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**ERIC MICHAEL SHAW**

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**THE PROBLEM OF RELIGIOUS MYOPIA AND CIVIL LIBERTIES:  
ANTHONY COMSTOCK, THE EXCEPTION, AND THE OBSCENE  
EMERGENCY**

**By**

**Eric Michael Shaw**

**A THESIS**

**Submitted to  
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## **ABSTRACT**

### **THE PROBLEM OF RELIGIOUS MYOPIA AND CIVIL LIBERTIES: ANTHONY COMSTOCK, THE EXCEPTION, AND THE OBSCENE EMERGENCY**

By

Eric Michael Shaw

In January 2001, the new Republican president's first executive decision was to have a minister dedicate the inauguration to Jesus Christ. For many, this event marked the advent of renewed governmental exclusion, a politics of particularism intended to impose minority status on those outside the pale of Protestant Evangelical Christianity, and ultimately, a means of demolishing the wall placed between the secular and religious by America's founders. Soon the new administration, as Ron Barrier has noted, began "smuggling religion into social programs, and preying on some of the most vulnerable people in our society." As discrimination becomes policy, as distinctions between church and state blur; as America, consistent with its history of conquest and bloodshed and its interventionist foreign policy, continues to seek out and destroy 'infidels' at home and abroad, there is no reason whatever to presuppose that what Carl Schmitt termed "the exception" for Reasons of State will not be further utilized to institute self-serving, faith-based legislation couched in language consistent with national and societal defense. Looking back at Anthony Comstock and those laws that engaged 'obscenity,' endorsed censorship, and foreclosed the dissemination of information, one is inclined to glimpse an all too imminent American future in which thought and expression are monitored and controlled.

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For Bern,  
In Loving Memory

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## **The Problem of Religious Myopia and Civil Liberties:**

### **Anthony Comstock, the Exception, and the Obscene Emergency**

Godliness is in league with riches. . . .Material prosperity is helping to make the national character sweeter, more joyous, more unselfish, more Christlike. . . .In the long run, it is only to the man of morality that wealth comes.

—Bishop William Lawrence  
*The Relation of Wealth to Morals* (1901)

Nothing will more effectually guard us against vice, than a firm belief in the existence of God. For surely if we realize that there is such a Being, we shall naturally infer from his perfections, from the nature of his moral government, and from our situation as rational creatures, that we are amenable at his awful tribunal. Superior power, wisdom and goodness, always lay us under a restraint, and command our veneration. These, even in a mortal, overawe us. They restrain not only the actions, but the words and thoughts of the most vitious [sic] and abandoned. Our happiness depends on our virtue. Our virtue depends on the conformity of our hearts and conduct to the laws prescribed us by our beneficent Creator.

—Jonathon Maxcy, quoted in  
*The Columbian Orator* (1811)

## **CHAPTER I**

The American state was founded upon principles of inequality, most saliently those which facilitated the marginalization of women (their assumed, absent presence within the Constitution but never a direct acknowledgement of their existence) and the dehumanization of African slaves. It is also imperative to note the founders' exclusion of Christianity as a basis for enjoying full citizenship or holding elected or appointed office. This facilitated the incorporation of a measure of inclusion, however small, if not a full equality, extended along Eurocentric lines of descent and of course, whiteness. There was, within this ground-breaking dynamic of secular determinism, a solid effort to ensure that popes and princes would not regulate the laws; that such tried-and-failed, often bloody dicta as the divine right of kings would never dominate

American government. Ensuring by design that legislative, juridical, and executive components would be free from the constraint and contamination imposed upon them by a state religion, by requiring that “no religious Tests shall ever be required as a qualification to any Office or public Trust under the United States” (US Const., art. 6), the framers neither denied the existence and numerical superiority of American Protestant Christianity, nor did they especially endorse it. Such requisite oaths as persisted in England (swearing to the existence of and belief in the Holy Trinity) until the nineteenth century were never established at the federal level in America.

Yet from the time of the inception, signing, and ratification of the American Constitution, pressure has been exercised to establish officially, in writing, the presence and supremacy of a Protestant, singularly American God, and subsequently to deny the power of reason so beloved of Enlightenment thought its rightful, primary place within the lawmaking process and the larger interests of the State. Only the laws of this God, established through Holy Scripture as interpreted by his chosen earthly representatives—presumably only men, and these of the ‘correct’ race, class, and religious background—only these vessels of a higher morality might best determine and uphold the laws required in the furtherance of God’s sacred and revealed purpose for his chosen land and for that larger and less fortunate portion of humankind within it: the large percentage lacking the congenital advantages of their social and moral superiors. If only somehow sufficiently blessed, these masses of men and

women, too, might ultimately realize the shortcomings of the United States Constitution, and lend their support to amend of the document as written.

In the latter days of the eighteenth century, men such as James Madison and Thomas Jefferson, steeped in Enlightenment philosophy; doubters, or perhaps, Deists, were branded by religionists as atheists and heretics. Thomas Paine, praised as a true patriot in the cause of revolution, was all but written out of history for expressing his personal beliefs anent religion in *The Age of Reason* (1794), which included his now famous declaration, "My own mind is my own church" (50). The Bill of Rights, sufficiently vague in areas to be seen simultaneously as inclusive and exclusive, became and remains a battlefield for religious and secular issues. Engaged in this perennial struggle are secularists, comprised of both religionists and non-believers who wish to maintain a distinct separation between civil and ecclesiastical matters, and fundamentalist "Christian" revisionists, those who feel righteously compelled to seek a re-articulation of Federal law as they seek the penultimate mandate for a religiously specific and putatively moral agenda. The latter group, if successful, seeks not only to defame but to abrogate all action and thought which they find inconsistent or in (direct) opposition to their own beliefs. Of late, manifestations of the struggle have emerged within the issue of a Constitutionally mandated definition of marriage. A spotlight has been focused on the traditional (Judeo-) Christian one-man-one-woman union, while simultaneously casting any other type of relationship into a shadowy realm of morality-based scandal and illegality.

One manner in which so-called ‘faith-based’ movements seek to gain a permanent foothold in the fight against popular secular sovereignty—to redefine, if not eradicate the notion of “We the People” and supplant it with an expression sufficient to apotheosize the very foundation of American social and political existence—is to utilize what political philosopher Carl Schmitt termed “the exception” (5): to declare the presence of a state of emergency, one that current laws are not adequately prepared to address. The exception, Schmitt posits, has been and may ever be used to test the endurance of a sovereign power, or to supplant popular sovereignty with the urgently needed, immediate decision-making capacities of a select individual. As this paper will show, Anthony Comstock was one such individual.

In *Les Six Livres de la Republique* (1594) Jean Bodin wrote, “the finest means of conserving the state and guaranteeing it from rebellion, sedition, and civil war and to keep its subjects on good terms with one another, is to have an enemy against which one can exert oneself” (Haslam 42). Since its inception, America has been at war nearly continuously against some enemy. Whether or not the conflict was armed and joined, whether or not the enemy was something tangible such as a nation or a people, or something amorphous, alien, all but ineffable, such as an ‘-ism,’ there has nearly always been put forth the presence of some perceived threat to what is perhaps the most vague, and yet seemingly wholly logical lie of all, the ‘American way of life.’ For in truth, this latter, diaphanous concept is just that—a mental construct, as variable and malleable a fantasy as there are dreamers to embrace it. Sheer political force, however,

and dynamic efforts to motivate public opinion can and may reduce the liberality they deem to be putatively imbued in the concept of personal and public liberties. Strict conformity may be established through the emergence and incremental progression of a legislative agenda, and the social legitimacy granted its emergency-generated status by time, utility, and by notions of enduring sacrifice and service during a 'long, twilight struggle.' This struggle may, perhaps, be waged against anything broadly termed 'heresy,' 'obscenity,' or 'immorality'—and need not be predicated upon a true consensus of reasoning opinions or even the dubious and controversial mechanism known as popular suffrage, but solely upon the judgment of the individual, or small, non-representative group, engaged in this ostensibly patriotic struggle, until conformity to an 'exceptional' code of morality, robed in the majesty of divine will as perceived and established through the generation of Scriptural exegesis, becomes the standard of normativity. Once established, people will presumably think and vote and perpetuate the status quo as they ought, while focus is shifted to yet another enemy of the state. A new struggle begins, which is in fact merely an extension of the old.

Some vigilant Americans worry lest the juridical, executive or legislative branches of the federal government blur the distinctions that delineate, or are supposed to delineate, the civil from the ecumenical. Such people brook no ecclesiarch as leader of the so-called free world, and have been alarmed to learn that Cabinet meetings, not unlike Ku Klux Klan rallies, were and presumably continue to be opened with Christian prayers for divine guidance.

Discretionary dollars culled from publicly funded budgets are distributed disproportionately to faith-based organizations. These retain the right to staff themselves only with those of their own faith, as Barbara Ehrenreich suggests, creating in the process “an alternative welfare state, whose support rests not only on ‘faith’ but also on the [doctrinal and political] loyalty of the grateful recipients” (6). Early in the latest war against an ‘-ism,’ the President of the United States made alarming declarations of purpose from a church pulpit, assuring the congregants and those virtually present by dint of cameras and microphones, that the one true God would guide America to an inevitable victory of the righteous.

Historical precedents for the use of the exception, for the state of emergency in America, are of course, extensive, and in the name of the emergency, as in the name of God, we have accumulated an embarrassing juridical legacy. Offenses are saliently egregious as regards numerical minorities. Legal rights granted by discovery, the notion that lands espied from a ship at sea entitled European colonizers to settle them, was completely logical to Chief Supreme Court Justice Marshall and a concurring majority, who ultimately, in spite of seeming efforts to the contrary, facilitated the displacement and near extinction of the Cherokee nation (*Worcester v. Georgia* (1832) ). An impoverished and militarily weakened Mexico could be beaten into submission and its lands annexed by the United States through misguided notions of national interest. The drive of ‘civilization’ westward to the Pacific coast, involving temporary and final solutions to problems posed by indigenous

peoples, was only a component part of the great crusade christened by John O'Sullivan in 1845 as 'manifest destiny.' To O'Sullivan, America was a nation "destined for better deeds":

It is our unparalleled glory that we have no reminiscences of battle fields, but in defence of humanity, of the oppressed of all nations, of the rights of conscience, the rights of personal enfranchisement. Our annals describe no scenes of horrid carnage, where men were led on by hundreds of thousands to slay one another, dupes and victims to emperors, kings, nobles, demons in the human form called heroes. We have had patriots to defend our homes, our liberties, but no aspirants to crowns or thrones; nor have the American people ever suffered themselves to be led on by wicked ambition to depopulate the land, to spread desolation far and wide, that a human being might be placed on a seat of supremacy.

(481-82)

Not to place a *human being* on such a seat perhaps, but carnage and desolation are invariably deemed necessary when committed in a righteous cause—the struggle to fulfill requirements placed upon God's chosen nation by his revealed will, "to establish on earth the noblest temple ever dedicated to the worship of the Most High. . . It's floor shall be a hemisphere" (O'Sullivan 482). The loss of a few hundred thousand indigenous souls must have seemed an insignificant price to pay, and in fact it has proved to be only a scant fragment of

the ongoing project to raise this temple. And, of course, those who were not exterminated, they, or perhaps their children or grandchildren might, in time, be sufficiently civilized and Christianized to see the prevailing wisdom and righteous necessity of the loss of their ancestral lands and the eradication of their families and cultures.

The dichotomous American mindset typified by O'Sullivan—that of the righteous cause carefully imbricated with an immanent objectification and vilification of the other, must constantly channel and re-channel its energies, in a ceaseless effort to retain supremacy and repress the manifold negative ramifications of its permutative methodology. One direction in which the repressive agencies of enforced morality have been necessarily pointed, is that in which they might be availed of control over individual thought and expression. Left unaltered, such 'liberal' capacities might offer dangerous challenges to peremptory Christian dicta regarding 'correct' morality. The same revisionist spirit of those who believed and continue to believe the First Amendment can be interpreted as self-contradictory—merely seeming to eschew an official American religion while making no provision whatsoever to prevent its establishment—holds also that it offers no guarantees for freedom of 'expression' or of 'conscience.' Challenges have thus been created, which in effect, use loosely interpreted Scriptural bases for foreclosing natural human impulses. Religious dogma may thus be utilized to obtain, subtend, and reinforce civil statutes against virtually anything, and by extension anyone,



deemed 'obscene,' and their power holds discretionary agency in determining the 'literary merit' of any text.

## CHAPTER II

What precisely, is obscenity? How might governments best establish public standards that neither infringe upon freedoms of expression, nor risk infliction of irreparable harm on the most malleable members of society, its children? Are cries of “obscene!” directed at any text, any product of the graphic or plastic arts, any musical composition, entertainment venue or hyper-real text necessarily (il-)legitimate? Historically, problems of defining obscenity and enforcing laws established to prohibit its dissemination, have served special and political interests, while supporting a quasi-legal basis for censorship on religious grounds under the specious rubric of public morality.

As long as criteria for assessing the social acceptability of texts remain predicated at any level on religious-based ideas of morality, no work of literature is safe. American literary ‘legal’ censorship dates to 1821, when John Cleland’s 1748 novel, *Fanny Hill, or Memoirs of a Woman of Pleasure* was printed in its original, non-expurgated form by a Massachusetts publisher, Peter Holmes (Karolides, Bald, and Sova 284-5). The very notion that Holmes might be, as Massachusetts Chief Justice Isaac Parker claimed, “ ‘a scandalous and evil disposed person’ who had contrived to ‘debauch and corrupt [readers], to raise in their minds inordinate and lustful desires’ ” (Karolides, Bald, and Sova 285), suggests the religious formativity of secular, civil matters of judgment. Establishing what would become all too common in American juridical practice anent matters of ‘obscenity,’ “the judge refused to review the book, to have the jury read the book, or to enter passages from the book into the court record for

to do so 'would be to require that the public itself should give permanency and notoriety to indecency, in order to punish it' " (Karolides, Bald, and Sova 285).

Attempts to import James Joyce's novel, *Ulysses* into the United States in 1922, resulted in the incineration of 500 copies of the book by postal authorities (Karolides, Bald, and Sova 328). John Sumner, legatee of and successor to the central figure of this study, intending to prevent the novel's serialization, sought prosecution in New York against a periodical, the *Little Review*, for publishing a single chapter. Sumner's efforts prevailed in the courts. In a rare instance, however, during the 1933 trial against *Ulysses* stemming from violations of U.S. tariff law, and Random House's interest in publication and mass domestic distribution of the novel, passages deemed to contain "the dirtiest language" were "viewed in the context of the [work as a] whole," its individual words as "bit[s] of mosaic to the detail of the picture . . . Joyce is seeking to construct for his readers" (Karolides, Bald, and Sova 329). Presiding District Court Judge John Woolsey "viewed the language and actions to be entirely consistent with the types of people whom Joyce [described]," remarking in his decision, ". . . it must always be remembered that his locale was Celtic and his season Spring" (Karolides, Bald and Sova 329).

Only over time, and only comparatively recently, to paraphrase Judge Woolsey, has this 'Celtic Spring' and its atmosphere of artistic latitude existed, and this has been conditional upon whether or not any work, as scrutinized by the authorities, seeks solely to serve prurient interests (Harrison and Gilbert 197). As prurience seems to exist on a sliding scale, the balance of which may

be shifted between poles of tolerance and intolerance, the 'season' of acceptability that blossomed and bore fruit during the trial of James Joyce's *Ulysses* in 1933, may yet prove to be of short duration. After all, seasons do change.

In considering the 'legality' of Joyce's novel, Judge Woolsey indicated in his decision, "I have not found anything that I consider to be dirt for dirt's sake" (Harrison and Gilbert 197). The future of ideas, of expression, rests upon this delicate legal point. *Ulysses* was initially banned under Federal legislation that denied its importation due to the novel's presumed inclination "to stir sex impulses or lead to sexually impure and lustful thoughts" (Harrison and Gilbert 193). This presumption was not only made by lawmakers who had not read the book, but notions of 'purity' and 'lust' resonate with the rhetorical echoes of religious teaching. They are institutional choke chains applied to the human conscience which actually transcend and attenuate civil authority. How do laws so established truly serve the public interest? Can standards of 'sexual purity' and control of human thought processes be constitutionally established? Once standards for ideas, of thought and consciousness, become predicated upon the moral, and even the marital imperatives of the Christian tradition, organized religion and Scripture have free rein to become the sole agents of arbitration on matters of civil order and conduct.

In *Mapp v. Ohio* (1961), U.S. Supreme Court Justice Potter Stewart wrote that in accordance with the Constitution, the possession of 'obscene' matter could not be legally penalized, because to do so would not be

**“consistent with the rights of free thought and expression assured against state action by the Fourteenth Amendment” (Leonard 210). For ninety years prior to this case, the Fourteenth Amendment had been interpreted otherwise, or ignored altogether. Ideas and policies treating the obscene, particularly in the publication of printed matter and photographic reproductions, but extended to include matters of birth control and abortion, were largely influenced by what was, even then, already becoming today’s Religious Right. Laws intent on curbing free thought and expression were established, strengthened, and enforced with a truly religious zeal by a man who ultimately lent them his name, and whose record and memory serve as reminders of the dangers that manifest themselves when civil and religious interests cross their boundaries and merge.**

### **CHAPTER III**

The Connecticut that produced Anthony Comstock (1844-1915) still resonated with the echoes of its theocratic Puritan establishment. At the time of the American Constitution's ratification process, state delegate William Williams had moved to revise the document's preamble to read:

We the people of the United States in a firm belief of the being and perfection of the one living and true God, the creator and supreme Governor of the World, in His universal providence and the authority of His laws: that He will require of all moral agents an account of their conduct, that all rightful powers among men are ordained of, and mediately derived from God, therefore in a dependence on His blessing and acknowledgment of His efficient protection in establishing our Independence, whereby it is become necessary to agree upon and settle a Constitution of federal government for ourselves, and in order to form a more perfect union, etc., as it is expressed in the present introduction, do ordain, etc.

(qtd. in Kramnick and Moore 37)

Williams also demanded that tests of Christian loyalty be administered to all federal officials before they could legally assume office. Such a measure was surely reminiscent of the English Test Acts, designed to exclude Catholics, dissenting Protestants, and others from holding office, and was, in the prevailing climate of the Constitutional convention, not approved. Though not

necessarily enforced, tests of Christian loyalty in a number of states remained on the books and were not abolished until the U.S. Supreme Court ruled on *Torasco v. Watkins* in 1961, which singled out religious tests in the state constitution of Maryland (Kramnick and Moore 42-3). It is a safe assumption nevertheless, to posit that such qualifications of faith still form part of an extralegal litmus test for political appointments and even influence elections in the United States.

Kramnick and Moore note that since the Civil War, repeated attempts have been made to overturn what one religious newspaper labeled in 1862 “this atheistic error in our prime conceptions of government” (145). The efforts of yet another NRA, the National Reform Association, in its efforts to ensure “the faithful administration of the government according to the principles of the word of God” (Kramnick and Moore 146), offered their own revision of the Constitution’s preamble:

We the people of the United States, humbly acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the Governor among the Nations, and His revealed will as of supreme authority, in order to constitute a Christian government. . .do ordain and establish this Constitution for the United States of America. (146)<sup>1</sup>

Taxes levied in Connecticut directly supported the Congregationalist Church there until 1818, when, under its revised constitution, the state also ceased referring to itself as a “Congregationalist Commonwealth” (Bates 29). When

Anthony Comstock was a young man, his home state imposed a strict fine on bachelor men who chose to live singly (Bates 25). Thus Christian monism, fully adapted to the political system at the state level, limited life in Connecticut for some residents. Prevailing, numerically superior beliefs held that religious pluralism was a violation of divine mandate, and a desecration to those early intrepid Christian souls who had colonized New England. The colony, later the state, of Connecticut was deemed a “land of steady habits” (Bates 30) whose denizens enjoyed blessings of liberty, prosperity, and social order predicated entirely upon the Christian rectitude of its laws and leaders. Plurality could only lead to dissent, a direct threat to tangible and enduring, albeit circumscribed, success founded on enforced religious and moral values. Having a state constitution that ensured the majority of representatives would be selected from rural, Congregationalist areas also kept the Connecticut General Assembly ‘pure’ in its entrenched beliefs and vigilant against the dangers—the perceived infidelities—of liberalism. Non-Christians were not granted equal rights under the law in Connecticut until the 1840s (Jacoby 32).

Anthony Comstock was raised in a religious household in the aptly named farming community of New Canaan, where his antecedents had lived since at least the 1730s (Bates 28-9). Daily prayer sessions, strenuous farm labor, regular Sunday and holiday trips to the New Canaan Congregationalist Church, and rigid adherence to Scriptural interpretation were important elements of family life. The Comstock children were entertained and instructed by their mother’s Bible stories, through which they must have envisioned Old



Testament heroes serving as righteous agents of the Lord's will (Bates 32-3). This may have led Comstock early to the employment of hyperbolic religious rhetoric in his writing, and in his descriptions of numerous arrests and materials confiscated during his years of service. He eschewed the use of alcohol and public theatrical entertainments, and frequently wrote confessional passages of personal weakness in his diary, since lost, presumably by the New York Society for the Suppression of Vice (the organization once so proud to acknowledge its custodial responsibilities) but excerpted prior to its loss or destruction in a biography written by Heywood Broun and Margaret Leech, and published in 1927. Comstock seems, at times, to have severely chastised himself for having "yealded [sic] instead of fleeing to the 'fountain' of all my strength," or to have expressed remorse, having "debased myself in my own eyes. . .by my own weakness [sic] and sinfulness" (Broun and Leech 39). Like many adolescents before and since, he must have been 'properly' horrified by what were merely the natural impulses he experienced.

As an adult, Comstock continued his severe, self-critical introspection, consistent with the self-probing urged by his Calvinist inculcation, and sought to extend his personal beliefs outward as well. After serving in the Civil War (as a replacement for his fallen brother), Comstock returned briefly to New Canaan, then set his sights on New York, where he secured employment, first as a porter, then after several years, as clerk, for Ammidor, Lane and Co., a dry goods business (Bates 51). The neighborhood immediately surrounding the young man's boarding house on Peale Street, which he described as



ornamented with “dissipated young men. . .[and] diseased furniture,” was also home to the working poor, largely immigrants and prostitutes (Bates 50-51). There were numerous saloons, brothels, theaters, and other establishments offering “the poison of impurity” (Comstock, in Bremner ix) to impressionable, corruptible young men. Determined to persevere in his new environment, and consistent with one whose desire to act is circumscribed by the enforced, rooted limits of a religious background, Comstock prayed, then determined that he would do his utmost to clean up what he observed, focusing on the effects and indifferent to actual factors of causation; intent upon his desired ends, but as yet uncertain of the means. Perhaps Comstock thought his prayers answered when, probably at the urging of his mentor William Ives Budington, pastor of the Clinton Avenue Congregational Church in Brooklyn, he first encountered the YMCA.

Comstock joined the Association in 1866, when he discovered its sympathies to be in league with his own fundamentalist Protestant views, and realized its potential as a vehicle with which to restore and enforce those uniquely Christian values of morality and decency in urban America, imperiled as they were by demographic changes brought about by the immigration needed to supply a labor force for the country's burgeoning industrial modernity. The New York branch of the YMCA was not only supported by the city's largest Protestant churches, but by leading financiers as well. At the time Comstock applied for membership, financial backers included J.P. Morgan, Samuel Colgate, Morris K. Jessup, William E. Dodge, Jr., and Abram S. Hewitt, all

representative of high New York society. These men, among others, would all be instrumental in funding the YMCA's Committee for the Prevention of Vice, later to become the New York Society for the Suppression of Vice (Bates 52; Bremner xi). The name change is highly indicative of such groups' methodological rationale: if something can not somehow be prevented, it must somehow be suppressed.

To Comstock the nascent anti-vice crusader there existed an inflexible logical connection: a direct correlation between what he deemed obscene, the lewd behavior produced by exposure to it, and the unfortunate results of such behavior on American society. In his book *Frauds Exposed*, written and published in 1880, Comstock cathects upon a progressive nexus of exposure and spontaneous addiction to pornographic or obscene matter, the immediate loss of morality generated by such exposure—especially as characterized by the inescapable impulse to indulge in masturbation—and the subsequent, irreversible destruction left in the wake of anyone “whose mind [is so] debauched”:

The effect of this cursed business on our youth and society, no pen can describe. It breeds lust. Lust defiles the body, debauches the imagination, corrupts the mind, deadens the will, destroys the memory, sears the conscience, hardens the heart, and damns the soul. It unnerves the arm, and steals away the elastic step. It robs the soul of manly virtues, and imprints upon the mind of the youth, visions that throughout life, curse the man or woman. Like a

panorama, the imagination seems to keep this hated thing before the mind, until it wears its way deeper and deeper, plunging the victim into practices he loathes. This traffic has made rakes and libertines in society—skeletons in many a household. The family is polluted, home desecrated, and each generation born into the world is more and more cursed by the inherited weaknesses, the harvest of this seed-sowing of the Evil one.

(Comstock, *Frauds* 416)

Comstock's characteristic style is to incorporate the utter ineffability of vices, what "no pen can describe," with religious rhetoric, here, a protracted and detailed account of obscenity-engendered dissipation. Elsewhere, he lashes out at "liberals" and "infidels" who seek to hinder his efforts by fighting or violating anti-obscenity laws. Largely, his proficiency is that of the sophist; however, sophistry had currency then and is alarmingly successful now. Writers such as Laurie Hall continue to capitalize on the abilities of righteous living and Christian prayer as the best means of "salvaging" families from the "devastation of pornography."<sup>2</sup>

While perhaps the best known and remembered, Anthony Comstock was not the first to crusade for comprehensive codes of morality, especially where the 'lower' strata of American society were concerned. In the 1830s, another son of Connecticut, Sylvester Graham, wrote of the link between "illness and sexual expression" (Horowitz 94). At about the same time, Luther Bell popularized mythic accounts of boys returning from boarding schools seemingly

dissipated from too much study, but in reality on the verge of self-destruction from prolonged indulgence in onanistic practice (Horowitz 400). One is also compelled to draw attention to the stir created by Hiram Powers' s sculpture, *The Greek Slave* (1841-43) upon its unveiling and national tour in 1847-48. The exhibit drew hundreds of thousands of spectators nationwide, generating discourse on the sculpture's shocking and putatively obscene appearance (see Appendix B)—that of a naked woman, her wrists shackled, hands just covering her genitals, and subtle, concomitant references to institutionalized American slavery. The debate over the statue's validity and over the propriety of its public tour, was joined by scholars, clerics, and artists, and continued for years. *Putnam's Monthly* featured an anonymous Abolitionist poem in December 1854, entitled "Powers' Greek Slave," which concluded:

The snow that falls where never foot has trod,  
On bleakest mountain-heights, is not more pure  
Than thy white soul, though thou stand'st naked there,  
Gazed at by those whose lustful passions start  
With every heart-throb! Long may'st thou endure,  
To vanquish with thy calm, immaculate brow,  
Th' unholy thoughts of men, as thou dost now! (666)

At issue for many Americans was whether or not such a statue could in fact generate "lustful passions" or "unholy thoughts" of a kind merely prurient, inconsistent with the noble impetus to undo institutionalized slavery, and for whom these might most likely be the inevitable result. Consensus seems to

have been that those least educated, least sophisticated, and least advanced, as best evidenced perhaps by their lack of personal wealth and community status, were those most likely to succumb to overriding lust, in spite of their inability to afford the price of admission. With advances in lithography, however, travel and the price of admission were no longer at issue. Inexpensive, mass-produced images might allow anyone to glimpse the naked human form.

Proponents of Christianized morality such as Comstock expressed little or no objection while Powers's Greek Slave and other naked statuary remained housed in museums where only a select portion of society might view them. He did, however, rail against public displays, and the possibility of the working classes gaining access to mechanically reproduced images of such artworks. Such people would be unable to exercise the judgment necessary to view these images without doing permanent harm to their minds. According to the logic engendered by the wealth-to-morality ratio, the task of monitoring the behavior of the lower classes was naturally incumbent upon Americans of the highest social standing, those ostensibly best suited to enforce standards of morality. Thus the implementation of the YMCA's committee to suppress the sinful impulses congenitally located in the poorest and least racially pure Americans, might result not only in the salvation of many poor souls otherwise doomed to eternal perdition, but would ensure Comstock's wealthy supporters of a regularized, sober working class.

At the height of Comstock's popularity as a 'weeder in the garden of the Lord,' industrialist George Pullman was experimenting with an eponymous

company-owned town south of Chicago, in which his rail-coach workers were compelled to live. “[A]t a time when dynamite bombs and revolutionary murmurings [terrified] monarchs” and moguls (Ely 453), the management of the town of Pullman ensured that all facets of life there were carefully observed and engineered—its intended purpose, “to be a forerunner of better things for the laboring classes” (Ely 455). Richard T. Ely, professor of political economy at Johns Hopkins University, conducting a “social study” of the town for *Harpers Monthly* in 1885, was able to note, in spite of the “needless air of secrecy” that permeated the Pullman Company and its town, that “the minimum return expected [was] six percentum on [all] expenditure” (459), and that this profit was earned across the board, as “nothing in Pullman [was] free” (461). Alcohol was available only to upper management, those members of the community wealthy enough to frequent the restaurant at the Florence Hotel, the only place in town where it was sold (Ely 459). Rents were deducted automatically from workers’ paychecks, as were their utility bills. Pullman even collected rents for the use of the town’s Greenstone Church, with denominations (presumably all Protestant; it is not clear whether or not Catholics were welcome in Pullman) coming and going in pre-designated shifts each Sunday, to the accompaniment of bells. “We are born,” one workman wrote, “in a Pullman house, fed from the Pullman shops, taught in the Pullman school, catechized in the Pullman Church, and when we die, we shall go to the Pullman Hell.” Methodist minister William H. Carwardine referred to the town as a “civilized relic of European serfdom” (“The Parable of Pullman”).



Industrialists like Pullman reaped incredible fortunes (the value of the town, with improvements, multiplied nearly 50 times during the first two decades of its incorporation) not merely by controlling workers' daily lives, but by ensuring maximum productivity through the establishment and enforcement of strict controls. This was perceived as benevolence by some outside observers, though for Professor Ely, Pullman's philanthropy was somewhat diminished, in that it "demands a good round sum for everything it offers" (461). And while Ely noted as early as 1885 issues which would generate labor unrest only a few years later, such as salaries insufficient to support families on what was left after the company deducted for rents and utilities (462), it was nevertheless a popularly held contention of the era that piece workers were crude individuals of the lowest social strata, who, left to their own devices, would unquestionably suffer dissipation and degeneracy, defenseless as they were against the vices of modernity.

Worse, this plague might move upward through the social ranks over generations, leave the nation without capable leadership, and constitute a threat to the dream of loyal and enthralled workers. For capitalists and religious reformers alike, popular intellectual and moral independence was seen as a nightmare far worse than mere trade unionism. For workers at Pullman, theatrical productions were pre-screened for seditious elements (Ely 458) and "every aid [was] given to those who patronize[d the town library] to render it as instructive and elevating as possible" (459). While "a special effort [was] made to induce the subscribers to choose a superior class of literature," notably trade

journals for machinists and periodicals such as *Scientific American*, “the record [indicated] that seventy-five percentum of the books drawn [were] still works of fiction,” a figure consistent with public libraries nationally, where citizens usually borrowed books without cost—in Pullman, yearly subscriptions to the library were \$3.00 each (Ely 458-9). For the working man, and for working class youth in particular, to exercise free rein over their consciences constituted nothing less than a national emergency: the impending loss of a ready and submissive labor force.

Even a casual scan of American periodicals published since the eighteenth century will reveal frequent expressions of concern for the future welfare of children and teens. Parents of the growing American middle class were no less preoccupied than they are now with what they perceived as the social ills that threatened their own children. As the nineteenth century progressed, children were seen as increasingly at risk, more susceptible than ever to exercise thoughts or actions deemed ‘impure.’ Samuel Bayard Woodward, superintendent of the Massachusetts State Hospital for Lunatics in Worcester, and Luther Bell, superintendent of the McLean Asylum in Boston, wrote during the 1830s of the observed link between masturbation and mental illness (Horowitz 98-99). Moral decay, particularly as manifested in aspects of youthful sexuality, and most notably evidenced through seemingly epidemic proportions of masturbatory inclinations, became the avenue through which religious reformers might gain almost universalized acceptance by capitalizing on perceptions that they were best prepared to deal with the growing national

emergency. The traps that awaited youth, Comstock warned, were legion. Introducing *Traps for the Young* in 1883, he wrote, “[t]his book is a plea for the moral purity of children” (5). His prefatory remarks, however, mirror contemporary beliefs not only about children but working class adults, former slaves, minorities, and immigrants as well. He promoted his text as

. . .an appeal for greater watchfulness on the part of those whose duty is to think, act, and speak for that very large portion in the community who have neither intellect nor judgment to decide what is wisest and best for themselves. (5-6)

This same rhetorical moment, this identical concept is at the root of religious authority over the so-called ‘Lord’s flock,’ utilizing the expressions of a pressing need for shepherd-like intercession that cuts across social bases of age, social class, gender, ethnicity, and religion. Many of the academic disquisitions on the state of Western society at the fin-de-siècle also demonstrate a preoccupation with social phenomena that might be loosely gathered beneath the heading “Degeneration,” an umbrella term coined by Max Nordau in the 1890s. For many, the time was one of “unbridled lewdness, the unchaining of the beast in man. . .the shameless ascendancy of base impulses and motives. . .the repudiation of dogma” and ultimately “the end of an established order, which for thousands of years has satisfied logic, fettered depravity, and in every art, matured something of beauty” (Nordau 5).

With traditional standards under siege, someone had to assume the task and responsibility of preserving, reclaiming, and enforcing Christian ethics of

morality and conduct. If controlled environments such as Pullman could not be established on a vast national scale, and inculcation by example of one's social betters was insufficient, the ultimate recourse was to legislate, to seek out sin and purge it at its taproot, by constructing a nexus of legally binding codes of morality predicated on Scriptural or religious models.

Comstock's personal and public crusade was predicated on the state of national emergency, a certain, imminent disintegration of the American social fabric set in clockwork motion by anxieties over countless thousands of masturbating youth influenced by a "pervasive presence"<sup>3</sup> of pornographic stimulants, and slowly lapsing into idiocy and moral turpitude. The futures of American life and American institutions were becoming endangered, as obscene, heretical texts and images threatened a dominant culture that, by century's end, seemed to be losing its choke-hold on a largely homogenetic population. In other words, any written work deemed pornographic or obscene threatened Protestant Christianity, male hegemony, white supremacy, and peculiar notions of traditional middle class values.

For the American middle class, prospects of social acceptability, and more crucially, social advancement over forthcoming generations were at grave risk. Nicola Beisel's comprehensive study of Comstock and family life in Victorian America points to parental anxieties over whether children would exceed contemporary "moral boundaries" and assume counter-cultural identities which would preclude them from the acceptance required for security and success. Proper morals and behavior were elemental components of the

“cultural capital” a young man needed, were he somehow to become the next Andrew Carnegie or Samuel Colgate (6-7).

Of paramount importance to proper growth, proper living and social standing was “virility,” that characteristic William Acton deemed “necessary to give a man that consciousness of his dignity, of his character as head and ruler and of his importance, which is absolutely essential to the well-being of the family, and through it, of society itself” (qtd. in Marcus 25). The state of emergency necessitated exceptional measures such as male infibulation, the affixture of devices specifically designed to cover the male genitals. One type of apparatus was a surgically attached device made of lead wire, which pierced the foreskin, pulled and folded it over the glans penis, and clamped it in place. Capitalizing upon the importance of social advancement and cultural guilt associated with the so-called “solitary vice,” physicians like Scotland’s David Yellowlees (1837-1921) were able to ‘treat’ numbers of young men. A medical journal article quoted the doctor as remarking, “[t]he sensation among the patients was extraordinary. I was struck by the conscience-stricken way in which they submitted to the operation on their penises. I mean to try it on a large scale, and go on wiring all masturbators” (“Have Chastity Belts Been Used on Men?”). Extensive studies on male infibulation continued in both the U.S. and Europe, through the eugenics-obsessed 1920s (Marcus 25 fn). The state of emergency also facilitated the rise and methodology of Comstock’s anti-vice career.

Inspired by what he read in pamphlets and heard in anti-obscenity lectures, Comstock's moral crusade began at least as early as 1868, when he wrote "an impassioned letter" to YMCA director Charles McBurney in which he expressed his enmity for impure writing and other morally compromising features of urban life (Bates 52). His first anti-vice engagement was with Charles Conroy, a one-handed book vendor Comstock blamed for corrupting a close (and possibly fictional) friend (Bates 53). The crusade began to draw public attention four years later in the wake of a federal anti-obscenity law passed with the help of the YMCA (Bates 58). In spite of the financial problems it caused him, Comstock began to devote less of his efforts to selling dry goods and more of his time and energies to hounding 'pornographers.' With reporter Robert Griffith of the *New York Tribune* and a police captain in tow, Comstock made purchases of apparently offensive materials at two stationers' shops on March 2, 1872. The precise nature of the confiscated texts is unclear, but the previous day, and without escort, Comstock had searched the "place" of Patrick Bannon, who was later arrested and charged with using the mail to distribute obscene literature, which, according to Comstock's own record, was comprised of circulars for a "Woman's Rights Convention" (Bates 61). The arrests of the Barkley brothers and James McDermott, staged for the convenience of the press and the praise of the YMCA "yielded three convictions with jail sentences ranging from three months to one year at Blackwell's Island and fines of \$200 to \$500 (Bates 61).

In May of 1872, Comstock met with the newly formed Committee on the Suppression of Vice at the home of Morris K. Jessup. Comstock's all but nonexistent shipping clerk's salary was supplemented by a YMCA anti-vice committee stipend of \$1950 plus expenses, which was augmented by an additional \$3,000 in 1873 (Bremner xi).

During a period of forty-one years, Comstock allegedly obtained the arrest of "more than 3,600 men, women, and children. . . enough to fill a passenger train of sixty-one coaches, sixty coaches containing sixty passengers each, and the sixty-first almost full" (Broun and Leech 15-16). Of the passengers on Comstock's railroad of the damned, nearly 25% were unskilled laborers. A great many were European immigrants. Less than 2% were of the managerial level, and none were professionals (Bates 9). Such figures would either tend to support the contentions of Comstock and his YMCA backers that the lowest segments of the American population, and these alone, were engaged in undermining the Christian moral purity of middle and upper level American homes and families, or they might suggest an imbalance in the way this righteous crusade was conducted. Comstock enjoyed an unbroken string of successes, winning conviction after conviction in the court of Judge Charles L. Benedict. Yet while efforts in New York were promising indeed, the level of the crisis was national, and needed to be addressed at the federal level.

According to Carl Schmitt, the exception generates reaffirmation of state power, particularly as exercised in the role of protector of its citizens (15). Laws that "need not be based on law," putatively created in the common interest by

means of the state's "monopoly to decide" (Schmitt 13), can be utilized to subvert and support an existing regime or system. In the case of Anthony Comstock this was the passage of federal anti-obscenity laws which ultimately granted him the power of arbiter, using highly subjective and questionable criteria for determining the validity, under law, of certain articles distributed through the U.S. mail.

A formula predicated on Calvinist doctrine and Scriptural interpretation must, it seems, necessarily circumvent the secularity of established constitutional rights and the democratic notion of due process while for the sake of exigency, it must appear to do just the opposite. As Carl Schmitt maintains, "legally recognized institutions such as religious associations [can] ensure the continuity of the social order" (xxv), particularly when appearing to operate in harmony with the political apparatus.

At the same time, according to Schmitt, an agent of sovereign power can operate outside "the normally valid legal system" (7), using extralegal means to combat ideological enemies by acting as the "acknowledged representative on earth" of a deity that may or may not exist. Agents like Comstock can "assume authority concerning these matters for which there are no positive stipulations" (Schmitt 10). Such stipulations can be established retroactively, legitimizing the emergency, the agent, and the exception. "What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order" (Schmitt 12).



## CHAPTER IV

"An Act for the Suppression of Trade in, and Circulation of, obscene Literature and Articles of immoral Use." Apparently, to observe the rules of grammar by capitalizing the 'o' and 'i' would have somehow dignified the Obscene and the Immoral. The act was signed into law with 117 other measures by President Grant on 3 March 1873 (Bremner xiii). Strengthening a statute passed the previous year, "Section 148" now included contraceptives, abortifacients, and "any article or thing intended or adapted for any indecent or immoral use or nature" as being prohibited from being deposited in the mail (Bremner xiii fn). Amid the uproar surrounding the Credit Mobilier scandal, "a railroad construction investment scheme" designed to line the pockets of prominent Republicans, including Vice President Schuyler Colfax (Horowitz 381), and only one of many improprieties which emerged during the Grant administration, the Comstock Act, as Section 148 was often called, may have been seen at the time as a political ploy to recover public trust by diverting attention from possible executive and legislative corruption. Anthony Comstock was made Special Agent for the Post Office, a position that carried with it an annual salary of \$3,425, under an appropriations bill passed by Congress in the same session that passed Section 148 (Bates 87, 89). It is important to note that while he was reimbursed for expenses, Comstock never accepted the government salary (Bates 191), opting instead to leave the dry goods business and live on the stipend granted him by the newly chartered New York Society for the Suppression of Vice which, even though it replaced the Committee on

the Suppression of Vice, remained the de facto public morality arm of the YMCA and its wealthy, white Protestant supporters. By 1875 the influence of these supporters had procured police powers for Comstock within the state of New York under Section 1145 of the Criminal Code (Bates 99), allowing Comstock to personally arrest anyone he deemed in violation of anti-obscenity laws.

In 1876 Section 148 was amended once more (US Statutes, Sections 3,893-94 vol.19 p.90 rpt. in Bennett, *Trial* 8-10), adding still harsher penalties, as anxieties over the growing national emergency, likely fueled by increasing immigration and news of falling 'American' birthrates, signaled a potential shift in the imbalance of power. Ohio and New York already had state sanctions against contraception and abortion (Bates 84). In the wake of the Comstock Act, through the fin-de-siècle, nearly all states passed similar measures.

That Comstock was a relentless foe of those he deemed "infidels" can best be demonstrated by example. His methods seldom varied. He, or someone appointed by him, would write and mail a "decoy letter," a request for certain items (Beisel 89). Once the requested items were received, an arrest warrant would be secured. Documents, lithographs, even personal articles would or could be seized, if Comstock designated them in violation of his own standards. In New York, convictions were assured when obscenity cases were placed on Judge Benedict's docket. When on rare occasions Comstock's targets were acquitted or received reduced sentences, they would be re-subjected to entrapment until the desired convictions were obtained.

The written account of the 1879 trial of D. M. (DeRobigne Mortimer) Bennett, containing a brief preface, the trial transcripts, and appendices, reveals a frightening aspect of the manner in which Comstock sought to persecute his ideological enemies. Bennett, founder and editor of *The Truth Seeker*, was arrested for distributing by mail two pamphlets, "How do Marsupial Animals Propagate Their Kind?" and Ezra Heywood's polemic against enforced marriage and divorce restrictions. This pamphlet, "Cupid's Yokes," angered Comstock and his anti-vice committee brethren not only by its rejection of conventional marriage and its suspicion of organized religion, but also for its advocacy of free love and its rejection of the ultimate authority of Jesus Christ.

*Cupid's Yokes: or, The Binding Forces of Conjugal Life. An Essay to Consider some Moral and Physiological Phases of Love and Marriage, Wherein is Asserted the Natural Right and Necessity of Sexual Self-Government* is a slender pamphlet. Its ornate, nineteenth-century, multi-fonted title seems nearly as long as the booklet itself, which spans a mere twenty-six pages, including advertisements. In spite of its modest size, the work presented a clear and present danger to the corrupted, Christian-biased, plutocratic social order that men like Comstock had sworn to protect. The author, Ezra Heywood, proclaimed:

It is better. . .to do wrong and suffer the consequences, than to be "saved" by mediational agencies which *act for us*, thereby over-riding our necessity and power to reason, and divorcing us from original relation to truth; better to go to hell

by choice than to heaven by compulsion. (15)

Challenging traditional beliefs, Heywood asserted that marriage was not a divinely ordained institution, but was instead the product (“force”) of custom. “We were all trained in the school of repression, and taught that, to love otherwise than by established rules, is sinful” (61). As a human institution, marriage might more easily be exposed as defective:

What Nature ‘hath joined,’ man need not attempt to ‘put asunder;’ but, since the legalized marital relation is so chaotic and mischievous, (clergymen and legislators themselves often being the first to violate what they profanely assume to be divine ordinance); and since Deity has never yet come forward to own that he is the ‘author and finisher’ of marriage laws, it is better to attribute them to the erring men who enacted them, than to accuse Divine Wisdom of so much folly. (6)

Heywood’s polemic favoring “complex marriage” (14) describes Jesus as a “woman’s emancipationist,” whose Kingdom of Heaven did not require that women marry or be given in marriage (13), and that all men and women were free to love one another as they saw fit: “Variety is as useful in love as in eating and drinking,” he wrote (14). For Heywood, divorce was not something to be proscribed by religious leaders when marriages were so often loveless from the onset, disintegrated over time, or held women prisoners of their husbands’

whims. And D.M. Bennett was mailing this information to anyone who could pay for it.

Bennett was also taking risks as an avid and outspoken opponent of the Comstock laws. In 1877 he asked readers of *The Truth Seeker* to mail their signatures to the paper so that they might be added to a petition that would be presented to Congress in early January of the following year. In a botched pre-emptive move, Comstock had Bennett arrested in November 1877 for sending copies of his newspaper through the mails (Bates 139). As a newspaper, however, *The Truth Seeker* was exempted from the statute. In 1878 Bennett published *Anthony Comstock: His Career of Cruelty and Crime*, as well as “An Open Letter to Samuel Colgate,” whose company manufactured Vaseline. Colgate’s advertisements for the “Best Family Remedy in Use” included a false claim that when mixed with salicylic acid, it could be used as a contraceptive (Bates 141). Bennett suggested that Colgate revise his advertising copy or risk punishment at the hands of his paid enforcer, Comstock. The mythic contraceptive properties of Vaseline were never advertised again.

In 1879, the same year in which he was tried on obscenity charges and ultimately published the account, Bennett also published *Revelations of Antichrist Concerning Christ and Christianity*, which he co-wrote with J. P. Mendum. This highly researched, detailed, and thoroughly controversial text, which declares itself “the most radical attack ever made on Christianity” (xiv), questions the existence of Christ and his Apostles, utilizing an intertextual approach that takes into analysis the relevance and relationship of apocryphal

accounts, as opposed to the carefully constructed and selected tenets of orthodox Christian writing adapted for contemporary teaching, worship, and control.

According to Bennett biographer Roderick Bradford, a member of the prosecution team sat in plain view of the jury during the trial, and appeared to be reading yet another Bennett publication, "An Open Letter to Jesus Christ," (Bradford). This pamphlet included inflammatory but nevertheless free commentary under the statute. Bennett asked readers, "In a few words, is not Christianity, as known and practiced in the world, a cheat, a fraud, a costly and expensive luxury which mankind could well spare, losing nothing by its rejection" and contended that " 'false gods, base devils, useless saviors, and degrading creeds' should be abandoned and replaced by practitioners devoting themselves to improving the world and encouraging the pursuit of human happiness" (Beisel 91).

Bennett had earned a great deal of notoriety over this four-page letter before his trial for mailing "Cupid's Yokes." The fact that the letter's presence in the courtroom, strategically placed before the jurors, was intended to bias them, does not seem to have become an issue. What did anger the defense, however, was Judge Benedict's refusal to admit Heywood's entire pamphlet. During deliberations, jurors had copies of the booklet, but were instructed to confine their perusal to specific, pencil-marked passages. These were the remarks which Comstock had found to be in violation of the statute, and which became patently and transparently so when taken out of context. Additionally,

the judge's definitions of 'obscene' and 'indecent' were the only ones provided to the jurors, and as one of them, Alfred A. Valentine, admitted to the *New York Herald* on 27 March 1879, the "definitions were so broad and uncertain that it seemed to me they might be used to condemn a very large, and perhaps the larger, part of the literature of the country, as well as the isolated passages that had been picked out of 'Cupid's Yokes'" (Bennett 172).

In fact, the jury was given a definition of obscenity as defined by *Queen v. Hicklin*, an 1868 English trial in which it had been determined that one could convict if "the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral impulses" (*Queen v. Hicklin*, LR 3 QB 360 (1868) qtd. in Bates 141). Judge Benedict advised the jury in the Bennett case that if they found that the highlighted passages in Heywood's booklet conformed to the Hicklin standard, "it is your duty to convict the defendant, notwithstanding the fact that there may be many worse books in every library in the city" (Bates 141).

The judge also stated that "for the distribution of matter of any kind on paper there is no other engine of equal power" to the United States mail (Bennett 147). The mails were pervasive, accessible across all social boundaries, and reaching every part of the country. They were confidential; "received in secret by the person to whom they are addressed, whether in their own or fictitious names" (Bennett 147). Thus *any* written document (save newspapers under the statute) might be deemed inimical to the purposes and goals of individuals or parties within the state, branded illegal or heretical, its

publication squelched, and its originators punished. Bennett was convicted and sentenced under the Comstock laws to thirteen months at hard labor (Bates 141). He was sixty years old. Three years after his release, he died following a protracted illness. While Comstock sought to destroy *The Truth Seeker*, it continued to publish. At the time of this writing it remains in publication, after 173 years, the oldest continuously published periodical in America.

Other opponents of Special Agent Comstock did not survive his assaults. A number of those he arrested died as direct or indirect results of disgrace, financial loss, trial and imprisonment. At least one man, William Haynes, may have taken his own life rather than face trial (Bates 59). Charles E. Mackey was arrested by Comstock solely upon the basis of objectionable titles found in his book catalogue. Judge Benedict agreed that titles such as *Ovid's Art of Love* and *Prostitution in Paris* were sufficient to convict Mackey. The contents of these books were never scrutinized by the court. Given a \$500 fine and a year's imprisonment for books that in fact were not obscene—even by the Hicklin standard—Mackey, a prominent member of his community and Methodist church, was shocked to see fellow Christians turn away from him without any consideration of his possible innocence or of former friendships. Comstock branded Mackey a “snake” and “one of the lowest wretches in the [obscenity] business,” without so much as reading a single page of either text (Bates 62-3).

Comstock did not confine himself to persecuting men. Opportunities outside the domestic sphere were leading women out and away from the traditional, confining roles apparently assigned them by the revealed will of



God. Other threats to the family unit were generated by liberated men and women such as Ezra Heywood and Victoria Woodhull, who embraced the era's freeloove movements, and Ida Craddock, who spoke and wrote and thought about sexual union in spiritual terms, and who conceived of women as sexual beings, capable of experiencing and enjoying orgasm.

## CHAPTER V

Ida Craddock's only crime may have been that she was brilliant. Still, she represented a triple threat to hegemonic, masculine Christian values. As a liberated woman she rejected conventional domestic life, working instead outside the home, initially as a shorthand instructor. As a spiritualist and "Instructor in Divine Sciences" after the tradition of Charles Fourier's concept of "passional attraction", Craddock pursued a doctrine that rejected conventional marriage, insisting instead that certain individuals were naturally drawn together by means of a spiritual attraction (Bates 189). Craddock also posed a threat as an author of controversial works that blended her radical challenges to mainstream Christianity with well-researched and insightful advice to married couples. Her prose is sometimes, as in her pamphlet, "The Wedding Night," a blend of nineteenth-century medical rhetoric and frank deviations from it, as when she informs her readers that "[a] woman's orgasm is as important to her health as a man's is for his. . .the bridegroom who hastens through the act without giving the bride the necessary half-hour or hour to come to her own climax, is not only acting selfishly; he is also sowing the seeds of future ill-health and invalidism in his wife" (Craddock, "The Wedding Night").

In 1893 Craddock's views brought her into direct conflict with Comstock's. Her "four page defense" of the "danse du ventre," performed by Fahreda Mahzar (Little Egypt) at the 1893 Columbian Exposition in Chicago, described the dance that Comstock called the "hootchie cootchie" as a "religious memorial inculcat[ing] purity and self control" (Burton). One source

indicates that Craddock noted in her diary “that she used various ‘Danse du Ventre’ techniques in her lovemaking” (Chappell). Comstock had tried without success to have the dance, in which a woman wore filmy clothing and gyrated suggestively, banned for its patent immorality. He turned his wrath on Craddock, and used his position to bar her defense of the dance, published in a journal “*The World*,” from distribution through the mail (Chappell).

In the fall of 1899 she ran afoul of the anti-vice crusader once more, when her pamphlet, “Right Marital Living” appeared in a “medically oriented journal” published under the title “*Chicago Clinic*” (Burton). As a result of the journal’s distribution through the mail Craddock was indicted in the Chicago federal court on October 27, 1899. Attorney Clarence Darrow posted her bond, and Craddock ultimately received a suspended sentence in exchange for a guilty plea (Burton).

Shirley Burton notes that Ida Craddock’s views of marriage, abortion, and autoeroticism were akin to Comstock’s own. Nevertheless, contentions such as “[t]he love function may and ought to be exercised periodically, in order that both husband and wife may have a healthy, well-balanced physique and mentality” (Craddock, “Right Marital Living”), were too controversial for Comstock’s moral standards. Whether it was the open nature of her discourse that infuriated the government’s chief postal agent, or her idea that intercourse was a process of shared vitality is uncertain, as excerpts deemed “obscene, lewd, and lascivious” were cited but never entered into court records (Burton).

**“Mrs.” Craddock (she was unmarried but claimed to have a spiritual spouse (Bates 189)) moved to New York shortly after receiving a suspended sentence in the Chicago case. There, she continued to mail her pamphlets to clients, maintaining that she was “really divinely led. . .to face this wicked and depraved man Comstock in open court” (Burton). In fact, she was arrested, prosecuted and sentenced several more times, for using the mails in Chicago, Philadelphia, and Washington, D. C. to distribute texts deemed obscene (Bates 190). In each instance her work was not admitted into court records. In 1902, after being released from the New York City Workhouse and being re-arrested as she left the building, she was offered an opportunity to dismiss the validity of both her work and her beliefs by pleading insanity. Craddock’s devout Quaker mother urged her to accept this course of action, but she refused. On 16 October 1902 she took her own life, telling her mother in a note, “I maintain my right to die as I have lived, a free woman, not cowed into silence by any other human being,” and describing her work and self-sacrifice as a “propaganda to humanity” (Craddock, “Letter to Her Mother”). As for Comstock, she wrote:**

**The man is a sex pervert; he is what physicians term a Sadist—namely a person in whom the impulses of cruelty arise concurrently with the stirrings of sex emotion. The Sadist finds keen delight in inflicting either physical cruelty or mental humiliation upon the source of that emotion. (Bates 191)**

**In the wake of Ida Craddock’s suicide, public support for the NYSSV fell sharply and government funding for Comstock’s witness fees was withdrawn.**

## CHAPTER VI

The salient, disturbing aspects of what George Bernard Shaw termed “Comstockery”<sup>4</sup> (Bates 193), such as peremptory decisions handed down without observing proper rules of evidence, omission of evidence on the basis of its unholy content and putative unutterability, notions of dissenting opinions as dangerous to the moral and physical health of the body politic, vague definitions of abstract concepts such as ‘obscenity’ and its immediate, direct, and deliberate correlation to Manichean/Christian conceptions of ‘good’ and ‘evil’ are all tragically indicative of the blurring of distinctions between church and state. Combat over which sect can claim the sanction of a deity and stake out a primary or exclusive role in government, and the belief that as a result of their differing beliefs or non-belief, certain individuals or groups within American society ought to be restricted and denied direct access to power are not, regrettably, relegated to the dust of some vague or Victorian past. A growing movement for ‘religious correctness’ has extended the national state of emergency and continues to seek a Christianized American government.

Though the Mayflower Compact addressed early settlers’ hopes of attaining “the Glory of God” and “Advancement of the Christian Faith,” its signers also pledged to “solemnly and mutually in the Presence of God and one another, covenant and combine ourselves together into a *Civil* Body Politick, for our better Ordering and Preservation” (“Mayflower Compact”; emphasis mine). The words of these victims of religious persecution have been corrupted over time for political gain. In a recent television broadcast, Pat Robertson, urging a

“spiritual revival” in America, told viewers that the country was established with the words, “we claim this land for the Lord, Jesus Christ” (“The 700 Club”); at best a conflation with the earlier arrival of Spaniards in the New World or a misreading of the Mayflower Compact; at worst, a statement of revealed intent by the forces of present-day Comstockery who pay millions of dollars in order to broadcast infomercials staged as alarmist news broadcasts on matters of faith, ‘family values,’ and the ideal of a future Christian America.

Current standards of “obscenity,” a much abused signifier, rest precariously on the 1973 *Miller v. California* decision (413 U.S. 15), replete with its tripartite criterion for judging the obscene, and its unfortunate reaffirmation of the earlier majority opinion in *Roth v. United States* (354 U.S. 476 (1957) ) in which Justice Brennan’s misguided contention that “[o]bscenity is not within the area of constitutionally protected freedom of speech or press” (*Roth v. United States*). For the present, the three basic points, the “basic guidelines” by which ‘obscene’ material may be determined remain:

(a) whether ‘the average person, applying contemporary community standards’ would find the work, taken as a whole, appeals to the prurient interest. . . (b) whether the work depicts or describes in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. (*Roth v. United States*.)

The problem is that the High Court made no effort to explore the underlying components which construct or control “community standards,” or how these might be compelled to change. This matter is left to individual states under Articles Nine and Ten of the Constitution. As in the Roth case, very small groups—juries—are asked to imagine their communities as a whole, and to make objective determinations of highly subjective values. Michel Rosenfeld argues that “the intersubjective perspective of an ‘interpretive community’ can only prevail through the suppression of difference and the subordination of the dissenting other” (154). As such, the legal definition of obscenity and by extrapolation, those texts subject to this definition remain in flux.

The battle to overturn *Roe v. Wade* (410 U.S. 113 (1973) ) continues along lines of religious-based morality, and does so during times in which individual freedoms are constrained by the ‘legal’ exceptions generated by yet ‘another’ emergency. They are times in which Justice Department or Cabinet officers bow their heads reverently in prayer before each meeting. The Chief Executive is a man who has defined the war on terrorism as a “crusade” (Lyons), and truly believes that in 1998 his presidential destiny was revealed to him by God. With Supreme Court Justices deliberating over popular elections and ‘liberal’ justices aging, with so much potential power and control at stake, all battles between the secular and the religious must be taken seriously. If rights of reproductive choice are overturned, it is only a short step to overturning *Griswold v. Connecticut* (381 U.S. 479 (1965) ) and (re-) institutionalizing fundamentalist Christian dogma which must, today, not only prohibit ‘illicit’ use

of the mails but of the Internet and emerging media. D. M. Bennett noted “we are practically subjected to a despotism from sectarian interferences” (170), and expressed alarm at this despotism’s “dangerously vague and elastic power” (169).

James Madison observed:

ecclesiastical establishments . . . have been seen to erect a spiritual tyranny on the ruins of Civil authority; in many instances they have seen the upholding of the thrones of political tyranny; in no instance have they been seen the guardians of liberty of the people.

Rulers who wish to subvert the public liberty, may have found an established clergy convenient auxiliaries. A just government, instituted to secure and perpetuate it [liberty], needs them not.

(Jacoby 20)

Parties seeking to de-secularize government, or presumably secular juridical minds obstructing First Amendment guarantees with such indistinct and volatile guidelines as ‘community standards,’ lend support to the divisive and destructive forces of political and religious correctness. Recalling just whose interests these forces actually represent should be sufficient cause to startle and anger anyone for whom civil liberties are of paramount importance. The opportunity, if not the ability, to think and express oneself freely without guilt or exclusion is, finally, an American institution worth firmly establishing for the first time.



## **APPENDICES**

## APPENDIX A

### NOTES

1. The NRA continued to petition Congress with its urgent desire for official government recognition of what it termed “the obligations of the Christian religion” until 1945. In 1947 and again in 1954, the National Association of Evangelicals attempted to have “[t]his nation divinely recognize. . .the authority and law of Jesus Christ, Savior and Ruler of Nations, through whom are bestowed the blessings of Almighty God” (Kramnick and Moore 148). The current strategy employed by the Christian Right, as will be indicated elsewhere in this paper (see pp. 44-5), is to embrace the Constitution as written, while seeking to rewrite history instead, in order to subtend and disseminate misconceptions of a nation and its founders deeply rooted in a fundamental, monistic Christianity, endangered then and since by the corrupting ‘evils’ of pluralism and liberalism.
2. See Laurie Hall, *An Affair of the Mind: One Woman’s Courageous Battle to Salvage Her Family from the Devastation of Pornography* (Tyndale House, 1998), or Mark Laaser’s *Faithful and True: Sexual Integrity in a Fallen World* (Zondervan, 1992) for current examples of the lingering anxieties within the Religious Right, as well as their proposed targets of repression.
3. The term is widely attributed to author and conservative columnist William F. Buckley, who employed it in an article which appeared in the *National Review*, 19 November 2001. Not unlike Anthony Comstock, Buckley writes nostalgically of some mythic, bygone era characterized by ideal moral standards, conduct, and restraint, and dreams of a future predicated on this idealized, nonexistent human past.
4. Shaw coined the term after he, too, was harassed by the anti-vice crusader in 1905. Comstock sought to have Shaw’s play, *Mrs. Warren’s Profession*, banned from the stage in New York. Characteristically, this action was taken even though Comstock had neither read the play text, nor seen a performance.

## APPENDIX B

Hiram Powers  
*The Greek Slave*  
Marble (1841-43)  
Corcoran Gallery  
Washington, D.C.



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