

**PROCEEDINGS OF THE INDIGNATION MEETING
HELD IN FANEUIL HALL, THURSDAY EVENING,
AUGUST 1, 1878: TO PROTEST
AGAINST THE INJURY DONE TO THE FREEDOM
OF THE PRESS BY THE CONVICTION AND
IMPRISONMENT OF EZRA H. HEYWOOD**

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Proceedings of the Indignation Meeting Held in Faneuil Hall, Thursday Evening, August 1, 1878: To Protest Against the Injury Done to the Freedom of the Press by the Conviction and Imprisonment of Ezra H. Heywood by Benjamin Ricketson Tucker

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BENJAMIN RICKETSON TUCKER

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FANEUIL HALL,
THURSDAY EVENING, AUGUST 1, 1878,

TO PROTEST AGAINST THE INJURY DONE TO THE FREEDOM OF THE PRESS BY
THE CONVICTION AND IMPRISONMENT OF

EZRA H. HEYWOOD.

*"Give me the liberty to know, to utter, and to argue freely according to conscience,
above all liberties."*— JOHN MILTON.

BOSTON, MASS.:
BENJ. R. TUCKER, PUBLISHER.

1878.

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*From the library of
Francis Ellingwood Abbot*

*Cambridge:
Press of John Wilson & Son.*

REPORT OF PROCEEDINGS

AT THE

FANEUIL HALL MEETING.

ON Tuesday, June 25, 1878, EZRA H. HEYWOOD, of Princeton, Massachusetts, was sentenced, in the United States Circuit Court, to two years' imprisonment at hard labor in Dedham Jail, and to pay a fine of one hundred dollars, the charge against him being that he had circulated through the mail an obscene pamphlet called "Cupid's Yokes." Shortly after his sentence, at one of the Sunday morning conferences which are regularly held at Investigator Hall, Boston, a committee was appointed to make arrangements for holding an indignation meeting. The committee consisted of Henry Damon, A. R. Spinney, Rev. J. M. L. Babcock, Laura Kendrick, J. P. Mendum, and Benj. R. Tucker. A petition was immediately put in circulation by this committee, asking the Boston Aldermen for the use of Faneuil Hall. It received the signatures of prominent and influential citizens, and was readily granted. Accordingly, a call was issued, inviting "all friends of free speech, irrespective of sect or party, to be present at a meeting to be held in Faneuil Hall, on Thursday evening, August 1 (the anniversary of the emancipation of the slaves in the West Indies), at 7½ o'clock, to protest against the injury done to the freedom of the press by the recent conviction, sentence, and imprisonment of Ezra H. Heywood." The meeting was held at the appointed time, and very largely attended. The audience was intelligent, quiet, orderly, attentive, enthusiastic, and almost unanimous

in approval of the object of the meeting. Four thousand five hundred persons were in the hall at once, and it is estimated that six thousand visited it in the course of the evening. Though it was a standing audience, the larger portion of it was held until quarter to eleven.

The meeting was called to order by Benj. R. Tucker, who read the following list of officers selected by the committee of arrangements to conduct the meeting : —

President. — The Hon. ELIZUR WRIGHT.

Vice-Presidents. — The Hon. BENJAMIN P. WARE of Marblehead, CHARLES McLEAN of Boston, ELIZABETH M. F. DENTON of Wellesley, HENRY N. STONE of Boston, the Hon. THOMAS ROBINSON of Pawtucket, R. I., JOSIAH P. MENDUM of Melrose, E. M. CHAMBERLIN of Boston, Mrs. M. S. WETMORE of Charlestown, D. B. MOREY, WILLIAM FOSTER, Jr., of Providence, R. I., HORACE SEAVER of Boston, JAMES CAMPBELL, ALBERT P. WARE of Andover, A. R. SPINNEY of Chelsea, ALBERT KENDRICK of Boston, L. K. JOSLIN of Providence, R. I., J. Q. A. CLIFTON of Boston, HENRY APPLETON of Providence, R. I., ALDEN SAMPSON of Charlestown, GEORGE A. BACON, J. A. J. WILCOX of Chelsea, C. W. McLELLAN of Boston.

Secretaries. — Mrs. MATTIE SAWYER, BENJAMIN R. TUCKER.

The presiding officer of the evening was then introduced, who spoke as follows : —

FRIENDS AND FELLOW-CITIZENS :

Being unexpectedly asked to preside at this meeting, — for I was never so honored before, — I ask your kind indulgence towards a few remarks on the matter that will be brought before you by speakers who will command your attention, as I cannot, by their eloquence. "Know thyself," said a Grecian sage; and he was recommending the most valuable kind of knowledge. It is good for the human race collectively as well as individually. Human society is not yet as happy as it might be, on account of the imperfection of its self-knowledge. It does not know its own goodness, or the origin of it. It has no faith in its own virtue and honor. It seems to think that, if it did not make statutes compelling every man and woman to be good under pains and penalties, everybody would be bad. It seems to think that, if it only had statute law enough and severe enough, everybody would be wise and virtuous, and vice and crime would cease. Well, why not? Make it impossible to be wicked, and shall we not all be righteous? Of course

we shall be — after a sort. So abolish down-hill, and there will be no up-hill. With repressive law enough, thoroughly enforced, society will be perfectly innocent and quite flat.

But how can involuntary virtue be its own reward? One hundred and two years ago a heavy blow was delivered in the face and eyes of this notion that virtue is to be manufactured by law; that total depravity is the raw material out of which all that is good in the world is made by the joint government of priests and kings. It was the Declaration of American Independence. This remarkable document presupposes that virtue, honor, conscience, religion, are indigenous in the human race. In itself, and as interpreted by the Constitution of the United States, it restricts law to the defence of human rights, leaving all theoretical rights of superhuman beings to their own care, thus striking off at one blow all the old fetters of the soul, rusty with age and smeared with blood. The world — I mean the old one — stood aghast. It looked to see American society swallowed up in an ocean of vice, corruption, and crime. Now, for rather more than half of the one hundred and two years of this audacious experiment I have watched society to see the effect upon it of leaving speech, printing, and all sorts of opinion free, so far as they have been left free; have watched and compared it with the past and with the other side of the Atlantic: and I say to you I have seen society as a whole growing cleaner, sweeter, wiser, purer, nobler, happier, every year I have lived, and it is here now far better than what I saw on the other side of the Atlantic. Too well I know there are deplorable rottenness and falsehood, and too much of them in regard to the vital and naturally holy relation of the sexes, by which society perpetuates itself, and by the refinement of which it rises above the level of the brute beasts. But I do not believe the disease is growing worse, or that it affects the great body of the people, or that it can be in the least degree diminished by visiting with pains and penalties either the scientific or religious opinions that may be supposed to engender it. That the newspapers are now, every day, filled, as never before, with crimes, scandals, rascally failures and fast life, luxury, extravagance, and folly, is no proof that people are growing worse. These, like all abnormal things, are news; and it is to be noticed that any newspaper now collects news from an area at least one hundred times greater than it could fifty years ago. Hence, supposing the crimes and scandals in a given population to be only half as rife as they were then, by the newspapers they would seem to be fifty times more so. Still, better and better as society grows, its sexual vices are too bad, to be sure.

Read Rabelais, Bonris, and the Bible, and you will see it was always so, in spite of plenty of both ecclesiastical and civil law. It is not more statute law prescribing the relation of the sexes that society wants, but more knowledge of natural law, more self-knowledge, more knowledge of causes, consequences, moral and physical effects. With better opportunity to gain such knowledge in due season and from pure sources, the conservatism of innocence and the increase of virtue are possible, nay probable, nay almost as sure as sunrise. Nobody here doubts that there is such a thing as obscenity in literature and art, and that it is a bad thing. Unhappily, it is very difficult to define it, or to prosecute it without increasing its mischief. But, happily, the sway of public taste is such that it is rather clandestine in our cities, quite so in the country. It takes detectives to find it in either. The States have had laws against it coming down from the days when it was less clandestine than now. They are severe enough, but have no more succeeded in suppressing it than in suppressing the obscene people who patronize it. It is quite another sort of force which has driven it into obscurity. But nobody comes here to complain of that law, or to justify that literature. Nobody would have come here, if loose and careless Federal legislation had not been used to prosecute, proscribe, and punish honest freedom of opinion. Nobody here, I think, would object to a law regulating the transmission of literature through the mails, if it could so define obscenity as not to exclude a great part of our most valuable literature, including the Bible, and so as not to violate the true and constitutional liberty of the press. This is truly a difficult problem; and more than one able legist, without despairing of the cause of good morals, has shrunk from it in despair. But when a detective, employed by a bigoted and aggressive religious sect, traps into the mail by a lie (yes, by a lie; as if lying was not a more dangerous vice than indelicacy) a book openly sold, earnestly discussing the most vital question of society, with no word more indecent than can be found in the most revered works in our libraries, and with no opinions even more heterodox or erroneous, if you please, than can be found in the writings of John Milton, and, the Supreme Court of the United States having pronounced the law constitutional, a Circuit Court sentences the author of that book to two years of imprisonment, Faneuil Hall would cease to be Faneuil Hall, if its four walls did not become phonographs of indignation till this wrong application of the law is righted. Why, admitting the law to be constitutional and the sentence according to law, there is no such thing as the liberty of the press, and without it the Constitution of

the United States and the Declaration of Independence are not worth two brass buttons. Fellow-citizens, whatever the Supreme Court of the United States may have decided in some other case, a law which would justify the arrest by Anthony Comstock and the subsequent sentence of Heywood proves itself not only unconstitutional, but contrary to the higher law, as laid down in a book which the supporters of Comstock profess to reverence without seeming to be familiar with it. You will read in the twenty-ninth chapter of Isaiah, in the prophet's rejoicing over the downfall of evil-doers, these significant words: "And all that watch for iniquity are cut off; that make a man an offender for a word, and lay a snare for him that reproveth in the gate, and turn aside the just for a thing of nought." The simple and whole truth is that Mr. Heywood was openly "reproving in the gate" by the circulation of two works, one on human physiology and one on marriage, neither of them any more open to the charge of obscenity than any work must be which thoroughly discusses those subjects. One of them was written by himself, and contains opinions which, though by no means new or very rare, do not accord with those professed by the people who employ Mr. Comstock. If they had, all the words being the same, the charge of obscenity would never have been thought of. It was easy enough to obtain the books and prosecute under the Massachusetts law, — a law which makes the possession of an obscene book as criminal as its publication, and which, if Mr. Heywood's book is obscene, would put a large part of the people of Massachusetts in jail; but it was deemed desirable to subject Mr. Heywood to the odium of appearing to circulate his books clandestinely, as if they were not fit to be seen. For that reason, Comstock, as rogues generally do, hides behind a feigned name, — an alias, — tells the lie that he admired Heywood and his books, and asks the favor of having them mailed to him in New Jersey. He had been engaged with apparently great success in ferreting out obscene literature from the mails; and as if he were still about that business, and not a wholly different one, a very incautious prosecuting officer and grand jury of the United States find two bills of indictment against Heywood, each for having mailed (I quote the exact words of both indictments) "a certain obscene, lewd, and lascivious book (naming it), which book is so obscene, lewd, and lascivious that the same would be offensive to the court here, and improper to be placed on the records thereof." In regard to one of the books, the jury did not hold this to be true, because it is acquitted. But, if it was true of either, it was true of both. And, if it was true of either, then would