

Media Education v. Censorship: A 100-Year-Old Solution for 21st Century Media

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For centuries, the tension between outright censorship versus education has raged. Fear and desperation often lead to calls for banning certain materials, while history proves this path to be ineffective in keeping controversial media out of vulnerable hands. What is valuable and proven through promising studies is education—teaching children media literacy skills. A media literate person is one who “possesses the critical thinking skills needed to ‘read’ mass media communication . . . [r]ather than being passive consumers of movies, TV shows, and video games.”² An early advocate of this approach was Benjamin Antin. The purpose of this paper is to explore the legacy of Antin, examining legal and historical milestones in censorship in the United States and suggesting the following: censorship is an ineffective and overbroad remedy for dealing with controversial media and the access to such materials partnered with the ability of people to publish such materials is greater than ever before; therefore, rather than banning certain kinds of media, media literacy programs should be compulsory in today’s schools.

Historical Background

From the day Socrates was forced to drink hemlock for corrupting the youth of ancient Greece to contemporary congressional hearings on comic books, popular music, and video games, government officials have pursued methods to shield society (mostly young people) from the harmful effects of media content. In many cases,

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² Marjorie Heins and Christiana Cho, *Media Literacy: An Alternative to Censorship* (New York: Free Expression Policy Project, 2003), 4. <http://www.fepproject.org/policyreports/medialiteracy.pdf>.

censorship in some form or fashion is seriously considered as a means to blunt the corrosive impact of media deemed offensive, sexually explicit, or too violent. While the debate over censorship has been argued for centuries, advancements in modern mass communication technologies like print, radio, television, motion pictures, the Internet, and video games strengthen calls for media suppression among those who fear our social fabric is being ripped apart because of content that promotes anti-social behavior. Often, these calls for censorship are preceded by highly publicized criminal behavior. And then the cycle begins: public outrage, questions about media's role in promoting crime, vilification of those who create controversial media content, and threats of censorship as a means of protecting and preserving society. Media critics who support suppression and denounce authors, performers, and distributors are among the loudest voices linking tragic events and outrageous behavior to popular culture, while supporters of education as an alternative to censorship and defamation are often muted or rarely heard.

The pattern has been consistent from the mass production of photographs and printed materials in the late 1800s, motion pictures in the 1920s and 1930s, comic books and television programs in the 1950s and 1960s, the recording industry in the 1980s, and the Internet and video games in the twenty-first century. The reaction and suggested remedies are the same with each generation, but the results are no different. Is censorship the only way of protecting our society from harmful media effects? Or is there an alternative to blunting the perception of the media's corrosive impact without trampling over constitutional guarantees of freedom of speech and press?

Questions about the influence of violent media content on the mind of a mass murderer were asked in the days following the senseless slaughter of 26 students and teachers at Sandy Hook Elementary School as parents, politicians, and pundits searched for answers on how such a despicable act of violence could take place, and, more importantly, how such acts could be prevented.³ In addition to debates about

³ Twenty-six people were killed at Sandy Hook Elementary School in Newtown, Connecticut on December 14, 2012 by gunman Adam Lanza. Lanza reportedly played video games such as *Call of Duty* prior to his deadly rampage. See Tara Palmeri, "Killer's Basement his Eerie Lair of

gun control and mental health, the corrosive effect of media violence sparked criticism from the general public, politicians, and even members of the press following the Sandy Hook shooting. Public criticism against media producers was accompanied by a variety of legislative remedies that would warn consumers about the potential hazards of violent media and generate revenue for mental health programs and law enforcement. Connecticut State Representative DebraLee Hovey called for a 10 percent “sin” tax on all M-rated video games “to educate families on the warning signs of video-game addiction and antisocial behavior” through public service announcements.⁴ Hovey joined Missouri State Representative Diane Franklin who suggested a one-cent sales tax on video games rated “Teen,” “Mature,” and “Adult Only” should help fund mental health programs and law enforcement in efforts to prevent school shootings.⁵ Calls for taxing video games also came from the executive branch of the federal government when Vice President Joe Biden reportedly told religious leaders that there were no barriers preventing taxing broadcasters and producers of violent media images.⁶

While some politicians suggested taxation of video games as a means of improving mental health services and financing law enforcement solutions against mass shootings, others were more rancorous in their criticism of violent media content. Tennessee Senator Lamar Alexander noted, “video games are a bigger problem than guns because video games affect people.”⁷ California Senator Diane Feinstein suggested Congress might intervene if violent video game producers refuse to acknowledge their products contribute to a culture of violence. “If Sandy Hook

Violent Video Games,” *New York Post*, December 19, 2012. <http://nypost.com/2012/12/19/killers-basement-his-ecerie-lair-of-violent-video-games/>.

⁴Jacoba Urist, “Could Taxing Violent Video Games Actually Save Lives?” *The Atlantic*, February 21, 2013. <http://www.theatlantic.com/business/archive/2013/02/could-taxing-violent-video-games-actually-save-lives/273379/>.

⁵*Ibid.*

⁶Reid J. Epstein, “Biden: Gun Control to Wait for Immigration,” *Politico44* (blog), *Politico*, May 6, 2013. <http://www.politico.com/blogs/politico44/2013/05/biden-gun-control-to-wait-for-immigration-163361>.

⁷Will Wrigley, “Diane Feinstein: Congress May Take Action On Video Game Violence,” *The Huffington Post*, April 4, 2013. http://www.huffingtonpost.com/2013/04/04/dianne-feinstein-video-games_n_3016703.html.

doesn't do it," said Feinstein, "then maybe we have to proceed, but that is in the future."⁸

One of the most outspoken critics of media violence included MSNBC *Morning Joe* host Joe Scarborough, who called filmmaker Quentin Tarantino "a pornographer of violence" while Hollywood profits off of his violent and bloody films.⁹ Criticism like Scarborough's over Hollywood's contribution to coarsening society is nothing new. Following the release of Stanley Kubrick's *A Clockwork Orange* in 1971, several British youths imitated a scene in the movie by gang-raping a girl as the assailants sang *Singin' In The Rain*. In 1976, John Hinckley, Jr. attempted to assassinate President Ronald Reagan after Hinckley repeatedly viewed the Martin Scorsese film *Taxi Driver*. The murder of a young man with an ice pick in Montreal, Canada was eerily similar to scene in the 1992 film *Basic Instinct*. In the movie, Sharon Stone kills her lover with an ice pick and utters the line, "Killing isn't like smoking. You can stop." A letter written by the real-life murderer contained a passage that said, "Killing is different from smoking . . . with smoking, you can stop."¹⁰ Oliver Stone's film *Natural Born Killers* focused on a couple who became celebrities after going on a killing spree.¹¹ Following the film's release, Stone and Warner Brothers Pictures were condemned for their "sickness" of pursuing "profit by trendy mockery of human life."¹² Even some of Quentin Tarantino's defenders like Johann Hari are critical of the director's application of violence in films. "He's turned suffering into a merry joke," said Hari. "From 'Pulp Fiction' to 'Kill Bill', he encourages the audience to chortle at torture

⁸ Ibid.

⁹ Mark Finkelstein, "Scarborough Calls Tarantino 'A Pornographer of Violence,'" *Newsbusters*, April 4, 2013. <http://newsbusters.org/blogs/mark-finkelstein/2013/04/04/scarborough-calls-quentin-tarantino-pornographer-violence>.

¹⁰ Jay Stone, "Death Imitating Art: How Strong Is Link Between Violence and Movies?" *Vancouver Province*, June 8, 2012. LexisNexis Academic.

¹¹ Ibid.

¹² Gregg Easterbrook, "Run, Forrest, Run! Natural Born Excess," *The Washington Post*, September 10, 2013. <https://www.washingtonpost.com/archive/opinions/1994/09/18/natural-born-excess/990216f6-0cf5-4a52-96f4-eb643aebd92a/>.

and mutilation and anal rape.”¹³ For Tarantino, “violence is so good,” it is essential to the entertainment experience of movie audiences.¹⁴

While producers like Tarantino are among the latest targets of public contempt from critics, the rhetoric denouncing practitioners and distributors of controversial media content is common. As mass media delivery systems proliferated throughout the twentieth century, parents, educators, politicians, religious leaders, and social activists expressed anger, outrage, and concern over the corrupting effects on society in general, and on children specifically, through the systems of radio, television, film, comic books, popular music, and books. Throughout the 1930s, religious organizations including the Catholic Legion of Decency threatened boycotts of films unless Hollywood filmmakers improved the moral standards of the movies.¹⁵ The 1950s launched a new era of scrutiny against radio, television, and print as Congress investigated radio and television programming, comic books, and pocketbook literature over concerns that violent and sexually explicit content were easily accessible to children. From the moment Elvis Presley first swiveled his hips on the *Milton Berle Show* in 1956 to 2013 when Miley Cyrus’s twerked on the *MTV Music Awards*, popular music has been the subject of scorn from media critics for coarsening society, promoting promiscuous behavior, and corrupting youth. Numerous court cases against violent media content rarely result in any judgments against the producers.¹⁶ Nevertheless, parents, politicians, and social critics assign blame for the decline in morals on those who produce media that feature sex and violence.

¹³ Johann Hari, “The Tragedy of Tarantino: He Has Proved His Critics Right,” *Independent*, October 23, 2009. <http://www.independent.co.uk/voices/commentators/johann-hari/johann-hari-the-tragedy-of-tarantino-he-has-proved-his-critics-right-1777147.html>.

¹⁴ “Quentin Tarantino: Violence is the Best Way to Control an Audience,” *The Telegraph*, January 2010. <http://www.telegraph.co.uk/culture/film/film-news/6975563/Quentin-Tarantino-violence-is-the-best-way-to-control-an-audience.html>.

¹⁵ Gregory D. Black, *Hollywood Censored: Morality Codes, Catholics, and the Movies* (Cambridge: Cambridge University Press, 1994), 2.

¹⁶ One exception is a book titled *Hit Man: A Technical Manual for Independent Contractors*, published by Paladin Press. The book describes the working secrets of a hit man. When a real-life hit man was accused of using material from the book to murder two people, the survivors of the victim sued Paladin Press. A federal appellate court ruled Paladin was liable, claiming the book’s “evidence lack of any even arguably legitimate purpose beyond the promotion and teaching of murder.” Paladin Press wanted to appeal, but was forced by their insurance company

Fear and anger over media's negative social influence is now directed toward twenty-first century technologies such as the Internet, interactive video games, and social media. While the means of media production and distribution has changed over the past century, the response toward mitigating the harmful effects of popular culture perceived by many people to be contributing to moral and social decline have remained constant: the threat of censorship. As early as the 1600s, originators of creative works have argued against principles of prior restraint. English poet John Milton and English philosopher John Locke both argued against government censorship and for the free exchange of ideas.¹⁷ The First Amendment to the United States Constitution encapsulates some of the ideas advocated by Locke and Milton.¹⁸ The history of the United States is interspersed with free speech cases such as the Pentagon Papers and *Board of Education v. Pico* (1982), encouraging the expression of ideas even though they may cause discomfort to some.¹⁹ Despite years of arguing against censorship, it still remains an instrument in the toolbox of advocates expressing outrage over the public display of controversial content. Censorship advocates vilify producers and performers, calling for restrictions on production, distribution, and public display of provocative materials.

Antin's Approach

to settle due to fears of a prolonged, expensive trial. The editorial director of Paladin called the settlement "economic censorship." See Gregory Kane, "Free Speech Has A Limit, And 'Hit Man' Shatters It," *The Baltimore Sun*, November 19, 1997. http://articles.baltimoresun.com/1997-11-19/news/1997323061_1_paladin-free-speech-first-amendment.

¹⁷ *The Law of Journalism and Mass Communication* (4th ed.), eds. Robert Trager, Joseph Russomanno, Susan Dente Ross, and Amy Reynolds (Thousand Oaks, CA: CQ Press, 2014), 57.

¹⁸ Clay Jenkinson, "From Milton to Media: Information Flow in a Free Society," *Center For Media Literacy*, Spring 1992. <http://www.medialit.org/reading-room/milton-media-information-flow-free-society>

¹⁹ *The Freedom Forum Online* (Bloomington, IN: University of Indiana, 1997).

http://webapp1.dlib.indiana.edu/virtual_disk_library/index.cgi/4909942/FID2663/common/first%20amendment/www.freedomforum.org/first/timeline97.asp

One particular and unique voice against censorship was New York State Senator Benjamin Antin, who advocated education to expand the mind toward new ideas and serve as a buffer against material that degrades and demoralizes the human spirit. At a time when film and radio were still in the early stages of development, decades before television would become the dominant news and entertainment medium in this country, and before the term *media literacy* would become commonplace, Antin confronted his era's popular culture critics with an alternative solution to those calling for book, tabloid, and theater censorship. Antin's arguments, articulated in a 1927 commentary published in *The New York Times* titled, "Demand for Censorship Grows," suggests continued attempts to control creative expression throughout history with restrictive and punitive measures has been a misguided attempt to save the soul while punishing the spirit. Instead, Antin claims, "the answer is in education."²⁰ The idea that education and ideas could be a gateway to freedom was nurtured early in Antin's life.

Antin's drive to succeed and his passion for education can be traced back to his youth as one of ten children living in a single room along with his mother and father.²¹ He grew up during the time of the czarist Russia, his family eking out a meager existence in a small rural town. After his mother passed away, Antin lived with his grandfather who instilled a determination and drive that served the future New York State Senator well. "There is only one battleground," said Antin's grandfather. "It is your own heart. There is only one limitation. It is in your own soul. Inside you is a God-given power. Inside are power and strength and courage crying for expression. Use them. Now. This minute. Who is there to say 'No.'"²² These inspirational words guided Antin throughout his life as an educator and politician, ultimately guiding his decision to consider education over censorship during the Clean Books debate in the 1920s.

²⁰ Benjamin Antin, "Demand For Censorship Grows," *New York Times*, February 20, 1927.

²¹ Benjamin Antin, *The Gentleman From the 22nd: An Autobiography* (New York: Boni and Liveright, 1927), 3.

²² Antin, *The Gentleman*, 7.

Antin's education and ambition led to his election to the New York State Assembly in the Bronx County 3rd District in 1921. Two years later he was elected to the state senate, representing the 22nd district, where he served as Chairman of the Senate Committee on Public Education. In his role as both educator and politician, Antin believed that the government's "paramount duty" is to foster an educational system that presents children with "the fullest opportunity to develop into physically sound, mentally alert, intelligent, law-abiding and socially minded citizens."²³ Not only was education essential to an individual's overall development, according to Antin, but "fundamental to the state's welfare."²⁴ He referred to books as an "oasis"²⁵ and pathway to a better existence:

Books—a ladder on which one climbed out this hell hole. Books which never asked you who you were and what you were or who your father was. Books. Bridges from the sweat shop to a profession. This was the urge. This kept men alive. This it was which gave strength to frail bodies. And here besides this oasis—one dreams. Dreams of being—what? A teacher? Perhaps. Or a lawyer? A doctor? An engineer?²⁶

While Antin viewed books as a key to open doors of opportunity, others viewed controversial reading materials as a prison that shackled the mind and corrupted the soul. One of those men was John Sumner.

Antin vs. Sumner

While Antin believed books provided an escape to a better life, John Sumner thought the immoral contents contained in many books of the 1920s imprisoned one to a life of sin. Sumner assumed leadership of the Society for the Suppression of Vice in New York upon the death of Anthony Comstock in 1915, the man whose campaign against obscenity and the sex industry produced the Comstock Act, a federal statute that defined contraception as obscene and criminalized the distribution

²³ Benjamin Antin, "The Legislature and Education," *The Journal of the New York State Teachers' Association* 10, no. 10 (1924): 380.

²⁴ Ibid.

²⁵ Antin, *The Gentleman*, 40

²⁶ Antin, *supra* note 20, 41.

of birth control through the mail.²⁷ Comstock also waged war against publishers and distributors of books, photographs, and “immoral circulars, catalogues, songs, poems” among other items deemed indecent or corrupting.²⁸ His battle against sin was praised by Reverend Dr. Daniel Russell for destroying “more than 50 tons of books, more than 25,000 pounds of stereotyped plates, more than 2,500,000 obscene pictures, and more than 12,000 negatives.”²⁹ For over forty years, Comstock waged a war against vice through the confiscation and destruction of various illicit materials and the condemnation of those who produced and distributed such products. With Comstock’s death in 1915, the Society for the Suppression of Vice expected publishers to be “more active in their diabolical trades”³⁰ and remained resolute in continuing Comstock’s crusade of ridding the marketplace of indecent literature by emphasizing “no effort will be spared to increase, if possible, its efficiency.”³¹ While lacking Comstock’s vindictive passion against indecent literature, Sumner nevertheless continued the Society’s history of pursuing and punishing producers and consumers of sexually explicit content.

The beginning of the Sumner era of vice suppression coincided with a time of tremendous social change, cultural innovations, and technological advancements which bombarded society with media content that challenged the moral standards promoted by Comstock during this reign. Following World War I, the United States entered an era of prosperity where advertisers seized upon the growing consumer market by featuring ads that reflected the growing freedoms of modern life in the 1920s. With more leisure time on their hands as a result of the modernization of industry, middle class Americans flocked to theaters to see movie stars like Rudolph Valentino, Gloria Swanson, Clara Bow, and others flaunt their sexuality. The 18th Amendment, which prohibited liquor, challenged attitudes of right and wrong as honest citizens became lawbreakers just to have a drink. The 19th Amendment

²⁷ “People and Events: Anthony Comstock’s ‘Chastity Laws,’” *American Experience*, 2001. http://www.pbs.org/wgbh/amex/pill/peopleevents/e_comstock.html.

²⁸ Anthony Comstock, “The Suppression of Vice,” *New York Times*, January 21, 1891.

²⁹ Daniel Russell, “Comstock’s Work To Go On,” *New York Times*, October 4, 1915.

³⁰ *Ibid.*

³¹ *Ibid.*

challenged traditional roles of women in society by giving women the right to vote. The sexually repressive Victorian era attitudes prevalent during Comstock's era began to erode as women dared to bare their ankles in public³² and become more sexually liberated.³³ The social, cultural, and economic changes in America served as a backdrop for a "Lost Generation" of authors led by F. Scott Fitzgerald, Ernest Hemingway, and Gertrude Stein whose outlook on the post-World War I human condition was characterized by Fitzgerald as a time when "the parties were bigger, the shows were broader, the pace was faster, the buildings were higher, the morals looser, and the liquor was cheaper."³⁴ It was during this period of cultural transition between Comstock's Victorian sense of decency and the moral rebelliousness of the 1920s that Sumner's censorship crusade for clean books was launched.

The Clean Books League was founded in 1923 by New York Supreme Court Justice John Ford after a librarian recommended Ford's daughter read D. H. Lawrence's controversial book, *Women in Love*. "This book is a terrible thing. It is loathsome," said Ford. "There are various ways of dealing with such a thing."³⁵ One of his suggested remedies was to "go to the Legislature with a law that will stop this sort of thing."³⁶ At the behest of Ford, Sumner immediately began working with Representative George N. Jesse and Senator Salvatore A. Cotillo on a bill to amend New York's obscenity law that would essentially grant Ford and Sumner power to define obscenity in any and all publications. Immediately, writers and publishers issued warnings about granting unlimited censorship power to one man. "If this bill is passed," *The New York Times* reported, "Mr. Sumner will be an absolute and irresponsible censor of all modern literature. We hardly want that."³⁷ Not everyone shared the *Times*' concern about Sumner.

³² James Ciment, ed. *The Encyclopedia of Jazz: From the End of World War I to the Great Crash*, Vols. 1-2 (New York: Routledge, 2015), 217.

³³ *Ibid.*

³⁴ Andrew Turnbull, *Scott Fitzgerald* (New York: Grove Press, 1962), 183.

³⁵ "Justice Shocked by Book in Home," *New York Times*, February 6, 1923.

³⁶ *Ibid.*

³⁷ "The Worst Bill Yet," *New York Times*, April 18, 1923.

New York Senator Ellwood M. Rabenold supported Sumner's efforts and likened controversial books to illegal narcotics and venomous snakes, claiming the Clean Books bill would offer the general public a safeguard against poisonous literature. "We restrained the drug evil. We have some protection against the copper-head snake," said Rabenold. "Is there anything less dangerous in the sorts of books that led to the introduction of this bill and which poison the minds of the young as well as the old?"³⁸ But Senator Jimmy Walker countered the proponents of censorship by arguing that his father's wife grew up in a time when "salacious books" were common and she died "just as clean and pure in mind as the day she was born."³⁹ Walker noted the hypocrisy of clean book advocates by claiming "some of the best tellers of shabby stories in the Senate have been worrying their hearts out during the debate today about somebody reading something which may not have been good for him or her."⁴⁰ In the end, a group of bi-partisan senators voted against the bill.

This defeat was one of many that Sumner and Ford would experience throughout the 1920s and 1930s in their efforts to pass censorship legislation. Nevertheless, Sumner continued his crusade against books and theater, declaring "real censorship is an impending thing" and would manifest itself one way or another. "If we can't have public decency through a sense of decency, let's have it through fear of punishment. If we can't have governmental, orderly, standardized and appealable control because politicians are afraid of a word, then let's have control with a club."⁴¹ Such extremist measures advocated by Sumner contributed to a moral panic when social order appeared to be threatened.

In his work, *Moral Panics and Folk Devils: The Creation of the Mods and Rockers*, Stanley Cohen describes moral panic as times when "a condition, episode, a person, or group become defined as a threat to societal values and interests."⁴² Cohen notes that, during periods of moral panic, attention is focused on "folk devils"—people who

³⁸ "Clean Book Bill Dies In Senate," *New York Times*, May 3, 1923.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ John S. Sumner, "Censorship Impending," *New York Times*, May 13, 1927.

⁴² Charles Krinsky, "Introduction: The Moral Panic Concept," In *The Ashgate Research Companion To Moral Panics* (New York, NY: Routledge, 2012), 3.

personify the threat to society. As far as the Clean Books advocates were concerned, the folk devils of the early twentieth century were publishers of controversial literature, described by Ford as “purveyors of obscenity” and “greedy” for “introducing revolting books from the literary garbage dumps of Old World literature and palming them off on the American public as masterpieces.”⁴³ Instead of elevating the moral conscienceness of the public, surmised critics, producers of controversial literature degraded society.

Similar arguments were made against publisher William Gaines during the 1950s when comic books were placed under congressional scrutiny for their alleged contribution to juvenile delinquency. Gaines’s company, Entertaining Comics Group, reportedly grossed “\$80,000 a month and a net profit of \$4,000” from comic books.⁴⁴ In a tense exchange with Senator Estes Kefauver, Gaines defiantly defended the tastefulness of a comic book cover that featured a decapitated female head. “I think it would be in bad taste if he were holding the head a little higher so the neck would show the blood dripping from it,” Gaines told Kefauver.⁴⁵ Gaines argued, “juvenile delinquency is a product of the environment in which a child lives, not the fiction he reads.”⁴⁶ Several months after his testimony, Gaines succumbed to the “religious and parental pressure against him” and discontinued publishing five of his crime and horror comic books.⁴⁷

The same public pressures that forced Gaines to quit publishing comic books concerned Antin during the Clean Books crusade. He understood the possible public policy implications when voices of anger and fear spread and resonated among the general population. As the rhetoric against popular culture became more passionate and hostile, Antin and his legislative colleagues began receiving calls from their constituents to take action. “Don’t you as a legislator feel that something must be done about the mud and dirt which are now being broadcast so flagrantly in news, in

⁴³ “Score Evil Books: Give Out Extracts,” *New York Times*, December 3, 1923.

⁴⁴ Peter Kihss, “No Harm in Horror, Comic Issuer Says,” *New York Times*, April 22, 1954.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ “Publisher To Drop Crime and Horror ‘Comic’ Books,” *Wall Street Journal*, September 16, 1954.

picture, in story?”⁴⁸ The rapid groundswell of public concern over controversial literature resulting from Ford and Sumner’s crusade troubled Antin, knowing how the momentum of public opinion can persuade politicians into legislative solutions. Antin feared called for censorship would grow as the general public generated demands to protect society from the decadence of obscene literature.⁴⁹

Antin did not view legislation as a solution to shield the public against the caustic by-products of media and popular culture. “The answer is not in censorship,” stated Antin. “The answer is in education, in the hope that the market for mud will collapse on its own feeble structure.”⁵⁰ He reasoned that, throughout history, censorship does not suppress the human desire for those things considered provocative, salacious, or perverse. Nor does it prevent the desire to create things considered controversial and scandalous. Instead, Antin reasoned the demand for salacious and controversial material has been willingly met by those who use freedom of press and speech to defend their right to publish it. “There have always been men who sought to peddle debauchery in the name of art, in the name of free speech, in the name of free press,” said Antin. “And there have always been people who sought this out and hugged it to their bosoms. Much of this goes on today. But the hope for them is not a censorship. Censor one thing and they will find another. Censor it and ways will be found to bootleg it to them.”⁵¹ In other words, market forces that drive the need for smut will not be suppressed by laws. As long as the desire exists for controversial material, there will be suppliers to meet that demand.

Antin’s observation made in 1927 still holds true today. Despite the harsh criticism of violent video games in the months following the 2012 Sandy Hook tragedy, sales of the video game *Grand Theft Auto 5* reached \$800 million on its first day of release.⁵² By May 2014, 33 million units of *Grand Theft Auto 5* had sold, amassing

⁴⁸ Antin, *supra* note 17.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Alan Farnham, “Grand Theft Auto V Sales Race Away with Record Spreading Riches,” *ABC News*, September 20, 2013. <http://abcnews.go.com/Business/grand-theft-auto-videogame-making-people-rich/story?id=20308009>.

nearly two billion dollars in sales.⁵³ The latest installment in the *Grand Theft Auto* series continues its tradition of graphic violence by featuring torture of an unarmed man by extracting his teeth and electrocution.⁵⁴ With the potential massive profits of video games and other forms of violent media at stake, producers will meet the marketplace demand one way or another, regardless of public outrage or moral conscience.

Despite his role as a legislator, Antin understood restrictive laws would not suppress the innate desire of those who craved controversial content nor prohibit those willing to fulfill the demand. And while acknowledging that many things in popular culture like some of the movies in his day were “trash,” Antin bristled at the idea of allowing a few bureaucrats to determine the morality of millions. “Only a fool will say that much of the movies is not trash,” said Antin. “But only an ignoramus will contend that three men and two women, appointed by the Governor, are equipped to sit in judgment on what the brains and the morals and the conscience of ten million men, women, and children should absorb.”⁵⁵ Education, not legislated censorship, was the way to mitigate the influences of popular culture, according to Antin. This viewpoint coincided with a new approach promoted by the American Association for Better Broadcasting to address the growing concern over the impact of radio programming on society. The organization adopted an analytical, non-confrontational approach toward evaluating media content. Instead of maligning popular radio programming or threatening broadcasters and sponsors with boycotts or censorship, the group’s aim was to take “a positive and non-judgmental attitude and embrace a philosophy that values reflective judgment and cooperation rather than confrontation with the media industry.”⁵⁶ This philosophy did more than classify media as good or bad by challenging media consumers to do a better job of analyzing

⁵³ Dave Thier, “Grand Theft Auto 5’ Has Sold Nearly \$2 Billion,” *Forbes*, May 13, 2014. <http://www.forbes.com/sites/davidthier/2014/05/13/grand-theft-auto-5-has-sold-nearly-2-billion-at-retail/>

⁵⁴ Alex Hern, “Grand Theft Auto 5 Under Fire for Graphic Torture Scene,” *The Guardian*, September 18, 2013. <http://www.theguardian.com/technology/2013/sep/18/grand-theft-auto-5-under-fire-for-graphic-torture-scene>.

⁵⁵ Antin, *The Gentleman*, 123.

⁵⁶ Karen Ambrosh and Rowe Marieli, “A Walk Through the Years,” *The Journal Of Media Literacy* 53, no. 11 (2006), 2.

and evaluating content. In other words, audiences should become more media literate.

Antin's Legacy

Using an analytical approach toward understanding the impact of media set the standard for the media literacy movement in this country for the next 80 years. In a report titled, *Media Literacy, An Alternative to Censorship*, authors Marjorie Heins and Christina Cho trace the role of media literacy education in providing critical thinking skills toward sexual, violent, racial, gender, and other message content contained in popular media. With the proliferation of media in modern society, Heins and Cho acknowledge popular culture disseminates disconcerting images and ideas. They believe that “media literacy education can relieve the pressures for censorship that have, over the last decade, distorted the political process, threatened First Amendment values, and distracted policy makers from truly effective approaches to widely shared concerns about the mass media influence on youth.”⁵⁷ The American Academy of Pediatrics supports Heins’s and Cho’s assertion by noting in a policy statement that media education has been influential in a number of child and youth behaviors including reducing aggressive tendencies, cultivating good nutritional habits, limiting alcohol and tobacco use, improving self-image, among many more positive effects.⁵⁸ Among the recommendations cited by the Academy is that media education should be a part of school curriculum that promotes critical thinking and understanding of media’s influences.⁵⁹

The concept that media analysis could produce anything but a corrupt society and a filthy mind was beyond Sumner’s comprehension. Censorship and vilifying writers and publishers remained his course of action for years following the defeat of the Clean Books bill. During a “censorship forum” at the 1930 American Booksellers’ Association convention, Sumner claimed, “any tramp can find an outlet in print for

⁵⁷ Heins and Cho, *Media Literacy*, 1.

⁵⁸ American Academy of Pediatrics, “Policy Statement—Media Education,” *Official Journal of the American Academy of Pediatrics* 126, no. 5 (2010): 2.

⁵⁹ *Ibid.*, 3.

trampish writings” or “any temporarily sober hobo” can find a publisher willing to print “wit, lechery, blasphemy, profanity, and filth.”⁶⁰ One person listening to Sumner’s defamatory remarks was Mary Ware Dennett. Dennett, herself convicted of distributing her book *The Sex Side of Life* through the postal service, drew laughter from the convention crowd when she pointed out the irony of people like Sumner who “read smut day in and day out, for a lifetime, and are not be hurt by it.” Dennett noted, “they insist that it is others who are in danger—young people particularly.”⁶¹ Like Antin, Ware was convinced that censorship was worse than the obscenity it was meant to extinguish and recommended education as an alternative to censorship. “The conviction that education is a more sound and sure reliance than suppressive laws and censorship officials is based upon the fact that obscenity is in people’s minds and feelings, not in words or actions,” said Ware. “The way we feel about things is not a matter that laws or censors can affect. But it is a matter which education can affect,” suggesting it is futile to think censorship can outlaw subjective feelings and interpretation of media.⁶²

In terms of laws, the history of the Supreme Court’s treatment of obscenity contains similar arguments to Antin’s and Ware’s. In particular, the dissent of Justice Wiliam Douglas in the 1973 landmark *Miller v. California* case illustrates the arguments against censorship. Douglas argued fervently that obscenity could never be clearly or constitutionally defined, and that people should have the power to choose what they see, read, or hear, and that “to give the power to censor, as we do today, is to make a sharp and radical break with the traditions of a free society. The First Amendment was not fashioned as a vehicle for dispensing tranquilizers to the people. Its prime function was to keep debate open to ‘offensive’ as well as to ‘staid’ people.”⁶³ While the majority (a bare 5 vote majority) in that case held that obscene materials were not within the area of constitutionally protected speech or press and they decided on

⁶⁰ “Sumner Cautions On Obscene Books,” *New York Times*, May 21, 1930.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Miller v. California*, 413 U.S. 15 (1973), 44-45.

guidelines for what they considered obscene, Justice Burger's majority opinion paradoxically states:

Apart from the initial formulation in the *Roth* case, no majority of the Court has at any given time been able to agree on a standard to determine what constitutes obscene, pornographic material subject to regulation. . . . This is not remarkable, for in the area of freedom of speech and press the courts must always remain sensitive to any infringement on genuinely serious literary, artistic, political or scientific expression. This is an area in which there are few eternal verities.⁶⁴

This sentiment was echoed in Justice William Brennan's dissents in *Miller* and *Paris Adult Theatre I v. Slaton* (1973; the companion case to *Miller*), in which he remarked, "the outright suppression of obscenity cannot be reconciled with the fundamental principles of the First and Fourteenth Amendments."⁶⁵ As long as popular culture expression exists, so will critics who believe that controversial ideas and content will corrupt society.

Like many of the parents, health officials, and media critics of today, both Ware and Antin agreed that popular culture contained content inappropriate for children. And as Antin mentioned, there will always be those willing to produce unsuitable and illicit material as long as the market exists for such products. Nevertheless, Antin remained steadfast in his "hope that the market for mud will collapse on its own feeble structure" as a result of education instead of censorship.⁶⁶

The rapid and ever-changing technology of the twenty-first century provides producers of violence and sex content new methods of distributing materials faster than censors can pass laws to restrict or tax. Vilifying authors such as Mary Ware Dennett in the early twentieth century, or comic book publisher William Gaines in 1950s, or twenty-first century filmmakers like Quentin Tarantino may sway public opinion against popular culture and media makers but does nothing to dam the flow of controversial material, nor reduce the audience who craves it. Throughout history, censorship as a means of ridding the world of the disturbing, the obscene, the corrupt, and the wicked has done little to suppress the desire for the illicit. Nor has vilification

⁶⁴ Ibid., at 22-23.

⁶⁵ Ibid., at 83.

⁶⁶ Antin, supra note 20.

and public shaming altered the moral conscience of those willing to profit from the mass production and distribution of materials deemed reprehensible and socially destructive. Yet in the twenty-first century, censorship is still considered a viable means of protecting society from the harmful effects of media, even among Justices of the United States Supreme Court. As the court pondered *Brown v. EMA* (2011), a California law that restricted the sale of violent video games to minors, Justice Elena Kagan vacillated on her decision. “I kept going back and forth and back and forth,” said Kagan.⁶⁷ But Kagan’s commitment to “free speech principles” resulted in a 5-4 decision that granted First Amendment protection to minors who choose to play video games deemed too violent by some.⁶⁸

There are those who suggest that placing the blame for the acts of criminals and madmen solely on popular culture does little more than placate a society that is justifiably frightened and concerned about wanton acts of violence. Daniel Greenberg, Chairman of the International Game Developers Association, sees parallels between the backlash directed at the video game industry in the aftermath of Sandy Hook and the accusations that comic books contributed to juvenile delinquency in the 1950s. “The U.S. government did irreparable damage to the comic book industry in the 1950s by using faulty research to falsely blame juvenile delinquency and illiteracy on comic books,” said Greenberg.⁶⁹ “Censoring violent comic books did not reduce juvenile delinquency or increase literacy, it decimated the production of one of the few kinds of literature that at-risk youths read for pleasure. Censoring video games could have similar unintended consequences that we cannot currently foresee.”⁷⁰ The effort during the 1950s to restrict access to comic books from juveniles did nothing more than stifle an industry and demonstrate the well-intentioned but destructive

⁶⁷ Mark Joseph Stern, “The Supreme Court Came Alarming Close to Allowing Video Game Censorship,” *Slate*, January 7, 2015. http://www.slate.com/blogs/future_tense/2015/01/07/elena_kagan_reveals_the_supreme_court_came_close_to_allowing_video_game.html.

⁶⁸ *Ibid.*

⁶⁹ “National Rifle Association Launches Shooting Game for Mobiles,” *BBC News*, January 15, 2013. <http://www.bbc.com/news/technology-21025626>.

⁷⁰ *Ibid.*

power of censorship. The same consequences could befall the video game industry, according to Greenburg.

As a spokesperson for the video gaming industry, Greenburg's response is predictable. But Marjorie Hein and Christina Cho agree that censorship is a panacea that does not address bigger social issues nor help children cope with the media saturated world in which we all live. In their book, *Not in Front of the Children*, Hein and Cho assert that "censorship is an avoidance technique that addresses adult anxieties and satisfies symbolic concerns, but ultimately does nothing to resolve social problems or affirmatively help adolescents and children cope with their environments and impulses or navigate the dense and insistent media barrage that surrounds them."⁷¹ Censorship on video games in the 21st century, comic books in the fifties or controversial books in Antin's era is a powerful, symbolic remedy for the fears and apprehensions associated with content deemed socially harmful but does little to stem the demand or educate audiences on the potential effects of media.

Old Solutions for New Technology

Opposition to censorship does not deny the existence of inappropriate content for children. Advancements in digital technologies make sexual and violent programming and materials easier to for children to access and consume. Graphic violence and explicit sexual content is readily available on 24-hour cable television, the Internet, video games, and mobile devices. Parents can now add cyber bullying and sexting to a list of worries regarding their child's media influences. Children today not only have more options to consume media but also are now content creators and distributors themselves. Inexpensive mobile devices with video cameras make it easy for anyone to create and upload content to YouTube, Vine, Vimeo and other social media sites. The omnipresence of media in our society and the growing list of twenty-first century distribution technologies should be reasons alone to negate censorship as a viable option to protect children from the harmful effects of media. Is censorship a

⁷¹Marjorie Heins, *Not In Front Of The Children. Indecency, Censorship, And The Innocence Of Youth* (New Brunswick: Rutgers University Press, 2007), 257.

reasonable means of stopping the next generation of D. H. Lawrences, Mary Ware Dennetts, and Quentin Tarantinos from using an unlimited menu of technologies to produce and distribute content deemed inappropriate and controversial? Is censorship a practical solution to prevent children and young people from accessing illicit and violent content in a world saturated with media sources? Will vilifying producers of illicit and controversial content shield young people from graphic violent and sexual images?

As we attempt to end the cycle of violence that fills headlines with stories of unimaginable horrors and cope with the media and popular culture environment in the twenty-first century, it may be helpful to look back to Benjamin Antin's *New York Times* commentary that was written at a time when electronic media was still in its infancy and popular culture was limited to books, theater, and movies. While censors publicly vilified writers and publishers and attempted to pass laws granting a handful of individuals the power to approve book and theater scripts, Antin advocated education as a means of mitigating the influences of salacious media. He remained steadfast in his opposition to censorship because "it could easily become a mad, unreasoning and ignorant attempt to throttle the mind and imagination of man."⁷² Additionally, history has shown that denigrating the folk devils of popular culture and enforcing punitive restrictions does little to cure the perceived social threats posed by literature, motion pictures, comic books, music, and other media. Instead, evidence suggests that media education has a positive effect toward changing aggressive thoughts and behaviors among young people.⁷³ Media literacy programs have been successful in helping fifth-graders understand and resist the harmful effects of portrayals of violence in the media and advertising promoting smoking and foods with poor nutrition.⁷⁴ Sixth-graders who participated in a media literacy program

⁷²Antin, *supra* note 20.

⁷³L. Rowell Huesman, Leonard Eron, Rosemary Klein, Patrick Brice, and Paulette Fisher, "Mitigating the Imitation of Aggressive Behaviors By Changing Children's Attitudes About Media Violence," *Journal of Personality and Social Psychology* 44, no. 5 (1983): 908, 909.

⁷⁴David S. Bickham and Ronald G. Slaby, "Effects of Media Literacy Program in the US on Children's Critical Evaluation of Unhealthy Media Message About Violence, Smoking, and Food," *Journal of Children and Media* 6, no. 2 (2012): 265-268.

exhibited greater critical thinking skills toward media violence and “expressed a more critical attitude about the responsibility of media creators” who failed to describe the consequences of violence in the media.⁷⁵ Foster children who lack collaboration skills and have experienced trust issues exhibited the ability to work in teams while making movies as part of a media literacy program.⁷⁶ In a media saturated world, media literacy education has proven to be a helpful tool in preparing young people to better understand and resist harmful messages, change attitudes and behaviors.

As society tries to grapple with the horrors of mass shootings, there is a combined sense of sadness, anger, and a growing submission among many who believe no solution exists to the increasing number of mass killings. During two terms in office, President Barack Obama spoke to the American public 15 times, expressing grief and frustration over the seemingly endless episodes of mass shootings.⁷⁷ In a memorial service with the families of the Washington Naval Yard massacre, President Obama voiced his frustration:

And yet, here in the United States, after round-the-clock coverage on cable news, after the heartbreaking interviews with families, after all the speeches and all the punditry and all the commentary, nothing happens. Alongside the anguish of these American families, alongside the accumulated outrage so many of us feel, sometimes I fear there’s a creeping resignation that these tragedies are just somehow the way it is, that this is somehow the new normal.⁷⁸

The claim expressed by President Obama that “nothing happens” reflects the frustration by many who believe that some sort of action is necessary to rid society of evil influences that provoke or promote wanton violence against innocent people. If part of this new normal includes a society saturated with violent media imagery that contributes to aggressive behaviors and mass killings, then it is incumbent upon us all

⁷⁵ Erica Scharrer, “‘I Noticed More Violence’: The Effects of Media Literacy Programs on Critical Attitudes Toward Media Violence,” *Journal of Mass Media Ethics* 21, no.1 (2006): 81.

⁷⁶ Elizaveta Friesem, “A Story of Conflict and Collaboration: Media Literacy, Video Production, and Disadvantaged Youth,” *Journal of Media Literacy Education* 6, no. 6 (2014): 44-55.

⁷⁷ “Oregon Shooting: Statistics Behind ‘Routine’ US Gun Violence,” *BBC News*, October 2, 2015. <http://www.bbc.com/news/world-us-canada-34424385>.

⁷⁸ Trymaine Lee, “Weary of Mass Killings, Obama Fears Tragedy is ‘New Normal,’” *MSNBC*, September 23, 2013. <http://tv.msnbc.com/2013/09/23/weary-of-mass-killings-obama-fears-tragedy-is-new-normal>.

to seek solutions that mitigate harmful media effects without sacrificing freedom of speech and expression. Yet American history shows that censorship, especially censorship advocated by legislative and judicial representatives whose responsibility is to protect the rights of citizens, is still an option that many others still consider worthy of consideration.

Such consideration flourishes within a climate of fear. The decision by Sony executives to restrict distribution of *The Interview* from theaters following the computer network hacking of Sony Pictures Entertainment demonstrates how fear can threaten free speech. Actor George Clooney penned a letter warning “that to give in to these criminals now will open the door for any group that would threaten freedom of expression, privacy and personal liberty. We hope these hackers are brought to justice but until they are, we will not stand in fear. We will stand together.” Unfortunately, no one agreed to sign Clooney’s letter.⁷⁹

President Obama’s declaration that Sony “did the wrong thing” by pulling *The Interview* from theaters following threats from hackers serves as a reminder that free speech is under constant attack from those outside the United States who do not share America’s tradition of free creative expression.⁸⁰ Likewise, the Supreme Court’s split decision to strike down the California law restricting the sale of violent video games to minors, along with legislators who advocate taxation and legal remedies to rid the nation of harmful media illustrate that dangers to free speech and expression does not always come from outside, but occasionally from within. “Pass a law, people cry. Pass a law and rivers will run up hill,” said Antin. “Pass a law and degeneracy and debauchery and evil will disappear from the land. But human experience is contrary to all this.”⁸¹ Nearly a century ago, Benjamin Antin recognized the futility of

⁷⁹ Breeanna Hare, “George Clooney: We Need To Stand with Sony,” *CNN*, December 19, 2014. <http://www.cnn.com/2014/12/19/showbiz/movies/feat-george-clooney-sony-the-interview/>.

⁸⁰ On November 24, 2014, the computer network at Sony Pictures Entertainment was hacked, according to the FBI, by the North Korean government. The North Korean attack was in response to the film *The Interview*, which depicted the assassination of North Korea’s leader. See Elizabeth Weise, Kevin Johnson, and Andrea Mandell, “Obama: Sony ‘Did the Wrong Thing’ When It Pulled Movie,” *USA Today*, December 19, 2014. <http://www.usatoday.com/story/news/2014/12/19/sony-the-interview-hackers-gop/20635449/>.

⁸¹ Antin, *supra* note 20.

using legislated and legal censorship to rid the world of vice, disagreeable ideas, and controversial content.

Recommendations and Conclusions

At a time when mass communication creators were isolated to those with a printing press, bulky motion picture cameras, and expensive photography labs, or when theaters, hard-copy books, and printed materials were the only means of accessing media, legislated censorship became a preferred course of action for those fearful of media's negative impact on society. Nearly one-hundred years later, when the creation of media content is instantaneous and accessible to anyone, anywhere, and anytime, censorship is still considered by many as a legitimate way to protect society. Throughout history, attempts to censor controversial material to shelter society from harmful content have proven ineffective. At a time when communication technology has inundated our twenty-first century world and profits from violent and sexually explicit media content soar into the billion of dollars, censorship is not only futile but foolhardy.

While the concerns over media's influence is genuine in some cases, the promotion of legislated censorship as the only viable choice to protect society from controversial words and visuals is narrow-thinking at best. Benjamin Antin recognized this in 1923 when he advocated education over censorship. Ironically, the proliferation of communications technology today offer tremendous opportunities to educate a growing generation of media users on the proper uses and potential effects of media content. As media tools become commonplace in our education system, media literacy courses should be part of the standard curriculum in K-12.

Since the time Benjamin Antin wrote his thoughts in *The New York Times*, controversial and potentially harmful media content has become easier and more affordable to create and more accessible and instantaneous to consume. There is no reason to believe this trend will reverse. The notion that censorship will put an end to these types of materials was and is just as reckless and irresponsible today as it was in 1923.

Historically, censorship is a preferred option toward suppressing an audience's access to salacious, violent, and controversial materials. Yet, censorship does little to limit desires for salacious content. Nor does censorship eliminate thoughts and ideas that some in society consider abhorrent or destructive. And censorship does not stifle the creation and distribution of materials deemed inappropriate. Antin realized the futility of censorship in 1923, suggesting education as an alternative to legislated barriers limiting the creation and access to books, films, and performances that some define as socially damaging. Without applying the term "media literacy," Antin was ahead of his time in suggesting that education instead of censorship is a preferable method to combating any harmful effects may inflict on society. Nearly a century later, Antin's idea is worth considering . . . again.