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# The Good Old Days of Censorship

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# **The Good Old Days of Censorship**

## **Jared Brown**

Censorship in the American theatre is hardly new. Calls for the suppression of plays and productions, based upon the desire of government officials or ordinary citizens to restrict entertainments they find morally objectionable (and to impose their views on the population as a whole) have a long history in the United States—a history that presents clear dangers to free expression. It was on Broadway in the 1920s that the issue took on contemporary dimensions.

Censorship initially became a legal question on the American arts scene more than a century earlier—in 1815, when six Philadelphia exhibitors were convicted under common law of showing an objectionable painting "to the manifest corruption and subversion of and other citizens." Fanny Hill was censored in 1821 on the basis of a Massachusetts judge's opinion that the book was "lewd, wicked, scandalous, infamous and obscene." But these reflected only the judge's senses of propriety; the exhibition of painting and publication of the novel violated no ordinance. However, 1821 also saw the passage of the first anti-indecency statute in Vermont; other New England states followed suit in short order.

Censorship assumed national proportions when a federal law of 1842 prohibited "the importation of all in-decent and obscene prints, paintings, lithographs, engravings and transparencies." An 1865 statute extended censorship to literary materials, forbidding the sending of obscene publications through the mails. Few prosecutions resulted, however, for Post Office was barred from taking action unless it received specific complaint from the recipient of objectionable mail. When New York's legislature passed a bill to suppress "obscene literature" in 1868, it aided the censors' cause immeasurably, for the new law enabled lawmakers to ban the material before it reached the reader. And in 1873 Congress passed a far more stringent statute, which came to be known as the Comstock Law.

Anthony Comstock, whose name became synonymous with censorship, began his crusades against all that he found objectionable in art and culture after the Civil War. In 1872 he took a leading role in the formation of the Committee (later, the "Society") for the Suppression of Vice, an organization that stimulated the passage of several federal and state laws facilitating censorship. Given police power as a special agent of the Post Office, Comstock's concern initially centered on books, articles and visual materials. But in 1893 the New York branch of the Society turned to theatrical matters for the first time when it attacked the "degrading shows" being presented at the Chicago World's Fair. In 1905 Comstock threatened to prosecute any theatrical producer who presented Shaw's *Mrs. Warren's Profession*, a play that had already suffered at the hands of the British censor.

*Mrs. Warren* was produced in New York despite Comstock's threat, and when he brought suit the New York court ruled against him on the grounds that the play was not obscene as defined by state law. Still, Comstock managed to energize others who sought to "clean up" American cultures; they were in turn buoyed by the willingness of state and city legislatures throughout the country to pass laws similar to the federal obscenity statute. By the early 20th century a

patchwork of regulations governing obscenity and censorship existed in confusing abundance- to which were added further laws after World War I.

The war also brought a liberalization in cultural attitudes throughout much of the country, however, and the tide that once favored the censors began to turn. Court decisions went against them with increasing frequency. Comstock's death in 1915 was another setback. The word "censorship" itself took on a negative connotation, forcing the would-be censors to abandon the name but not the concept.

It is against this background (pressure groups struggling to retain waning control and influence) that one should view the determination of the censors to "reform" the Broadway stage in the 1920s. Moralists made known their objections to displays of nudity and sensuous dances in musical entertainments, suggestive dialogue and sex-oriented themes in legitimate drama. One play, *The God of Vengeance*, was closed by the police in 1922; the producers were formally charged with presenting an immoral play, and a jury subsequently found them-as well as the leading actors-guilty. This verdict mollified many of the crusaders until the 1925 production of a new play by William J. McNally. The fight over McNally's *A Good Bad Woman* contained all the elements of censorship struggles that continue through the present day.

The central character in *A Good Bad Woman* is a prostitute who returns to her hometown. Under the impression that she is still the respectable girl she once was, several responsible members of the community, including her father, are ultimately destroyed by her immorality. The play received dreadful reviews, many of the critics decrying its sordidness. A *New York Times* editorial declared that "the language [the leading actress] was called upon to speak set a new mark of impropriety in our theatre and the character and emotions she was called upon to portray a new mark of sordid depravity." Furthermore, the *Times* concluded, "We must look . . . for a censor .upon which we can depend." (The *Times*'s support of censorship was not as surprising as a modern reader might think. The newspaper had earlier praised Anthony Comstock as "a benefactor and a hero" who had "served a good cause with tireless devotion.")

The actress playing the prostitute in *A Good Bad Woman*, Helen MacKellar, told her producers, A. H. Woods and William A. Brady, on Feb. 11, 1925, that she wanted to withdraw from the cast as soon as possible because her part in the play was "degrading." The producers responded that their contract with MacKellar was "ironclad," and she would break it only if she was willing to "end her career in the theatre."

On Feb. 13, Brady announced that he was joining forces with the police commissioner of New York City, the district attorney, a clergyman, and John Sumner, the secretary of the New York Society for the Suppression of Vice, to "clean up the stage." Sumner spoke for the group: "The New York stage, as a whole, is worse today than it has ever been in its history."

Having allied himself with the forces of censorship, one might, imagining that Brady would close the play that was the focus of the controversy. But *A Good Bad Woman*, which had opened to little public interest, continued its run, now playing to capacity houses with Helen MacKellar still playing her "degrading" role. A cynic might suspect that Brady engineered the entire controversy

in order to publicize a play that otherwise had little chance of returning a profit. A cynic might also wonder if MacKellar's threat of resignation had come at the producer's request. In any event, Brady now stood side by side with the symbols of moral virtue attacking the very play that had suddenly been transformed into a smash hit and was providing him with a sizable income.

Two days later district attorney Joab H. Banton announced that action of an unspecified nature would be taken against *A Good Bad Woman* immediately unless the producer agreed to close the production. Brady turned defiant, declaring that he would not alter a syllable of the play and would seek legal counsel if Banton decided to prosecute him.

But after several days of jockeying, he attempted to mollify the district attorney by altering the play slightly. One of the words that MacKellar had most strongly objected to uttering was used in the play a total of seven times. As a gesture to public decency, Brady instructed MacKellar to omit the word in four of her lines.

Meanwhile, Banton and police commissioner Enright revealed that they had received complaints from concerned citizens about other productions then running in New York. The drive for censorship of the theatre was clearly gaining momentum. Many felt the only question was who would enforce the censorship. Actors' Equity and various newspapers supported John Sumner's suggestion that New York should establish a "play-jury" to which all prospective plays for production in the city would have to be submitted.

William A. Brady, vacillating almost daily about whether *A Good Bad Woman* would continue its run or bow to pressure and close, now claimed that his purpose in producing the play had been an idealistic one. He had wanted to outrage theatregoers by producing the most objectionable play imaginable, thus alerting them to the dangers of uncensored theatre and galvanizing the public into taking reformist action. He also protested that the district attorney allowed two of David Belasco's productions, *Ladies of the Evening* and *The Harem*, to continue with only minor revisions, despite what Brady saw as clearly objectionable content. "I started out to do something for the good of the American theatre," he asserted, "but if other people are allowed by the authorities to present filthy plays in New York City, I, as a taxpayer, claim the same privilege." However, the Shubert brothers, who owned the theatre where *A Good Bad Woman* was playing, said it would have to vacate the premises, whereupon Brady changed his mind once more and announced that it would close immediately. And this time, perhaps having run out of reasons to reverse himself, Brady did indeed bring the run of his play to an end.

District attorney Banton announced on Feb. 21 that Eugene O'Neill's *Desire Under the Elms* had been found morally offensive (but not by him; he never saw any of the plays about which he received complaint) and would have to close. The producers of the play defiantly responded that they would neither close nor alter the play. Banton also disclosed that his office had formally adopted the play jury system, which would henceforth become the official method of censoring the New York theatre.

Banton's play-jury consisted of 12 members who were to see a dozen plays of questionable purity then running on Broadway and each new play thereafter before it opened. Any material found to be controversial—a scene, a portion of dialogue, a line, a word, a gesture, a piece of stage

business or the production as a whole-would be subject to a vote. If nine or more members of the play-jury voted to excise the offending material, the producer would be given a week in which to make the necessary revisions. Other, wise, the production would be closed.

A jury was empaneled: the editor of Scribner's magazine, a professor of English, an economist, an architect, a musician, a writer, a novelist's wife, a woman who had been active in civic affairs and four others. On March 3, the members met for the first time and within a week began to visit the productions accused of impropriety.

The play-jury announced its first verdicts (on *Desire Under the Elms* and Sidney Howard's *They Knew What They Wanted*) on March 14. Both plays were acquitted on every count. This unexpected result caused some reformers to turn against the play-jury system. On March 30, a group of clergymen called for its abolition and a "return to the former system of penalizing the lawbreakers under the penal code."

Later that spring, William A. Brady announced that he would revive *A Good Bad Woman*. The play reopened before a sold-out house on June 22 with what Brady said, in a masterpiece of obscurity, were "some alterations but no modifications." Perhaps the district attorney's office had grown tired of the whole charade by this time. At any rate, the play was permitted to run without official interference.

Theatrical censorship became a significant issue again in 1927. The district attorney's office summarily closed three plays: *Sex* (by Mae West, writing under the pseudonym Jane Mast), *The Virgin Man* and *The Captive*, and arrested the actors and producers of all three productions. Mae West was sentenced to serve 10 days in the workhouse and to pay a fine of \$500.

District attorney Banton announced that he had abandoned the play-jury system-which, in his view, had worked so unsatisfactorily in 1925, because "those who constituted the jury panel often did not take their duties seriously enough" -and had assumed all the powers of the censor himself. Although he said that he "hates censorship almost as much as immorality," Banton vowed to prosecute "indecent" plays under criminal law and to ask that jail sentences be meted out to any producers-and actors-who were found guilty. Moreover, under the Wales Padlock Law, passed that year at the recommendation of Banton and district attorney Charles H. Dodd of Brooklyn, if a play were found to be objectionable, the theatre in which the production had been playing would be closed for a year.

The Wales Padlock Law, which remained in effect until 1967, was used to close a play called *Maya* in early 1928. Shortly afterward, Banton announced that the Theatre Guild's productions of *Strange Interlude* and Ben Jonson's *Volpone* would be inspected, and, if found to be immoral, prosecuted under the law. He or his men would personally view the productions and decide their fates, he said. There was only one catch. *Strange Interlude* was sold out and seats were not available even to crusading district attorneys. So his investigation of that play would have to wait for a month. However, the Theatre Guild sent him two complimentary tickets. Assistant district attorney Wallace and James P. Sinott of the police commissioner's office attended a performance of *Strange Interlude* on April 27 to determine whether the Theatre Guild was in violation of the Wales Padlock Law. As they watched from fourth row center, Wallace and Sinott also followed

the written text of the play, which they had carried into the theatre with them. A day later the two public servants saw a performance of Volpone.

On May 1, Banton made the surprise announcement that neither *Strange Interlude* nor *Volpone* would "tend to corrupt the morals of youth or others, which is the test of the new [Wales Padlock] law." Banton revealed that Wallace and Sinott had discovered that many of the most objectionable features of both plays in written form had been eliminated in production. The performances did contain some coarse language, offensive to good taste, he contended, but that was insufficient for him to recommend that the full weight of the law be brought to bear against the Theatre Guild.

On May 3, the Times editorialized about theatrical censorship once again. The editors indirectly recanted their previous position, saying that the effect of the Wales Padlock Law was counterproductive because the threat that theatres might be padlocked for a year if they housed plays that were found to violate the law was causing theatre owners to allow only the most conventional and unadventurous plays to occupy their buildings. The theatre in New York was suffering as a consequence, the Times continued, and could not survive either as a commercial or artistic entity under those conditions.

At last the Times had grasped the point. Although many of the efforts of the would-be censors were thwarted, who can say how many plays were not written or produced for fear that attacks upon them might cause them to be altered or suppressed altogether? Who can begin to estimate how many artists of the 1920s were intimidated by the mere threat of arbitrary suppression? In the '90s, too, the cost of censorship should be calculated not only in terms of those works which have demonstrably suffered but in terms of the insidious effects upon works yet to be produced - effects that cannot be proven but are no less lamentable for that reason.