

BOOK REVIEW

The United States of America v. One Book Entitled *Ulysses* by James Joyce, Documents and Commentary—A 50 Year Retrospective, edited by MICHAEL MOSCATO & LESLIE LEBLANC, University Publications of America, Inc., Frederick, Md., 1984. Introduction by Richard Ellman, pp. 481.

January 1984 marked the fifty year anniversary of the American copyright of James Joyce's book, *Ulysses*. Determined by United States Customs to be a "classic" when import was sought, it was, however, barred from entry as being obscene under the Customs Act of 1922. *The United States of America v. One Book Entitled Ulysses by James Joyce, Documents and Commentary—A 50 Year Retrospective* presents a very readable story of the celebrated law suit that overturned that Customs decision and, in the process, aided the search for a usable definition of obscenity. As a result of the suit, *Ulysses* was published in the United States and became part of the accepted English language literary heritage.

From the time of the book's initial publication in France in 1922, *Ulysses* had been smuggled into the United States; many copies were slipped past Customs officials by returning travellers. In addition, it was pirated and published in a magazine created chiefly for that purpose, called *Two Worlds Monthly*. Since the book could not legally be brought into the United States, the work was not afforded the protection of American copyright laws, and thus the author had no recourse against piracy or other improper uses of his work.

Earlier, in April 1918, two very brave publishers of a literary magazine, named *Little Review*, Margaret Anderson and Jean Heap, had serialized half of the unfinished book. The three issues of the *Review* that contained portions of Joyce's book were confiscated and burned by the Post Office after a complaint had been filed by the New York Society for the Prevention of Vice. The ladies were tried and convicted in the Court of Special Sessions of publishing obscenity, in spite of strong support from critics who recognized the literary value of the book.

There was some editorial comment in New York papers after the trial, but not the furor for which the parties had hoped. The *New York Times* found the book to be incomprehensible and dull, but not immoral—although it did think that the use of certain "realistic" words was deplorable and merited punishment. The

New York Tribune thought the book was disgusting rather than indecent, and compared it with *Macbeth*.

It took another court action, one much more spectacular, to really join the issues and provide a clear decision as to whether the book should be characterized as a literary work or as a piece of obscene writing.

Bennett Cerf and his publishing company, Random House, decided to force the issue and retained Morris L. Ernst, the principal American lawyer in obscenity cases at the time, to proceed with the action. An arrangement was made with Ernst that his fee would be contingent upon his winning the case—if successful, he would receive a five percent royalty on the first 10,000 copies and a two percent royalty for life. Some very careful forum shopping resulted in the case being tried before Judge John M. Woolsey of the United States District Court for the Southern District of New York. Judge Woolsey eventually wrote a long and emphatic opinion, which discussed at length the “stream of consciousness” style used by Joyce, and the necessity for frankness, without which the account of *Ulysses* would be dishonest.¹ In ending the opinion, he stated “that whilst in many places the effect of ‘*Ulysses*’ on the reader undoubtedly is somewhat emetic, nowhere does it tend to be an aphrodisiac. *Ulysses* may, therefore, be admitted to the United States.”² The well-reasoned and intelligent decision was affirmed by the United States Court of Appeals for the Second Circuit, whose members included Judges Learned Hand and Augustus Hand.³ Judge Woolsey’s opinion was so well written and so persuasive that the Federal prosecutors deemed useless any further legal action. *Ulysses* thus was allowed to enter the United States, with Random House as the book’s publisher.⁴

The United States of America v. One Book Entitled Ulysses by James Joyce, Documents and Commentary—A 50 Year Retrospective has been published on this anniversary year of the landmark court decision by University Publications of America, Inc. It includes an introduction by Richard Ellman, the biographer of Joyce. The editors,

¹ *United States v. One Book Called “Ulysses”*, 5 F. Supp. 182, 183-84 (S.D.N.Y. 1933), *aff’d*, 72 F.2d 705 (2d Cir. 1934).

² *Id.* at 185.

³ *United States v. One Book Entitled Ulysses by James Joyce*, 72 F.2d 705 (2d Cir. 1934).

⁴ In the same week that *Ulysses* was allowed to enter this country, the 18th amendment to the Constitution was repealed. To some, this was certain indication that the forces of evil were loosed. To others, however, it was proof that the United States had achieved a maturity in dealing with matters of sex and alcohol that Europe had developed centuries before.

Michael Moscato and Leslie LeBlanc, have done a superb job of compiling legal and literary documents, legal pleadings, briefs, opinions, and media commentary, which eloquently tell the story of the admission of Joyce's book into the United States. Drawing together the pertinent documents and weaving them with commentaries into a readable narrative, the editors have produced a book that makes good reading for both lawyers and literary people.

The book begins with a collection of commentaries, dating from 1933 through 1983, which give the reader the background for the action of the story. The second section is a chronological collection of letters, file memos, and contracts taken from the files of the law office that handled the case. This section is developed with great skill and able economy.

Newspaper articles which were included in the book reveal the extent of interest in the case and reflect some basic societal attitudes of the time. Coverage of the trial was reported in detail, as were some other incidents which occurred in the courtroom. One wonders who was the "determined young lady in a smart brown ensemble" who sat through the court argument regarding obscenity while her female companion "gasped and dashed for the door, her cheeks flaming"? Was the woman in the brown ensemble forever ostracised by her friends for having allowed the language from *Ulysses* to fall on her ears? Did her gasping friend find some sympathetic male to protect her for the rest of her life from such onslaughts? Where are those dear ladies today, and how do they feel when they watch the evening news on television?

Lawyers will find especially interesting the evident skill and care that went into the development of the case on the part of Morris Ernst and his colleagues, beginning with the arrangement to have *Ulysses* detained at Customs in order to provoke the issue, and continuing through the provision of statements regarding the literary merit of Joyce's writing by the cream of American writers, including F. Scott Fitzgerald, John Dos Passos, and Theodore Dreiser.

Not a small part of the difficulties faced by the lawyer and the publisher was dealing with Joyce himself. Although his native tongue was English, Joyce often failed to grasp nuances of the language used by the Americans in the development of the case. This led to misunderstandings and delays, requiring prodigious patience on the parts of Mr. Cerf and Mr. Ernst. Joyce, in Paris at

the time, was losing his eyesight and was dependent on his son and Miss Sylvia Beach to read communications to him. Never abundantly endowed with diffidence, Joyce found this dependence almost unbearable; the dependence was possibly the source of some of his bad temper.

Miss Beach, a Princeton, New Jersey woman, founded the English bookstore, Shakespeare and Company, in Paris in the early decades of this century. It was she who first published *Ulysses* in Paris shortly after it was completed, and she was the source of the contraband copies that flowed illegally into the United States in the trunks and handbags of returning Americans during the twenties. Even she had trouble seeing the publication through to completion, as the typesetters at her printers refused to set some of the words, which they considered dirty and pornographic. In the process of publishing Joyce's writings and of serving as a conduit for his work to English speaking countries, Miss Beach kept Joyce and his family alive and financially afloat through some difficult years. By 1934, although Joyce had come to be recognized as a literary genius, albeit an odd one, his personal problems became increasingly unmanageable. His daughter was beginning to show signs of her developing insanity and Joyce's own health was deteriorating rapidly. Given this background, the efforts made by Cerf and Ernst to get *Ulysses* into the United States and published profitably (for them as well as for Joyce) became more poignant and pressing.

Another interesting aspect of the situation, which emerges from the numerous pieces of correspondence and memos arranged to carry the narrative, is the frequent use by Cerf and Ernst of American slang phrases, which today are considered to be at least out of fashion, if not grammatically incorrect. One would expect a fine, flowing, classical American English from men who deal almost exclusively in words. In numerous places, however, Cerf described something that he liked very much as "swell," and Ernst also used the word in informal correspondence.

The documents included in this collection reflect attitudes which are difficult to recreate today. The stream of consciousness style which Joyce used so effectively was very new and unfamiliar, and certainly was not in widespread use by authors. It is a style that is deceptively hard to create well, implying effortless-ness as it goes. Joyce was a master of the style and a reader's first encounter belies the effort and skill that goes into such writing.

In addition, Joyce's personal attitudes are from an upbringing of another era and are thus unfamiliar. Joyce was born in Dublin in 1882, into an atmosphere of pervasive Roman Catholicism. He was educated by the Jesuits at Clongowes Wood, at Belvedere College, and at the Royal University in Dublin. His earlier work, *A Portrait of the Artist as a Young Man*, being autobiographical, evoked his background of ritual and theology. He left Ireland with his love, Nora, to live as a language teacher and bank employee in Trieste and in Rome while he continued to write. Besides *Portrait*, Joyce wrote a collection of poems, *Chamber Music*, in 1907; *Dubliners*, a collection of short stories, in 1914; *Exiles*, a play, in 1918; and *Ulysses*, in 1922. This is not usually a large enough body of work to establish a man as a literary genius, but it did so in Joyce's case.

The recognized genius of Joyce carried great weight in the decision of Judge Woolsey to allow *Ulysses* to enter the United States and not to stifle it behind the charge of obscenity. No mediocre author would have been accorded the profound attention that Joyce enjoyed. The unusual stream-of-consciousness style is dazzling to some, while obfuscating to others. It is said that he wrote with the immediate sharply focused and the background dim and ambiguous. To understand and appreciate all the allusions, plays on words, word games, and slight alterations that Joyce used requires an intellect as broadly educated as Joyce's. Lacking that, many people give up and ascribe the book to sheer nonsense. Add to this the use of strong Anglo-Saxon language, which through the Victorian and Edwardian eras had never fallen on cultivated ears, and one discovers readily the reason for the great range of responses to Joyce. Such language is never used by Joyce to shock or titillate, however. Whenever it occurs, it develops a character, a situation, or a narrative. The use of this language for this express purpose was not apparent to many people, but it was to become a major argument in support of admission of the book. To omit such language in a situation where in reality it was likely to be used would be less than intellectually honest; to include it enhances the description of reality in the literary form. That Judge Woolsey recognized this shows remarkable insight and literary sophistication.

The decision also had an important effect on American copyright law. Portions of *Ulysses*, unprotected by an American copyright before it was legally allowed into the country, were pirated and printed here. Illegal copies that were smuggled in were sold

for outrageous prices while Joyce, fighting poverty in Paris, received not a penny in royalties. Such a state of affairs placed further pressure on the American legal system to develop copyright protection so that authors would be paid royalties for their work, thus easing their financial lives. The need for such protection constituted a major argument in the lawsuit.

The narrative that emerges from the documents and commentary is a powerful reminder that each decade has its forces that would control the flow of ideas through society in order to conform to the ethical standards of a particular group, which at the time holds political power. Never is this more apparent than in the fall of 1984, a time alive with cross currents of the Moral Majority and Archbishop O'Connor. Also unsaid but nevertheless obvious is the relationship between forces that would control thought and the American ideal of freedom of thought, speech, and belief.

The decision that allowed *Ulysses* to be published in the United States fifty years ago must have seemed to put to rest an important sector of the forces of societal control. Today we fight that battle again.

*Martha Traylor**

* B.S., M.A., Purdue University; J.D., Ph.D., Indiana University; Professor of Law, Seton Hall University School of Law.