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## Lady Chatterly's Lover: The Grove Press Publication of the Unexpurgated Text

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# *Lady Chatterley's Lover:* The Grove Press Publication of the Unexpurgated Text

BY RAYMOND T. CAFFREY

*Lady Chatterley's Lover* was never an easy project. D. H. Lawrence took twenty-five months, from October 1926 till January 1928, and three complete versions to finish the novel to his satisfaction. When he first published his third version (the Orioli edition) in the spring of 1928 in Florence, he met difficulty and delay at every turn: his typists either rebelled against the text, took too long, or made too many errors; the printer had too little type to set more than half the novel at once and his typesetters knew no English; the paper manufacturers failed to deliver the special hand-made paper on time. All that while Lawrence's agent, Curtis Brown, and his publisher, Martin Secker, opposed the private publication of the novel and worried Lawrence with the loss of his reputation. The book was pirated as soon as it reached America because Lawrence could not secure copyright. Finally, Lawrence came up against the censors, who banned the book from America first and later from England. It is not surprising that Barney Rosset, the president of Grove Press, began work on the 1959 Grove Press edition of *Lady Chatterley's Lover* in 1954, and that his trouble started where Lawrence's left off: with the censors.

Mark Schorer, Professor of Literature at Berkeley, had given Rosset the idea to publish the third version of *Lady Chatterley's Lover* for the first time in America. On 10 March 1954 Rosset wrote to Schorer to say that he and Ephraim London, the attorney, had reread the novel and agreed that "it seemed better from a literary standpoint and somewhat milder" than they remembered. London, who had lately distinguished himself by successfully defending the film *The Miracle* before the United States Supreme Court, felt, however, that "the chances are better than even that an attempt will be made to ban the book in New York, if you publish it". He recommended testing the censors with a strategy which relied upon the 1933 precedent that





Barney Rosset in the Grove Press offices, 64 University Place in Greenwich Village, New York City, ca. 1954.

lifted a Custom's ban against James Joyce's *Ulysses*. U.S. Customs enforces a law that prohibits the importation of obscene books, but the law "contains a provision permitting the Secretary of the Treasury to admit so-called classics or books of recognized and established literary merit when imported for non-commercial purposes".<sup>1</sup> London's idea was as follows: to import a number of copies, to inform Customs that they were coming and that they were intended for either resale or publication, and then, to force Customs to rule on the book's admissibility. If Customs confiscated the books, Grove Press would initiate a suit to defend the novel in federal court on the ground of its literary merit. Federal court action would carry no personal risk for Barney Rosset, but a favorable decision would not prevent his prosecution under state law where the penalty could be a fine, imprisonment, or both. A favorable decision in federal court, however, would create a precedent and strengthen Grove's argument of defense.

Rosset was eager to battle the censors. He set the plan in motion by writing on 31 March 1954 to Joan Landis, a friend who was living in Paris, to ask her to buy four copies of *Lady Chatterley's Lover*. Ephraim London called Customs and learned from a Miss Suske that the book was on the proscribed list. She suggested that if the package should slip through customs, Grove ought to return the books in their original wrapper. Landis wrote from Paris that she had found the books at Galignani's bookshop, where the Stockholm edition (Jan Forlag) sold for 1500 francs in hardcover and 1200 francs in paper.<sup>2</sup> Rosset asked her to mail the books and she sent them on 22 April 1954. On 28 April he wrote to Miss Suske to alert her that they were en

1. Ephraim S. London, Letter to Barney Rosset, 10 March 1954, Grove Press Records, George Arents Research Library at Syracuse University. Unless otherwise cited, all letters and documents used in the preparation of this article are in the Grove Press Records. I would like to thank Barney Rosset, who agreed to an interview and directed me to the records at Syracuse University; Ephraim S. London, who also took time to talk with me; and the able and cooperative staff of the George Arents Research Library at Syracuse University, especially Carolyn A. Davis and Edward Lyon.

2. Galignani's book shop was one of the first Paris shops to carry the two American pirate editions of the novel in 1928. Lawrence mentioned them in this letter which was written between 15 and 23 December 1928. See D. H. Lawrence, "Letter to M. and A. Huxley", *The Letters of D. H. Lawrence*, ed. Aldous Huxley (New York: Viking, 1932), 775. Joan Landis, Letter to Barney Rosset, 5 April 1954.

route. Nearly a month passed without a reaction from Customs; so, on 19 May Rosset wrote again, and still he got no response. On 7 June Ephraim London wrote Rosset to report that he had spoken with people at the Customs Office, who said that a delay of thirty-four days was not unusual, and that Rosset would be “notified of their detention as soon as the books are received”. In his own hand, London added the postscript: “looks as if the issue has been prejudged”. Rosset, who was impatient for definitive action, telegraphed Joan Landis in Paris on 10 April to ask her to send a single copy of the book via air mail. “You sometimes have to argue with these people to make them take you seriously”, he wrote. By 22 June Rosset, with the fifth copy in hand, again wrote to Customs and delivered the book. This time he got an immediate response. On 22 June 1954 Irving Fishman, the Deputy Collector for the Restricted Merchandise Division, acknowledged Rosset’s three letters and advised him that they were in possession of all five books. “We have taken note of your statement that you object to the detention of this book, and the matter is being given careful consideration.” The New York Customs officers were unwilling to make the decision that would expose them to the Grove Press lawsuit. They sent the single copy to Washington, where the Collector of Restricted Merchandise judged the case. On 11 August, New York’s Irving Fishman reported the official position:

The book in question is obscene within the meaning of Section 305 of the Tariff Act of 1930. This book will therefore be seized and forfeited in due course as provided by law.<sup>3</sup>

Rosset was finally in trouble with the law: it had taken just under four months, but at last he had reason to bring suit against the federal government on behalf of *Lady Chatterley’s Lover*.

In order to defend the novel against the charge of obscenity, Rosset had to build the case for “literary merit”. Mark Schorer’s role as initiator of the idea was a good start. His reputation as a distinguished scholar, literary critic, and teacher lent immediate prestige from the academic community, and his “Introduction” to the Grove edition still stands as a major scholarly and critical comment on the novel. Schorer had visited Frieda Lawrence Ravagli (Angelo Ravagli

3. Irving Fishman, Letter to Barney Rosset, 11 August 1954.

was Frieda's third husband) in Taos, New Mexico and studied the three manuscript versions of the novel. His discussion of the evolution of the final version not only showed the censors how seriously Lawrence cultivated his art in this novel, but also opened the field for the many studies that have followed. Schorer's tone is neither defensive nor polemical: he applies established scholarly and critical methods to the novel, and the work sustains the serious inquiry. In addition to the "Introduction", Rosset asked Schorer in a letter of 24 April for a bibliographical note that would detail the publication history and appear at the end of the text in his edition. The scholarly apparatus makes a dignified frame for the novel and supports the contention that *Lady Chatterley's Lover* ranks as a modern classic.

Rosset next developed a list of persons to whom he wrote to solicit "written affidavits" that he could use in court to support the argument that *Lady Chatterley's Lover* "has literary value and that it is not obscene, immoral or indecent".<sup>4</sup> Rosset's position throughout is clear: an edition of *Lady Chatterley's Lover* would be "a most worthwhile project, both in terms of literature and civil rights". He was as eager to break the stranglehold of the censors as he was to publish Lawrence's novel. The list of persons to whom he appealed reflects his dual purpose. Among them were: Karl Menninger, E. B. White, James Thurber, Archibald MacLeish, Edmund Wilson, F. R. Leavis, I. A. Richards, Jacques Barzun, Allen Tate, William York Tindall, Mark Howe, Edward R. Murrow, and Bennett Cerf. Not everyone responded; some declined to make a statement for the record but offered moral support and some simply objected to the project. F. R. Leavis (who had lately contracted with Knopf to publish *D. H. Lawrence: Novelist*, in which he places *Lady Chatterley's Lover* with the "lesser novels"<sup>5</sup>) declined in a letter of 17 September: "I don't like censorship, but then I think Lawrence made a mistake in writing that book". Henry Steele Commager, the noted historian, expressed a clear view of the censorship problem, but refused to become involved because he objected to the strategy of defending books one at a time:

4. Barney Rosset, Letter to Karl Menninger, 17 August 1954. This was a test letter that was eventually sent in two mailings, 23 June and 15 October 1954, to an increasing list of potential authorities.

5. F. R. Leavis, *D. H. Lawrence: Novelist* (New York: Knopf, 1956), 74.

. . . as the law defines 'obscene' etc.—leading to indecent and lascivious thoughts—I think the Lawrence book—and many other books are clearly obscene. I think the real trouble is in the law itself. It seems to me sheer hypocrisy to have to argue that a book like this does not lead to lascivious thoughts. . . . I should like to see publishers and authors organize a really effective fight on the law and its definitions, not fight a piecemeal series of battles and skirmishes on every controversial book.<sup>6</sup>

Changes in a law of this sort rarely come about without the significant instance; individual cases create precedents that lead to other individual cases until the precedent has been extended and the law interpreted into obsolescence. Mark Howe, the renowned attorney whom Rosset had consulted, wrote in a letter of 24 June that he was sure "that the book should be allowed to see the light of day", but he declined to write an affidavit for the court because of "his conviction that it will take a good deal of ingenious argument to persuade a court that the book is not 'obscene, immoral or indecent'." The attorneys, including Ephraim London, knew that *Lady Chatterley's Lover* was "obscene" under the prevailing interpretation of the law and that the Customs ban had created a persistent popular opinion that the book was clearly pornographic. Bennett Cerf's reaction to Rosset's letter states this view:

I can't think of any good reason for bringing out an unexpurgated version of *Lady Chatterley's Lover* at this late date. In my opinion the book was always a very silly story, far below Lawrence's usual standard, and seemingly deliberately pornographic. . . . I can't help feeling that anybody fighting to do a *Lady Chatterley's Lover* in 1954 is placing more than a little of his bet on getting some sensational publicity from the sale of a dirty book.<sup>7</sup>

Cerf's letter gave Rosset reason to organize a defense of the project. He had received positive statements from Edmund Wilson, Jacques

6. Henry Steele Commager, Letter to Barney Rosset, 19 July 1954.

7. Bennett A. Cerf, Letter to Barney Rosset, 24 June 1954.



Barzun, and Archibald MacLeish. Wilson, who was on record in strong support of the novel since 1928, referred Rosset (letter, 28 June 1954) to *The Shores of Light*, which contained his original review. Jacques Barzun had written:

I have no hesitation in saying that I do not consider Lawrence's novel pornographic. Its aim is that of all his work: artistic, moral, and indeed inspired by a passion to reform our culture in ways that he thought would produce greater harmony, happiness, and decency.<sup>8</sup>

Archibald MacLeish wrote:

Only those to whom words can be impure per se or those to whom 'certain subjects' cannot be mentioned in print though they are constantly mentioned in life, or those to whom the fundamental and moving facts of human existence are 'nasty' could conclude on the evidence of the text itself that *Lady Chatterley's Lover*, as Lawrence wrote it, is obscene.<sup>9</sup>

Rosset defended his project to Bennett Cerf with the letters of his experts and with an offer to let him read Schorer's "Introduction". He mentioned in a letter of 1 July that he had reread the novel himself and "did not come to your conclusion that it was a dirty book—rather the reverse". It was Rosset's stand that he was undertaking to publish *Lady Chatterley's Lover* as any commercial publisher would, that he was investing time and money in anticipation of a return, a large return, if possible, such as "best sellers" bring. His motive as publisher, however, was complicated by his intention to strike a serious blow in the battle against the kind of censorship that was prevalent in the 1950s. *Lady Chatterley's Lover* had the potential both to generate profits and to embarrass the censors, whose standards and judgment had held it to be obscene for nearly thirty years. Cerf's letter gave Rosset the opportunity not only to answer the charge that he was exploiting the novel, but also to formulate a defense against the charge that it was an aberration in Lawrence's canon, a "dirty

8. Jacques Barzun, Letter to Barney Rosset, 29 June 1954.

9. Archibald MacLeish, Letter to Barney Rosset, 24 July 1954.

book". By the time Rosset wrote to Cerf, in early July 1954, he had the defense of the novel squarely in place and had only to secure permission to publish—a more difficult project, as it turned out.

Rosset asked Mark Schorer (letter, 24 March 1954) to approach Frieda Lawrence Ravagli as the person most likely to know what entanglements were attached to the rights of the novel. He asked that Grove Press remain anonymous for the moment and that Frieda say nothing about the proposed project. Though he was certain that the novel was out of copyright, he offered to pay a royalty to her if he could publish the book. Schorer wrote back on 2 April to say that Frieda "was very excited by the prospect of seeing the real Lady Chatterley in print", but she had reservations about the rights: "I have the copyright but Knopf has the publishing right. . . ." Frieda did not understand the legal complexities, but she did acknowledge Rosset's plea for quiet: "I think it very nice of the publisher to lie low as long as it is possible. I won't say a word." That was on 2 April 1954; on 5 April, nevertheless, she wrote to Richard Aldington to say, "some bold publisher is trying over here to publish an unexpurgated Lady Chatterley".<sup>10</sup> So much for silence.

Shortly, Rosset wrote to Frieda to identify himself. He repeated his position that the novel was out of copyright and "in the public domain, available to anyone who might wish to publish it. However before going ahead, I would much prefer to have your agreement and enthusiastic support."<sup>11</sup> Ephraim London advised Rosset to stress the fact that he was under no legal obligation, but that he intended "to pay a royalty of 10% on all copies sold by us and paid for". Frieda wrote to Rosset on 13 April that she was "very glad" that he was planning to publish, but she repeated her hesitancy about the copyright: "Alfred Knopf did copyright the expurgated Lady Chatterley. I don't know, but I think you will have to have his permission which again will complicate things." Frieda closed her letter: "I wish you all good luck with this problem child".

In America Frieda was represented by Alan Collins of the Curtis Brown Agency. She had helped persuade Lawrence to allow Curtis

10. Frieda Lawrence Ravagli, "Letter to Richard Aldington", 5 April 1954, in *Frieda Lawrence and Her Circle: Letters From, To, and About Frieda Lawrence*, eds. Harry T. Moore and Dale B. Montague (Hamden, Ct.: Archon Books, 1981), 104.

11. Barney Rosset, Letter to Frieda Lawrence Ravagli, 8 April 1954.

Brown's New York office to handle his American interests in the fall of 1923, when Lawrence was having trouble collecting royalties from Thomas Seltzer, his American publisher. Curtis Brown's first effort was to place *The Plumed Serpent* with Knopf, and from that point onward, Knopf considered himself the sole American publisher of Lawrence's work. In England, Frieda was represented by Laurence Pollinger of Pearn, Pollinger and Higham, Ltd. Pearn and Pollinger had been Lawrence's chief correspondents in the London office of Curtis Brown, and when Pearn and Pollinger formed their own literary agency, the Lawrence business went with them. Pollinger had been a staunch supporter of Lawrence in 1928, when Lawrence first published *Lady Chatterley's Lover* against the advice of Curtis Brown. He had also helped Lawrence to sell and distribute the novel and he was one to whom the officials from Scotland Yard came when they began to confiscate copies of the novel in January 1929. Pollinger had a major influence upon Frieda: he controlled the Lawrence "property" and her income from it. Pollinger had lately sold the film rights to *Lady Chatterley's Lover* and was probably listening to A. S. Frère de Heinemann, who had it in mind to publish the three versions of the novel on the ground that scholars would benefit enormously. Frieda brought Pollinger into the picture under the guise of being helpful to Mark Schorer. Apparently, she knew that Pollinger would have to decide upon the permission to publish, but she approached him incidentally: Schorer needed the second version of the novel to write his "Introduction". Frieda knew that Pollinger had a typescript and simply wrote to him to ask for a copy, saying "by the way" that the novel was to be published. Pollinger wrote back asking Frieda to "do nothing" without first consulting him.<sup>12</sup> Frieda had been "silent" once more.

When Schorer visited Taos in late May 1954, it fell to him to sort out Frieda's confusion and to settle her anxiety. Schorer examined the three manuscript versions of the novel, then looked through the "piles of ancient contracts"<sup>13</sup> only to find that the contracts with Knopf for the expurgated edition and with Dial for *The First Lady Chatterley* were missing. Frieda was so certain that those contracts had secured the copyright for someone, possibly for herself, that Schorer was un-

12. Mark Schorer, Letter to Barney Rosset, 2 June 1954.

13. Ibid.

able to persuade her that the book was actually in the public domain. He finally caught her attention by telling her that anyone who wanted to publish the book could do so without paying her and that Rosset's offer of a ten-percent royalty was the gesture of a gentleman. At this point Frieda became concerned enough to ask Schorer to write both to Pollinger to satisfy him that she was not intending anything underhanded and to Rosset to ask him to announce his project to Pollinger and to A. S. Frère of Heinemann, a man who had worked with Schorer in the past and whom Frieda trusted. Frère had lately written to Schorer to mention his idea that the three versions of the novel ought to be made available, but that England was not ripe: "Perhaps in the freer intellectual atmosphere of the U.S.A. it can be done".<sup>14</sup> Schorer questioned Frère's view of the "intellectual atmosphere of the U.S.A." Frère seemed likely to support an American edition, for he had nothing to lose and something to gain.

Before he wrote, Rosset again consulted Ephraim London, who restated his position in a letter of 3 June: "My very smallest concern—and yours—in connection with the publication of the book is the copyright question". Since Knopf had never registered a copyright for the 1932 expurgated edition, there was no copyright to expire. William Koshland of Knopf confirmed that fact when he wrote to Frieda on 11 June 1954.<sup>15</sup> He reminded her that Lawrence had not secured copyright for his original edition and that when he published the novel in 1928, it had immediately become property of the public domain. Koshland's letter to Frieda made it clear that Alfred Knopf knew he had no right to the book and no legal grounds for opposing Grove Press. But Knopf, not pleased to think that Grove might actually clear the book for publication and then publish it, did oppose it. Koshland wrote to Alan Collins, who reported by telephone to Grove Press that Knopf took himself to be "the only authorized publisher of the U.S. version of *Lady Chatterley's Lover*—that version now under license to the New American Library of World Literature, Inc."<sup>16</sup> Further, if Grove Press should succeed in winning a positive court decision, Knopf "would expect to be the publisher". Knopf gave his ultimatum to Collins: let "Grove Press be warned off the premises".

14. Mark Schorer, Letter to Barney Rosset, 2 June 1954.

15. This letter came to Rosset as a copy in Frieda's hand.

16. Howard Turner, Letter to Ephraim S. London, 29 June 1954.

Knopf used a literary agent to let his position be known. Ephraim London's assessment of that position was:

- (1) He [Knopf] doesn't think the unexpurgated version can be published here;
- (2) If it can, he intends to do it—for he considers his firm to be Lawrence's official publisher.
- (3) I believe he realizes he can't prevent you from publishing it.<sup>17</sup>

Knopf was a problem. His threat to enter competition with Grove Press after Grove Press had fought a court action and paid for the legal fees presented a serious financial difficulty for Barney Rosset. Of the two, Knopf could better afford a price war. By taking the profit out of the project, he hoped to deter Rosset entirely. With Knopf it was not so much a matter of money as prestige. With Rosset it was a matter of breaking the censors and surviving financially, for Grove Press was a young company in 1954. Since Alfred Knopf had not made his threat to Rosset himself, Rosset decided to confront him for a direct statement. On 30 August 1954 Rosset wrote to ask if the threat were true and to offer details of the project to date. He also proffered ideas to effect a compromise that would not kill the new edition:

Although we have already encountered certain expenses and a good deal of work in connection with this project, we are willing to turn the entire matter over to you . . . if you will continue the case and get a court decision. Alternatively, if you would like to work with us we would be happy to share costs with you and, in the event that we obtain a positive decision, to publish the book with your imprint or ours and share in some manner any profits which accrue.<sup>18</sup>

Rosset sent copies of this letter to Alan Collins and to Frieda. She was enthusiastic and thought Rosset's offer "was very fair". "So you are already on in the fight. It is very exciting, I think it is an impor-

17. Ephraim S. London, Letter to Barney Rosset, 23 July 1954.

18. Barney Rosset, Letter to Alfred A. Knopf, 30 August 1954.



tant fight not only for this book, but others in the future, I shall be most interested what Knopf answers.”<sup>19</sup>

This letter of 14 September 1954 is the only letter to Barney Rosset that she signed “Frieda Lawrence”; on all other correspondence she signed herself “Frieda Lawrence Ravagli”. She had warmed to the battle and shared in Rosset’s view that the publication of *Lady Chatterley’s Lover* would open the door for future works that were not at that time respectable. One suspects that she felt in the present struggle the same tension and excited hope she shared with Lawrence in the fight they put up for the novel in 1928; it was a fight for a future that, in 1954, had not yet come.

By dealing with Alan Collins, Frieda Lawrence Ravagli, and Alfred Knopf, Rosset tried to keep the issue in America. But Pollinger would not be put aside. Pollinger wrote to Rosset on 23 July to argue against a Grove Press edition on the grounds of international copyright: “Of one thing I am absolutely certain, and that is *Lady Chatterley’s Lover* is copyright [sic] in all the countries that signed the Berne Convention”. He said that Knopf, Collins, and Frieda opposed the project and that he would have more to say after he’d written to them. Pollinger’s letter to Knopf came to Rosset through William Koshland:

I am definitely against the Grove Press, provided they can go ahead under your Federal anti-pornography restrictions bringing out an edition at this time of the unexpurgated (Orioli) version. Is there no chance of your establishing exclusivity?<sup>20</sup>

Like Knopf, Pollinger knew there was no copyright to deter Grove Press. He did not know, however, that Knopf had seriously slowed Rosset down with his threat of competition and that, as the threat was not made directly, Knopf had rather pointed a finger at him, Pollinger. Koshland wrote to Rosset on 1 October: “It would seem to us in light of what you write that it is time for us to bow out of the picture and leave the matter for resolution between you and Laurence Pollinger”. It was a clever ploy to keep Rosset at bay and simultaneously shift the responsibility.

19. Frieda Lawrence Ravagli, Letter to Barney Rosset, 14 September 1954.

20. Laurence Pollinger, Letter to William A. Koshland, 19 August 1954, included in a letter from William A. Koshland to Barney Rosset, 23 September 1954.

Rosset went back to Ephraim London, who reaffirmed for the third time in as many months that it did not matter who opposed Grove Press on the grounds of the copyright:

The fact that Pollinger, Collins and Frère are opposed to a Grove Press edition is immaterial, for none has any right in the U.S. to the 3rd version of the work; in fact no one has, for the book is in the public domain.<sup>21</sup>

Reassured, Rosset continued his strategy of ignoring the London interests and once more confronted Knopf, to whom he rehearsed his understanding that whatever Pollinger thought on the matter, Alan Collins, Frieda Lawrence Ravagli, and even A. S. Frère favored the project. In America, Knopf was the only objector. Rosset repeated his offer of a compromise and asked for an answer to his letter of 30 August.<sup>22</sup> That was on 8 October. By 24 November, Knopf had not answered. Once again, Rosset wrote to Knopf and this time he requested a meeting to find common ground upon which to proceed. He reiterated his compromise: he would turn the matter over to Knopf if Knopf would see the case through court; he would share costs and profits in a joint venture; or he would accept a statement that Knopf would not compete and proceed himself.<sup>23</sup> Rosset wrote to Frieda to ask for her support and he asked Schorer to persuade Frieda to write to Knopf. Schorer wrote back: "I don't know if she will, now that Pollinger has put his foot into the pie".<sup>24</sup> In his letter of 26 November 1954 to Rosset, Knopf again deferred to Pollinger. Refusing to meet with Rosset, he continued his vague threat:

Once you arrive at an understanding with Mr. Pollinger, you will have no further difficulty with us, we will be prepared at that time to stand aside and let you proceed on your own with *Lady Chatterley's Lover* as you please.

21. Ephraim S. London, Letter to Barney Rosset, 1 October 1954.

22. Barney Rosset, Letter to William A. Koshland, 8 October 1954.

23. Barney Rosset, Letter to Alfred A. Knopf, 24 November 1954.

24. Mark Schorer, Letter to Barney Rosset, 27 November 1954.

“No further difficulty” was as near as Rosset would get to a frank admission that Knopf had contemplated publishing a competing edition.

The correspondence to clear the rights to *Lady Chatterley's Lover* was eight-and-a-half months old with no end in sight when Rosset decided to write, on 1 December 1954, to Laurence Pollinger to rehearse the matter once more. He stated the facts: the book was out of copyright, as Knopf knew; Frieda Lawrence Ravagli, Alan Collins, and even Frère favored the project; Knopf had “implied that if we go ahead with the court action and win it then they, Knopf, will proceed with the publication of the book”. Since Rosset had been unable to persuade Knopf to clarify his intention, he asked Pollinger for “a definitive statement. . . . At least if we do not go ahead with the book I would like to be able to definitely point to the final and decisive thing which stopped us. Mr. Knopf is not willing to make that statement and now I am afraid the burden is upon you.”

While Rosset waited for Pollinger to respond, Frieda wrote first to Schorer, then to Rosset, and then to Knopf. On 3 December 1954 she wrote to Schorer:

I can't see why Pollinger objects. I can only think that he wants Heinemann to have the prestige of doing an unexpurgated Lady C first, but I am not sure of this. Anyhow I feel it would only *help* if there is an American edition.

Frieda understood, as did Rosset, that an edition of *Lady Chatterley's Lover* which had been cleared by the courts would create confusion among the censors, who had for twenty-six years held the book to be obscene. A reversal of that ruling would bring the censors' judgment not only into question but into the limelight, for *Lady Chatterley's Lover* was the work of an author whose reputation as a major writer was beginning to swell. The book would stand on “literary merit”. Lawrence had been certain of that when he wrote it, and certain, too, that the censors would be threatened by it. Lawrence had been as eager to oppose the censors in 1928 as Barney Rosset was in 1954. Angelo Ravagli added a postscript to Frieda's letter. He wanted Schorer to understand that he and Frieda favored the project: “Pollinger is

against but we are for it".<sup>25</sup> Pollinger's opposition remained a mystery.

There is irony in the fact that Knopf, who claimed to be Lawrence's only authorized American publisher, was effectively blocking Rosset's edition of *Lady Chatterley's Lover*. In 1929 Lawrence had decided that he would have no more to do with Knopf. He wrote to a friend to say: ". . . I'm going to leave him as soon as I have fulfilled my contract with him".<sup>26</sup> When Frieda wrote to Rosset to suggest that she might mediate with Knopf, she acted on two impulses: first, she was eager for an edition of the novel and perhaps for the revenue it would bring and, second, she knew Knopf, who, as Lawrence said, "likes to be important".<sup>27</sup> Frieda's proposed solution was a compromise that would both allow Rosset to publish the book, and appeal to Knopf's interest in prestige. She suggested to Rosset (letter, 4 December) that Knopf publish "an edition de luxe for all time of Lady C. and you [Grove Press] a cheaper one with an introduction of all the Lady C. story", that is, the Schorer "Introduction". Frieda sent the same suggestion to Knopf, thus presenting a fourth alternative to his opposition, but the silence continued. On 22 December 1954, Rosset wrote to Frieda to thank her for her suggestion and her efforts. He said he had not heard from Knopf or Pollinger and found their "refusal to take a clear-cut stand very incomprehensible and not terribly admirable". Still, it was effective. On 28 March 1955 Rosset wrote to Archibald MacLeish to say that Ephraim London had advised him to "shelve the project for the time being".<sup>28</sup> Fiscal wisdom was on the side of avoiding the double jeopardy of uncertain court action and certain publishing competition.

Rosset had wrestled with the project for a year before he set it aside. *Lady Chatterley's Lover* sat idle for three-and-a-half years. In the meantime, Frieda Lawrence Ravagli died and Angelo Ravagli sold the

25. Frieda Lawrence Ravagli, Letter to Mark Schorer, 3 December 1954.

26. D. H. Lawrence, Letter "To S. S. Koteliansky", 5 June 1929, Letter 336, *The Quest for Rananim: D. H. Lawrence's Letters to S. S. Koteliansky 1914 to 1930*, ed. George J. Zytaruk (Montreal, McGill-Queen's Univ. Press, 1970), 386.

27. D. H. Lawrence, Letter "To Curtis Brown", 16 November 1925, *The Letters of D. H. Lawrence*, ed. Huxley, 650.

28. Barney Rosset, Letter to Archibald MacLeish, 28 March 1955.

manuscripts of the novel.<sup>29</sup> In 1956 Heinemann published the unexpurgated *Lady Chatterley's Lover* in the Netherlands for distribution except in the British Empire or the U.S.A. Grove Press introduced its *Evergreen Review* in 1957 and published Schorer's "Introduction" in the first issue. The French film version of *Lady Chatterley's Lover*, released in 1957, was promptly banned in New York.<sup>30</sup> Ephraim London took up the case and made his way through the courts until in December 1958 he told Rosset that the Supreme Court would hear the case in January 1959 and that he was confident he would win. A precedent in favor of the title would lift one element of risk from the project. Encouraged, Rosset wrote Schorer on 2 December 1958: "We can proceed with publication, although the situation is still certainly neither settled nor completely clear". The timing, at least, was good: a concentrated effort would have *Lady Chatterley's Lover* on the summer lists for 1959.

Rosset assembled the scholarly edition he had intended to publish in 1954. He added to his testimonials statements from Harry T. Moore, Lawrence's biographer, and Witter Bynner, the poet. Following Ephraim London's suggestion (letter, 29 December 1958) that the MacLeish letter would be "of great help to us", Rosset arranged with MacLeish to use his letter as a preface. MacLeish rewrote it and agreed to change its date from 1954 to 1959.<sup>31</sup> On the jacket, Rosset quoted Edmund Wilson and Jacques Barzun, and he framed the text with Schorer's "Introduction" and "Bibliographical Note". Schorer took responsibility for the text. Again his work uncovered new problems for the scholars, for he tripped on the fact that there was extensive corruption of Lawrence's text in the editions of the novel already in circulation. He sent a Paris edition to New York for the typesetters, and his assistant corrected the galleys against a more recent Stockholm edition in California. When Schorer saw the number of "stets" on the galleys, he consulted Lawrence's original edition, the Orioli edition, and found that both the Paris and Stockholm editions had

29. Mark Schorer, Letter to Barney Rosset, 4 December 1958.

30. Edward de Grazia and Roger K. Newman, *Banned Films: Movies, Censors and the First Amendment* (New York: R. R. Bowker, 1982), 98.

31. Barney Rosset, Letter to Archibald MacLeish, 19 January 1959; Archibald MacLeish, Letter to Barney Rosset, 29 January 1959; Barney Rosset, Letter to Archibald MacLeish, 26 February 1959.



strayed from Lawrence's original text. Schorer recorrected the galleys, and when he was through, felt that he had achieved "an accurate verbal text as Lawrence himself sanctioned it".<sup>32</sup> By 31 August 1959, however, a proofreader at Pocket Books, Inc. who was preparing an edition for paperback reprint had discovered omissions in the Grove Press edition. Schorer had corrected the galleys made from the Paris edition against the Orioli edition in those places where there were discrepancies between the Paris and the Stockholm editions. As he did not compare the galleys line by line against the Orioli edition, he left out the lines that were omitted from the Paris and Stockholm editions. Although the text was not "letter perfect",<sup>33</sup> as Schorer had hoped it would be, it reflected Lawrence's text to a greater extent than the editions of that time. Schorer's work also turned up differences between Lawrence's manuscript and his first (Orioli) edition. In the first chapter of the Orioli text, Lawrence describes Constance Chatterley as having a good deal of "unusual" energy, but in the manuscript he had written "unused" energy.<sup>34</sup> Schorer, who had forgotten that note when the text was being prepared, asked Rosset to make the change when the book went into a second edition, but he had touched upon only the tip of the iceberg, so many were the discrepancies between manuscript, typescript, and first edition. Even now, nearly thirty years later, scholars have not settled the question of Lawrence's artistic intentions.<sup>35</sup>

On 19 March 1959 Rosset announced in *The New York Times* his plan to publish *Lady Chatterley's Lover*.

There is no reason, literary or legal, that this modern masterpiece should be withheld from the American Public any longer. The book is a beautiful and tender love story with a prominent place in modern English literature.<sup>36</sup>

32. Mark Schorer, Letter to Barney Rosset, 23 January 1959.

33. Barney Rosset, Letter to Mark Schorer, 31 August 1959; Mark Schorer, Letter to Phyllis Bellows, 6 September 1959.

34. Mark Schorer, Letter to Judith Schmidt, 12 August 1959.

35. Michael Squires, "Editing *Lady Chatterley's Lover*", *D. H. Lawrence: The Man Who Lived*, eds. Robert B. Partlow, Jr. and Harry T. Moore (Carbondale: Southern Illinois Univ. Press, 1980), 62–70.

36. Barney Rosset, "Statement from the Publisher", 18 March 1959.

The announcement set the serious tone for the advertising and legal campaigns that Rosset would make on behalf of the novel and disregarded the view that *Lady Chatterley's Lover* was a "dirty book". Rosset not only published the novel, he used the power of the media to sell the idea that it was a major work of a major author. While Susman and Sugar, the respected advertising agency, handled the advertising, Rosset contracted with Readers' Subscription, a book club that catered to an educated audience, for distribution. He also distributed the novel through normal channels and reassured nervous booksellers that Grove Press would pay legal fees in the event of local prosecutions.<sup>37</sup> By 25 March Rosset was able to report a seven-thousand-copy advance sale.<sup>38</sup> The first books came off the press on 27 March, and by 31 March the "Chatterley" jinx had struck again: the first twenty-five thousand jackets had to be scrapped because Schorer's name was misspelled. Rosset said it was one of "the most drastic errors of our entire career".<sup>39</sup> The book was given a publication date of 4 May 1959. It went through fourteen printings, one hundred sixty-one thousand copies, between the first order on 17 March and the last on 22 July 1959,<sup>40</sup> the day after Judge Bryan cleared the book of obscenity charges. *Lady Chatterley's Lover* appeared on *The New York Times* best sellers list from 17 May till 6 September 1959. Rosset had captured the summer market, but Lawrence could not oust Leon Uris (*Exodus*) from the number one spot.

In spite of, or perhaps because of, the almost certain ban on *Lady Chatterley's Lover*, the media were eager to notice the Grove Press edition. Most magazines accepted advertising; *Newsweek* and *Time* ran stories in their issues of 4 May; *The New York Times* published Harry T. Moore's review on 3 May. On radio Ben Grauer interviewed Archibald MacLeish about the book and Mike Wallace interviewed Ephraim London about the film litigation.<sup>41</sup> There was a general sense of excitement in the media, a sense that the strictures were undergoing a severe test. The legal battle opened in late April when the Deputy

37. Fred Jordan, Letter to Louis Epstein, Pickwick Bookshop, 8 May 1959.

38. Judith Schmidt, Letter to Ephraim S. London, 24 March 1959.

39. Judith Schmidt, Letter to Mark Schorer, 31 March 1959.

40. Grove Press *Lady Chatterley's Lover* Production Schedule.

41. Grove Press diary, Items 3 and 5, 30 April 1959. Grove Press kept a diary during the *Lady Chatterley's Lover* project; the diary records important dates and events in the trial and publication of the novel.



“THE REAL LADY CHATTERLEY UNEXPURGATED! FIRST TIME IN U.S.”  
Bookstore window display of *Lady Chatterley's Lover*,  
probably in New York City, 1959.

Police Chief of Washington, D.C. inquired about *Lady Chatterley's Lover* at Brentano's bookstore. He asked an attendant to read a passage from the novel over the telephone, and probably compared it

with a copy of the novel that had been confiscated earlier to determine whether Grove Press had actually published the unexpurgated edition.<sup>42</sup> Charles Rembar, who actually handled the *Lady Chatterley's Lover* litigation for Grove Press, instructed a Washington law firm, Yohalem and Timberg, to file suit in the District Court to prevent the police from confiscating the novel. This initial action hung fire while the Post Office, on 30 April 1959, took official steps to ban the novel from the mail. Robert K. Christenberry, Postmaster of New York City, ordered twenty-four cartons (one hundred sixty-four copies) of the novel to be detained at the Post Office and on 6 May sent official notice that the book was "nonmailable matter under 18 U.S. Code 1461 . . . in that it is obscene, lewd, lascivious, indecent, and filthy in content and character. The dominant effect of the book appeals to prurient interest."<sup>43</sup> The notice, which was signed by Herbert B. Warburton, General Counsel to the Post Office, stated the legal precedent the Post Office intended to uphold. Censorship was an emotionally charged issue: both sides of the question were defended with intensity. The censors saw the eroding obscenity laws as necessary protection against corrupting influences; the opponents saw the law as a repressive and unhealthy limitation of the freedom of expression guaranteed by the Constitution.

Rosset complied with the Post Office request that Grove not mail more books until the issue had been settled,<sup>44</sup> and he agreed to a 14 May hearing date, originally scheduled for Washington, but actually held in New York. The Post Office ban was more the statement of a censor than the action of the police, but if it withstood legal argument against it, the ban would suppress the edition. The ban itself did not seriously interrupt the Grove Press distribution. It had already mailed about thirty thousand copies and continued to ship books by truck and to work through wholesalers.<sup>45</sup> For small orders, Grove

42. Charles Rembar, *The End of Obscenity: The Trials of Lady Chatterley, Tropic of Cancer and Fanny Hill* [sic] (New York: Random House, 1968), 59.

43. Herbert B. Warburton, Letter to Grove Press, Inc., 6 May 1959.

44. Barney Rosset, Letter to Mr. H. E. Platt, Postal Inspector, 7 May 1959; and Barney Rosset, Letter to Acting Postmaster, New York, New York, 7 May 1959.

45. Fred Jordan, Memo to All Salesmen, ?7 May 1959. Dating is suspect; there is no date typed on the memo, but the cited date appears in handwriting as perhaps someone's guess. Internal evidence suggests a later date.

shipped by railway express and shared the cost with the bookstores.<sup>46</sup> Rosset spent the money necessary to advertise, distribute, and defend the book, and he kept the issue before the public by cultivating the press. Grove constantly kept fourteen media centers informed about the progress of the case. Stories were carried regularly by the United Press, the Associated Press, *The New York Times*, *Time*, *Newsweek*, and *Publishers' Weekly*, to name a few.<sup>47</sup> The press was an eager ally. Their cooperation not only provided one sort of testimony for the court but also kept pressure on the Post Office.

The Post Office is part of the executive branch, but it has legislative and judicial powers: their "legislative powers are exercised when they issue regulations, their judicial powers when they decide how regulations apply to disputed situations".<sup>48</sup> A Post Office hearing is conducted in the manner of a trial, and the judicial officer, who presides, acts like a judge. Charles D. Ablard was the judicial officer for the hearing in which Grove Press and Readers' Subscription, whose circulars were confiscated with Grove's books, were asked to present evidence that *Lady Chatterley's Lover* was not obscene. Saul J. Mindel and J. Carroll Scheuler represented the Post Office; Jay Topkis and Arthur B. Frommer represented Readers' Subscription; and Charles Rembar represented Grove Press. Arthur B. Summerfield, the Postmaster General, who had instigated the proceedings and appointed the judicial officer and the prosecutors, held a "theoretically judicial posture",<sup>49</sup> an enviable position.

Simply stated, the Post Office, with due respect for the *Ulysses* precedent, found that the literary merit of *Lady Chatterley's Lover* was "outweighed by the obscenity; that the dominant effect of the book, taken as a whole, is one which appeals to prurient interests".<sup>50</sup> They objected to Lawrence's use of four-letter words, his realistic portrayal of sexual intercourse, and his choice of sex as a main theme. The Post Office upheld the law according to its reading of the Supreme Court's ruling in the *Roth* case of 1957, in which the anti-obscenity statutes of New York and California were upheld. The *Roth* prece-

46. Grove Press diary, Item 5.

47. Grove Press diary, Item 2, 6 May 1959.

48. Rembar, 61–62.

49. *Ibid.*, 63.

50. *Ibid.*, 65.



dent provided a formula against which the Post Office measured *Lady Chatterley's Lover* and found that "to the average person, applying contemporary community standards",<sup>51</sup> the book was obscene. The book itself was offered as evidence of its own obscenity. Because censorship had become an unpopular label, the Post Office declared that it was not acting as censor, but merely as executor of the standing law, for it had awaited the publication date before taking action and had exercised no prior restraint.

Rosset had chosen to publish *Lady Chatterley's Lover* in order to have a sound whack at the censors. He and Rembar agreed that they did not want simply "to beat the Post Office"<sup>52</sup> by having the book removed from the proscribed list. By establishing its right to publish the book, Grove Press strove to "shrink the scope of anti-obscenity laws".<sup>53</sup> It argued that the book resided within the guarantees of the First Amendment. Rembar opened his argument with a reminder that, in spite of its rhetoric to the contrary, the Post Office was acting as censor. Knowing well that there would be little chance of winning while the matter remained within the jurisdiction of the Post Office, he developed his argument for the record. He offered the testimony of Barney Rosset, Malcolm Cowley, the literary critic and historian, and Alfred Kazin, the distinguished literary historian, critic, and editor. Rembar established that Grove Press was a legitimate publisher who had offered a literary masterpiece to the public in appropriately dignified terms. He produced advertisements to support the contention that Grove was not pandering to an underground market for "dirty books". To demonstrate the reaction of the community, he introduced reviews, editorials, and news stories that hailed the publication of the novel as a major literary event, and he called upon scholars to establish its artistic integrity. Cowley spoke to the "literary and hortative ends toward which Lawrence aimed his novel, and the increasing frankness of current literature".<sup>54</sup> Kazin addressed what Rembar called "a change in the range of tolerance in the general reading public over the past thirty years".<sup>55</sup> Rembar argued that current literature

51. Rembar, 52.

52. *Ibid.*, 64.

53. *Ibid.*, 64.

54. *Ibid.*, 79.

55. *Ibid.*, 96.

dealt more frankly with sex and that readers had grown more tolerant of the subject since the Customs officials had banned the novel in 1928. The reading public had learned to distinguish between the literary treatment of sex and an appeal to prurience. Rosset's concluding testimony suggested that the public had become more discriminating than the laws which govern them:

It occurred to me, and I am sure it occurred to many other publishers, that since the book was written in 1928 the emotional maturity of the American people has undergone a great change. . . . It occurred to me that it would be incomprehensible if this book were published today that the public would be shocked, offended or would raise any outcry against it; but rather they would welcome it as the republishing, the bringing back to life of one of our great masterpieces, and therefore I went ahead and published it. Thus far, all of my anticipated feelings have been rewarded with what I expected to happen as having happened, with the exception of this hearing.<sup>56</sup>

The hearing took a single day. Ablard refused Rembar's request that the ban be lifted till a decision could be announced. Finally, on 28 May 1959 he announced his decision "that he was not going to make a decision",<sup>57</sup> but would refer the case to the Postmaster General. His conviction was apparently on the side of the book, for he cited the longstanding ban as his reason for not wanting to overturn it. He knew the stakes. If he overturned the ban, he would "cast a doubt on the rulings of a coordinate executive department".<sup>58</sup> The credibility of the Post Office was in jeopardy. If Summerfield wanted the fort held, he would have to step forward and hold it himself.

To his credit, Summerfield took under two weeks to write his decision. In the meantime, Rosset continued to urge the Post Office to lift the ban till the decision was announced.<sup>59</sup> Twice he asked, and when he got no response, he initiated a suit against the Postmaster

56. Rembar, 111.

57. *Ibid.*, 114.

58. *Ibid.*, 114.

59. *Ibid.*, 114.

of New York City, who was holding the books. The suit was filed on 11 June 1959 and the Postmaster General released his decision on the next day. Ignoring Grove's testimony, he found *Lady Chatterley's Lover* obscene according to the standing law:

The book is replete with descriptions in minute detail of sexual acts engaged in or discussed by the book's principal characters. These descriptions utilize filthy, offensive and degrading words and terms. Any literary merit the book may have is far outweighed by the pornographic and smutty passages and words, so that the book, taken as a whole, is an obscene and filthy work.<sup>60</sup>

Ablard had refused to say that.

As the suit against the Post Office was already in place, Rosset went back to the press with aggressive and inflammatory rhetoric to condemn the ruling as a most dangerous expression of censorship in that it disregarded professional literary opinion, the opinion of the press, and the guarantees of the First Amendment.<sup>61</sup> The press responded in kind, and its editorials and stories provided further testimony of the community standards for Rembar to use in court. The trial was held on 30 June 1959 before Frederick vanPelt Bryan, "a judge who combined intellect with a hard courtroom sense".<sup>62</sup> The Post Office was represented by S. Hazard Gillespie, the U.S. Attorney for the Southern District of New York. Topkis represented Readers' Subscription, and Rembar as plaintiff argued first. There were no witnesses because the court read the record of the Post Office hearing. Grove Press argued that the novel was not obscene within the statute, and that if it were found to be obscene within the statute, then the statute itself would be invalid because the publication of the book was protected by the Constitution.<sup>63</sup> It was a severe leap from censorship to the protection of the First Amendment, but Rembar's brief

60. Rembar, 117.

61. Grove Press, Press Release, 11 June 1959. This release was accompanied by four pages of quotations from articles in the press.

62. Rembar, 117.

63. Judge Frederick vanPelt Bryan, "United States District Court Decision on *Lady Chatterley's Lover*", in D. H. Lawrence, *Sex, Literature and Censorship*, ed. Harry T. Moore (New York: Viking, 1959), 112.

had mapped out the footwork: for “no matter what Congress or the State Legislatures had meant to do, the First Amendment necessarily confined their enactments in narrow straits”.<sup>64</sup>

The Post Office lawyers persisted in their argument that they were not censors, but interpreters and enforcers of a standing obscenity law. Since they were outside their own territory this time, they reminded the court as well that the Post Office had the power to ban books from the mail; for if the publisher could not recognize obscenity, they could. Gillespie read descriptive passages from the novel into the record and insisted that “the excellence of Lawrence’s descriptions make it all the more necessary to ban the book”.<sup>65</sup> The theory was that excellent obscenity is the worst kind. Gillespie also tried to chain the court to the Summerfield ruling: “the determination by the Postmaster General is conclusive upon the court unless it is found to be unsupported by substantial evidence and is clearly wrong”.<sup>66</sup> He offered the book as sufficiently substantial evidence of obscenity, staking a good deal of his case upon the judicial powers of the Post Office.

From Bryan’s point of view the Post Office was laying claim to territory outside its jurisdiction. His decision redefined Post Office powers, which did not include “discretion” in obscenity cases.<sup>67</sup> The Post Office had the power to enforce a ban judicated by the court, but it did not have the autonomy to set up as a national censor: “The Postmaster General has no special competence or technical knowledge on this subject which qualifies him to render an informed judgment entitled to special weight in the courts”.<sup>68</sup> Bryan dismissed the Post Office ruling and said he would consider the question “whether *Lady Chatterley’s Lover* is obscene within the meaning of the statute and thus excludable from constitutional protection”.<sup>69</sup>

64. Rembar, 118.

65. Rembar, 139. Prior rulings (the *Ulysses* decision, for instance) enjoined the court to read a work in its entirety and not to be influenced by passages taken out of context; Gillespie must have known that he was violating that precedent when he read individual passages from the novel into the record, but it was one sort of legal tactic that did not slip past Bryan as it might have slipped past and influenced a jury. Bryan reprimanded the tactic in his decision and restated the ruling, p. 123.

66. Bryan, 114.

67. *Ibid.*, 118.

68. *Ibid.*, 119.

69. *Ibid.*, 119.

Bryan decided the case on the merit of the evidence. He cited the dignified marketing procedures, the scholarly text, and the reaction of the press. The critics disagreed about the book's excellence, but Bryan found that they all agreed it was a major work of a major author. The editorials in the press were unanimous in "approving publication and viewing with alarm possible attempts to ban the book".<sup>70</sup> Bryan considered the question of obscenity in light of the *Roth* and *Ulysses* precedents. The *Roth* case spoke to general concerns and the *Ulysses* case to a single work. The *Roth* decision enjoined that a work is obscene if "to the average person applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest".<sup>71</sup> The *Ulysses* case established that a work of literature is not obscene simply because "it contains passages and language dealing with sex in a most candid and realistic fashion with honesty and seriousness of purpose".<sup>72</sup> Judge Bryan concluded that a literary treatment of sex is not in itself obscene and that pornography, which is only one sort of sexual writing, does not determine the genre. He also made an impact upon the language of the *Roth* case by revising the interpretation of "average person" and "community standards". The average person, he said, was one who would not distort the impact of sexual writing:

It is not the effect upon the irresponsible, the immature, or the sensually minded which is controlling. The material must be judged in terms of its effect on those it is likely to reach who are conceived of as the average man of normal sensual impulses.<sup>73</sup>

Bryan further loosened the ties of the obscenity law by giving credence to the attitudes of the press, which had reflected those changes in the reading public described by Kazin and Cowley. "The material", he said, "must also exceed the limits of tolerance imposed by current standards of the community with respect to freedom of

70. Bryan, 121.

71. *Ibid.*, 122.

72. *Ibid.*, 122.

73. *Ibid.*, 123.

expression on matters concerning sex and sex relations.”<sup>74</sup> This was an early statement that linked the idea of “freedom of expression” with the subject of “sex and sex relations”. Bryan’s reading of the precedents led him to conclude that *Lady Chatterley’s Lover* was not an obscene work and was therefore protected by the First Amendment. The Post Office had to deliver the books.

Rosset hailed the decision as “an overwhelming victory”.<sup>75</sup> Grove got all it asked for from the court. They had taken a good deal of power from the censors and established the right of “serious publishers to issue books without threats of confiscation and prosecution”.<sup>76</sup> The Post Office had lost too much. They took its case to the Court of Appeals on 2 December 1959 and lost again on 25 March 1960. The Bryan decision stood and became a landmark precedent that put freedom of expression under the First Amendment into the process of deciding future obscenity cases.

Press coverage of the obscenity proceedings, combined with Grove’s advertising campaign, created a brisk demand for the book. Rosset had succeeded in removing the legal risk from the project, but his own legal hold on the rights was tenuous. Though he had the permission of Frieda Lawrence Ravagli and the support of Alan Collins, he did not have a copyright and he did not have a contract with the Lawrence estate. In short, his edition lacked “authorization”. In early April 1959 Rosset reopened negotiations with Alan Collins. He sent him a contract, dated 17 April 1959, which Collins forwarded to Pollinger. Pollinger turned it down and sent his own impossible contract for Rosset’s signature. In the meantime, and at the suggestion of Collins, Rosset sent to Curtis Brown Agency a first royalty check, which Collins held as a token of good faith.<sup>77</sup> Nevertheless, Pollinger continued to oppose Grove Press. He charged Harry T. Moore with disloyalty for having reviewed the Grove Press edition in the *Times*,<sup>78</sup> but remained reluctant to deal directly with Rosset. Why Pollinger objected to Grove Press remains a mystery. His terms were very steep, and he did not seem to care that the longer he waited to come to

74. Bryan, 123.

75. Barney Rosset, Telegram to Olymparis, Paris, France, 21 July 1959.

76. Grove Press, Press Release, 21 July 1959.

77. Grove Press, Letter of Agreement to Curtis Brown Ltd., 17 April 1959; and Alan Collins, Letter to Barney Rosset, 9 June 1959.

78. Barney Rosset, Letter to Laurence Pollinger, 12 May 1959.

reasonable terms with Rosset, the less Rosset needed his authorization. When it became apparent to Rosset that Pollinger was intractable, he wrote directly to Lawrence's heirs, C. M. Weekley, Barbara Barr, and Angelo Ravagli.<sup>79</sup> They responded by unifying behind Pollinger.<sup>80</sup> However, Rosset had made enough trouble that Pollinger agreed to a meeting in exchange for Rosset's agreement not to write to the heirs again. The meeting was held in early October 1959 in London. On 7 October Pollinger wrote a confirming letter, outlining terms that were still unacceptable to Rosset. By that time, though, Pollinger's authorization was no longer worth the trouble it was taking to get: the book had been cleared of obscenity charges and the competition was in the market. Rosset wrote to the heirs again and outlined his own terms. He showed where the royalties would suffer from the legal expenses and arrived at a payment of \$47,200, which Pollinger refused to accept. Rosset withdrew the offer.<sup>81</sup> In February 1961 Collins advised Rosset that Pollinger had asked for the royalty check which he had been holding since June 1959. Pollinger instructed Collins to say that "the processing of this check is in no way to be taken by you as a full payment of the royalties due the Lawrence estate on the publication of this title".<sup>82</sup> In light of the treatment he had received, Rosset wrote Collins on 7 July, "I don't see that we have any further obligation". Collins had the best line in the scenario when he said early on: "What a sad business".<sup>83</sup>

Until Bryan's decision was released on 21 July 1959, Grove Press had enjoyed an exclusive position in the market. They had sold 110,000 copies of *Lady Chatterley's Lover*, and the book was holding second place on the *Times* best sellers list. It held that position until 6 September and then began a steady decline, appearing for the last time in the last position on 15 November. The sale of the book had not slowed by that time, but competition from pirate paperback editions took the market from the hardcover. The first difficulty came from the New American Library, which had been licensed in 1946

79. Barney Rosset, Letter to C. Montague Weekley, 11 September 1959.

80. Fred Jordan, Telegram to Grove Press: "HEIRS REFUSE DEAL DIRECTLY INSIST POLLINGER MAKE ARRANGEMENTS", 5 September 1959.

81. Barney Rosset, Draft of Letter to Montague Weekly, 22 October 1959.

82. Alan Collins, Letter to Barney Rosset, 10 February 1961.

83. Alan Collins, Letter to Barney Rosset, 22 September 1959.



by Knopf to publish his expurgated edition in paperback. NAL began an advertising campaign that claimed legitimacy for its edition through its contract with Pollinger and Knopf. They sold the expurgated edition on the coattails of the Grove edition and captured some part of the market Grove had created. It was then that Knopf's sense of fair play came to the fore. He clarified the ambiguous claims NAL was making with a statement that he had licensed only the expurgated edition and had no claim to the unexpurgated edition.<sup>84</sup> Pollinger, in the meantime, had made a separate agreement with NAL for the paperback rights to the unexpurgated edition.<sup>85</sup> When Bryan's decision cleared the book, NAL had an edition ready for the market; but Knopf was not a party to that negotiation. He withdrew his support from Pollinger and NAL.

The second competitor was Pocket Books, Inc. Rosset had begun negotiations for reprint rights with representatives of Pocket Books in May 1959, but the discussion had lapsed until July, when the tide was running toward a favorable legal decision. Pocket Books again opened the question of reprint rights and offered a contract that appeared to be agreeable to both parties. The written contract, however, differed substantially from the oral agreement, with the result that Rosset did not sign. He terminated negotiations with Pocket Books, Inc. and signed an agreement with Dell Publishing for a paperback reprint. Pocket Books, which had been developing its own edition, simply entered the paperback market without a royalty agreement with Grove Press.<sup>86</sup>

Grove's edition of *Lady Chatterley's Lover* brought out both the worst and the best in the publishing business. There were companies like Dell, Random House, and Knopf, which respected Rosset's efforts and felt that Grove Press had earned the rights to the book. Dell distributed the paperback and Random House contracted for an edition in the Modern Library series. Alfred Knopf, who had originally opposed the Grove Press edition, claimed no right beyond the expurgated edition that he had published in 1932.<sup>87</sup> There were those, however,

84. "The Regrettable Plight of *Lady Chatterley's Lover*", *Publishers' Weekly*, 17 August 1959, 28.

85. John Caldor, Ltd., Letter to Barney Rosset, 9 September 1959.

86. "Statement by Grove Press, Inc. on *Lady Chatterley's Lover*", 4-5.

87. See Note 84.

who would not miss an opportunity. *Publishers' Weekly* (17 August 1959, p.28) lamented that "the public image of the whole book trade has been cheapened by the 'Chatterley' sweepstakes". By 10 September 1959 Fred Jordan of Grove Press counted five paperback editions in the market,<sup>88</sup> while Grove had a royalty agreement with only one, Dell. By the end of the year, there were 1,750,000 copies of the Grove paperback in print and 161,000 copies of the hardcover.<sup>89</sup> To dispose of the unsold hardcovers, Grove ran a Christmas special: one free with ten.<sup>90</sup> Rosset had cleared the book with the censors, but he could not contain the pirates any better than Lawrence had.

The Grove Press edition of *Lady Chatterley's Lover* is one of the major publishing events of the century: it is as important to Lawrence's canon and reputation as it is to the publishing industry and society. In 1926, when Adele Seltzer, wife of the publisher, asked Lawrence for a bestseller, he had winced at her unrealistic demand: "Why does anybody look to me for a best seller? I'm not that sort of bird."<sup>91</sup> Ironically, he was writing *Lady Chatterley's Lover* at the time. The Grove Press edition fulfilled Lawrence's potential to be a popular author, and it opened floodgates that put the book into the hands "of the masses", an ambition Lawrence had confided to Rhys Davies in 1929.<sup>92</sup> Rosset, London, and Schorer were confident that the book would sell. Pollinger was probably a difficult negotiator because he felt that it was a very valuable property, although in the 1950s no one suspected that *Lady Chatterley's Lover* would support the many editions that appeared in the 1960s and after.<sup>93</sup> The scholarly aspect of the Grove edition gave direction to students of Lawrence, who have reassessed the value of the novel, studied the three versions, and begun to study the corruptions in the text. Rosset's defense of *Lady Chatterley's Lover* successfully concluded the battle with the

88. Fred Jordan, Letter to Ed Burnet Co., 10 September 1959.

89. Judith Schmidt, Letter to H. N. Schwartz, 30 December 1959.

90. "Special Christmas Offer", Flyer/Order form, n.d. The offer expired on 31 December 1959.

91. D. H. Lawrence, "Letter to Curtis Brown", 13 November 1926, *The Collected Letters of D. H. Lawrence*, ed. Harry T. Moore (New York: Viking, 1962), 945.

92. Edward Nehls, ed., *D. H. Lawrence: A Composite Biography*, III (Madison: Univ. of Wisconsin Press, 1959), 313.

93. Francis Warren Roberts, *A Bibliography of D. H. Lawrence*, 2nd ed. (London: Hart-Davis, 1982).

censors that Lawrence originally inspired—in a sense, the last major work of his life. Judge Bryan’s decision that the novel is not obscene made a change in the way that society and the courts came to view sexually explicit writing and sexual writing in general. It led to more natural attitudes about matters which had previously inspired anxiety in readers, authors, and publishers alike. Finally, the Grove Press edition of *Lady Chatterley’s Lover* had the important effect of forcing the censors to honor the First Amendment, and thus, of clearing the way for works like *The Tropic of Cancer*, which Rosset published next.

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