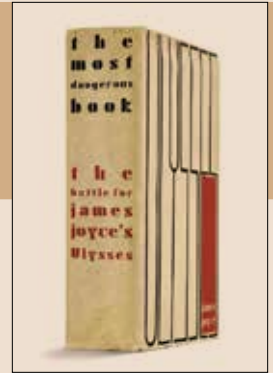


# The Most Dangerous Book: The Battle for James Joyce's *Ulysses*

By Kevin Birmingham, published by The Penguin Press (2014),  
hardcover, 417 pages, \$29.95

<http://www.thepenguinpress.com>



Reviewed by Thomas J. Byrne

"Obscenity is as illegal today as it was in 1873. What changed is the way we define it."<sup>1</sup> If someone were to ask what Kevin Birmingham's new book is about, this pithy description could not be called inaccurate. But it would be like describing *Moby Dick* by saying, "It's a book about a whale."

In *The Most Dangerous Book: The Battle for James Joyce's Ulysses*, Birmingham sets Joyce's novel in the context of his life and times—especially the times relevant to the cultural movement now known as modernism—a context which in significant part consists of the book's tortured publishing history and the legal challenges it faced in being brought to American readers.

Birmingham undoubtedly was aware of the massive volume of commentary on Joyce's works. But he justifies his project by noting that the "story of the fight to publish *Ulysses* has never been told in its entirety,"<sup>2</sup> and he admirably fills this gap. To call his inclusion of historical detail voluminous is to beggar the word somewhat. This is not a book you glide through in one sitting; rather, it is best appreciated by being savored episodically to get the full flavor of the momentous consequences the battle had for individuals, the publishing industry, and a still-frequently-litigated area of constitutional law.

Some readers may be put off by the breadth of the historical research Birmingham incorporates into his story and, in fairness to such readers, the numerous layers and contextual detours arguably do occasionally sidetrack. The detours, however, always lead back to the main story and add

a richness of understanding that continually grows throughout the book, and it is well worth the journey(s) Birmingham takes you on.

Those interested primarily in the details of the legal battle over *Ulysses* can begin reading on page 297 and still get their money's worth. But even such focused consumers will be drawn back to the beginning or some previous section(s) of the book. Intellectual treats, after all, are not tightly orchestrated strolls. They are, at their best, sumptuous and often surprising romps. Birmingham's book is no less than that.

The legal and social background involves the Comstock Act, passage of the Espionage Act in 1917 on the eve of America's entry into World War I, the violent anarchist movement in America during that period, and the federal government's casting of so wide a net in search of these dissidents that it also ensnared those with barely colorable affiliations to known or suspected anarchists. In America, episodes of *Ulysses* were first published in *The Little Review*, a New York City-based magazine edited by Margaret Anderson and Jane Heap which regularly published articles by Emma Goldman, a radical feminist and vocal supporter of anarchism.

One of the surprising threads Birmingham weaves into his tapestry is the early history of America's postal service. Incredible as it seems, he convincingly argues that in the decades preceding World War I, "the Post Office Department was a major federal law enforcement agency" and "the cornerstone of the U.S. censorship regime."<sup>3</sup> And those who crave a little action in their reading will be thrilled by the story of Anthony

Comstock, a special agent of the Post Office Department with a gun, a badge, and the authority to make arrests anywhere in the country, who began as head of the New York Society for the Suppression of Vice. In 1873, he traveled to Washington, D.C., with proposed legislation he had drafted, designed to expand and strengthen the scope of what could be censored and what consequences could follow. After a month of lobbying, President Ulysses S. Grant signed the bill and Comstock got his gun and badge. No chair-bound administrator, Comstock personally and vigorously joined the crusade.<sup>4</sup>

Regarding the actual litigation<sup>5</sup> over *Ulysses*, Birmingham fleshes out the characters involved, rarely resorting to black hat/white hat stereotypes as he details the cooperation of federal attorney Sam Coleman in the numerous postponements and adjournments that ultimately landed the case on the docket of the only judge of the Southern District of New York deemed favorable by Morris Ernst, the lawyer defending *Ulysses*. Coleman further cooperated by waiving the government's right to a jury trial, thereby ensuring that Judge John Woolsey would have complete control over the outcome.<sup>6</sup> (Coleman's boss, the U.S. attorney, sat on the sidelines because it was a controversial case and his campaign for a U.S. Senate seat was in full swing.)

As for Woolsey's decision, I'm not giving anything away by saying he ruled that importation and distribution of *Ulysses* in the United States did not violate the Tariff Act. The opinion is relatively brief and does not address the legal particulars until near the

end. The bulk is taken up with an account of Woolsey's reading and study of the entire novel (he declined the prosecutor's request that he follow the so-called *Hicklin* rule, which allowed a fact finder to consider only those isolated passages the government deemed obscene)<sup>7</sup> and his lengthy explication of the avant-garde creative task Joyce set for himself. In contrast, Martin Manton, dissenting judge in the 2–1 decision of the Second Circuit Court of Appeals affirming the district court,<sup>8</sup> refused to read the book, reaching his decision based solely on the complained-of passages. And Manton refused to quote even one word of the novel in his dissent. Birmingham cannot resist adding parenthetically, "A few years later, Manton would go to prison for taking bribes."<sup>9</sup>

Birmingham's greatest achievement is the almost cinematic presentation that enriches his story as it marches, meanders, and storms its way to the titular battle for *Ulysses*. But even this richness is only the objective, external battle for *Ulysses*. Equally compelling is the subjective, internal story of the struggle to actually get the novel written. For one thing, Joyce was obsessively inclusive, constantly revising (usually by adding to) his book. Few readers will suppress a smile when they read of one such addition. Sensing that he needed solitude at one point, his wife took their children on a trip. During that time "he wrote alone and talked to the cat. 'Mrkgnao!' said the cat. He wrote it down."<sup>10</sup>

For those unfamiliar with *Ulysses*, the skeletal outline of the story is patterned after the course of events in Homer's *Odyssey*,

with lower-middle-class Dublin characters substituted for Homer's mythological and demigod roster, and what was for Odysseus a 10-year journey is in *Ulysses* condensed into one day—June 16, 1904—a day widely known ever since as Bloomsday. (The Odyssean character in *Ulysses* is Leopold Bloom.)

Joyce's all-consuming focus on *Ulysses* exacerbated the penury which had long burdened his family; he was able to ignore such mundane concerns only through the seemingly superhuman efforts of his wife, the former Nora Barnacle. Joyce's serious physical ailments were another aspect of their often-grueling existence. Birmingham's description of the eye surgeries Joyce endured will unsettle many readers. Then there were ailments actually caused by the various treatments. His utter dependence on and devotion to Nora, in this and all aspects of their relationship, is perhaps best epitomized by noting that the date on which he chose to set his modernist epic was the day of his first sexual encounter with her.

Nora was Joyce's lifeline, but the people whose determination, courage, and sacrifice ultimately made the legalization of *Ulysses* a reality are of equal note, and Birmingham gives them their stroll on the stage: Anderson and Heap, Adrienne Monnier, Harriet Shaw Weaver, Ezra Pound, John Quinn (a wealthy New York lawyer and patron of modernism), Ernest Hemingway, Barnet Braverman (enlisted by Hemingway to smuggle copies of *Ulysses* into the U.S. from Canada and whom Birmingham cleverly refers to as a "booklegger"), and arguably the most essential (and most severely put-upon by Joyce) performer in this cast, Sylvia Beach.<sup>11</sup>

Birmingham's pronouncements on artistic freedom will chafe some readers but, agree or not, the fact that you have the freedom to decide for yourself should resonate more deeply after reading this book. The *Ulysses* case did not settle the issue of censorship decisively or finally. It was not until 1957 in *Roth v United States* that the United States Supreme Court expressly repudiated the *Hicklin* rule, and Henry Miller's *Tropic of Cancer* was widely banned and prosecuted in the 1960s until the Supreme Court

held that it was not obscene. But the *Ulysses* decisions changed the way issues of obscenity and censorship are treated in our legal system. Birmingham's masterful tale of how that change came about and, more importantly, what it came out of, is an education and an enjoyment all readers will savor for one reason or several. You should exercise your right to read it. ■



*Thomas J. Byrne clerked for jurists on the Michigan Supreme Court, Michigan Court of Appeals, and U.S. District Court for the Western District of Michigan. Before law school, he was an FDNY firefighter and, before that, a U.S. Navy hospital corpsman. He now lives in Virginia.*

*This review was previously published in the October 2014 issue of the Virginia Lawyer.*

## ENDNOTES

1. Birmingham, *The Most Dangerous Book: The Battle for James Joyce's Ulysses* (New York: The Penguin Press 2014), p 338.
2. Birmingham, p 13.
3. *Id.* at 108–109.
4. See *id.* at 111–113, 173.
5. The specific procedural basis for Judge Woolsey's decision was cross-motions for what we now know as summary judgment. (This was five years before the Federal Rules of Civil Procedure were adopted.) *United States v One Book Called Ulysses*, 5 F Supp 182 (SD NY, 1933).
6. See *id.* at 308–311.
7. Under the so-called *Hicklin* rule, the prevailing standard in obscenity prosecutions at the time, "federal law allowed juries to determine that a book was obscene by examining isolated passages rather than the work as a whole. Moreover, the *Hicklin* standard measured a book's obscenity by its most susceptible audience, not by its acceptability to the community at large." Gunther, *Learned Hand: The Man and the Judge* (New York: Alfred A. Knopf, 1994), p 149.
8. The words "by James Joyce" were added to the caption in the appellate court. *United States v One Book Called Ulysses*, 72 F2d 705 (CA 2, 1934).
9. Birmingham, p 334.
10. Birmingham, p 100.
11. Sylvia Beach, an indispensable figure in the literary culture of the 1920s, was the owner and proprietor of a bookstore-cum-lending library in Paris that served as mailing address, gathering place, and much more to numerous writers and artists.



**Get a Tax Break...  
Donate Your Vehicle!  
Call (800) 678-LUNG  
Help fight the #3 killer...lung disease**

**AMERICAN LUNG ASSOCIATION**  
of Michigan