how quickly the swiftly-moving separate themselves from the slower-paced!

Where now is the seeming equality in energy and speed? Keep near the head of this marching crowd and you shall find that in a very short time a single person of the scores or hundreds that crawled as one long body down those steps is at the front and is still gaining. You have seen it? Of course.

This crowd from the train is typical of the race, representative of humanity as units and in the aggregate. There is no more possibility of equality of mental and moral development in the race than there was of equality of speed in the crowd of men and women who came from the train. Only extraneous pressure, only restraint in some form, or tyranny manifested in some way, can give even the delusive appearance of equality—physical, mental, moral. Yet the Censor is trying to produce a state of moral equality and in this he has back of him the inertia of the mass of humanity at and near the base of the wedge. In some respects he is mentally in advance of his supporters, especially in cunning ability to adapt means to ends through adroit appeals to religious predispositions, to prejudice, and to passion, but in abject worship of the moral fetiches of a primitive period he is on a level with them, acts only through them and for them, and hence must be accepted by us as an agent only, not as the principal. A mischievously active agent, it is true, an initiating agent, a wickedly suggesting agent, but only an agent nevertheless. His work is an attempt of those at the base of the wedge to cut off the apex of the wedge. This attempt has been made millions of times since humanity emerged from the life that was not human life, and no doubt it was made millions of times before there was human life. It is an incident of the cosmos-old struggle between fixity and variation, between inertia and movement, between death and life. Accepting this Censorship for what it is, a manifestation of the forces that bind back to bygone forms and bygone ideals, we see clearly that if there were not one Censor there would be another Censor, and hence our work is one of education, the enlightenment and liberation of those from whom the Censor receives his letters of marque and

reprisal. He lives in safety because those he has persecuted know that the shedding of blood is the sowing of dragon's teeth, that the harvest of violence is ten-fold violence and misery, that only persuasive reason makes for permanent good.

SEX A MISTAKE

The Censor has the support of the body of the people because, Third, and particularly, the fact of sex is held to be a blunder of God or nature, one or the other, as your sexphobist's viewpoint is that of the Theist and Christian, or the Rationalist. Not so many years ago a brilliant Liberal, then still somewhat under the influence of the ascetic antinaturalism of the dominant religion, lamented in a periodical of which he was editor that the continuance of the race depended upon a relation so indelicate and shameful as sexual association. I have reason to hope that he is now nearer to the apex of the moral wedge. The religious belief was that this world is merely a temporary stopping-place in which we prepare for heaven or hell. Whatever distracts our attention from our future home, one or the other place named, is bad for our souls. If we are happy here we are likely to forget God and go to hell. If we are miserable here we are likely to be reminded of God and go to heaven. That is the gist of the old doctrine. The fear of sex is about the only survival of it that is doing business amongst us. It was held that not even ambition, wealth, and fame were so apt to turn men's thoughts from God and his saints and from the devil and his never-dying worms as were sexual joy and domestic happiness. If a Christian had these and was moderately comfortable otherwise he would play fast and loose with the plan of salvation and find himself black-listed when the whistle blew for the eternal assignment. No one not in a degree familiar with the beliefs that prevailed during the Dark Ages, and before, can realize the depth of degradation and suffering to which the common people descended under the influence of their conviction that poverty and misery were passports to heaven, and wealth and happiness were sentences to hell. Of course the church that assiduously taught

this doctrine and the princes that accepted it were content to see the people practice it, for did not all good Christians believe in the doctrine of vicarious atonement? Woman was held to be the cause of the "fall" of Adam, and, consequently, the mother of sin and hell, and the perils and pains of motherhood were supposed to have been put upon her as punishments for being "first in the transgression."

(In my "What the Young Need to Know," beginning at page 22, the reader will find copious quotations from MASSILON, Judge HITTELL, and the Bible, which show in detail these perverted views concerning human life on this earth in general and sex-love in particular. On pages 38 and 39 of the same pamphlet are some very pertinent and forcible utterances of JAMES THOMSON ("B. V.") co-worker with CHARLES BRADLAUGH, bearing on the present-day slavery of writers and publishers, chained to the juggernaut-car of the antinaturalists.)

The story, recalled by LECKY, if I am not mistaken, of the priest who would not carry his mother across a river lest she, a woman, should contaminate his person and endanger his soul, graphically pictures the thought and feeling of the early and middle Christian ages. How that thought and feeling have survived, have come down into these later Christian ages, perhaps can not better be demonstrated than by this excerpt from the decision of Judge PHILLIPS, of the United States Circuit Court, in the cause of "The United States vs. HARMAN" [45 F. R., 423]:

There is in the popular conception and heart such a thing as modesty. It was born in the garden of Eden. After ADAM and EVE ate of the fruit of the tree of knowledge, they passed from that condition of perfectibility which some people nowadays aspire to, and, their eyes being opened, they discerned that there was both good and evil; "and they knew that they were naked; and they sewed fig-leaves together, and made themselves aprons." [You will perceive that Judge PHILLIPS typifies the "evil" in the world by nakedness and the "good" in the world by clothes, which might lead us to suppose that he is one of the tailors of Tooley Street. But he proceeds.] From that day to this civilized man has carried with him the sense of shame, the feeling that there were some things on which the eye, the mind, should not look; and where men and women become so depraved by the use, or so insensate from perverted education, that they will not veil their eyes, or hold their tongues, the government should perform the office for them in protection of the social compact and the body politic.

Here we have a judge on the federal bench handing down an opinion in a case involving the liberty and perhaps the life of an old man whose only fault was that he had printed in his paper a serious protest against a grievous crime committed under cover of marriage—we have this judge appealing for authority to lock the wheels of the press and imprison an honest man—we have him appealing, like an anointed priest, for this authority to a legend of the primitive ages, a legend long ago exploded by science; we have him appealing to an alleged explanation which every student of the customs and habits of savage and barbarian peoples knows to be utterly without foundation in fact. We have the thigh-bone of some dead cave-dweller used in a vile attempt to bludgeon a civilized scholar into silence. We have this federal judge making this appeal in the name of the myths, the fictions of the “social compact” and the “body politic.” And, stranger still, in all our tens of millions of men and women in this “land of the free,” we have only here and there a single person or a tiny group that sees the monstrous evil of this burlesque of justice, that endeavors to throw light into the dark places of popular prejudices and legal iniquities, to cut the bonds that bind living men and women to the rotting corpses of ancient creeds and cults. And, strangest of all, we have some even among these few alert ones who say that Christianity is dead, that we are battling against ghosts, that the warfare against religious superstitions should be declared off, that the enemy is scattered or has surrendered, that we who still carry aloft the banner of militant Freethought are survivals from a vanished age of real issues. Yes, the creeds, as cast in the old forms, *are* dead or dying, so far as those at and near the apex of the wedge are concerned, but—and this is the vital fact—the vested interests, the organizations, the great tax-gathering bodies, that grew up on the basis of the creeds are neither dead nor dying; or, if dying, the weakening is so slow that the youngest babe in arms, though it live to see a hundred years, will not live long enough to see the interment of one of

these ecclesiastical bodies. On the contrary, they are now stronger and more secure than ever before, for externally they have partly rationalized their professions of faith, they have been considerably humanized by what we call the spirit of the age, and so now are fairer seeming, less likely to challenge sharp scrutiny by the masses, less likely to revolt the tender sentiments that, in some measure, characterize our time. They insist, openly, less strenuously on the primitive theological creeds but lay more stress on the "morality" that has no other source than those same primitive theological creeds. Perhaps even Judge PHILLIPS does not believe in a hell hereafter, but he has sufficient faith in the old guesses or believes the people have sufficient faith—which amounts to the same thing—to make him the creator of a very real hell here and now for a man who questions the false morality that has come down to us with the false religion.

The simple if unpleasant truth is that not one hundred nor five hundred years of speculative rationalism nor fifty years of inductive scientific inquiry among the few at or near the apex of the wedge have or could essentially alter the beliefs of the bulk of mankind, beliefs that, in their primary elements, are as old or older than the race itself. These beliefs, these delusions, the theological and the moral, are almost indelibly stamped upon the brain of mankind. Not one per cent. of the race to-day is entirely free from the incubus of theological illusion and faulty reasoning; not one-hundredth of one per cent. has cast off the shackles of moral slavery. Not a thousand years, under the best conditions possible for propagandism, will be enough to bring the three-fourths of the human family now massed back of the center of the wedge up to the position occupied by the very few now at the apex. And at the end of that period the then apex will be at least as far ahead of the base of the wedge as the apex of the present wedge is ahead of its base.

But our concern is with present conditions and our work is the emancipation of the human mind from the thralldom of

Christian theology and the human race from the bondage of the moral nescience that goes hand in hand with that theology. The morality that ultimately will supplant it is inductive, not speculative; deduced from human experience, and knowledge conned outside the human page. Until theological morality gives place to inductive morality we shall have the religious censor, as we have now. When the epoch of inductive morality comes the "scientific" censor will come with it (his forerunners are clamoring even now) and our successors at the apex will have to do battle with *him*, just as we now do battle with his theological antetype.

Continuing our inquiry for the sources of the hatred and distrust of sex that make the existing censorship possible, a sentence or two of LECKY'S, bearing upon the old-time Christian opinion of woman, should be quoted. "Woman," he says, "was represented as the door of hell, the mother of human ills. She should be ashamed of the very thought that she is a woman, and should live in continual penance on account of the sin she brought into the world." And as to her position in society, Sir HENRY MAINE remarks that "no society which preserves any tincture of Christian institutions is ever likely to restore to married women the personal liberty conferred on them by the middle Roman law."

Speaking of the foolish methods of the Censor, I have said that it were far better in every way for our children to be acquainted with all that can be known of sex, to look upon all manifestations of it, in stone, on canvas, or in nature, than to be brought into touch with the manifestations of deformity in fashion, of hatred and cruelty and war, such as greet the eye of the child on every hand. In "Liberty" for February, 1903, Mr. TUCKER has a translation from the French, that finely expresses the same thought, and which he thus introduces:

"MAURICE LE BLOND, in 'L'Aurore,' delivers a telling blow at the yellow journalism of France, which 'Liberty' translates as of equal pertinence in America, where a CRAD-

DOCK is driven to suicide and a HEARST is sent to Congress."

Even among apparently peaceful nations there seems to exist a sort of obscure taste for carnage and bloody butchery. OCTAVE MIRBEAU, in his "Jardin des Supplices," has written definitive pages on this very subject. And we must confess that the newspaper reports of executions, or the views of massacres which the popular journals spread abroad with an atrocious exuberance of coloring—that all this distressing literature, in fact, is as dangerous to public morality as the worst forms of pornography, however base.

For my part, I am always astonished that the reproduction of the essential acts of life, that the splendid rites of fecundity and love, are held in disgrace by certain moralists, whereas dramatists, painters, and poets are permitted to glorify to their hearts' content *the act that kills*. We remember the scandal created, on the appearance of "La Terre," by that magnificent canticle of pagan effusion. But the same people who can not bear the sight of living nakedness never tire of pictures of battle and torture, regale themselves with the serials in the daily papers, and go shamelessly to the morgue to experience unwholesome, sickening joys.

It is in death that rottenness resides—not in love, as is proclaimed by ascetic morality and monstrous Catholicism. "Sin," says CAMILLE LEMONNIER, in one of his finest books, "is born in the shadow of the altar, of the dark frenzy of the worship of death, ultimate symbol of virginity, pale and sterile like virginity, monstrous antinomy in the spiriting torrent of amorous substance. Who can doubt that the mystic myth of the Virgin, immaculate and yet mother, corner-stone of the Catholic apsis, shading under veils and magnifying with an irritating mystery the naked lotus of India, the nuptial flower of life and eternity, has not rendered her devilishly desirable to us, making of us the lascivious band which goes through the centuries scenting the peppery odors, the torpid and deadly tuberose of the idol hidden in her tabernacles."

And, indeed, if the idea of love had not been warped by that of sin, men would be able to understand life in all its magnificence and in its true candor. Salacity would not exist, or pornography either, these being able to flourish only among degenerate nations. If we were capable of feeling the health which shines forth resplendent in the work of a RUBENS or a RODIN, we should pass by in indifference those pert stupidities, those coarse representations of bare bosoms, lifted skirts, and pink tights, which are only the aperitives of debauchery.

But two thousand years of Christianity weigh, alas! upon our shoulders; we are still submissive to the grim atavism of the Middle Ages, and romantic literature, which grew so rapidly in that vast charnel-house, the First Empire, contributed not a little to stimulate our morbid taste for death.

Instead of showing us the beauties of nature and the felicities of earth, most of the poets have disordered our nerves by vaunting the frenzies of passion, mingling the idea of suicide with that of love, glorifying the brutality of the warrior and the heroism of the soldier, and holding before our eyes the examples of assassins, monsters, and madmen.

Not with impunity did STENDHAL write: "At Rome a husband is able to

kill his wife's lover without ceremony; that is why Rome has the ascendancy over Italy." Not with impunity could BALZAC cry: "Where find energy in Paris? There a dagger is a curiosity which they hang to a gilded nail." These paradoxes have gradually intoxicated us, so that now France need no more envy the passionate tragedies of ferocious Spain or the vendettas of sensual Italy.

Dramas of cloak and sword, such as "Les Chevaliers du Brouillard," "La Tour de Nesles," "La Dame de Montsoreau," etc., have furnished to entire generations examples in slaughter and lessons in throat-cutting. Wearing Venetian mantles, cherry-colored caps, and satin doublets, the gentlemen and gallant knights of this *repertoire* gained applause for the same exploits for which the police to-day pursue and condemn the Apaches of Belleville and the Italian frontier. For between the Toledo blade and the ferruled knife there is a difference only in form and manufacture.

What wonder, then, that we find ourselves to-day in such a state of sentimental degeneracy! The Locustes of the serial story, the Othellos of the news columns, the Orestes and Roxanes of the court reports, have become the favorite heroes of a democracy that lacks an ideal. The readers of popular newspapers, who would withdraw their subscriptions *en masse* if a love scene were painted for them, find the greatest delectation in the report of an autopsy. A description of nudity will frighten our hypocritical modesty, but that of a rotting corpse is in no way offensive to us. And thus there is a pornography of murder as well as a pornography of love.

It is high time, nevertheless, that we ceased taxing with ugliness that which is normal, and embellishing scenes that are exceptional, hideous, and atrocious. Upon this matter art is in agreement with science. And it is by rehabilitation of living matter, by celebration of the divine physique too long despised by the mystic and the sick, that *savants* and poets will succeed in purifying our conception of life and of the beautiful, so perverted and so spoiled, since it still reproves the act of the flesh and endows with an esthetic prestige the gesture of death and destruction.

Every day the newspapers lay before us the more or less accurate—generally less accurate—details of some eruption of sexphobia on which our Censor fattens. A woman is whipped by "moral regulators" or burned to death in her house. You read of the burning of a Negro and you may never know whether his offense was rape, as charged, or a voluntary association, or suspected association, with a lover lighter-hued than himself; it may have been the one, it may have been the other. The fact that both are crimes under the law proves that the makers and supporters of the law are not able to distinguish between invasive acts and individuality of taste.

You find that in many cities women teachers are forbid-

den to marry. Of course men teachers may marry. The theory is that woman gives sex favors to men in return for support, and so a woman has no business to support herself when she has a husband. By so doing she deprives some other woman, who has no husband, of a place. It never occurs to the persons responsible for this that the teacher's capacity to perform the work required is a matter apart from her sexual status, and that to punish her for marrying is to discourage marrying among educated women and put a premium upon relations outside of marriage. As a radical, I am not worrying much over the practical effects of this stupidity; we can stand it as long as the legalists and monogamists can. But—it just shows again how firmly fixed in the orthodox mind is the idea that sex in woman is a thing for sale, for life or for a day.

We hear much about "indecent" in the crowding of passengers in our cars. By this is not meant, as it should mean, that it is an intrusion for any part of one person to be brought into contact with any part of another person without the consent of both; "indecent," as used in the press and by the agitators, has a sex connotation purely, and as so used evidences sexphobia and Miss Nancyism rather than a healthy protest against intrusion of any kind.

Mrs. EMILY D. MARTIN and others have been making a great stir over the return of "Love and Life," the painting by the English artist WATTS, to the presidential residence, from which these idle busybodies succeeded in getting it banished some years ago. Mrs. MARTIN says that the attitudes of the two figures are "atrocious," whatever she may mean by that. And what business has she, a modest woman, to thus suggest?

The storm raised by the clergy and the Women's Christian Temperance Union against the election of Mr. SMOOT to the United States Senate from the state of Utah illustrates forcibly the proposition that the downward way is a very easy one. When Mr. ROBERTS of Utah was refused his seat in the House of Representatives because he took all his wives op-

enly, this flagrant denial of the right of a constituency to select its representative prepared the way for the preposterous demand made by the ministers and their aids that Mr. SMOOT, who is *not* a polygamist, whose only offense is that he is a member of a church to which said ministers and their aids do not belong, should not be elected to the Senate by the Legislature of Utah, and the present demand of the more obstreperous of them that he be refused his seat when he goes to Washington. It shows again how meddlers and tyrants wax fat on their own outrages and how their impudence grows the longer they have free rein for their criminal actions.

I have cited these five instances of present-day sexphobia to illustrate my affirmation that the people are responsible for the Censorship. These few illustrations could be multiplied a hundred- and a thousand-fold did time permit or were it necessary. We never shall be rid of the Censorship until the people proclaim with WALT WHITMAN "the equal honor and dignity of all our members and all our functions," until they realize with GRANT ALLEN that "in proportion as men have freed themselves from medieval superstitions have they begun to perceive that the unclean and impure things are celibacy and asceticism, that the pure and beautiful and ennobling thing is the fit and worthy exercise of the reproductive function," that "to be pure is not to be an anchorite, and that chastity means a profound disinclination to give the body where the heart is not given in unison."



THE "FRAUD ORDER" FRAUD



It will be helpful to enlarge the scope of this inquiry by devoting a few pages to two other forms of the postal censorship. In the beginning, I enumerated five of these, that operated through the "fraud order" subdivision of the Post Office Department being placed fifth in the list. The case of

"Freedom" of Sea Breeze, Florida, is calling wide attention to this phase of the momentous question. The claim of the Post Office authorities, briefly stated, is this: The Postmaster General may refuse to deliver mail addressed to any person in the United States. No court may review or annul his decision in any instance. Whenever he, or some minor official of his department, an inspector, it may be, says that the business of a person or of a firm is "fraudulent," the incident is closed with the issuance of the order directing the local postmaster to stamp all letters addressed to this person or firm as "fraudulent" and return said letters to the writers. That I may not be accused of exaggerating the claim of the Post Office Department (for the magnitude and monstrosity of this claim must stagger belief) I subjoin a news item that appeared in "The New York Times" of July 25, 1903:

Judge THOMAS, in the United States District Court, Brooklyn, yesterday vacated a temporary injunction he had granted restraining Postmaster ROBERTS of Brooklyn from holding up the mail of the American Street Car Transportation Company.

The mail of the concern is being held up on a fraud order issued by the Postmaster General. The company operates a sort of endless chain system of selling street car tickets. Counsel for the concern contended that the law vesting the Postmaster General with authority to hold up any one's mail without a hearing was unconstitutional.

"Congress established the machinery for the transmission of mails, a purely artificial function," says Judge THOMAS. "Congress had a right to decide what mails should be transported, and to the executive, the Postmaster General, has been delegated the power to judge.

"I intend to respect that authority. It is not for this court to say, nor am I permitted to decide, whether the scheme in question is fraudulent, or in the nature of a lottery; that is within the right and province of the Postmaster General. The Postmaster General takes the entire responsibility, and it is not within the province of this court to review or demur it."

I know nothing of the business of the concern affected by the decision given; the moral status of the company in no way is germane to this argument. But the decision is of vital interest to every inhabitant of the country.

Judge THOMAS says: 1. The transmission of mails by the government is a purely artificial function.

2. Congress alone can say what mails may be carried.

3. To the Postmaster General has been delegated the power to judge.

4. It is not within the province of the federal courts to review the acts of the Postmaster General.

Upon which I comment: 1. The government monopoly of mail carrying is officially admitted by a federal judge to be "a purely artificial function," that is to say, a usurpation. Naming the forms of postal censorship, I placed this "artificial function," this monopoly, this usurpation, first. I said, "There is the fundamental interference, the immediate cause of all the others, the government monopoly of mail distribution, a monopoly which enables any fanatical and active clique to dictate what may or may not be carried in the mails, on any ground of inclusion or exclusion." It was added that this "basic interference with the free circulation of written, printed, and otherwise-expressed thought" is the *immediate* source of all subordinate forms of interference," the *primary* cause being human stupidity. The thoughtful reader can not fail to be impressed with the significant fact that Judge THOMAS fully accepts this contention; that he, too, derives the terrible powers of inquisition and spoliation possessed and exercised by the Postmaster General from the fundamental usurpation, the government monopoly of mail carrying and distribution.

2. Congress having the right "to say what mails shall be transported," it follows that any majority may legally gag any minority, and that gagged minority has no legal redress. Any dominant political, religious, moral, or economic party may shut the mails against any other political, religious, moral, or economic party and the members thereof individually. Competition with the government carrying of the mails being forbidden, there is no conceivable limit to the espionage, suppression, and robbery possible, inevitable, under the congressional enactment and departmental procedure expounded and indorsed by the federal court.

3. The Postmaster General is made the master and dis-

poser of the business of every man and woman in the United States. He, a mere appointee, is given the power to bankrupt, by administrative process, any business man in the land, to harry any person in any place where this government exercises sovereignty. Possessing this unlimited power, he may spare any dubious enterprise whose promoters "see" him or his agents. The power to harry and destroy always gives the opportunity, the incentive and temptation, to buy and sell immunity. Tyranny and corruption are inseparable, as the stench now emanating from our vainly vaunted Post Office Department bear awful and sickening testimony.

4. This appointed official, usually a political heeler rewarded for his services to the party, is superior to the courts. They may not review or demur his acts. He is absolute—a czar. No aggrieved citizen may take him into a court and require him to prove to a jury the truth of the charges he has made against the business and character of this citizen, accusations which may be made in the first instance by a bigot or any interested enemy of the citizen, and repeated by any number of dummy or constrained witnesses put forward by a post office inspector in "working up" the case. If doubt is felt concerning the accuracy of the latter part of this statement, read the summary of the history of the "Freedom" persecution, to be found farther along.

What was EDWARD B. THOMAS before he was a United States judge? A lawyer? Presumably. Is it as a lawyer that he hazards the reckless assertion that a decision of the Postmaster General is not appealable, that he is absolute master in his department, having unquestionable power to say who may and who may not be served by the employees of that department, that an aggrieved citizen is barred from all recourse to the courts? Is this judge so little of a lawyer that he does not know that one of the functions of courts is to pass upon the legality of the acts of legislative bodies and administrative officials? It is believed that lawyers and judges know more than other men concerning the law, and this should be so, for

the study and practice and adjudication of law constitute their vocation. The Constitution of the United States is the fundamental law of the country. It is for the lawyers who are also judges to decide whether acts of the Congress are constitutional, and they have been doing this right along from the beginning of this government. Likewise they have been passing upon the legality of the acts of administrative officials. Even if it be true that the Congress has given the Postmaster General absolute power over the reputation and business of every inhabitant of the United States, as Judge THOMAS assumes, is there nothing more to be said? What is the attitude of the Constitution toward such a terrible invasion of the rights of the citizen? Judge THOMAS avers there is nothing for him to do. Speaking from the bench he says, "It is not within the province of this court to review" an act of the Postmaster General. Truly, a lame and impotent conclusion! It *is* his business to declare that no citizen shall be deprived of reputation and property without due process of law, that every accused man or woman has a right, under the Constitution and in equity, to a speedy and public trial, by a jury, in the state and district where the offense has been committed, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favor. For the enlightenment of the lawyer who presided at the burlesque trial of *IDA C. CRADDOCK*, I print here Articles V. and VI. of Amendments to the Constitution of the United States:

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy

and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Now, I submit without deference to the opinion of Judge THOMAS that any act of the Congress that may pretend to give to the Postmaster General authority to override each and all of the provisions of the Constitution just set forth is clearly, unmistakably, and indisputably unconstitutional, and that it is the sworn duty of every judge, before whom a case is brought under such an act, to state this conclusion in unequivocal terms. It does not matter whether the Supreme Court has or has not already passed upon the absurd and infamous claim of the Postmaster General—if Judge THOMAS says it has sustained this claim, all right; it may reverse itself in the next case. Several such reversals have occurred in my lifetime. The judges get new light occasionally, and the personnel of the Court changes. But, regardless of what the Supreme Court has done or may do, it is the business of the inferior federal judges to obey the Constitution, thus throwing upon the Supreme Court all responsibility for violations of the Constitution and prostrations of the safeguards and rights of the citizen. When that Court of final resort is so foolish and reactionary as to reverse a righteous decision of a lower court, it must bear the odium.

THE PERSECUTION OF "FREEDOM,"

Here is the statement, condensed, but for the most part in their own words, which HELEN WILMANS and C. C. POST make concerning their case:

About two years ago the Postmaster General suddenly, and without notice to her, issued an order that all letters addressed to HELEN WILMANS should be marked *fraudulent* upon the envelope at the delivery office and returned to their respective writers. Upon her remonstrance she was granted a hearing before the department, over which Mr. TYNER presided. (Since then he has been convicted before the public of being a partner in the ring of boodlers, and compelled to resign his office, after which he induced his wife to steal the papers supposedly incriminating himself and others.) Mr. TYNER appointed Mr. CHRISTIANCY (also since forced to resign because of irregularities in office) to hear the

pleadings. On Mrs. WILMANS' (Mrs. POST's) behalf, besides her husband, C. C. POST, and their attorney, there appeared in her defense two physicians in regular standing, who voluntarily testified to her integrity of character and the scientific principle upon which her practice is based. Some half-dozen persons of both sexes and of high standing in society and the business world also testified similarly, and in addition to these personal witnesses there were presented 200 sworn testimonials from persons she had cured of various ailments, and some 500 letters from patients testifying to the benefits they had received or were receiving from her treatments. None of these documents was even examined by Mr. CHRISTIANCY or by Mr. TYNER or by any other of the Post Office officials. No witnesses were examined for the government except FRED PEER, the inspector charged with the management of the case by the government; yet the Department refused to remove the order returning her letters marked "fraudulent," but said she could get letters addressed to her under her marriage name. This amounted to a conviction and a fine pretty nearly equal to her income from her business, and that, too, without a hearing in any court recognized by the Constitution, without judge or jury except that of an appointee in the Post Office Department. HELEN WILMANS was thus branded a fraud before the public, her business, both as a holder of disease and as a publisher of books and of a weekly journal of over 7,000 circulation, virtually destroyed; yet as Mrs. HELEN WILMANS-POST she was held innocent.

A few weeks later, Mrs. WILMANS-POST, her husband, Col. C. C. POST, and her son-in-law, C. F. BURGMAN, were indicted on sixteen counts—that is, in the names of sixteen persons that she had treated, only one of whom knew of the use of their names in getting the indictments, and that one a stool-pigeon of the Department. Of the sixteen, twelve immediately wrote, offering to give evidence in defense of the prisoners, who had been released on bonds of \$5,000 each. These indictments were secured by frightening one of Mrs. WILMANS-POST's clerks into surrendering the books containing the names of her patients. The Prosecuting Attorney took these books before the grand jury, told them Mental Healing was a fraud, and simply read from the book the names of the patients, saying these were some of the defrauded. Before the court had taken action on these indictments, Mr. PEER, still representing the Post Office Department, went to Macon, Georgia, obtained other indictments in the same way, and asked that the indicted persons be brought to Georgia for trial. Judge LOCKE, of the Federal Court, declared all these indictments bad, but others were obtained by use of the books and the testimony of several discharged employees of Mrs. WILMANS-POST and personal enemies of Mr. POST, who, as mayor of the town, had been under the necessity of exercising the authority of a magistrate in their cases. Meantime the Supreme Court of the United States ruled in the WELTMER case that mental therapeutics, or healing by mental processes, is a legitimate business, whereupon the Department officials refused to try the accused upon the indictments standing against them, and went to Tampa, Florida, before a grand jury drawn from but a small part of the district, and not in conformity with the order of the court, obtaining an indictment in which they charged, in essence, that while Mrs. Post

could heal by mental process, she never made any effort to treat those who paid her for services. Later a special grand jury was called at Jacksonville and still other indictments brought, and on these both parties consented to go to trial, the judge setting the trial for December, and the accused again giving bonds.

Thus two whole years have been covered, during which the persecution by the Postal Department officials has continued, and the carnival of corruption in the Department likewise has continued, to the grievous cost of the government and of illegitimate and legitimate enterprises alike.

With a day set for the trial of all the accused, it might be supposed the officials would await the result of that trial; but not so. Another fraud order has been issued covering the marriage name of Mrs. WILMANS, Mrs. C. C. POST; also all letters addressed to her paper under its title; also the names of C. C. POST and C. F. BURGMAN. None of these persons ever has been convicted of any offense against the law. Neither Mr. POST nor Mr. BURGMAN ever had any pecuniary interest in Mrs. WILMANS-POST's business. Yet they are refused the use of the mails. They are under indictment and the day is set for trial, yet they can not get a letter from any one who would appear in their defense, nor from their attorneys, nor from any one anywhere. Mr. POST is in Essex, North Carolina, the president and general manager of a mining property in which more than 500 persons have invested money purely on their confidence in his integrity and business ability. If this order is enforced Mr. POST can not get a letter from the stockholders nor from his board of directors nor from his wife, and if either he or she were dying neither could communicate with the other by letter except through a third person. And what the Department officials have done to these persons, they claim the authority to do to any citizen of the United States, and to citizens or residents of any foreign country in so far as any business they may wish to transact with citizens or residents of this country is concerned.

Think a little further. These officials are passing judgment on more than Mr. and Mrs. POST. They are assuming the authority and claiming to possess the wisdom to entitle them to judge all persons, regardless of age or sex, who use the mails; to determine as to their ability to judge for themselves whether they are getting what they want, and what they paid for; and to forbid them to buy or sell through the mails, there being no appeal from such an interdict. They can and have protected concerns known publicly to be devised for the purpose of swindling, and have divided the profits; on the other hand, they have destroyed the business and injured the reputations of honorable citizens who refused to pay blood-money; and no man or woman knows what may follow in the years to come if this over-riding of the rights and liberties of the people is not put a stop to now. If there has been an enactment by the Congress which gives these officials a shadow of a claim to the possession of authority to condemn and fine citizens without trial by judge or jury, to bankrupt and brand as criminals any whom they choose, with no possibility of redress; to refuse the right of second-class postage rates to any paper which advocates legislation they do not want, or expresses views, which they do not approve, on scientific or economic questions—then it is the duty [and interest] of every citizen to make sure that that enactment

be repealed at the next session of the Congress. No spirit of partizanship from any source should enter into the discussion of this issue. It is a question away and above all questions in which party interests possibly can be involved; it is the question whether one man, and he only an *appointed* official, may exercise an authority such as even the Tzar of Russia well might hesitate to use.

It is only because Mr. and Mrs. Post have refused to be suppressed that the fight against them has been so long continued. Neither is there herein given other than the briefest possible statement of the facts in their case. Minor acts of the bureaucrats, intended to annoy and injure them, have been numerous. The Department has gone even to the length of removing subordinates who did not believe in their guilt or who refused to commit perjury in order to convict them.

Of course it is wholly immaterial whether Mental Healing is or is not a science, or whether HELEN WILMANS does or does not give the "absent treatment" she advertises. It is not the business of the Post Office Department to protect persons from the consequences of their own credulity. Its business is to carry and deliver the mails.

The Weltmer case, mentioned in the "Freedom" statement and appeal, has made a queer impression on at least one mind. An advertisement in a Western paper speaks of "Mental Science" as "recognized by our government," the court "thereby acknowledging Weltmerism as a sound and true philosophy." This lamentable confusion of ideas is a natural corollary of the attempt to regulate the contents of the mail sacks on the ground of their intellectual or moral attributes. That one who has felt the heavy hand of the Post Office Department laid upon him because of his opinions should hail a victory in the courts as a recognition of his "philosophy" is pitiful indeed. What sane man wants to be "recognized"? When one prides himself on the alleged fact that an acquittal in the courts which follows a ban by the Post Office Department is the official recognition "by the government" of his theory as "a sound and true philosophy" he in effect prides himself on the fact that he is an inhabitant of a country where the Post Office officials have the impudence to demand that the books and papers which go in the mails shall embody what *they* think is a "sound and true philosophy." Should not this poor foolish boaster be able to see that unless the

Postmaster General or some judge or perhaps a jury agrees with him that his is "a sound and true philosophy," his own belief or knowledge counts for nothing, so far as his rights as a citizen and man are concerned? No intelligent man or woman asks that his or her ideas be "recognized" by "our government." All that is demanded is that the government, no less than the mob, let them alone, leave them unmolested to be accepted or rejected by any and every other man and woman, individually. In a word, all that is wanted is freedom of tongue, pen, and press. This includes, of course, liberty of transportation. So long as the government will not allow us to select our carriers, our insistent demand must be for a complete and business-like service by the Post Office Department.



THE CENSORSHIP OF SECOND-CLASS MATTER



In *The New York Times* of August 5, 1903, under the title, "Second-Class Matter and Temptations," S. W. GREEN has the article that follows. It throws no inconsiderable light on the maloperation of Assistant-Postmaster General MADDEN's department.

The different classes of mail matter were set up and the conditions of each described by Congress in the Act of March 3, 1879, as thus for second-class:

The conditions upon which a publication shall be admitted to the second class are as follows:

First—It must regularly be issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second—It must be issued from a known office of publication.

Third—It must be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

Fourth—It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers.

Provided, however, that nothing herein contained shall be so construed as to admit to the second-class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates. [1]

These conditions have not been modified by Congress, although attempts were made in three different sessions to change them in accordance with the desires of leading Department officials. Each of these attempts came to a vote and was lost. And the postage on second-class matter, which was made by the act

of March 3, 1879, two cents a pound, was made by the act of March 3, 1885, one cent a pound, and that act is still in force.

At first the Department administered the law in its spirit, and a body of interpretations grew up in harmony with that spirit and the letter of the law itself. Postmaster General T. O. HOWE, in General ARTHUR'S presidency, advocated the free transportation of second-class matter in the mails, as has been done in Canada until quite recently. But by and by antipathy to second-class matter grew up in the Department, and in 1893 and 1894 it collected from three periodicals third-class postage rates on second-class matter to the amount of \$8,494.62. This action Congress annulled, act of July 16, 1894, and the money was refunded.

This cent-a-pound rate for second-class matter is an indispensable element in the prosperity of the whole country, and in particular of the Post Office itself. Every one's own experience testifies to the enormous increase in periodical matter within the last few years. The low price of paper has been a potent factor, and acted and reacted with low postage. Periodicals are loaded with advertisements, which act as constant and massive stimulants to first- third- and fourth-class matter, as well as second. [2]

The Department carries approximately one-third of the periodical literature published. But it gets the lion's share of the returns from the advertisements of the three-thirds. We have now had eighteen years of one-cent-a-pound second-class matter. The deficit of the Department varied in the eighteen years next preceding second-class matter from 34.9 per cent. of the total revenue to 14.2 per cent. Its deficit for the eighteen years of second-class has gone down, down, till in 1902 it was 2 per cent. and in 1903 (probably) still less. The postal revenue per capita had gone up from the beginning to 1885 to 75.5 cents, or 6.38 cents for the eighteen years immediately preceding second-class. Under second-class it had climbed to \$1.517 per capita in 1902, and probably in 1903 to more than \$1.61.

But the Department, from 1898 on, has systematically persecuted second-class matter, its calculations of the supposed loss from low postage applying to all periodical matter, not specially to the kinds overtly antagonized. The attempt seems systematically to make admission to second-class matter depend, not on the provisions of the law itself, but on the discretion or whim-whams of Department officials. [3]

The Third Assistant's 1902 report, page 575, recommends "that a new postage rate be created and applied to all publications now admitted to the second-class, except daily, tri-weekly, semi-weekly, and weekly newspapers, in the sense in which we understand the word 'newspaper,'" postage on the new class to be not less than four cents a pound. And the Postmaster General concurs. That is, the hostility does not lie merely against certain kinds of second-class matter, but against all, modified only by frequency of publication, the vital question to be, Does the periodical appear as often as once a week? And still the question of admission is to rest with the discretion of the Department, or "the sense in which we understand the word 'newspaper.'" [4]

These attempts of the Department did not prevent the increase of second-

class matter, which rose from 4.9 per cent. 1898 to 8.2 per cent. 1890 to 1900, and 12.2 per cent. 1900 to 1901. This proportion would have made the increase 1901 to 1902 18.1 per cent. It was only 5.7 per cent. A new "regulation" went into force July 17, 1901, to which is chargeable the bulk of the falling-off. Paid second-class should have been \$5,071,740.41. It was \$4,541,523.59, leaving a loss on second-class of \$530,216.82, on which there was no corresponding reduction of expenses.

What situation is here opened up? All over the country are multitudes of publishers and printers, with millions of capital invested, entitled to the use of the mails on conforming to the conditions and paying the postage of the law itself. Other publishers are perpetually excluded for not conforming to whims of Department officials. Now and then an aggrieved publisher has gone to court and sometimes got redress. But the process is expensive, cumbersome, slow, uncertain.

The aggrieved publisher has to pay his own expenses, while the Department puts its share on the broad shoulders of Uncle Sam. In the last appropriation bill is an item of \$25,000 for counsel fees to help the Department in its prosecutions. There is a constant temptation here before a menaced publisher to consider whether a judicious expenditure may not secure for him the comparatively undisputed enjoyment of the rights to which he is entitled under the law. And if an authoritative voice could compel the Department to administer the law of Congress as it finds it, and to stop undertaking its legislation for Congress, not only would the publishing trade be relieved, but a perennial source of temptation dried up. [5]

This 53,021,682 pounds of paid second-class matter frightened from the mails in the 1902 year—how much payment to the railroads does it represent? There are no accessible statistics of matter other than second-class entering the mails except those of the special weighing by classes for thirty-five days in October and November, 1899, and the figures carried out for the year. According to its Table M (1900 Report, page 261) the railroads received 1,347,145,180 pounds of mail, of which 588,581,950 pounds were revenue and 758,563,221 were non-revenue. For that year the railroads were paid, transportation, \$32,940,794.48, and for railway post-office car service, \$4,182,482.79, together \$37,123,277.27, or more than six cents a revenue pound for every pound carried. At six cents a pound the 53,021,682 pounds shut out by the irresponsible ruling of the Department in 1903 represented a payment to the railroads for transportation of what was not offered them to transport of more than \$3,181,300.92.

Once in four years the mails on each railroad route in one division of the country are weighed, and on that basis each railroad is paid for the ensuing four years. The latest weighing in the first division, Maine to West Virginia, took place a little before June 30, 1901, and the four years for which it set the payment run from July 1, 1901, to June 30, 1905. Of the whole second-class matter 48 per cent., nearly half, is mailed in the first division. So that in that division the railroads were paid in the first of the four years more than \$1,500,000 for services which the ruling of July 17, 1901, extinguished. And in regular course this

amount was larger the next year, and will go on increasing the remaining two years. [6]

If such a regulation as that of July 17, 1901, was to go into effect at all, should it not have preceded the weighing? Instead the doomed matter is left in the mails as they are weighed for the four years, and then in the first month of the forty-eight for which that weighing set the price this fifty-three odd millions of matter is excluded, while the compensation remains unchanged.

Somewhere I have read, "Lead us not into temptation." And all legitimate modern business is organized to minimize ordinary business temptations and to open the fewest possible doors to wrong-doing. But we seem to find a marked exception here, and an open way to illegitimate receipts and expenditures, of which the items are not to appear in the public accounts. [7]

1. Mr. GREEN argues (2) that a very cheap second-class postage is a benefit to the whole country, including the Postal Department itself; that even if there continues to be a deficit in the second-class division, it will be much more than made up by the increase of receipts in the first- third- and fourth-class divisions, this increase being due to the stimulation of business by the advertisements carried by the second-class publications. If he is right, and I think he is, why indorse, even inferentially, the limiting provision of the postal regulations, the "provided" paragraph excluding from second-class pound rates "publications designed primarily for advertising purposes"? By a parity of reasoning must we not hold that the advertisements thus carried would so stimulate business that the deficit created by carrying them at second-class rates would be more than balanced by the increase of receipts in other divisions? The attempt to make distinctions has caused the present muddle and is responsible for the gross injustice perpetrated by the officials in the second-class division.

However, this is not the best remedy suggested by business sense and equity. Exclude no periodical printed matter from the second class, but make the rates such that nothing shall be carried at a loss, taking the average pound-cost for all distances the country over, easily to be ascertained from time to time as increasing density of population lowers expenses.

3 It is a fact, nevertheless, that the kinds "overtly antagonized" have been, as a rule, those whose publishers have had

the smallest financial backing and the least "influence" with which to make headway against the adverse rulings of the Department. Saving heresies are not endowed.

4. It is much to be feared that Mr. GREEN's unquestionably great knowledge in this field does not include a thorough acquaintance with the history of the persecution of a large number of reform periodicals, of many schools of thought. Publications of this kind, arbitrarily shut out or cruelly pursued, were no more (rather, much less) "advertising sheets" than are hundreds of mammoth periodicals about whose standing the Department has asked no inconvenient questions. In carrying out the foolish policy adopted by the second-class division, discrimination against the unfashionable and those weak in other ways was inevitable.

5. But where "is the authoritative voice" to compel the Department to so administer the law as to dry up "a perennial source of temptation"? Where in officialdom is there a mastering desire to stop the flow of such intoxicating springs? Are the beneficiaries of a monopoly likely to neglect their opportunities? Wake up the people and destroy the government monopoly of mail transportation—*that* is the only way out.

6. A fine object lesson in government business!

7. Of course, dear Sir; what else could be expected? When you shut out competition, when you have monopoly, what comes in the regular sequence of events, what should you expect to find but "an open way to illegitimate receipts and expenditures"? Why should you or I be astonished? Do not the taxpayers bear the burden that comes of this? But if the blunderers and speculators had to pay the bills—

Another writer in *The Times*, whose short letter followed that of Mr. GREEN, in the same issue, called attention to the increase of twenty per cent. in the express rates on certain classes of matter, and used it as an argument in support of government ownership and operation of the express business. I wonder if he read Mr. GREEN's article? His attention should

be directed to that paragraph wherein it is shown that the Department officials, among them the Postmaster General, desire to advance the postage rate on a large class of printed matter, including all fortnightlies, monthlies, bi-monthlies, and quarterlies, from one cent to at least four cents the pound. If an increase by the express companies of twenty per cent. in the rate on certain classes of goods furnishes logically an argument in favor of government assumption of the express business, what lesson are we to draw from a Postal Department proposition, strenuously urged, to increase by at least 300 per cent. the postage rate on a certain class of matter? How do the scales of argument tip now? If twenty per cent. weighs one pound for you, what does 300 per cent. weigh against you?

Though all the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting, to misdoubt her strength.

Let her and falsehood grapple; who ever knew truth put to the worse, in a free and open encounter? Her confuting is the best and surest suppressing.—JOHN

*MILTON'S best gift
to mankind*



THE FREE SPEECH LEAGUE

This Society was organized on May 1, 1902. The League demands freedom of peaceable assembly, of discussion and propaganda; an uncensored press, telegraph, and telephone; an uninspected express; an inviolable mail.

For these we work by means of the press and platform and the courts; by persuasion, argument, petition, protest, and demand; through the agencies of election and rejection. But the education of brains and quickening of consciences are first in order of time and effect.

THE CONSTITUTION

ARTICLE I.—*Object:* The object of THE FREE SPEECH LEAGUE is to maintain the right of Free Speech against all encroachments.

ARTICLE II.—*Membership Dues:* The minimum membership fee is One Dollar annually, but the Board of Officers may remit this in individual cases.

ARTICLE III.—*Officers:* SECTION 1: The Officers of THE LEAGUE shall be a President, two or more Vice-Presidents, a Secretary, and a Treasurer. SECTION 2: They shall be elected by ballot, and shall serve for two years or until their successors shall be duly elected. SECTION 3: Their duties shall be those usually pertaining to such offices.

ARTICLE IV.—*Meetings:* The Officers, or a majority of them, may call meetings of THE LEAGUE whenever, in their judgment, it is advisable; and they shall call meetings of THE LEAGUE whenever ten members so request in writing.

ARTICLE V.—*Advisory Committee:* The Officers of THE LEAGUE may appoint an Advisory Committee.

ARTICLE VI.—*Amendments:* This Constitution may be amended by a majority vote of members voting on propositions therefor. Proposed amendments must be submitted to the members at least sixty days before the vote on them is to be taken.

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Ask for the Declaration of Objects and Principles.

The chief art of reform is to be radical. No unrepealed statute is ever obsolete. The head of every wrong still lives while its principle is spared.—MONCURE D. CONWAY. No clumsy external coercions can resist moral force.—J. W. LLOYD.

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