

Samuel Roth

**Porn Publisher,
1893-1974**

by David Rosen

"I have never offered books to juveniles, and refused to serve them whenever they were so identified in my mails," insisted Samuel Roth before a special Senate hearing investigating the relation between pornography and juvenile delinquency. The hearings were held on May 1955 at the U.S. Courthouse -- since renamed the Thurgood Marshall Courthouse -- at Foley Square in Lower Manhattan.

A month earlier, on April 13th, New York police forcefully entered and searched -- ransacked -- Roth's home, at 11 West 81st Street, and his offices, at 110 Lafayette Street. The District Attorney, Frank Hogan, initiated the raid; it was a case of harassment as the charges were ultimately dismissed. A month after the Senate hearing, federal authorities served Roth with a 23-count indictment for sending obscene materials through the U.S. mail. In '57, the Supreme Court handed down the *Roth* decision that result of which would lead to the mainstreaming of pornography. Nevertheless, the Court ruled against Roth and he served five years in a federal penitentiary.*

The hearings, chaired by Sen. Estes Kefauver (D-TN), subpoenaed Roth along with a half-dozen other

publishers and distributors of what the Senators considered obscene materials. Roth was identified as the nation's foremost porn publisher -- and, although claiming his right against self-incrimination -- was the only witness to critically engage the subcommittee on the meaning of obscenity. This debate defined the limits of '50s free expression.



For more than a quarter-century, between the 1920s and the '50s, Roth was the nation's leading pornographer publisher, pushing the limits of free

expression more than any other American publisher. He was born in 1893 in a small village in Galicia, an Austrian province that lies on the northern slopes of the Carpathians Mountains. At 4 years, his family immigrated to New York, settling in Manhattan's Lower East Side. As a poor Jewish youth, he worked as an egg candler (i.e., someone who used a candle to determine if the egg was fertilized), newsboy, baker and, at 16 years, a reporter for the *New York Globe*. He received a scholarship to Columbia College where he edited *The Lyric*, a poetry magazine.

During the '20s, Roth launched a number of literary magazines, including *Beau* (similar to *Esquire*) and *Two Worlds* that serialized -- without permission -- excerpts from James Joyce's *Ulysses*. The Joyce selections

* Roth was at the Lewisburg, PA, federal penitentiary during the same period as Wilhelm Reich and David Greenglass (Ethel Rosenberg's brother) and Harry Gold, a principal witness in the Rosenberg case.

caught the attention of New York Society for the Suppression of Vice, an organization originally founded by Anthony Comstock in 1873.** In 1928, Roth was busted for selling pornography, convicted and served a 75-day prison sentence.¹

Roth, like other mid-20th century publishers of "obscene" material, appears as genuinely committed to expanding the scope of free expression as to furthering his right to make a buck. Post-WW-II sex-preneurs asserted the right of all (male) adults to enjoy risqué materials as a consensual exchange, a private contract between the maker (and, if photograph or film, the female and/or male "talent"), the distributor, the seller and the consumer. Federal and state restrictions were seen as violations of an adult American's rights to free speech and to a free market.

As his biographer, Jay Gertzman, notes, "Roth was the most often incarcerated, the most feckless, and quite likely the most resourceful booklegger of his time, challenging moral and legal authorities with quixotic bravado."² In addition to Joyce's *Ulysses*, he was the first to release a pirated edition of D. H. Lawrence's *Lady Chatterley's Lover*. Gotham's publishing and literary communities assailed him for releasing these works, expurgated and without permission. He also published *avant-garde* writers and critics of the period like George Sylvester Viereck, Clement Wood, Milton Hindus and Gershon Legman as well as a series of parodies

with titles like *Lady Chatterley's Friends*, *Lady Chatterley's Husbands*, *The Great Lindbergh Hullabaloo*, *The Intimate Journal of Rudolph Valentino*, *Loose Shoulder Straps* and *Self Amusement*.

Roth published two political exposés -- Gaston Means' *The Strange Death of President Harding* (1930) and John Hamill's *The Strange Career of Mr. Hoover Under Two Flags* (1931) -- that drew much critical attention. In 1933, he published one of the first gay transvestite novels, *A Scarlet Pans*, and, the following year, Roth released his most controversial book, *The Jews Must Live*; its subtitle raised deep concern among many: "An Account of the Persecution of the World by Israel on All the Frontiers of Civilization." In the late-'30s, he published *Inside Hitler*, written by David Plotkin, and *I Was Hitler's Doctor*, written by a psychiatrist, Eric Krueger, and with a forward by Upton Sinclair. He was a publisher who pushed the edge.³

Roth loved words. He wrote for *The Nation*, *Harper's Weekly*, *Poetry*, *Menorah Journal* and other magazines. He also ran a variety of bookstores, including the Poetry Book Shop in Greenwich Village and another specializing in erotica. He operated under innumerable pseudonyms, including Francis Page and David Zorn.⁴ For his efforts, he was busted innumerable times and served two terms in the Lewisburg federal penitentiary, between 1936-39 and 1957-61.

During the postwar era, New York and federal authorities busted Samuel Roth a half-dozen times. He was the perfect target, an unabashed free-speech advocate who championed unconventional voices and visions. The cycle of his busts illuminates how sexual mores -- combined with the increasingly authoritative enforcement powers of local, state and federal law

** Comstock (1844-1915) is the father of modern censorship, of employing the power of the state to restrict the adult acquisition and consumption of allegedly "obscene" or "pornographic" materials, be they erotic or medical; his major accomplishment was passage of the 1873 federal censorship legislation barring obscene materials of all kinds from the U.S. mail.

enforcement agencies – evolved during the postwar era.

In November '47, he was arrested for "mailing salacious advertisements for obscene books," including *Self Defense for Women* and *Waggish Tales of the Czechs*. In October '50, he was busted for "fraudulent mailings of salacious advertisements for books not in themselves deemed obscene," including Raymond Radiquet's *The Devil in the Flesh*. The following year, he was busted for "mailing [an] obscene book," *Beautiful Sinners of New York*, with a preface by "Louis Berg, M.D." In April '54, he was busted yet again, this time for the possession of some 50,000 obscene books, magazines and pamphlets as well as a list of 300,000 mail order customers. During this period, Roth repeatedly escaped jail time, but his time was running out. In July 1955, he faced a federal indictment for "mailing obscene advertisements and obscene books." This arrest and conviction culminated in the legendary '57 Supreme Court decision that sent Roth to five years in a federal penitentiary.⁵

The '55 Kefauver's hearings on juvenile delinquency were a corollary to the legendary Army-McCarthy hearings that took place two years earlier, in April and June 1953. The Kefauver hearings focused not on loyalty but morality. While the Army hearing felled McCarthy, Kefauver proved victorious in the porn. At the May hearings, he did not invoke his Constitutional protections and engaged in an assertive give-and-take with Kefauver and other committee staff.

Roth challenged his presence at the hearing. "If this committee is limited to an inquiry into the causes of juvenile delinquency in our midst, it is going far off its course in questioning me," he insisted. "With the single exception of a book of instruction for

children, entitled *Tina and Jimmy Learn How They Were Born*, written by my daughter for the instruction of her own children. I have never published or advertised a book an adolescent would bother to read. I have never offered books to juveniles, and refused to serve them whenever they were so identified in my mails."

The hearings upended Roth's life. In July '55, the Postal System indicted him on 26 criminal charges. In September, his appeal for dismissal was declined and he was ordered to stand trial. In January '56, he was tried, convicted and fined \$5,000. Most revealing, during the federal appeal process, this 64-year-old businessman was denied bail. Roth's initial appeal to the regional court was denied; however, in January '57, he was granted a Supreme Court *certiorari* appeal.⁶

It was, however, Roth's 1956 federal indictment for sending allegedly obscene materials through the U.S. postal system that brought him immortality. In its indictment, the U.S. government accused him of publishing porn through a variety of media. In terms of print publications, it exhibited issues of his magazines, *Good Times* and *American Aphrodite*. Other media materials included stereoscopic pictures of moving women's lips, thighs and breasts and "strips sets," images of women undressing that simulated a filmstrip. Most provocative, the indictment includes reference to what was identified as "Wallet Nudes," perhaps old-fashioned pin-ups?

The *Roth* decision -- which was combined with the *Alberts* case -- established the postwar era's framework defining obscenity.⁷ Following the lead of Justice William Brennan, the five-member Court majority defined obscenity in terms of two criteria. First, that "to the

average person, applying contemporary community standards, the dominate theme of the material taken as a whole appeals to prurient interests"; and, second, that the work is "utterly without redeeming social importance." Most significant, the Court insisted, "We hold that obscenity is not within the area of constitutionally protected speech or press."⁸ So was delineated "soft" and "hard" porn.

For more information:

Jay A. Gertzman, *Bookleggers and Smuthounds The Trade in Erotica, 1920-1940* (Philadelphia: University of Pennsylvania Press, 1999),

Whitney Strub, *Obscenity Rules: Roth v. United States and the Long Struggle over Sexual Expression* (Lawrence, KS: University Press of Kansas, 2013).

Notes:

¹ Jay A. Gertzman, *Bookleggers and Smuthounds The Trade in Erotica, 1920-1940* (Philadelphia: University of Pennsylvania Press, 1999), p. 230.

² Ibid., p. 23.

³ Samuel Roth, *Jews Must Live* ((New York: Golden Hind Press, 1934); <https://archive.org/details/JewsMustLiveAnAccountOfThePersecutionOfTheWorldByIsraelOnAllThe>

⁴ Gertzman, op. cit., p. 222.

⁵ Gwertzman, op. cit., pp. 276-80; Straub, op. cit., pp. 180-81.

⁶ Jay Gwertzman, "Arrests and Prosecutions of Samuel Roth"; <http://home.earthlink.net/~jgertzma/booksite/rotharr.txt>

⁷ Richard Perez, "Traveling Backwards in Fethistory," May 10, 2014; <http://fethistory.blogspot.com/2014/05/traveling-backwards-in-fethistory-eric.html>

⁸ Gertzman, op. cit., pp. 276-82; Richard Kuh, *Foolish Figleaves?: Pornography in and out of Court* (New York: Macmillan, 1967), p. 24; U.S. Attorney General's Commission on Pornography (aka the Meese Commission), (Washington, DC: U.S. Justice Department, 1986), pp. 307-08.