

# POLICING CINEMA

MOVIES AND CENSORSHIP  
IN EARLY-TWENTIETH-CENTURY AMERICA



LEE GRIEVESON

## *Policing Cinema*

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in Early-Twentieth-Century America*

LEE GRIEVESON

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*Vanessa's book*



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# Introduction

Essanay Film Company organized a competition in 1910 to coin a word both as a “substitute for the somewhat unwieldy term ‘motion picture theater’” and to describe “motion picture entertainments.”<sup>1</sup> Entries from the public, that collective of people beginning to be called “spectators,”<sup>2</sup> were judged by a committee made up of producer George Kleine, distributor F. C. Aiken, and exhibitor Aaron Jones, and a decision was announced in late 1910: “After careful consideration of the list of words . . . we have selected the word ‘Photoplay’ as being more closely descriptive and easily assimilated by the general public than any other of the long list submitted.”<sup>3</sup> Kleine, Aiken, and Jones thought that the word *photoplay* would be more successful with the public than combinations of unfamiliar prefixes or suffixes of Greek origin or “abstruse or technical terms”—for which we could perhaps read “foreign terms”—“such as Kino, Graph, Drome, Cine” or “pellicle.”<sup>4</sup> Such prefixes or suffixes had proliferated around the turn of the century to describe developing motion picture technologies, often, it seems, as part of a bid for scientific respectability. Yet by 1910, after the spread of cheap moving picture houses or “nickelodeons” (another joining of Greek and American terms), the need to give the medium a wide-ranging, single, “happily euphonious” name so that it could be marketed to audiences looking for sensation, spectacle, and entertainment was apparent.<sup>5</sup>

Leaving unfamiliar, technical, and foreign names aside, the judges chose a word that combined the well-known *photo-*, meaning “light” (frequently combined with *graph* meaning “to write”), with *play*, with its connotations of the theatrical and dramatic, thus validating a word that translated as “light drama” and that would consequently befit “the dignity to which the moving picture is so rapidly attaining.”<sup>6</sup> Clearly, *photoplay* was chosen by these entrepreneurs, in part at least, because it suggested an association between

moving pictures and established aesthetic domains, linking moving pictures to the cultural capital enjoyed by legitimate theater, opera, and, to a lesser extent, photography, to help assuage the mounting regulatory anxieties about cinema and so to safeguard economic capital. "One may speak," the judges thus concluded, "of 'going to the photoplay' as the public speaks of 'going to the opera' or 'hearing the opera.'" <sup>7</sup> A similar use of language alongside a strategy of cultural "uplift" or "sacralization" was widely discernible in this period, evident, for example, in director D. W. Griffith's well-known injunction to an actress never to use the word *flicker*; <sup>8</sup> in the validation of the word *pictures* over *films* and *motion pictures* over *moving pictures*; <sup>9</sup> in concerns over the terms *nickelodeon* and *movies*; <sup>10</sup> in the denigration of the "gaudy" names of nickelodeons; <sup>11</sup> and so on. Language, as Raymond Williams (among others) has argued, is not simply epiphenomenal and is necessarily articulated with other social and cultural practices and with the politics of taste. <sup>12</sup>

Yet the trade press, which was equally invested in the cultural and economic capital of cinema, was uncertain about the word *photoplay*, for the trades were well aware that definitions frequently mark off boundaries, that (as François Ewald would remark somewhat later) "[n]ormalization begins with vocabulary," that speech acts can have illocutionary force, and that the term could, then, unnecessarily delimit the developing terrain of "motion picture entertainments." <sup>13</sup> Writing prior to the decision in the competition, *Moving Picture World* had suggested, "What is wanted is a single word that is etymologically correct and that will fit the dignity to which the motion picture is so rapidly attaining as a large factor in *education*—no less than as the most popular form of *amusement*." <sup>14</sup> Likewise, after the choice of *photoplay*, *Nickelodeon* pointed out that the word did not adequately describe nonfiction films of "the industrial, scenic or scientific variety" and thus "merely distinguishes or identifies a particular kind of *entertainment*." <sup>15</sup> Labeling motion picture theaters and their programs *photoplays* seemed to marginalize the "documentary" potential of moving pictures, which were seen by many as the realization of the kinds of aspirations for the real through indexicality central to various cultural practices in the nineteenth century—for example, photography and realist literature—that were predicated in part on mechanization. <sup>16</sup> The documentary and "educational" potential of moving pictures was also seen by many as particularly important to the aligning of cinema's cultural status with that of other cultural institutions associated with education—such as schools, lyceums, museums, and the Chautauqua movement—and with pressing debates about the need to strengthen the pedagogic formation of morality.

Alongside this concern with the descriptive efficacy of the word in the face of the varied function of “motion picture entertainments,” *Nickelodeon* also raised more prosaic concerns, complaining that the word was “stiff and difficult of application.” Other words seemed more effective: “The old term ‘cinematograph,’ and its more recent form ‘motograph,’ are very useful because of their convenience and flexibility. From them we derive the adjectives ‘cinematographic’ and ‘motographic,’ the adverbs ‘cinematographically’ and ‘motographically,’ the abstract nouns ‘cinematography’ and ‘motography,’ besides the verb forms.”<sup>17</sup> Even though the word *photoplay* did proliferate after the Essanay competition, usually in association with a conception of cinema as “art,”<sup>18</sup> *Nickelodeon* ultimately preferred what it thought of as the newer term *motograph* and changed its name, accordingly, in April 1911 to *Motography*, leaving the lowbrow *nickelodeon* behind—as was much of the film industry—and describing *motography* as “the art of motion delineation, or motion in *illustration*.”<sup>19</sup> In doing so, the journal sought a name that combined the artistic and referential potential of cinema. *Cinematograph*, regarded by *Nickelodeon* in 1910 as something of a historical term, was adopted by others. It had originated with the Lumière family in the 1890s and had become associated with Pathé’s American offices from around 1906;<sup>20</sup> it would be abbreviated, increasingly from 1910 onward, to the term familiar today—*cinema*.<sup>21</sup>

Listening closely to history, historians frequently find “that there is ‘something altogether different’ behind things,” Michel Foucault observes, “not a timeless and essential secret, but the secret that they have no essence or that their essence was fabricated in a piecemeal fashion.”<sup>22</sup> Essanay’s competition offers a particularly acute example of this discovery, demonstrating how even the naming of what we still just about think of unhesitatingly as “cinema” was a complicated (and controversial) process of *fabrication*. Naming cinema evidently, perhaps inevitably, strayed onto the terrain of defining what cinema was, what it was similar to, and what it was for. A good deal of uncertainty existed here, as Essanay’s competition and the reaction to it suggested. Was cinema to be seen as similar to “art”? Was cinema the same as the press? Was it “merely” for “amusement” and “entertainment,” or could it also have an educative cultural function? Let me suggest that the efforts to define what cinema was and what it was for were closely tied to contemporaneous regulatory anxieties about the medium and its effect on a mass public, as the choice of the “respectable” word *photoplay* suggested. Knowledge, debate, and competition about the uncertain or malleable identity of cinema in turn had material effects on the object cinema in the early

years of the twentieth century, when the *essence* of cinema—in discursive, not ontological, terms—was *fabricated* or shaped in something of a piecemeal fashion. A competition to name and define cinema stands as an apt entrée to this process, for it is a central tenet of what follows in this study that the interaction or competition between the discourses and practices of regulatory authorities and of the film industry in the so-called transitional period, between 1907 and 1915, had profound and lasting effects on the shaping of a still malleable, uncertain, and even unnamed cinema.<sup>23</sup>

Legislative and reform activism in relation to cinema gathered pace after the proliferation of nickelodeons from 1906 on had opened moving pictures to lower-class and immigrant populations that had not previously frequented theatrical-style entertainments in any great numbers. Once at the cinema, these groups were subjected, many suggested, to a “carnival of vulgarity, suggestiveness, and violence” and to a “moral leprosy” that posed a serious “menace to the morals of the community and the healthy development of the social organism.”<sup>24</sup> Widespread regulatory anxieties about the “new social force” that was cinema were closely connected to anxieties about its audiences and the maintenance of a “healthy” social body.<sup>25</sup> Cinema was inscribed here into a broad “regulatory space” focused on governing a mass public in the context of large-scale transformations associated with full-fledged industrial capitalism, urbanization, and modernization. The account of the contestation over cinema developed here seeks to contribute new perspectives to the understanding of censorship and regulation and the complex relations between governance and culture in an early-twentieth-century America grappling with the corrosive forces of modernity.

Linked closely to anxieties about social dislocation and the governance of populations, the regulatory response to cinema had considerable effects on the shaping of the medium. This response was partly about the regulation of “immoral” or “obscene” content. Equally, it is clear that regulatory responses had effects on the form of moving pictures, shaping narrative paradigms and linking these to moral discourse.<sup>26</sup> Even more substantively, though, regulatory discourses, practices, and institutions in this period were linked to fundamental debates about the *social functioning* of cinema—debates about how cinema should function in society, about the uses to which it might be put, and thus, effectively, about what it could or would be. Here debates revolved principally around conceptions of the cultural functions and relative weighting of “entertainment” and “education,” played out frequently through discussions about narrative and film form yet also about the merits of fiction, nonfiction, indexicality, and “realism.”

Looked at in this way, we can say that the definition and regulation of

cinema in the transitional period delineated cinema's assigned location in the social and cultural topography of America. Legal decisions, combined with those internal to the mainstream film industry in this period, gradually established a consensus that mainstream cinema should principally offer harmless and culturally affirmative entertainment and not pretend to the loftier purposes of the press or to the purpose of cultural negation that postromantic cultural theory accorded the category of "art." These decisions marked a delimitation of the public role of cinema and, indeed, of the public sphere, that "metatopical common space" in which members of society meet through a variety of media and discuss matters of common interest.<sup>27</sup> Here an extremely important Supreme Court decision in 1915 that described cinema as a "business pure and simple . . . not to be regarded . . . as part of the press of the country" marked a crucial dividing line in the definition and regulation of American cinema and, indeed, in the shaping of the identity of that cinema thereafter.<sup>28</sup> Legal decisions and broader regulatory debates helped establish the discursive formation of mainstream cinema, what scholars have subsequently called "classical Hollywood cinema," functioning as important generative mechanisms for the establishment of particular understandings, definitions, and ultimately practices of cinema in the midteens.<sup>29</sup>

Like other recent work on the cultural contexts of silent cinema, then, this book moves away from analysis of the formal properties of transitional cinema and the move to "classicism" and toward a consideration of the wider contexts within which this cinema was situated, particularly in relation to the external pressures and forces at work in shaping cinema in this period.<sup>30</sup> In taking this approach *Policing Cinema* suggests that calculations of the weight of the various *functions* of the medium were important to the constitution and consolidation of the institutional, legal, and discursive validation of fictional narrative cinema in the teens. Here I pick up on aspects of the transition to classicism that have so far escaped detailed attention, supplementing the important work on the interdependency between film form and style and the mode of exhibition and production by considering the social and cultural dynamics of the process of transition and the importance of contestations over the social functioning of cinema to the establishment of a hegemonic formation of mainstream cinema in the teens.<sup>31</sup> I propose a different emphasis on the generative mechanisms at work in the formation of classical Hollywood cinema, focusing on the productivity of censorship and regulation to construct and shape discursive practices.<sup>32</sup>

It is also worth noting that the formation of this configuration of mainstream cinema had considerable effects on the establishment and codification

of conceptions and practices of cinema operating with different notions of the function of cinema like those visible in what came to be called the avant-garde, propaganda, documentary, or “exploitation” genres in the 1920s. Critical distinctions set in place in regulatory discourses and practices between entertainment and various alternatives were predicated on diverging conceptions of the function of cinema. This metageneric categorization—one of the most important in film history—was critical to the establishment of the terrain of classical Hollywood cinema and its alternatives. Stakes were indeed high in this competition.

Essanay’s smaller-scale competition in 1910 offers a glimpse into the broader contest over the definition, regulation and shaping of “motion picture theaters” and “motion picture entertainments,” functioning as an archival trace that speaks to the broader process delineated in this book. The validation of the word *photoplay* played a small part in what cultural historians William Uricchio and Roberta Pearson describe as the mainstream film industry’s “drive for respectability,” its utilization of the cultural capital of other cultural institutions like legitimate theater, opera, churches, literature, and schools and its attempts to attract “respectable” audiences to assuage regulatory concerns and to safeguard economic capital.<sup>33</sup> Likewise, the concerns articulated by the trade press about the word *photoplay*—that it linked cinema principally to “entertainment” and marginalized its educative cultural function—were a part of that same process, indicative of the attempts to utilize the cultural capital of nonfiction and of the attempts to position cinema as something more than “mere” entertainment. Economic and regulatory formations were complexly intertwined here, as different strategies were used by the film industry in interaction with the regulatory discourses and practices associated with various social, political, and cultural elites. Ultimately, cultural and economic capital were carefully, although uncertainly, balanced. Let us say, then, that what emerges in the midteens—be it characterized as “classical Hollywood cinema” or as the formation of “harmless entertainment”—was in part a *compromise formation* between commercial imperatives and regulatory discourses and practices. The establishment of that formation in the preclassical era and its effects on the shaping of mainstream cinema is the focus of this book.

A few final words here about the chapters that follow and the organization of this book. In the following chapter I map out the broad parameters of what I will call the *policing of cinema*, building on the account sketched briefly above and setting in place the framework within which the detailed studies in chapters 2 through 5 can be situated. I begin by asking, Why were

social and political elites anxious about cinema at this moment? What strategies did they use in regulating and reforming cinema? In turn, how did the film industry respond to these discourses and practices? And, crucially, what effects did this situation and this process of interaction have on the definition and shaping of cinema in this period? I focus on the actions of groups wielding some social and political power rather than on the actual experiences of audiences because I want to keep questions of power in the foreground. Audiences, it is worth noting, figure here principally as a subset of commercial imperatives and, more substantively, as discursive constructions that were (and are) connected to practices of power.

Chapters 2 through 5 focus on the interactions or competition between the forces at work in defining, regulating, and constructing cinema at critical moments in the transitional era. Looking closely in each chapter at a particular film or cycle of films, my analysis seeks to tease out the connections among regulatory contexts, anxieties about specific films and about cinema more generally, and the subsequent effects of these interactions. Here films are conceived of as *practices*, where that term is defined as “places where what is said and what is done, rules imposed and reasons given, the planned and the taken for granted, meet and interconnect.”<sup>34</sup> Interconnections are central to each of these chapters, which, taken together, trace out the gradual evolution and codification of the definition of the social functioning of cinema, showing how some practices survived, how others developed, and how others were displaced or marginalized.

Chapter 2 focuses initially on one particular film, *The Unwritten Law: A Thrilling Drama Based on the Thaw-White Case* (Lubin, 1907), which was based on a widely reported sexual scandal in 1906. I begin by examining the response to the initial scandal, tracing out the precise context of discourses about class, gender, sexuality, and perversity that underpinned the reporting of the scandal and that in turn inflected the emergence of concerns both about the film based on the scandal—and the particular way it told its story—and about cinema more generally in early 1907. Linked together, the discourses about the scandal, the film, and cinema are marked by the delineation of a configuration of “respectability”—a term indicating “decent and correct” manners and morals, as well as the proper attitude toward sexuality—that was closely aligned with practices of middle-class definition and assertion. This alliance was played out principally through discourses about sexuality and gender norms that focused on the perversity of different configurations of masculinity—decadent upper class, immoral immigrant lower class—and threats to what was seen as the worryingly fragile moral norms of women in the new configuration of heterosocial

leisure space increasingly dominated by cinema. Various reports on the effects of moving pictures and nickelodeons on vulnerable and dangerous audiences emerged from this context in early 1907; the continuing contestation over cinema led to the establishment of the first moving picture censorship ordinance in the United States in Chicago in November 1907, which set important precedents for subsequent legislation on the function of cinema.

Chapter 3 outlines the continuing contestation over cinema throughout the period 1907 to 1909 and, in turn, describes in more detail the varied responses of the film industry. Amid a series of debates about the immoral or educative potential of cinema, elements of the film industry initiated the establishment of the self-regulatory National Board of Censorship and began to produce a body of films informed by broader regulatory discourses that self-consciously invoked the educative function of cinema and its respectability and effectively internalized broader regulatory concerns about cinema. In particular, a series of films told stories about the reformation of masculinity in line with the ideals of domesticity that were informed, I argue, by the configuration of respectability central to the self-definition of the middle class. The reformation of cinema was tied together in these films and in corresponding rhetoric with the reformation of masculinity and, following that, domesticity.

Yet, as chapter 4 shows, this reformation of masculinity and of cinema extended only so far, for it was immediately tested by the regulatory furor surrounding the fight films of the successful African American boxer Jack Johnson, the first one of which was released in early 1909, at the exact moment the National Board of Censorship was established. Visibly subverting proposed racial hierarchies that assumed the superiority of white people, Johnson and the films of him boxing evidently existed outside the configuration of respectability that included white women and reformed white masculinity but excluded black Americans. The censorship of his films and the prosecution of Johnson himself for crimes of "immorality" were fundamentally racist acts, designed to shore up a fragile "color line" by policing images of an assertive black masculinity and, through this, control a disempowered population. Furthermore, the censorship of the Johnson fight films became caught up in, and helped usher in, a reshaping of state involvement with cinema. In 1912 the Sims Act, directed at forbidding the transportation of Johnson's films across state lines, defined the films as "commerce," thus bringing their regulation within the purview of the federal government and setting in place the framework for the more general definition and regulation of cinema as "commerce." Such a definition of the function

of cinema, clearly enmeshed with the broader regulatory context of racism, had far-reaching effects on the regulation and shaping of cinema.

In chapter 5 I continue with the analysis of aspects of the regulatory context surrounding Johnson, focusing closely on the response to two feature films representing aspects of “white slavery”: *Traffic in Souls* (IMP/Universal, 1913) and *The Inside of the White Slave Traffic* (Moral Feature Film Company, 1913). Intervening in the broader debates about sexuality, gender, race, and governance that underpinned the anxieties about “white slavery,” or the forced abduction of white women into prostitution, the films became test cases around which intense debates about the social functioning of cinema circulated. In 1914 the besieged and troubled National Board of Censorship would call for a ban on the production of “white slave” films, arguing that the commercial cinema should be differentiated from “education” and “politics.” This call suggested a critical shift in the accepted definition of the social function of cinema by the board in line with the logic of the regulatory measures directed against Johnson.

In the concluding chapter I pursue this logic to the debates about *The Birth of a Nation* (Epoch, 1915) and the 1915 Supreme Court decision upholding the validity of state censorship and denying cinema the constitutional guarantee of free speech. Looked at in the light of the preceding chapters, the reexamination of this momentous legal decision shows its basis in the regulatory anxieties set in play after the proliferation of nickelodeons and demonstrates further the effects of these anxieties on the definition and policing of the social function of cinema and its positioning in the cultural topography of America. I conclude by drawing out the implications of *Policing Cinema* for our understanding of the functioning of regulation and classicism and for our wider awareness of the links between governance and culture and the operations of cultural authority.



# 1 Policing Cinema

In the midst of its “crusade” against nickelodeons in early 1907, the *Chicago Tribune* carried a front-page report on a fire that had broken out in one of the city’s new nickelodeons.<sup>1</sup> Like “practically all the others,” the theater was without “adequate protection,” and in the “disorder” and “panic” that ensued one audience member was trampled on.<sup>2</sup> Lurking behind the concern about physical safety, and the call for governmental regulation of building codes, lay concerns about moral danger. In other theaters, the paper noted, “the fire panic was lacking but the continuous performance panic of cheap songs, tawdry singers, and suggestive pictures reigned.” Journalists ventured into the heart of the moral darkness of nickel theaters in the *Tribune*’s lengthy campaign against the theaters, reporting back what “was seen” to predominantly middle-class audiences presumed to be unfamiliar with the new development.<sup>3</sup> A series of “suggestive” pictures were described. In *Bad Son*, as the *Tribune* journalist described it, the eponymous son goes out to a gambling den, loses his money, enlists in the French navy, joins in a mutiny in which an officer is killed, enters a Turkish harem, and, at last, returns home. Likewise, in *Burglars at the Ball* burglars steal silver and jewelry from a house where a masked ball is in progress but are finally caught and clubbed by the police (although boys in the audience, the *Tribune* noted, thought that “the burglars could have made their ‘getaway’ if they had been a little smoother”). Last, an unnamed film, perhaps of “Parisian design,” showed a “mob” of French waiters on strike, waving such banners as “Down with the Bosses” and “The Striker Forever” and fighting with the police.<sup>4</sup>

Following a description of “suggestive” and “immoral” films was an ac-

count of the audience watching the films, an aspect of the report apparently even more important to the *Tribune's* investigation (as the aside about boys assessing *Burglars at the Ball* suggested). A boy was reported to have left one theater "with his eyes popping and his mouth open in wonderment" before "walk[ing] on the street ready to kill."<sup>5</sup> Likewise, the paper reported that there were "a number of little girls who should have been playing with dolls who were ruined through going to the nickel theatre."<sup>6</sup> Linking bodily and psychological effects, this widely articulated perception—that cinema was what social reformer Jane Addams called a "mimic stage" and thus caused what psychologist J. E. Wallace Wallin called "psychic infection"—was informed by new knowledge in the social sciences about individual psychology, the ethical competences of new types of "susceptible people," and the establishment of "socialization" and the "social bond."<sup>7</sup> Cinema, nickelodeons, and "impelling pictures" could trouble processes of socialization and "mar our fellow citizens" and society.<sup>8</sup>

Who were these citizens that needed to be, in the *Tribune's* words, "observed closely"?<sup>9</sup> According to the *Tribune* the audiences at the new nickelodeons were "mostly the children of the poor." The "crowds" came from "the families of foreign laborers and formed the early stage of that dangerous second generation which is finding such a place in the criminals of the city."<sup>10</sup> Like the *Tribune*, the plethora of reports and governmental investigations of the phenomenon of nickelodeons that began in late 1906 and ran through the 1910s frequently included accounts and what we might call "phobic representations" of the allegedly disorderly, "panicky," and potentially criminal "crowd" seemingly drawn to the new nickel theaters.<sup>11</sup> Technologies for classifying and enumerating and a "new literature of exploration" as moral surveillance developed here, fueled by a compelling need to shine light on those audiences and ill-lit "moral sinkhole[s]," or "vice combustibles," ultimately to have them, as the Louisville Vice Commission noted, "carefully watched and controlled."<sup>12</sup>

Literatures of exploration and moral surveillance directed at moving pictures and nickelodeons were clearly linked with broad regulatory anxieties about the new development of cinema and about particular citizens and populations; accordingly, I begin this chapter by mapping out the parameters of those concerns. I look next at the concrete effects of these discourses about cinema and populations on the establishment of regulatory institutions and then at the response of the film industry to these discourses and practices. A final section considers the important effects of these struggles on the still malleable cinema. The chapter as a whole prepares the ground for and frames the more detailed chapters that follow.

## VERITABLE COPYING MACHINES

Why were social, political, and cultural elites anxious about cinema?<sup>13</sup> Clearly there exists a longer history of elite concern about the effects of culture, stretching back at least to Plato's call for the banning of poets from the perfect state. A struggle over culture and cultural space is, indeed, virtually a defining feature of democratic societies, which almost inevitably involve a complex negotiation between public authority and the dissemination of facts, ideas, and representations in public. Ever since the commercialization of leisure in the late eighteenth/early nineteenth century, elite groups have increasingly expressed concerns about the effects of "cheap amusements" on the maintenance of public authority and have accordingly developed mechanisms for regulating culture. Critical negotiations over the disposition of cultural objects and spaces gathered pace in the United States, in particular, with the rise of popular fictions, drama, and journalism in the 1850s.<sup>14</sup> The center of attention extended in the late nineteenth century to vaudeville, burlesque, dance halls, popular sports (for example, prizefighting), lotteries, and the dissemination of "obscene" or "indecent" material—including "literature"—in the mail.<sup>15</sup> Moving pictures and nickelodeons emerged in the context of an ongoing process of cultural contestation.

Even so, the regulatory response to the proliferation of nickelodeons from 1905 onward was tied to precise historical contexts and evidenced a clear intensification and refocusing of concerns, so much so that moving pictures became the only medium of communication subject to systematic legal prior restraint in the United States. Let me suggest three principal reasons for this intensification of regulatory concern: (1) nickelodeons established cinema as effectively the first form of mass entertainment and culture for an emerging mass public, attracting audiences, particularly lower-class immigrant groups and women, because of the low cost of admission;<sup>16</sup> (2) experiences at moving pictures in nickelodeons were regarded as particularly dangerous, principally because of the realism of moving pictures, because images were seen to be linked closely to imitative responses from "suggestible" audiences and because the ill-lit space of the nickelodeon provided what the Juvenile Protective Association of Chicago described as "a cover for familiarity and sometimes even for immorality";<sup>17</sup> (3) new audiences, experiences, and spaces emerged in the context of the wider intensification of reform and state concerns about moral, social, and political stability that historians have characterized as a "search for order" in the face of the forces of industrialization, urbanization, and immigration around the turn of the century.<sup>18</sup> A sense of social dislocation and disorder pervaded the period,

these historians suggest, linked to widening class divisions and the creation of a large industrial proletariat in the context of capitalist modernity, to profound transformations in the topography of public and private spheres, to migratory or immigratory movement as a consequence of increased geographic mobility, and to a widespread belief that traditional forms of “social control,” such as the family, church, and community, had lost their grip. Looked at in this way, the heightened anxieties about both the new “troublesome” mass public audience associated in particular with cinema and the experiences and social interactions contained there were enmeshed with a broader contested regulatory space. Cinema thus became one element—although at times a privileged one—among other regulatory issues subject to increasingly intense public discussions and governmental interventions on the cusp of modernity.

Looked at closely, a series of distinct but overlapping regulatory contexts were evident in the *Tribune*’s fairly typical crusade. Immediately apparent was the focus on the child audience, visible in other reports and investigations into moving pictures and nickelodeons in the period and to discussions of the effects they were having on the “impressionable minds” and “moral codes” of children and on the “degradation” of the “tone of future citizenship.”<sup>19</sup> Here anxieties about child audiences were informed by broader discourses about childhood and child development circulating in the period. On the one hand, an anxiety about the effects of cinema on children was linked to a growing sense of the innocence of children, to what sociologist Viviana A. Zelizer has termed “the sacralization of childhood,” principally among the middle class in this period, through which children were invested with sentimental, as opposed to economic, value in a process that, in turn, positioned them as innocent and vulnerable.<sup>20</sup> On the other hand, the discursive positioning of children as citizens-in-formation, or as *tabulae rasae* for the imprinting of values, behaviors, and ideals of what the *Tribune* called “good citizenship,” led to intense anxieties about the socialization of children and the sustainability of social order. Labeled by psychologist James Mark Baldwin “veritable copying machines,” children were here positioned at the confluence of the intense anxieties about socialization and citizenship that were pervasive in the turn-of-the-century period.<sup>21</sup> The so-called child-saving movement was formed in this context. Hence, the creation of a Children’s Bureau by the federal government in 1912 and the rise of municipal playgrounds, public schools, and national organizations such as the Boy Scouts (1910) and Girl Scouts (1912) reflected a sense both of sacralization and of the need to manage the socialization of young people.<sup>22</sup>

Very closely linked to the necessity of managing socialization and citizenship was the intensification of discourses about “juvenile delinquency” in the late nineteenth century. The creation of special judicial and correctional institutions, such as juvenile courts, for the labeling, processing, and management of “troublesome” youth around the turn of the century brought attention to—and in doing so helped “invent”—new categories of youthful misbehavior that reflected anxieties about social order.<sup>23</sup> Part of the concern that fed into the establishment of juvenile courts, which emerged in the United States in Chicago in 1899, was about the development of a criminal underclass. The superintendent of the Illinois Reform School, for example, reasoned that since it was the aim of the criminal class “to undermine the confidence of the community and to weaken the strength of the Commonwealth,” crime could be reduced by “stopping production” of criminals and regulating the upbringing of children who had criminal propensities.<sup>24</sup> Such propensities were frequently found, commentators suggested, among lower-class immigrant groups. “[I]t is not at all unlikely,” one penologist wrote, “that juvenile delinquency of the most serious kind in the United States is in some measure to be set down to the boundless hospitality of her shores.”<sup>25</sup> Late-nineteenth-century social scientists and cultural commentators regarded juvenile delinquency as a failure of adequate “socialization” and cast the delinquent in a synecdochic relationship to a population that threatened various forms of disorder, linking delinquency to a complex articulation of discourses on youth, class, ethnicity, gender, urban unrest, and modernity.

Located in this context, moving pictures and nickelodeons were frequently linked to anxieties about delinquency, widely seen as both causing delinquency and as antisocial spaces providing “hang-out places for delinquent boys and girls.”<sup>26</sup> A common trope here was the characterization of cinema as “a school for crime” or as a “training school of mischief, mockery, lawbreaking and crime,” especially troubling to elite groups because of the great weight placed on public schools as molders of “good citizenship” and national identity (see figure 1).<sup>27</sup> Investigations by the Juvenile Court Committee in Chicago in 1907 and the Juvenile Protective Association of Chicago in 1909 and 1911 confirmed the links between cinema and juvenile delinquency, as did the countless case studies of what psychologist William Healy called in his 1915 book, *The Individual Delinquent*, the “strength of the powers of visualization” in producing delinquency.<sup>28</sup> Over and over again nickelodeons and moving pictures were seen as “an insidious breeding ground for a debauched citizenry” and were positioned as sites of danger within the social body in conjunction with the wider concerns



Figure 1. "Young America and the Moving-Picture Show." *Puck*, 9 November 1910. Courtesy Library of Congress Prints and Photographic Division.

about the governance of a mass public in early-twentieth-century America that underpinned the rhetoric on delinquency.<sup>29</sup>

Class conflict suffused the period, linked by historians to broad conditions of industrialization and capitalist modernity, cycles of economic depression, labor, socialist and radical organization and activism, and definitional concerns about a “collar line” widening with distinctions between physical and nonphysical work.<sup>30</sup> Laborers and their kids watching movies of burglary, of violence against police authority, and of strike action in the potentially autonomous and oppositional public sphere of the nickelodeon was clearly regarded as troublesome by middle-class elites—a situation only exacerbated by the perception that those laborers were also apparently “foreign.”<sup>31</sup> Investigations of nickelodeons in urban centers commonly focused on those located in working-class and immigrant neighborhoods such as the Bowery and Park Row in New York City or Milwaukee and South Halstead in Chicago, and there was a widespread sense that audiences were predominantly immigrant, that exhibitors and later producers were also drawn from immigrant groups, and that the moving pictures shown were also primarily foreign.<sup>32</sup> Conceptions of cinema as in some respect foreign or un-American were buttressed by a nationalist discourse that intensified in the years nickelodeons spread from 1905 to 1906 in the context of the increased number of immigrants arriving from southern and eastern Europe and as a consequence of a commingling of nativist and racist discourse central to a racial science that positioned these particular immigrant groups and African Americans at the bottom of a “natural” hierarchy of ethnic and racial difference.<sup>33</sup> Linking fears about delinquency, class conflict, criminality, and public order with discourses on immigration, ethnicity, and race—those laborers were foreign and part of a developing “criminal class”—the conception of the audience as working class and foreign tapped into the fears of social dislocation and disorder central to widespread anxieties about class cleavage and the establishment and maintenance of national identity.

Concerns also arose about nickelodeons and moving pictures because they symbolized for many the broader shifts in the topography of public and private spaces characteristic of the turn-of-the-century period, especially with regard to the changing social role of women and to an intensification of discourse on sexuality. Historians have shown how a heterosocial leisure sphere and “culture of consumption” and “abundance” gathered pace in the early years of the twentieth century, effectively altering women’s—and particularly working women’s—participation both in the world of commercialized amusements and in the broader public sphere.<sup>34</sup> The redefined relationship between public and private and the emergence of a mass cultural

public sphere presaged for many an apparent breakdown of social and moral order that was usually figured in terms of sexual immorality by commentators steeped in the patriarchal Victorian ideology of separate spheres.<sup>35</sup> Ill-lit nickelodeons, many suggested, were seen as ideal “recruiting stations” and “breeding places of vice,” where “mashers” and “vicious men and boys . . . take liberties with very young girls.”<sup>36</sup>

Also troublesome in this context were the films themselves, for they seemed to project new and different ideologies of sexuality and were consequently seen as particularly damaging to girls and young women, taking the former away from “playing with dolls” and both groups from domestic space and ideals. Extending their voyeuristic freedom and “optical omnipotence” to survey sights of the public world hitherto unavailable to them and better contained within the private sphere, such films were linked to a formation of delinquency that for young women was invariably coded in terms of sexual immorality.<sup>37</sup> Cinema was a problematic space and a site of fantasy.

Linking concerns about class, ethnicity, race, and gender, elite anxiety about cinema and its effects on vulnerable and dangerous audiences should be seen as part of the broader efforts to shape and govern the social body that characterized the elite response to modernity. In this sense, regulating and shaping cinema was enmeshed with the broader “panoptic” projects of modernity, those epistemological and institutional practices that effectively centered on a “policing” of bodies and populations, characterized by increased surveillance, analysis, and codification aimed ultimately at ensuring a productive, effective, loyal, disciplined, and “governable” citizenry that embellished the stature and “health” of the nation.<sup>38</sup> In this context new forms of governmental rationality developed, aimed at fostering citizens’ lives and state strength, forms that were simultaneously individualizing and totalizing in their reach and disciplinary and productive in their effects. This context—in which a governing of bodies and populations informed and shaped the policing of the medium—is crucial to our understanding of the regulation of cinema in early-twentieth-century America. Censorship and regulation of this fledgling industry were connected to the broader project of governing a mass public.

Here a brief definition of what I mean by *policing* will be useful. I use the term in a way similar to that of philosopher and historian Michel Foucault and historians William Novak and Christopher Tomlins. Looking to describe new forms of governmental rationality, Foucault revives an older and broader conception of “police,” derived from “policy,” the aim of which was to “foster citizens’ lives and the state’s strength.”<sup>39</sup> A similar concep-

tion of “police” is central to the way both William Novak and Christopher Tomlins describe the emergence and scope of what Tomlins describes as “an institutionally inchoate ideology of collective responsibility for the reproduction of the well-ordered community” in the United States.<sup>40</sup> Indeed, the “police power” abrogated to the individual states in the Constitution was defined as a “principle of self-preservation of the body politic” that extended, some of the legal decisions I will examine in the following pages decreed, “to the making of regulations promotive of domestic order, health, morals and safety” and so could be defined as “a chief function of government.”<sup>41</sup> Like Foucault, Novak, and Tomlins I use *police* in a broad fashion both to capture the sense of the productivity of power structures to shape discourses and material realities and, more specifically, to describe the work of state and nonstate institutions that acquire cultural authority and public power by defining “social problems” and claiming expertise in managing populations.

A regulatory focus on the conduct, well-being, and public decency of the “masses” in the United States developed throughout the nineteenth century and fed into such varied developments as the aforementioned emergence of juvenile courts; transformations in the prison system; the creation of new knowledge about medicine, education, and demographics; the intensification of urban planning; public hygiene; the design of an interventionist social science; and the increased surveillance of urban space.<sup>42</sup> Together these developments can be seen as part of the “invention” of “the social,” the historical formation of a sector of expertise about the causes of problems such as delinquency, crime, prostitution, and poverty, along with a set of institutions like charities and government bureaucracies formed to address these problems.<sup>43</sup> The turn-of-the-century period in particular, frequently labeled by historians as “the Progressive Era,” witnessed a proliferation of social-reform movements that allied with an increasingly activist judiciary and (temporarily) diminished tenets of localism and *laissez faire* to produce a transformation in the traditional understanding of the scope of legislation and the locus of public power and a corresponding remarkable upsurge in governmental regulation and state definition.<sup>44</sup> Important, here, was the initiation of the “welfare state” as part of a broader intensification of governmental activism, the increased professionalization of police forces and the creation of the centralized Bureau of Investigation in 1908, and the well-known experiment of Prohibition.<sup>45</sup>

Regulating and shaping the conduct of others frequently focused on the terrain of sexuality, for sexuality exists at the interface between the individual body and the social body; thus, individual sexual and reproductive

conduct interconnects with issues of national policy and power.<sup>46</sup> Legislation directed against prostitution, venereal disease, and “white slavery,” the forced abduction of white women into prostitution, made this connection particularly clear, the latter issue segueing into the widely articulated concerns about sexuality, ethnicity, and race that fueled anxieties about the differential birth rates of white Anglo-Saxons and “inferior” immigrant and black groups evident in the concepts of “race suicide” and eugenics.<sup>47</sup> The new regimes of bodily discipline and regulation characteristic of the panoptic projects of modernity were evidently predicated on the linking of the individual body and the social body and thus on the perceived centrality of conceptions of morality to “good citizenship,” “public order,” and governance. “The moral element is order,” Giovanna Procacci observes, “that element of order which liberal society discovers as a vital need.”<sup>48</sup>

Located in this context, the widely repeated dictum of turn-of-the-century “moral policeman” Anthony Comstock—“Without morals no public order”—clearly reflected accepted conceptions of the centrality of morality to the governance of populations and social order and the tutelary function of the state for the moral education of citizens.<sup>49</sup> Countless examples of the connection between morality and desirable public order informed the rhetoric of legal commentators, social reformers, scientists, and government officials, who were motivated in broad terms by anxieties about status, secularization, and nostalgia and by concerns about corporate discipline and “social control” in the context of modernity.<sup>50</sup> A preeminent nineteenth-century commentator on criminal law, for example, observed that “morality, religion and education are the three pillars of the State” and should consequently be “objects of primary regard by the laws.”<sup>51</sup> Likewise, in the midst of a debate about an act to regulate the movement of women and men across state lines for immoral purposes (an act I examine in chapter 4), a congressman observed that the government’s true strength lies in its “sentiment of morality” rather than in its military.<sup>52</sup> *Morality* was undoubtedly one of the keywords of the period.

Legislation directed at “obscenity” makes the perceived connection between moral order and public order clearer. A key technology in morals and cultural policing, obscenity legislation and related conceptions of “indecentcy” sought to define what material could safely appear in public. Emerging in the United States initially in the early nineteenth century, legal conceptions of obscenity were predicated on the conception of “morality as the law of nature . . . [which] is necessary to society” and must be maintained by “prohibiting and punishing all open and public immoralities, obscene writings, speaking and exhibitions, the tendency of which is evidently to

poison the springs and principles of manners, and disturb the peace and economy of the realm."<sup>53</sup> Late in the nineteenth century two Supreme Court decisions defined obscenity more precisely as, first, that which has a tendency "to deprave and corrupt those whose minds are open to such immoral influences" (the so-called Hicklin standard) and, second, as that which is linked solely to "sexual impurity."<sup>54</sup> Federal laws banned the importation of obscene material, and after the Civil War, amid reports that Union soldiers were receiving sexually explicit images in the mails, the so-called Comstock Act was passed to forbid the transportation of "obscene" material in the mails.<sup>55</sup> Important to both acts was a sense of the connections among obscenity, nationalism, governance and state power, and a fear of the effects of widely distributed obscene matter on a mass public. The "police powers" delegated to the states were frequently directed against "obscene" material.<sup>56</sup>

Conceptions of obscenity (and indeed "pornography") were closely allied to the democratization of culture and conceptions of the ethical competences of audiences, as the Hicklin standard suggested. The very existence of a category of "pornography" is predicated, Ian Hunter, David Saunders, and Dugald Williamson assert, on the existence of "a public which might be corrupted by obscene publications."<sup>57</sup> Legislation directed at cinema, the so-called people's theater, would indeed insistently target the categories of the "obscene, indecent, or immoral," including, as we will see in chapters 4 and 5, the establishment of state boards of censorship from 1911 and the inscription of cinema into the terms of general obscenity legislation, notably with the passage of a tariff act in 1913 directed at the traffic in obscene matter in one of the first responses to the cinema by the federal government.<sup>58</sup> The broad concerns about morality and obscenity briefly delineated thus far informed the regulation of cinema.

A struggle over moral values and the category of the obscene was also a struggle over class boundaries, for those boundaries are drawn in part on the basis of shared moral values that are frequently played out on the terrain of culture.<sup>59</sup> Conceptions of morality and "respectability" were absolutely central to the self-definition of the middle class in the United States throughout the nineteenth century, historians have shown, as middling groups came to define themselves and their difference from those above and below in terms of moral norms.<sup>60</sup> On the one hand, this process of definition took place through the imposition of moral values on working-class and immigrant communities, seen perhaps most clearly in Protestant-led temperance campaigns that targeted the cultural practices of the increasingly Catholic working classes. Here morality was variably inflected by class but also by ethnicity. In other examples morality was also inflected by ideas

about race. Conceptions of moral behavior and accounts of the moral subject are indeed integral to discourses about class distinction, nationalism, and race.<sup>61</sup> A class and community “makes” itself, Richard Ohmann reminds us, through conflict with other classes and groups.<sup>62</sup>

On the other hand, the middle class was “made” by practices internal to itself in a process of “class awareness” that was played out through shared attitudes, values, and beliefs.<sup>63</sup> Lest we forget, class formation is a dialectical process, taking place in the middle class as much as in the working class and often through the same practices. The delimitation and policing of moral norms and subjects was not simply about defining outsiders, then, but also about defining what made an insider an insider (for example, what made the lower middle class middle class and not working class or what made various ethnic groups “white”). One of the central issues here was the delineation of the white middle class as morally distinct from groups “above” and “below,” a distinction that was predicated principally on the dissemination of discourses of domesticity and gentility that positioned idealized notions of femininity as moral guardians (a situation I will return to below).<sup>64</sup> A complex amalgam of social control and self-definition was in play in these regulatory discourses and practices.

A rush to define and police moral norms was increasingly directed at the realm of culture, and the contestation over individual films and over cinema more generally clearly became one of the principal forums for the discussion of moral norms in the period. Cinema became a critical site of contestation in a broader “culture war.” Legal regulation of various forms ensued, as I show below, enmeshed with the broader regulatory context delineated thus far, showing that a policing of the social functioning of cinema was linked to broader concerns about morality, public order, and governance. Law “creates the social world,” Pierre Bourdieu observes, but “it is this world which first creates the law.”<sup>65</sup> I discuss these broad categories in more precise detail in the following chapters, situating the regulation of particular films and of cinema at various moments across the transitional era in the context of a regulatory space instantiated in various ways in the cases considered.

## IMMORAL OR OBSCENE

Leaving aside for the time being the question of the reasons for elite anxiety about cinema, we can ask now the next obvious question: what strategies did elite groups use in regulating and shaping cinema? Local investigations

into the spread of nickelodeons from 1906 on and their effects on vulnerable and dangerous audiences by organizations like the Juvenile Protective Association, the Children's Committee of the Cleveland Humane Society, the Chicago Vice Commission, and so on led to calls for stricter governmental regulation of cinema in a way consistent with a crossover of nongovernmental and governmental power and the establishment of a multi-institutional fabric regulating the social body characteristic of the so-called Progressive Era. Legal regulation before 1907 had been carried out in the main via the imposition of preexisting licensing laws, often those used to control various traveling sideshows and carnivals.<sup>66</sup> Zoning regulations, "blue laws" (Sunday closing laws), and fire code regulations were central in this period, but these did not directly attend to the content of moving pictures or to the concerns over the social functioning of cinema after the proliferation of nickelodeons and the association of cinema with a mass public.

A more specific regulatory arena emerged from late 1907 onward, when a police censor board was set up in Chicago in part as a response to the "crusade" of the *Tribune* and other reform groups in the city (made clearer in 1909 when the constitution of the board was changed to include both police and reform censors, emblematic of the hybridity of nongovernmental and governmental regulation of cinema). Regulation consequently concentrated in the main on the cultural control of cinema, on what could be shown, and on how cinema should function in the social body, rather than the political control of who could show moving pictures and when and where they could be shown. This development signaled in broad terms a shift from a regulatory focus on buildings and space to a focus both on the social function of cinema characteristic of the transitional era and on representations and effects that have subsequently dominated policy discussions of cinema.<sup>67</sup>

Censor boards proliferated from 1907, including local boards in cities like Cleveland, Detroit, St. Louis, San Francisco, Seattle, New Orleans, Lexington, Dallas, Kansas City, Nashville, Atlanta; and state boards emerged in Pennsylvania in 1911, Ohio in 1913, Kansas in 1914, and Maryland in 1916.<sup>68</sup> The policing of moral norms and public order was central to the censor boards. Significantly, the precedent-setting police censor board in Chicago sought to prohibit the exhibition of "immoral or obscene" films and refused permits if a film was "obscene, or portrays depravity, criminality or lack of virtue . . . or tends to produce a breach of the peace or riots."<sup>69</sup> For the board the (literal) policing of cinema was both about the regulation of "obscene" films and films that could produce public disorder and "riots," this latter concern seemingly referring to those films representing class conflict and political action singled out by the *Tribune* earlier in 1907 and also frequently

targeted by other censor boards.<sup>70</sup> Likewise, the state censor boards were predicated on the “police powers” of the individual states enacted to protect the health, morals, and safety of their citizens and were set up explicitly to “conserve the morals and manners of the public” and for the “preservation and safeguarding of the public morals.” The boards did so by preventing the exhibition of films that tended “to debase or corrupt morals”; that were “sacrilegious, obscene, indecent or immoral”; that “represent[ed] lust”; or that “tend[ed] to debase or corrupt public morals.”<sup>71</sup> Extant records from the state board in Pennsylvania show that the members of the board worked hard to nail down the meaning of the terms *immorality*, *obscenity*, and *indecenty*, even going so far as to include the circulation of annotated dictionary definitions that defined *obscenity* as “offensive to chastity, delicacy or decency” and *immorality* as “inconsistent with moral rectitude” and, furthermore, as “hostile to the welfare of the general public.”<sup>72</sup> Likewise, a test for those wanting to become censors in Chicago included the difficult question, “What is the meaning of the word ‘immoral?’”<sup>73</sup>

Local, state, and some components of the nongovernmental regulation of cinema tended to manifest what historians have variously termed a “negative environmentalist,” “cultural fundamentalist,” or “repressive response” to modernity, seeking to close down as many amusements as possible and to vigorously censor potentially offensive material.<sup>74</sup> No doubt this repressive response was linked closely to religious groups and ideals, stemming from a long-standing Protestant anxiety about theatrical entertainments and a more contemporaneous disquiet about the cultural practices of the increasingly Catholic working classes. The repressive response was not limited to religious groups, though; it also informed the strategies of secular or semisecular reform groups, such as the Juvenile Protective Association or the Women’s Christian Temperance Union, seeking also to police moral and public order. New configurations of religious and secular governance emerged in the period, supporting efforts to establish local, state, and federal censorship of moving pictures.

Yet elite response to cinema was not solely repressive, for proponents of what William Uricchio and Roberta Pearson term the “Arnoldian response” (drawing on Mathew Arnold’s influential *Culture and Anarchy*) embraced the idea that cinema could function within a broader strategy of cultural uplift that would address the cultural and social crisis of modernity. For some “progressive” elite reform groups, then, cinema differed from other cheap amusements like the dime museums, penny arcades, saloons, burlesque, and cheap vaudeville and could function as a “counterattraction” that would draw audiences away from those amusements while morally and culturally up-

lifting them.<sup>75</sup> In this context elite groups frequently encouraged the production of moral, “artistic,” and “educational” films. The nickelodeon need not be a “school for crime,” this logic ran, but could in fact function as a “people’s lyceum” or as a kind of public school.<sup>76</sup> It was thought possible that moving pictures could themselves become part of the public school system for the purposes of training children in “good citizenship.”

A clear and important articulation of the Arnoldian stance can be seen in the activities of the civic organization the People’s Institute. Located in New York City, the People’s Institute was a reform-minded association that sought to address the social and industrial problems of urban America principally by supporting a number of cultural and political activities for the immigrant and working classes.<sup>77</sup> Late in 1907 the institute, alongside the Women’s Municipal League, undertook a report on cheap amusements in New York City, concluding that the “new social force” of nickelodeons was in the main a positive one.<sup>78</sup> After this the institute cocreated the National Board of Censorship in early 1909 with film exhibitors and film producers, initiating an important strategy of interaction between some elite reform groups and the film industry that I will delineate further below and in chapter 3.<sup>79</sup> The National Board of Censorship was staffed by reformers drawn from the professional middle classes, overwhelmingly women reformers from organizations such as the New York City Federation of Women’s Clubs, the Children’s Aid Society, the Charity Organization Society, and the Federation of Churches.

*Nickelodeon* described the board as “the great policing force of the business,” and it reviewed most of the films exhibited in the United States in the 1910s, usually working through a process of interaction and negotiation with producers to establish “acceptable” representations suitable for family viewing in order to both uplift the cultural status of cinema and to utilize cinema as a positive social force in reshaping a mass public.<sup>80</sup> The board lobbied for an understanding of the positive social function of cinema, arguing, for example, that cinema replaced the negative cultural function of the saloon and countering the claims that moving pictures caused delinquency.<sup>81</sup> It circulated definitions of acceptable content through the 1910s that shaped production decisions, helping to locate the “questions of law and morality” that circulated outside and around the cinema “between the pictures.”<sup>82</sup>

Less intent on eradicating cinema, repressively regulating cinema according to licensing and land-use zoning laws, or censoring cinema from the perspective of governmental agencies, the Arnoldian reformers believed that a carefully and productively regulated cinema could enable the cultural

and social uplift of vulnerable and dangerous audience groups. Altruism was not always or necessarily the central motivation for these reform groups, though, as Uricchio and Pearson make clear, for the formation of “counter-attractions” was seen as one way to “ameliorate the social crisis, precluding agitation by filling workers’ leisure hours with less harmful pursuits.”<sup>83</sup> In this sense a policing of cinema was reimagined by some as a policing through cinema, for although elite strategies differed, they frequently shared similar goals in what historian Paul Boyer describes as the “fundamental moral control purposes” central to progressive reform.<sup>84</sup> Further clarification of this complicated situation will emerge in the detailed chapters that follow.

#### MORAL ADVANCES

Let me turn now from these questions of regulatory discourses and practices to consider the response of the beleaguered film industry, asking three simple but important questions that will guide the rest of this chapter: how did the film industry respond to elite concerns about cinema and to the regulatory strategies of elite groups? Why did it respond in this way? And, most important, what effects did this process of interaction between elite groups and the film industry have on the shaping of cinema?<sup>85</sup> Let us start again with the National Board of Censorship, for as the above has suggested, an industrial self-regulation alongside progressive or Arnoldian elites was a central strategy in the transformation of the cultural and social status of cinema, a “dance of inter-legitimation” that lent to the film industry moral legitimacy because of the social prestige and cultural status of the board members and that lent social purpose to those members.<sup>86</sup> A modification of film content was important here, as film industry entrepreneurs sought to distance themselves somewhat from risqué representations.

The guidelines of the National Board of Censorship worked alongside those of other censorship institutions not only to modify content but also to make claims about the organization and treatment of such content, feeding into the creation of norms of narrative conventions. Important here was the codification of a standard of “moral” endings, the clear delineation of causality and character motivations, and the establishment of a narrational voice capable of judging character behavior. New screenplay writing manuals from 1911 onward further disseminated these norms, and they became increasingly central to the “feature” films produced from 1913 onward.<sup>87</sup> Interweaving filmic discourse with moral discourse was crucial here, as Tom

Gunning has insightfully shown.<sup>88</sup> As Gunning points out, such a development had profound effects on the shaping of the narrative discourse of American cinema, effectively underpinning the formation of the conventions of classical Hollywood cinema in the teens.

Critical shifts in film form during the transitional era toward norms now associated with classical Hollywood narrative were informed also by the commercial imperatives of the film industry to attract a respectable and affluent middle-class audience. A confluence of regulatory and commercial imperatives led the film industry to seek to appeal to middle-class audiences by telling moral stories and by imitating norms of respectable forms of middle-class culture. "The techniques of the narrator system," Gunning writes, "responded to the industry's desire to attract a new audience through a narrative discourse that could supply the ideological and psychological values the middle class expected."<sup>89</sup> Alongside this transformation of signifying practices and the shaping of cinema in line with middle-class taste formations, scholars have shown how the film industry sought the twin goal of respectability and new middle-class audiences by establishing alliances with institutions of cultural reproduction, such as the People's Institute, by initiating practical modifications of exhibition practices in accordance with various civil regulations and professional discourses (about aisle width, air circulation, lighting, and so on), by locating nickelodeons in the central commercial districts frequented by middle-class shoppers, and by upgrading nickelodeons to elegant "movie palaces" in the early 1910s.<sup>90</sup> Here also nickelodeons and moving pictures were discursively linked to high cultural institutions, evidenced for example in the choice of the word *photoplay* in the Essanay competition in 1910. Scholarship on the transitional era has, then, suggested that the film industry sought respectability principally by a rhetorical and material "embourgeoisement" of cinema.

No doubt this focus on class is extremely important. Yet to fully understand how the film industry sought to make cinema respectable, we need also to be precise about the rhetorical appeals to audiences and taste formations, the configuration of morality in play here, and the complex imbrications of class and gender in the self-definition of the middle class. "Respectability," as cultural historian Richard Butsch observes, "was at its core a gendered concept."<sup>91</sup> Likewise, a number of social historians have suggested that the development of a middle-class consciousness in the mid-nineteenth century was predicated on notions of domesticity and gentility that were closely aligned with idealized conceptions of femininity as moral guardianship and that in turn effectively positioned the middle-class woman as the moral boundary between classes.<sup>92</sup> A broader "feminization" of middle-class

culture developed from this, evident perhaps most noticeably in sentimental fiction and drama, the proliferation of domestic advice books, improving tracts, publications like *Ladies' Home Journal*, and the increased civic activism of women.<sup>93</sup>

In this context theatrical and vaudeville entrepreneurs in the mid and late nineteenth century uplifted the cultural status of their respective entertainments by a "re-gendering" that sought to appeal to women and family audiences, notably by "pacifying" audiences, by arguing that theater space was safe, by producing entertainments that were supposedly attractive to women audiences (temperance dramas, for example), and by arguing that going to moral and educational entertainments complemented women's domesticity and their family obligations.<sup>94</sup> Such a strategy was consistent with broader cultural shifts, including not only the increased importance of respectability among the middle class and the concomitant changes in the definition of middle-class femininity but also the growth of a culture of consumption and attendant reorganization of the public sphere around the female shopper.<sup>95</sup>

Linked to the development of a culture of consumption was the increased civic activism of (principally middle-class) women, who around the turn of the century cleverly used their assigned moral authority to fashion roles as "civic housekeepers" and ultimately to redefine their role in the public sphere. Women reformers targeted the "immorality" of various configurations of masculinity (for example, in the reform movements focused on temperance and prostitution) and developed what feminist historians have termed a "politics of domesticity" that increased the cultural authority of middle-class women and marked a significant reorganization of the public sphere.<sup>96</sup> Certainly this was at least initially part of a process whereby, as feminist reformer Rheta Childe Dorr noted at the time, "the mantle of moral superiority [was] forced upon [women] as a substitute for intellectual equality," but it also went beyond that, enabling middle-class women to stake out a place in the public sphere and to partly refashion that sphere.<sup>97</sup>

Entrepreneurs seeking to assuage regulatory concerns about cinema and to appeal to women audiences as central players in the new culture of consumption drew on the strategies articulated by vaudeville entrepreneurs in the late nineteenth century and in doing so sought a rhetorical alliance with the cultural authority and moral discourses associated with middle-class women reformers. A common trope here was to present cinemagoing as capable of reforming the leisure and moral practices of men, most notably by differentiating cinema from the saloon in a way consistent with the early feminist crusade for temperance. Entrepreneurs also sought to reform the-

ater space and bring it more in line with other institutions that catered principally to women consumers, such as department stores, experimenting with lighted theaters to counteract the possibility of immoral behavior, introducing restrooms, nurseries for babies, luxurious decorations, uniformed attendants, and, more generally, seeking to transform the often rowdy space of nickelodeons to polite standards of decorum.<sup>98</sup> Likewise, films were also produced that internalized this gendered configuration of morality, frequently telling stories about the reformation of immoral men and the restoration of familial order. A cycle of temperance dramas begins in 1908, for example. This context and these developments may suggest an important addition to Gunning's account of the fusion of filmic and moral discourse and point to the centrality of gendered discourses of morality to the formation of the configuration of filmic discourse that would become hegemonic in the midteens. A reformation of theater space and textuality in accordance with gendered discourses of morality was an important strategy in the film industry's attempts to position cinema as respectable, linked to three important contexts: the strategies of other cultural entrepreneurs, broad issues in the self-definition and self-policing of the middle class, and significant strands of reform activism in the early twentieth century.

It is clear that this rhetorical alliance with what can be seen as early feminist discourses was a partial one, as the slew of antisuffrage films in the period suggests.<sup>99</sup> The appeal to women spectators and family audiences constructed and shaped the encounter of women with cinema in various ways that played on deeply rooted cultural constructions of gender (for example, the conception of women's innate morality). Just as amusements like the cinema solicited the female gaze, they also confirmed woman's status as object of the gaze both on-screen and off.<sup>100</sup> A series of concerns were also expressed in the 1910s both about women's presence at the cinema—their shocking distance from idealized notions of feminine morality evident in their interest in stories with subject matter like illicit sexuality, action-adventure stories, and feminist agitation—and about the broader implications of female spectatorship.<sup>101</sup> Cinema scholars interested in gender and cinema and the cultural contexts of the emergence and development of cinema have so far rightly concentrated on the complexity of the figuration of women's engagement with cinema.<sup>102</sup>

As the above account has begun to suggest, however, this work can be usefully supplemented by further attention to the regulatory and commercial importance of women and family audiences, to the agency and cultural authority of middle-class women reform groups in the context of the self-definition of the middle class and the politicization of women's groups,

and to the effects of this context on the strategies of the film industry and thus on the reformation and transformation of cinema in the transitional period. We also need to pay sustained attention to the discursive regulation of masculinities in the period and corresponding shifts in representation and filmic discourse. Indeed, the chapters at the center of my inquiry will suggest that the regulation of masculinities in accordance with classed and gendered norms of respectability was central to the regulation and reformation of cinema and the move toward classicism.

Important also to the industrial response to elite concerns about cinema was the proposal that cinema could be “educational” and could consequently create and shape a moral citizenry. A cursory glance through the trade press of the period will turn up several articles detailing the educational potential of cinema. Far from having a deleterious effect on the morality of vulnerable and dangerous populations, these articles suggested, the “tremendous educational effect” of motion pictures could contribute to what Thomas Edison called “the moral advance of the great masses of people.”<sup>103</sup> Rhetoric on the educational potential of cinema drew on period conceptions of the function of education in both molding a moral and responsible citizenry, particularly in “Americanizing” immigrant groups and forging a national identity, and in the reproduction of class distinction.<sup>104</sup> Both film industry entrepreneurs and Arnoldian reformers championed the positive cultural function of moving pictures, pointing to their potential usage in—to pick examples I will return to—schools, settlement houses, churches, the immigrant landing station of Ellis Island, and so on. The noncommercial and nontheatrical exhibition and development of moving pictures was a real possibility in the period, as entrepreneurs and commentators discussed the potential social function of the new medium.

Linking cinema with other “discourses of sobriety” functioned also to assuage regulatory concerns about the effects of cinema and to once again tap into middle-class taste formations, for, as Charles Musser has shown, nonfictional “screen practice” had become an important part of middle-class cultural life in Europe and North America in the second half of the nineteenth century.<sup>105</sup> A similar validation of the nonfictional and representations of reality informed a broader cultural configuration that tied culture to moral education, including lyceums, museums, expositions, state fairs, the Chautauqua movement, and literary and artistic movements.<sup>106</sup>

Accordingly, “educational” films were insistently championed by the trade press from mid-1906 and early 1907 onward (when *Views and Film Index* and *Moving Picture World* began), with a good deal of concern over defining what an educational cinema would be and in inventing a critical

vocabulary to deal with it. Here, for example, is what *Nickelodeon* wrote about this one month after its reports on the Essanay competition and the choice of the word *photoplay*: "It has been the practice of the *Nickelodeon* to boost continually for the so-called educational motion picture; although we have confessed that we are not enamored of the word, as we wish some one brighter than we are could discover or coin an expressive and euphonious term by which to classify scenic, scientific, and industrial subjects."<sup>107</sup> The strategy of "boosting" the "educational" tied in also with production trends, notably the establishment in 1909 of a series of distribution catalogs devoted solely to "educational films."<sup>108</sup> Trade journals began new columns surveying and reviewing educational releases in the early 1910s, further producing taxonomies of the category of nonfictional "educational."<sup>109</sup> Concerns to present cinema as capable of education informed also the controversy over the choice of the word *photoplay* in the Essanay competition, which *Nickelodeon* criticized for not adequately describing films "of the industrial, scenic or scientific variety" and because it "merely distinguishes a particular kind of entertainment."<sup>110</sup> Repeatedly, members of the film industry and other Arnoldian reformers asserted that cinema could play an important social and political role, that cinema could be something more than mere entertainment.

A "boosting" of the educational potential of cinema was carried out by different groups for different reasons. Arnoldian reformers like those associated with the People's Institute believed at least initially in the development of a noncommercial and nontheatrical industry to create better citizenship. Other commentators and filmmakers believed in the realist tradition and the importance of basing art in the ordinary and the everyday, drawing also on traditions of scientific observation that had been particularly important in the development and early use of photography and projected moving pictures. On the other hand, many mainstream film industry entrepreneurs saw in this "boosting" a way to associate cinema with the cultural capital and moral soundness of nonfiction and education and thus to deflect regulatory concerns about the effects of entertainment.

Legal definitions tied in with this deflection also, for at times the categorization of "educational" could directly protect films and cinema from regulatory interventions. For example, an ordinance in New York City in late 1907 allowed for the provision of "harmless amusement" on Sundays, defined further as "sacred or educational."<sup>111</sup> If cinema could be conceptualized as "educational," then it was legally protected (for further discussion of the ordinance see chapter 3). Likewise, if cinema could be conceived of as an arm of the press—whose role was commonly understood as one of ed-

ucating the public about matters that legitimately concerned citizens—then it could be afforded the constitutional guarantee of free speech and exempted from various forms of commercial regulation (for example, interstate commerce regulation—for further discussion see chapter 4).

Yet the validation of the nonfictional and of the educational cultural function of cinema pushed against the commercial imperatives of the mainstream film industry. The mainstream industry had by 1907 shifted away from a role as “visual newspaper” that had dominated filmmaking in the nickelodeon era toward a dependence on the production of entertaining fictional films principally because these were more amenable to industrial rationalization and because they had proven more popular with audiences.<sup>112</sup> Cultural capital associated with the nonfictional and the educational clashed with economic capital predicated on the production of entertainment. How to resolve this? One strategy was to produce a body of films that enfolded Progressive Era reform issues within a dramatic narrative, creatively shaping social discourses and self-consciously invoking the potential of cinema as an educative and reform force like in the cycle of temperance dramas mentioned above and, for example, a number of films about the commercial exploitation of children (now positioning cinema as a force for the betterment of children).<sup>113</sup> Labeled by *Nickelodeon*—ever happy to invent critical terms—as “uplift dramatic films,” the genre was described as educational films where the “musty flavor conjured up by that word is concealed in a sugar-coating of drama and perhaps even comedy.”<sup>114</sup>

Uplift dramatic films made up a hybrid genre that effectively marked the halfway point between a sense of cinema’s educative cultural function and the commercial imperatives of the film industry. The genre was accordingly validated by the self-regulatory National Board of Censorship, itself a compromise formation between Arnoldian reformers and the film industry. A crucial response of the film industry to regulatory pressures, then, was to position cinema as socially useful. Cinema, these discourses and practices suggested, could in fact create “better citizenship,” becoming a “civilizing apparatus” or what we might term a “moral technology.”<sup>115</sup>

#### MERE ENTERTAINMENT

Leaving aside for the time being the question of the film industry’s response to regulatory concerns about cinema, let me now turn to delineating what I take to be the principal effects of the process of interaction between elite

groups and the film industry on the shaping of the definition and function of mainstream cinema. The “sugar-coating” of the educational with the dramatic was clearly important here. Yet this conflation would become increasingly problematic through the teens as a series of controversies over films and the ensuing legal decisions narrowed the accepted conception of the social function of cinema. Important here were tussles over the relation of cinema to the press, beginning most noticeably in 1910 in response to debates about the legality of prizefight films of the African American boxer Jack Johnson. In 1912 the so-called Sims Act resolved these debates by defining the films as “commerce” and thus subjecting them to interstate commerce regulation. The logic of this definition was followed by a Supreme Court decision on the constitutionality of state censorship in 1915, when the justices stated that film was “more insidious in corruption by a pretense of worthy purpose” and so should be defined not as “vehicles of ideas” or as “speech” but as “entertainment.”<sup>116</sup> Local and state censor boards proliferated partly as a consequence of this extremely important decision. Like the Sims Act, this decision depended on a definition of cinema as commerce and as thus distinct from the press. Taken together, the decisions situated cinema as beyond the constitutional guarantee of free speech as enshrined in the First Amendment and in state constitutions.

Legal markers in the definition of the function of cinema were mirrored also by a revised stance articulated by the National Board of Censorship. Reversing its validation of the “uplift dramatic” genre, the board gradually began to find fault with those films representing contemporary social problems amid concerns about the proper limits of indexicality and realism and their effects on “suggestible” audiences. Important here were concerns about both the improper use of films purportedly conveying educational information about such subjects as sexual morality and about the use of cinema for political purposes, its possible development as—in the words of the chairman of the board, Frederick Howe—“the daily press of industrial groups, of classes, of socialism, syndicalism, and radical opinion.”<sup>117</sup> Within the board, and among other reform groups, there was a gathering sense that it was dangerous to disseminate knowledge about such important subjects as sexuality and politics to mass audiences, described by the board as “not composed of people of culture and refinement,” through a medium that was becoming inextricably linked—legally and otherwise—to a commercial and entertainment function.<sup>118</sup> Legal decisions and those internal to the mainstream film industry gradually established a consensus that mainstream cinema should principally offer harmless and culturally affirmative entertain-

ment, that cinema should be defined, and should function, as a space apart from the political sphere. Cinema's place in the public sphere of common discussion should be carefully delineated and delimited.

Let me suggest that a critical border around the definition of the function of cinema was drawn here in the midteens, effectively clearing out a space within which the classical cinema would come to operate thereafter. The attempted resolution of the problems cinema posed to structures of governance was ultimately concentrated in the definition and production of the social functioning of cinema as "mere entertainment," as a fictional, apolitical space, and thus by its delineation as self-consciously trivial, purposeless, and self-referential. In other words, a progressive differentiation of classical cinema from nonfictional discourses enclosed that cinema within a self-contained space, detaching it from and opposing it to other forms of discourse and so institutionalizing a social function for mainstream cinema that was divorced from social relevance. The establishment and continued functioning of the hegemonic formation of cinema in the teens—classical Hollywood—was tied to these performative definitional debates.

Members of the mainstream industry came around to accepting this definition of the social functioning of cinema because it helped avoid a crippling regulation of distribution and exhibition and thus kept state and reform forces at bay. Accordingly, it began to inform the self-definition of the industry, evident, for example, in the screenplay-writing manuals that emerged in the teens that both guided narrative norms but also invariably urged writers not to stray onto the terrain of politics. "[H]eart interest must predominate," the authors of a manual called *Writing the Photoplay* suggested, and "[t]hat form of journalism which is best known as muckraking is also out of place in the picture."<sup>119</sup> Likewise, a broader mythologization of Hollywood as a utopian "dream factory" providing "mere," "pure," or "harmless entertainment" that morally uplifts audiences developed. The conception of the function of cinema complexly worked out in the preclassical period underpinned what film historian Ruth Vasey has termed "industry policy" in the 1920s, by which the self-regulatory body of the mainstream industry continually worked to exclude socially and politically contentious subject matter from the screen and to present "Hollywood's world as a realm apart, a self-contained universe, melodramatic but fundamentally benign."<sup>120</sup> The Production Code of 1930 simply made this conception of the function of cinema extremely clear, for the preamble to the document as drafted by Father Daniel Lord stated precisely: "Theatrical motion pictures . . . are primarily to be regarded as ENTERTAINMENT."<sup>121</sup>

The definition of this function of cinema was worked out in the interactions between elite groups and the film industry in the preclassical period, when a gradual and complex marginalization of conceptions of the social functioning of cinema existing beyond the category of “entertainment” took place. Clearly this was a process that had profound and long-lasting effects on the shaping of mainstream American cinema.

Let us be clear here: in the years 1905 to 1915 the definition of the function of cinema and of what mainstream cinema might be was to some extent malleable, and film industry entrepreneurs were open to different practices that might make profits (for example, the production and exhibition of nonfictional boxing films or so-called educational films). After about 1915, though, a clear hierarchy was set in place because of the regulatory and commercial imperatives delineated here. Initially this can be glimpsed in the establishment of film programs from the teens onward that hierarchized the importance of genres, in particular rendering nonfiction and physical comedy as support “acts” to the main feature.<sup>122</sup> Even more substantively though, this process of hierarchization shunted alternative conceptions of cinema to the margins of the mainstream, particularly apparent with politically orientated filmmaking, be that propaganda, the avant-garde, or “documentary,” and visible also in relation to genres associated with the “exploitation” of sexuality.

Exclusionary practices had somewhat contradictory effects here, though, for this process of marginalization also opened up the space for alternative conceptions of cinema to coalesce into institutional structures. Exploitation cinema is a case in point. Eric Schaefer has shown how an exploitation genre that skirted the borders of the moral, that was frequently premised on rather dubious claims to educational veracity, and that was exhibited outside the circuit of mainstream cinemas emerged in the post-World War I period principally because the mainstream industry’s self-definition as peddlers of moral entertainment opened a space for alternative conceptions of entertainment.<sup>123</sup> As with the exploitation cinema, a contradictory nexus of marginalization and production played a role in the establishment of an avant-garde defined in terms opposed to the stylistic norms and apolitical nature of mainstream cinema and also to the consolidation of preexisting nonfictional cultural practices into a genre linked to rhetorics of social persuasion and labeled in the 1920s—in an “expressive and euphonious” term that may well have pleased *Nickelodeon*—“documentary.”<sup>124</sup> Documentary, exploitation, propaganda, and the avant-garde embodied different conceptions of the function of cinema and were accordingly cast off from the mainstream cinema, pushed to what Christian Metz designates as “the marginal

provinces, border regions . . . [of] the feature length film of novelistic fiction."<sup>125</sup>

Policing the social functioning of cinema in the preclassical period thus had profound effects on the emergence and consolidation of classicism in the teens, on the functioning of classicism for many years thereafter, and on the production and marginalization of alternatives to that classicism. No doubt this process was never complete, though, and although it was far-reaching and extremely important, it was also partial and uneven. "[N]o single logic," Richard Maltby reminds us, "has entirely shaped production decisions in Hollywood," and as Charles Musser observes, we must maintain a sense of continuity among practices and forms "if we are to understand transformation as a dialectic process."<sup>126</sup> Filmmaking evidently addressed social problems about subjects such as sexuality and politics in the later 1910s and 1920s (and beyond), and contestations over particular films and over the effects of cinema have continued throughout its history. Even so, this filmmaking and the continuing contestations over cinema took place in a fundamentally delimited configuration of conceptions of cinema, against the backdrop of a by and large accepted definition and delineation of the social function of mainstream cinema. Post-1915 contestations over cinema do not aim to produce a fundamentally different cinema but are instead skirmishes within accepted parameters. Never again would there be so much at stake in the struggle to define, construct, and regulate cinema as there was in 1907 and at various points up until the midteens. I delineate the precise parameters of those struggles and their effects in the chapters that follow.

## 2 Scandalous Cinema, 1906–1907

Looking to capitalize on the notoriety of a widely reported scandal and murder trial, the management of the Grand Opera House in Superior, Wisconsin, sought in April 1907 to show *The Unwritten Law: A Thrilling Drama Based on the Thaw-White Case* (Lubin, 1907). A brief account in the “Motion Picture Notes” section of *Moving Picture World* reported that the “house was packed with an audience two-thirds women” and that “as the first picture was thrown upon the screen . . . the interest was intense.”<sup>1</sup> The exhibition got no further, though, “for at this point the chief of police walked upon the stage and dramatically stopped the show,” standing between the audience and the screen, physically blocking out the images of the scandalous film.<sup>2</sup> Such literal policing continued in other places in relation to *The Unwritten Law*, the exhibition of which was stopped also in Houston, Worcester, Wickford, North Kingston, and New York City.<sup>3</sup> Exhibitors showing the film were convicted of “imperiling the morals of young boys” and “impairing the morals of young children.”<sup>4</sup> Like other examples of the concerns emerging about the effects of moving pictures on vulnerable and dangerous populations after the rapid expansion of nickelodeon venues throughout 1906, this surveillance of public performance and space was consistent with Anglo-American legal traditions and with a broad formation of policing as governance that was predicated on a conception of the links between morality and public order.<sup>5</sup>

Later in the same month as the events in Superior, Wisconsin, *The Unwritten Law* was singled out in the influential “crusade” against moving pictures and nickel theaters by the *Chicago Tribune* as symptomatic of the demoralizing effects of “sensational” moving pictures and the new nickelodeons.<sup>6</sup> The newly formed trade journal *Moving Picture World* saw the film as a lightning rod for developing regulatory concerns about moving

pictures and nickelodeons: “The exhibition of this one film alone has been the cause of more adverse press criticism than all the films manufactured before, put together, have done. It has the police active in trying to put down the nickelodeon. It has been the cause of action by church, children’s, purity and other societies and these societies have branded all alike, taking the old saying, ‘Birds of a feather flock together.’”<sup>7</sup> Considered by film historian Charles Musser as “the most controversial American film produced prior to the establishment of the Board of Censorship in 1909,”<sup>8</sup> *The Unwritten Law* was the first film in the United States to be widely constructed as “scandalous,” singled out as a specific focus for the “moral panic” about dangerous representations and spaces that emerged in early 1907. Located in this context, the film became central to the beginnings of a discursive cordon sanitaire separating licit filmic representations from the illicit; it was caught up in important formative debates and decisions both about the boundaries of what could be seen on cinema screens and of what cinema could be used for.

No doubt scandal surrounded the film largely as a consequence of its subject matter, for it was based on a widely reported sexual scandal, murder, and subsequent trial that had generated extraordinary press attention and social commentary from summer 1906 through spring 1907. Integral to the reporting of the scandal and the subsequent trials were discussions of “perverse” sexuality, of the corruption of children, and of the “moral turpitude” of an urban heterosocial leisure world.<sup>9</sup> As is often the case with the reporting of scandals, the events of the Thaw-White case were rendered symptomatic of more widespread moral problems, in this case as a symbol of a broader social transformation characterized by an unraveling of social discipline and “good citizenship” and a moral malaise that was, for many, typical of “modernity” more generally.<sup>10</sup> A crucial focal point for moral debate, the scandal can be seen as a privileged site for examining the broader “regulatory space” on the eve of the nickelodeon boom, particularly in relation to debates about sexuality and leisure.

Legal debates ensued about the propriety and legality of the *public* discussion and representation of *private* immorality in the sensational press.<sup>11</sup> Even more pressing than this was the question about the morality and legality of the filmic reenactment, or “faked up representation,” of the scandalous events in *The Unwritten Law*, which was produced and exhibited while the murder trial was going on in early 1907 and which was—police bodies aside—widely seen by those troublesome, vulnerable, and dangerous audiences frequenting the new nickelodeons.<sup>12</sup> Through a process of discursive slippage that was characteristic of the metonymic and serial struc-

ture and function of “scandals” and “moral panics,” the film effectively became a critical “transfer point” of knowledge and power in the construction of cinema more generally as a problem of morality and governance.<sup>13</sup> Considered in this way, a network of connections can be traced among the issues animating the initial scandal, the debates over its filmic reenactment, and the larger “moral panic” about moving pictures and nickelodeons in early 1907. These regulatory concerns were thus enmeshed with both the broader processes of middle-class self-definition and activism and the debates about populations and governance so central to the regulatory discourses and practices of the period.

Located as a discrete event that illuminated the broader “regulatory space” from mid-1906 to early 1907, the reporting of the Thaw-White scandal is traced out in detail here because it provides a crucial intertext for our understanding of the precise discursive contexts that animated the developing contestation over cinema in late 1906 and early 1907. The chapter accounts for and analyzes the filmic reenactment of the scandal, the police and reform response to the film, and the nascent regulatory concerns about cinema more generally throughout 1907 that culminated with the establishment of a police censorship board in Chicago in late 1907, a sort of rationalization of the actions of the police chief in Superior. Later, the constitutionality of the board was upheld in the Illinois Supreme Court in a decision that set an important precedent for the legal measures considered in the following chapters. In this chapter, then, I begin to describe and explain the interaction between diverse reform responses to cinema, the responses of the film industry, and the actions of state authority.

#### AN ABYSS OF MORAL TURPITUDE

Late in the evening on 25 June 1906, Harry K. Thaw shot and killed the prominent architect Stanford White at the opening of a new musical review at Madison Square Garden, New York City. “The flash of that pistol,” the *New York Evening Journal* wrote four days later, “lighted up the depths of degradation, an abyss of moral turpitude,” or what the *New York World* later termed a “festering moral ulcer.”<sup>14</sup> Lit up as they were in the glare of the sensational press between summer 1906 and spring 1907, the endless pages of detail about immorality and perversity that surfaced exemplified the broader “visible explosion” of discourse on sexuality in the period and the process by which “sex became a ‘police’ matter.”<sup>15</sup>

The story of immorality and degradation illumined in this “business of

exposure” was briefly this:<sup>16</sup> in 1901 the well-known architect Stanford White had pursued the sixteen-year-old model and “chorus girl” Evelyn Nesbit after seeing her onstage as part of the well-known *Florodora* chorus.<sup>17</sup> She had visited White’s apartment one night during their brief relationship and was allegedly drugged and raped. Later Nesbit married millionaire Harry Thaw; after three years of wedded life Thaw shot and killed White, allegedly claiming as he did so, “He ruined my wife” (figure 2).<sup>18</sup> His trial for murder ran from 23 January 1907 to 12 April 1907 and concluded with a hung jury. He was tried again in early 1908 and committed to the Matteawan insane asylum.<sup>19</sup>

Every detail of the scandal as it appeared after the murder and during the trial was seized on by the press and shaped into a long-running *melodrama*, enfolded in part into a narrative of the “ruination” of an innocent lower-class girl by a sexually rapacious male villain and the subsequent rescue of the girl by the chivalric hero. Villainy was coded by class, for elements of the press made much of White’s elevated social status and of what the *New York Times* called “the doings of the fast set.”<sup>20</sup> Evidently this story type, or “mode of emplotment,” was particularly fitting for commentators,<sup>21</sup> suggesting that, as Peter Brooks has shown, melodrama can provide a “fiction[al] system for making sense of experience” that expresses “an anxiety brought by a frightening new world in which the traditional patterns of moral order no longer provide the necessary social glue.”<sup>22</sup> The shaping of the real-life scandal in the press along fictional lines responded to these wider concerns about the fragility of *moral order* and *social glue*, positioning the scandal as a liminal moment or “fault line” in the cultural contestation that characterized the period more widely.

In exposing the “sexual underside” of the new urban heterosocial leisure world characterized by musical reviews, cabaret, vaudeville, and cinema, the scandal provided what cultural historian Lewis Erenberg describes as “the most dramatic evidence that urban life was changing,” making visible the “re-orientation away from the confinement, restrictions, and conventions of urban industrial society and the code of gentility” that accompanied the rise of a culture that was increasingly geared toward youth and “sensation.”<sup>23</sup> Located as symptomatic of the transformation in both a discourse of sexuality and in the cultural figuration of urban life and leisure, the scandal became a site for discourse about three main issues: stories of sexual immorality and “perversity”; anxieties about both the vulnerability and agency of women and children in the public sphere of commercialized leisure; and concerns about “pleasure” superseding traditions of self-restraint, hard work, respectability, and “character.”



Figure 2. Postcard, Stanford White, Evelyn Nesbit, and Harry Thaw, 1907. Courtesy Bill Douglas Centre for the History of Cinema and Popular Culture, University of Exeter.

Issues of pleasure and respectability were central to the reporting on the scandal. Initial press reports focused on Stanford White's alleged immorality and debauchery, producing what *Harper's Weekly* termed a "post-mortem defamation" via a "trial by newspapers."<sup>24</sup> This included details of White's alleged relationships with young actresses, his role in bachelor parties where naked women emerged from cakes, and the exoticism of White's design for Madison Square Garden and his apartment within it (the central tower of the building was based on Seville's Giraldo Tower and was topped with a statue of a naked Diana, chaste goddess, that had drawn criticism for its public display of female nudity).<sup>25</sup> Much of this commentary counterpoised White to prevailing notions and traditions of "character" that were, historians Kevin White and Gail Bederman suggest, an "essential component of bourgeois manhood," involving above all else "the cultivation of morals."<sup>26</sup> Clearly this cultivation was absent in what *Harper's Weekly* termed White's "pursuit of pleasure," a pursuit that "sacrificed the lasting and the far removed good to some slight and momentary gratification."<sup>27</sup> Likewise, a Reverend Samuel C. Deans was quoted asserting that the case exposed the "utter degeneracy which exists among a large class of our richest Americans. The revolting indulgence in vice is the direct result of the American habit of worshipping gold instead of character."<sup>28</sup> Leisure and the pursuit of pleasure was evidently troublesome to prevailing traditions of morality. One group of purity reformers, for example, argued that "the com-

mercialization of practically every human interest in the past thirty years has completely transformed daily life. . . . Prior to 1880 the . . . main business of life was living. . . . The main business of life now is pleasure."<sup>29</sup> White became a highly visible symbol of this perceived pursuit of a new pleasure ethic.

Commentators suggested that this "pursuit of pleasure" was diametrically opposed to the ideals of domesticity that were central to prevailing structures of moral order and class alignment. Important here was the press commentary focusing on White's apartment in Madison Square Garden, for not only was this residence separated from the home he shared upstate with his wife and son, but it was literally a part of the leisure environment of the city and was designed by White himself in an exotic and seemingly immoral fashion (the apartment had a red velvet swing in the lounge and a bedroom lined with one hundred mirrors).<sup>30</sup> It was known, the *New York World* noted, as his "*pleasure house*."<sup>31</sup> Likewise, a theater manager was quoted as saying that White's "playhouse was *the* playhouse"—the conjunction of pleasure, play, and house is significant.<sup>32</sup> Hinting that within the Madison Square Garden tower "Stanford White lost sight of the chaste Diana," the *New York World* archly noted that the reputed rake's "love of the beautiful produced two sides to his nature; he loved only the chaste and beautiful in his work, he loved only the gay and beautiful in his *pleasure*."<sup>33</sup> Living between these two worlds, split between the ideals of his well-respected work and the immorality of his pleasure, White was a highly visible member of what the *New York World* called "the high flying bohemian set" and was accordingly considered in much of this discourse to be diametrically opposed to notions of "character" and to ideals of domesticity.<sup>34</sup> Looked at in this way, White—and, indeed, the scandal more generally—was positioned as "other" to the classed terrain of the "respectable."

Linked concerns about pleasure, respectability, domesticity, and the corruption of women and children informed the widely reported rhetoric at Thaw's first trial in early 1907. Thaw's defense attorneys sought to establish White as immoral and perverse in order to justify Thaw's actions. Much of this argument focused on the age disparity between the middle-aged White and the sixteen-year-old Evelyn Nesbit, who was insistently figured in this rhetoric (and in that of the press) as "childlike."<sup>35</sup> Lead defense attorney Delphin Delmas claimed: "He [White] established himself in a paternal attitude to the family . . . this man old enough and more than old enough to be her father. He was a man whose wife and son awaited him at home at that hour. Is it necessary for me to recite the details of that night? The child was plied with drugs and became the victim of the man who had

posed as her protector.”<sup>36</sup> Hinting at a terrible perversity—an incestuous rape—Delmas’s rhetoric chimed with the wider discourses on “child abuse” and with what economist and historian Viviana A. Zelizer terms the “sacralization” of childhood in the period, the shift toward a new sentimental norm for childhood.<sup>37</sup> Cultural and economic changes helped produce a new sense of the child as an emotional and affective asset beyond fiscal considerations, Zelizer argues, leading to the formation of notions of “child abuse” and the organization of institutions like the Society for the Prevention of Cruelty to Children.<sup>38</sup>

Located in this context, the relentless references to Nesbit’s youth in the press reporting and the rhetoric of Delmas make more sense. Indeed, it had emerged fairly quickly after the murder that Thaw had actually approached well-known reformer and “moral policeman” Anthony Comstock, founder of the Society for the Suppression of Vice, to investigate White’s relationships with young actresses.<sup>39</sup> Comstock had gone so far as to hire rooms next to White’s in Madison Square Garden to gather evidence against White and to approach the Society for the Prevention of Cruelty to Children to urge them to investigate White further.<sup>40</sup> Not able to gather sufficient evidence, Comstock still came forward after the murder to declare himself “morally convinced of White’s guilt,” claiming later, “I know that Stanford White was a human monster. . . . I know that White made a business of ruining young girls.”<sup>41</sup> Like Comstock, many commentators used the scandal to express concerns about the dangers of public space for young women and for children—issues that would be important also to the concerns expressed about nickelodeons.

Lawyer Delmas’s rhetoric on the perversity of White and the innocence of Nesbit cleared the grounds for the melodramatic representation of Harry Thaw as a chivalric avenger of children and the domestic more generally. Here Delmas claimed that Thaw “struck as the tigress strikes the invader who comes to rob her of her young. He struck for the purity of the home.” In this way Thaw was portrayed as a maternal protector (a “tigress”) opposed to White’s paternal perversity. He could then be portrayed as the upholder of the code of gentility and respectability that White so dramatically contravened. In his widely discussed summation to the jury Delmas suggested that Thaw suffered from a species of insanity he labeled “dementia Americana.” Linked together with a discussion of rationality and agency in the trial, issues I will come back to later, Delmas claimed that this temporary “species of insanity” was connected to the belief that “every home [is] sacred”: “It is that species of insanity which makes a man believe that the honor of his wife is sacred; it is that species of insanity which makes him

believe that whoever invades the sanctity of that home, whoever brings pollution upon that daughter, whoever stains the virtue of that wife, has forfeited the protection of human laws and must look to the eternal justice and mercy of God."<sup>42</sup>

Evidently Delmas was drawing on a legal tradition of an "unwritten law" defense that had proliferated throughout the nineteenth century, which justified an outraged husband, father, or brother in killing the alleged libertine who had been sexually intimate with the defendant's wife, daughter, or sister.<sup>43</sup> Legal defenses relying on this unwritten law were certainly anomalous by 1907, but the currency of this stance on respectability and the sanctity of the domestic sphere was widely visible in responses to the trial. In a poll in the *New York Evening Journal* between the end of June and August 1906, for example, readers were asked whether Thaw was justified, and therefore innocent, or guilty. The final count favored Thaw: 2,054 thought him guilty, 5,119 innocent.<sup>44</sup>

Even so, the representation of Thaw as chivalric man of character was not uncontested. It emerged fairly quickly after the murder that he, too, had previously engaged in acts the *New York Times* deemed "of a character unfit to describe." The paper went on to note, however, that Thaw had bought a dog whip and "lashed [a woman] into submission."<sup>45</sup> This rhetorical structure was perfectly consistent with the dynamic of incitement and containment evident in the reporting on the scandal. The tabloid newspaper *New York World* ran the headline "Thaw a Drug Fiend and Degenerate" just two days after the shooting, and further details of Thaw's immorality and "perversity" soon emerged in the press, even more so at his second trial in early 1908, as well as in the autobiographies written by Evelyn Nesbit Thaw in 1914 and 1934.<sup>46</sup> Looking to undercut the discourse of character and chivalry that underpinned the defense strategy, District Attorney William Travers Jerome mockingly referred to Thaw as a "veritable Sir Galahad."<sup>47</sup>

Like Jerome, other commentators saw Thaw as immoral and perverse, and in much of the commentary this perception became closely linked, as it was with White, to his class status. Thaw was an extremely wealthy socialite who had inherited his money from his father's industrial enterprises. Leading a life "unbridled from the cradle to the cell," Thaw, the *New York World* observed scornfully, "had nothing to do with his life but devise ways of spending money of his father's that he did not earn."<sup>48</sup> Likewise, a German doctor lecturing on Thaw the day before the verdict in Thaw's first trial characterized Thaw's condition as one in which will and reason had been weakened by wealth and hereditary nervous disorders. "Idleness in the children of the rich," he observed, "the lack of proper education, the gratification

of every desire for whatever can be purchased are powerful factors in producing criminality."<sup>49</sup>

Both White and Thaw thus emerged in the glare of press interest as perverted subjects, a sense that was closely tied to the class status of the men in a way that was consistent with the melodramatic framing of the scandal. The mobilization of discourses of perversity here can be seen perhaps as one example of the process of an "implantation of *perversities*" delineated by Michel Foucault.<sup>50</sup> The perversities of the two men were presented as "the kind of deviation by which sexuality was ceaselessly threatened," as they were produced as "other" to that broader hegemonic constellation of economic, familial, social, and political relations that were articulated by, and as, the dominance of the middle class.<sup>51</sup> No doubt the shaping of the scandal as melodrama was the best way of articulating this process of class definition via discourses of sexuality and perversity, for the insistent moral legibility of melodrama frequently plays a cultural role in mediating sociopolitical change and is often associated with the self-definition of a middle class and with the articulation of a "powerful new *populist* consciousness."<sup>52</sup> Rhetoric by the press, reformers, and attorneys at the trial thus sought to delineate moral norms through outlining the characters and actions of these two men. White and Thaw were positioned in this discourse as symbolic of a classed configuration of perversity, used to mark off the boundaries of acceptable behavior in a structure of melodrama that quite clearly responded to, and participated in, broader anxieties about the transformations of sexual and moral norms, about "pleasure" superseding "character" and domesticity, and about perversity and class. Decadent masculinity was figured as beyond the pale of norms of respectability and class.

#### THE ETERNAL QUESTION

Evelyn Nesbit Thaw was also a critical figure in the proliferation of discourses around the scandal. A picture of Nesbit drawn by Charles Dana Gibson when she was an artists' model, entitled "The Eternal Question" and in which Nesbit's hair is arranged as a question mark (figure 3), was widely reproduced during the scandal, offering an embodiment of the confusion that circulated around the figure of Nesbit. Gibson's pictures, historian Kevin White has noted, "broke away ever more decisively from the restraints of the cult of True Womanhood and of Victorianism in general" and have been seen by scholars as symbolic of shifts in the roles of women and of an extension of sensual expressivity in the culture at large.<sup>53</sup> Evelyn Nesbit was a visible



Figure 3. Portrait of Evelyn Nesbit titled "The Eternal Question," by Charles Dana Gibson, 1903. Courtesy Bill Douglas Centre for the History of Cinema and Popular Culture, University of Exeter.

figure in this movement, emerging in mid-1906 as a critical contested site around which debates about gender roles and about the positioning of women in the emergent heterosocial sphere of leisure practices were waged.

Her role in the scandal was a source of considerable speculation in the press. Two positions were delineated: on the one hand, Nesbit was seen as a "ruined" innocent "girl" (much play was made of her age again in this context); on the other hand, she was regarded as a corrupt and lying "public woman" who had brought the scandal on herself because of her own desire for pleasure and her role in the public eye (as artists' model and chorus girl). Like the accounts of Thaw's actions debated at the trial, a series of arguments about agency developed here, counterposed not to irrationality, however, but to vulnerability.

Exemplary of this division in the construction of the role and meaning of Nesbit were the positions outlined by the prosecution and defense at the first trial of Thaw. "The schoolgirlish appearing wife," the *New York Times* reported on the day after Delmas's plea of dementia Americana, who had been "depicted under cross examination [by District Attorney Jerome] as a typical member of the Tenderloin colony of New York," now "saw herself depicted in a halo of virtue."<sup>54</sup> Delmas's strategy was quite clear, as he attempted to present Nesbit as virtuous in order to bolster his suggestion that Thaw's actions were a tolerable protection of his wife and of domesticity more generally. His summation initially centered on another telling of Nesbit's life story, told countless times in the wake of the murder and again in

detail when Nesbit testified at the trial. Here as elsewhere the narrative began with the death of Nesbit's father, the dissolution of an idyllic domestic past that plunged the family into poverty and forced Nesbit to work outside the home to protect that home.<sup>55</sup> "She drudged," Delmas claimed, "giving her scant dollars to the support of her mother and brother."<sup>56</sup> In this narrative Nesbit was forced into the realms of the working class, her life as a model and chorus girl protective and not destructive of the domestic. Consistent with the melodramatic rhetoric surrounding the scandal and trial, this strategy aimed also to counter a widely held suspicion that, as the *New York World* phrased it, "the stage girl is different from her *domestic* sister" and that, as one of the jurors at the trial would subsequently remark in an interview, a career on the stage could be seen "as an expression of revolt against the enforced routine of home life."<sup>57</sup>

Not surprisingly, District Attorney Jerome emphasized this position, representing Nesbit as a typical immoral member of the "Tenderloin," the vice district of New York City. Under cross-examination Nesbit admitted to an operation that was "not countenanced by all surgeons" (the implication being an abortion),<sup>58</sup> Jerome theatrically produced a diary Nesbit had written after she had met White, where she had written of other girls, "[T]hey will never be anything except, perhaps, good wives and mothers," next to which she had drawn a picture of a nun with three exclamation marks. "This child," Jerome remarked, "[had] no desire to be a good wife or mother."<sup>59</sup> Widely circulated postcards pictured Nesbit in provocative poses (see figures 4 and 5). Jerome's strategy in relation to Delmas's was summed up by a comment in the British paper the *Daily Telegraph*: "Public conscience may condone private vengeance for such acts, but the hearth that has been violated must have been kept tolerably clean before."<sup>60</sup> As had been the case with the rhetoric surrounding Thaw and White, a series of issues about domesticity, respectability, and "perversity" were central to the delineation of the significance of the scandal and the trial.

Evelyn Nesbit's career as an artists' model and chorus girl meant that she inhabited the commercial world in which the breakdown of class- and sex-segregated entertainments of the nineteenth century enabled the emergence of women as consumers. Lois Banner has shown how chorus girls were represented as exemplifying a "new, modern concept of womanhood, one that involved independence, sexual freedom, and an enterprising, realistic attitude towards a career."<sup>61</sup> Visible in particular in the redefinition of working-class female sexuality, this discourse had far-reaching implications for the formulation of middle-class femininity in the later 1910s and the 1920s through the figure of the "flapper" and the "new woman."<sup>62</sup> Indeed, Nes-



Figure 4. Composite photograph postcard, Evelyn Nesbit and Harry Thaw, 1907. Courtesy Bill Douglas Centre for the History of Cinema and Popular Culture, University of Exeter.

bit would herself remain in the public eye through the teens, going on to become a vaudeville and cinema star, perhaps—as E. L. Doctorow’s novel *Ragtime* suggests—America’s first sex symbol and certainly a visible part of that shift in the cultural figuration of woman from, in historian Joanne Meyerowitz’s words, “Victorian angel to sexy starlet.”<sup>63</sup> Nesbit and the scandal that surrounded her were important to this contested transformation. Her discursive positioning prefigured a series of debates about the pleasures and dangers of female and youth consumption and agency that would come to center on the new nickelodeons proliferating in urban space.

Legal debates about Nesbit’s testimony extended beyond Thaw’s trial: President Theodore Roosevelt raised the issue of whether verbatim reports of the testimony ought to be excluded from the United States mails, and a number of newspapers in Louisville, Kentucky, were indicted under local legislation for printing obscenity when they reproduced “part of Mrs. Thaw’s evidence . . . describing the manner in which Stanford White drugged and seduced her.”<sup>64</sup> The trial in Louisville can stand as an important example of legal debates about obscenity and the rights of the press and other media immediately preceding more extensive debates about the role of cinema. In the trial Judge Carroll focused attention on the public dimension of the harm of “obscene materials”—defined as those presenting an “immorality” linked to “sexual impurity” that “have a tendency to corrupt the morals and deprave the taste of the people”—but ultimately ar-



Figure 5. Postcard, Evelyn Nesbit, 1907. Courtesy Bill Douglas Centre for the History of Cinema and Popular Culture, University of Exeter.

gued that the case was of legitimate public interest and the press had a right and duty to report it.<sup>65</sup> “The Thaw trial was a notable criminal case,” the judge noted; “the public everywhere were interested in all of its details—and the newspapers of the country, to gratify this desire, however depraved it might have been, published full accounts of it.”<sup>66</sup> Even though newspapers were not “privileged to publish all the filthy and disgusting details that are developed by the evidence in court proceedings,” and despite widespread concerns about the tabloid or “yellow press,” Judge Carroll still asserted that a distinction needed to be made between the application of obscenity law to daily newspapers as opposed to books and pamphlets and other pictorial representations.

Evelyn Nesbit’s account of rape and of White’s perversity became, then, a charged moment in both the trial and in the ongoing delineation of “obscenity,” becoming a test case for the application of obscenity laws to newspapers that drew a clear distinction between a newspaper as an impartial purveyor of “the news of the day” and other forms of fiction. Later, the representation of the rape would become central to the film made of the scandal and to debates about that film. Even more important, the establishment of a distinction between the press and moving pictures, which were at this

time still frequently considered “visual newspapers,” would be critical to the definition of the social function of cinema.<sup>67</sup>

Lighting up “an abyss of moral turpitude,” the press and the legal process set up the competing stories about the scandalous events and their causes in a way that clearly spoke to broader moral contestations about perversity and masculinity, character, class, and leisure space and about women and children and the public sphere, contestations that took place as nickelodeons and moving pictures were proliferating. In turn, the events occasioned public debate over the propriety of the public representation of private immorality and about the rights of newspapers and other forms of communication. Legal consideration of these questions at the precise moment cinema was emerging is an important site to understand the tradition from which the legal contestation over cinema emerged. It is toward further account of the moment of cinema’s emergence and proliferation that I now turn, beginning by examining the cinematic encoding of the Thaw-White scandal in early 1907 and its negotiation of the cultural locale delineated thus far, asking: how did the film construct the scandal? How did it intervene in the broader public scandal? And how did the film’s form and style intersect with emerging questions about the social uses of film? Later in this chapter I will turn to the response to the film and to the broader regulatory discourses and practices focused on cinema from early 1907.

#### FAKED UP REPRESENTATION

Late in 1906 the Thaw-White scandal was literally turned into a melodrama when a play based on the scandal entitled *The Millionaire’s Revenge* was produced. Advertised as a “play true to life founded on the New York Madison Square Garden tragedy,” and as “a sensational melodrama, depicting the life of the chorus girl and rich clubmen of New York,” the play featured three main characters named Harold Daw, Emiline Hudspeth Daw, and Stanford Black (a heavily overdetermined shift from White to Black).<sup>68</sup> It documented several lurid episodes in the life of Black that seem loosely based on tales of White’s “perversity.” Villainous Black, for example, is introduced in a scene in which he brutally knocks down a blind old man who was begging to know what had become of his young daughter. Later, he organizes a party where several scantily clad women emerged from a large cake. It is possible that Harry Thaw’s mother financed the play.<sup>69</sup> The *New York World* commented that it certainly seemed to have been created for the “purpose of making public sympathy for Thaw.” “Throughout the melodrama,” the

paper went on, “the sentence ‘The unwritten law will prevail!’ is repeated,” and at the close of the play Daw declares from his cell: “No jury on earth will send me to the chair, no matter what I have done or what I have been, for killing the man who defamed my wife. That is the unwritten law made by men themselves, and upon its virtue I will stake my life.”<sup>70</sup> Linked “closely to the story as it appeared in the newspapers,” the play would seem to be part of the tradition of sensational melodramas, which were frequently based on topical subjects.<sup>71</sup> “[N]o one can say modern melodrama is anything but up to date after seeing ‘A Millionaire’s Revenge,’” one review noted, and from what can be gathered from the few remaining descriptions of the play it appears that it followed the episodic structure of such theater, linking a number of key scenes to create a succession of arresting highlights.<sup>72</sup> Reviewers noted that “sensation followed sensation” in this “vivid bit of melodrama.”<sup>73</sup>

The film *The Unwritten Law*, produced in early 1907, had much in common with this play. As in the play, the character of Stanford White is also called “Black.” Likewise, the refrain “the unwritten law” forms the title of the film, and in it Thaw is released at the close on the basis of such a law. The structure of the film leans also toward the episodic in representing a succession of “attractions” drawn from the sensational reporting of the scandal.<sup>74</sup> Intertextual connections between the play and the film support recent accounts of the intertextual legacy of “sensational” melodrama for film.<sup>75</sup> Important here also is a continuity of traditions of representing “sensational” and topical “newsworthy” events. Like the “up-to-date” melodrama of the stage, filmic reenactments of such events as battles, executions, assassinations, and so on proliferated in the early years of the twentieth century alongside a sense of cinema as a “visual newspaper.”<sup>76</sup> Looser distinctions between fact and fiction were tolerated in this filmmaking tradition.<sup>77</sup>

Links between Nesbit’s sensational testimony and the film, and the sense of film as a visual newspaper, were made more explicit by the timing of the film’s production and release. Copyrighted on 4 March 1907, the text was probably conceived and produced in the wake of Nesbit’s widely reported and—as we have seen—extremely controversial testimony at the trial of Thaw on 7 and 8 February. In a brief review of the film *Variety* commented: “The record of the trial has been combed over with an eye to its *sensational* points and these have been strung along into a fairly complete exposition of Mrs. Harry Thaw’s testimony.”<sup>78</sup> Likewise, Fred Balshofer’s memories of working with Siegmund Lubin, the producer of the film, also suggest that the film was based on newspaper accounts of the scandal. Recalling Lubin’s practice of reenacting boxing films by reading out summaries of the rounds

for stand-in boxers to fight, Balshofer wrote: “We then sold the picture as the actual championship fight with real boxers—we even made a one reel picture portraying the shooting of Stanford White by Harry Thaw.”<sup>79</sup> Lubin’s advertisement for the film began also by noting that “everybody has read the Thaw-White case which for many weeks filled the pages of all the daily papers throughout the country.” Lubin even suggested, erroneously, that Evelyn Nesbit Thaw starred in the film.<sup>80</sup> The specific timing of the film thus suggests that it was the image of the *ruination* of Nesbit at the hands of the “villainous” White, central to Nesbit’s widely reported and contested testimony, that was critical to the filming of the scandal.<sup>81</sup> Nesbit’s account of the rape had figured for many as the kernel of the scandal and its representation would become central to the film. It would also be important to reform concerns about the film, about the filmic representation of immorality, and about the complex question of the functioning of cinema as regards the press.

Linked together with no immediate relation of action and situation between shots, the “sensational points” of the story were initially presented as a series of one scene/one shot tableaux that operated as a “sort of micro-narrative, showing a single location and a complete action” with the relation only of distant chronology.<sup>82</sup> The film thus begins with Nesbit/Hudspeth, accompanied by her mother, posing for an artist as White/Black enters, shifting to a scene of Hudspeth learning to dance, to a scene in a cafe where Thaw/Daw strikes Black, and from there to a scene in Black’s apartment. Important shifts in register take place here, though, that are intriguing and merit attention.

After the intertitle “The Velvet Swing” Hudspeth is swung up and down by Black on the swing in the lounge of his apartment (figure 6), ultimately puncturing a parasol Black had placed in the door frame. Hudspeth and Black then move to the back of the frame to go upstairs to the top left, emerging after the title “The Boudoir with 100 Mirrors” in the said room from the right. Both scenes depict highly charged moments in the testimony of Nesbit, which were singled out in the press as images of a secret, decadent, and perverse otherworld.<sup>83</sup> Their representation in the film would become central to the reform concern generated around it and to debates about the boundaries of what could be seen on cinema screens. The *Chicago Tribune*, for example, observed that “the stairway scene . . . is made the most prominent feature of this faked up representation”; at some exhibitions of the film it was suggested that these scenes be removed.<sup>84</sup> In the film, as Hudspeth examines the pictures on the back wall of the boudoir, Black is seen in the foreground drugging her drink (figure 7), after which she collapses and he places



Figures 6–7. *The Unwritten Law: A Thrilling Drama Based on the Thaw-White Case* (Lubin, 1907). Frame enlargements courtesy Motion Picture Department, George Eastman House.

a screen around her prone body and the shot ends. Shifting register from what precedes it, there is a significant change here, in the terms proposed by Tom Gunning, from a narrative of noncontinuity to a narrative of continuity, with the observance of screen direction making clear the temporal and spatial relations between the two shots.<sup>85</sup> A hierarchy of knowledge set up in the foregrounding of Black's putting a drug in the drink shifts slightly away from a structure entirely reliant on spectatorial foreknowledge; at the same time it adds another layer of emotion to the film as the rape becomes narrativized in ways that engage the viewer through suspense. Indeed, this sequence will also provide the motivation within the film for Daw's murder of Black. This is a shift toward a centering of filmic discourse and narrative development on the psychological motivation of characters, glimpsed later when Daw is in prison and dreams of kissing his wife, his mother, and then of murdering Black (this is matted onto the prison wall).<sup>86</sup> This device suggests that Daw's actions were motivated by his love of his wife and his mother, so that the murder becomes, as it did in Thaw's legal defense a month after the film was made, a strike "for the purity of home, for the purity of American womanhood."

As we have seen, the scene of rape was a central and contested issue at the trial of Thaw. Lead defense lawyer Delmas introduced it to demonize White and to gain sympathy for Thaw's actions, and District Attorney Jerome attempted to stop the introduction of this information, arguing that it was irrelevant to the murder. After a complex series of negotiations, details of the alleged rape were allowed as evidence on the grounds that Nesbit had allegedly told Thaw about it. "Whether the acts took place or did not take place," the judge noted, "is an immaterial matter," for what was relevant was that Thaw believed it to be true and thus acted "accordingly."<sup>87</sup> Jerome directed the jury that this testimony was admissible "purely to show that the mind of this defendant was affected by the narration of these facts by the witness, and . . . the rules of evidence do not permit the District Attorney to controvert the facts as ever having occurred."<sup>88</sup> Jerome's obvious frustration at this resulted in numerous interjections during Nesbit's testimony and a series of arguments about the distinctions between narrative and truth, fiction and reality, and the effects of narrative that would perhaps not be out of place in the pages of an article on literary or film theory. Indeed, the arguments about agency, about how we are influenced to commit criminal acts by stories we believe to be true, and about spectatorial emotional engagement would become central to the reform concerns about cinema and to the development of the efforts to gather knowledge about the

effects of cinema in the journalistic and social science work on cinema delineated in the following section.

Linked closely to Nesbit's testimony, *The Unwritten Law* shows the "truth" of her testimony and depicts the rape as fact and in so doing engages the audience in the act in a way that prefigures the (alleged) engagement of Thaw that would lead to his murder of White. Audiences are invited to become emotionally involved in these events, as the film sets up a structure of "allegiance" with Daw and as these textual devices mirror and make clear Delmas's strategy.<sup>89</sup> And this invitation becomes more apparent as the film continues. After an intertitle reading "After the marriage and the invitation to the roof garden," a party of four leave what appears to be a church, with the next shot showing Hudspeth and Daw in a room (Hudspeth looks at her hand as if at a wedding ring, which suggests that the two shots are temporally connected). A man enters; the three leave in a car and arrive at the roof garden, where, after Black enters behind them pointing and laughing at Daw, Daw gets up and shoots him. This sequence of four shots maintains a sense of continuity, although it certainly deviates from the actual events, telescoping the wedding with the night of the murder—temporally gluing together events that in reality were separated by years—as the film shifts away from a narrative entirely reliant on audience foreknowledge to a self-sufficient and partly fictionalized narrative. Furthermore, by speeding up the events the film makes Daw's actions more believable and sympathetic, thus enhancing the structure of allegiance. In the film, it seems, he married Hudspeth, discovers her "ruination," and kills Black. In reality, or let us say in the versions of reality surfacing at the trial, Nesbit told him about the rape before they were married and three years later Thaw killed White.

Cinema historians have noted that a shift in the register of films from shots conceived of as self-contained wholes to shots as parts of a more complex sequence is characteristic of the hybridity of narrative construction in early 1907. For Charles Musser, this hybridity is visible in a film like *The Teddy Bears* (Edison, 1907), which begins as a fairy tale but shifts halfway through to a realistic chase comedy, juxtaposing two referents in a shift between genre and, crucially, between a narrative reliant on audience foreknowledge—where, as Noel Burch has shown more generally, shots function as "illustrations for a narrative which is elsewhere"—and a self-sufficient narrative whose outcome was not necessarily known and that could engage the viewer through surprise and suspense.<sup>90</sup> A similar shift is visible in *The Unwritten Law*, particularly in the section that follows the

shooting and the series of events well known to many through the massive exposure the scandal received in the press. After the title “The Tombs Prison” Daw is seen in a cell, where he is visited by Hudspeth and a woman whom I take to represent Thaw/Daw’s mother. They leave; he falls asleep and dreams of the murder, is awakened, and enters the courtroom. After a fairly lengthy and difficult-to-follow courtroom scene, where Hudspeth is on the witness stand, Daw is acquitted and walks down the center of the courtroom, arm in arm with his mother and Hudspeth in a shot that seems almost to suggest the reaffirmation of Hudspeth and Daw’s marriage. Produced and exhibited while Thaw was on trial, the film thus closes with Thaw/Daw walking free, acquitted on the basis of the “unwritten law” of the film’s title. Going further than the play *The Millionaire’s Revenge* in actually representing Thaw’s acquittal, the film thus moves over into a self-sufficient narrative that engages the viewer through suspense and surprise and intervenes as “propaganda” on Thaw’s behalf. A month later Delmas invoked a similar defense in his closing address to the jury; the representation preceded the real, as Delmas’s plea was enmeshed with the melodramatic and sensational intertext that was visible in the press, in the play, and in the film.

Intertwined with these questions about narrative structure and hybridity are issues of the connections between nonfictional and fictional forms, for the shift away from audience foreknowledge toward a self-sufficient narrative will frequently be a shift toward fiction and away from events that have some basis in the real (as it is in *The Teddy Bears* and in the final section of *The Unwritten Law*). Even though the “sublimation of actuality” into fiction is a process that had reached a certain industrial centrality by 1907, when it is clear that fictional dramatic subjects outweighed the production and exhibition of actualities and nonfictional subjects, this was a transitional process, producing a cinema split in some respects between fact and fiction and between different conceptions of social function.<sup>91</sup> Visual newspaper traditions had waned but the validity of conceptualizing cinema as a visual newspaper had not been resolved. Indeed, Philip Rosen has recently argued that the new emphasis in commercial filmmaking on fictional narrative had to “negotiate the desire to see actuality through the moving indexical image, to presuppose it and compromise with it.”<sup>92</sup> Located somewhere between the terms of its subtitle—being both a *thrilling drama* that is *based on the real*—*The Unwritten Law* is symptomatic of its positioning in this moment of transition and negotiation. Instability in films’ fictionalization of real-life events would become important to concerns about this film and to the broader regulatory concerns about the social functioning of

cinema beginning at this moment, particularly concerns with the relationship of cinema to the press and to notions of “obscenity.”

It is apparent also that a shift in narrative construction within the film takes place in close conjunction with the representation of sexuality, for it is Black’s rape of Hudspeth that triggers a shift from a narrative of noncontinuity to a narrative of continuity and that furthermore pushes the film toward a form of filmic discourse centered on individual psychology (a psychology more generally insistently figured widely in the culture as based on the “truth” of sexuality). Engaging with sexuality pushes the film toward a particular narrative configuration, helping produce a form of filmic discourse that would shortly become hegemonic in mainstream American cinema. Here, at the stuttering outset of this discourse, there emerges a curious interplay between an implantation of sexuality (and “perversity”) and immediate regulatory concerns about that implantation, a “spiral” of incitement and containment that would go on to become central to the interaction between commercial imperatives and regulatory discourses and practices for some time thereafter.<sup>93</sup> Emerging from a specific explosion of discourse about sexuality and perversity, *The Unwritten Law* is symptomatic of the positioning of cinema within the context of a broader cultural intensification and “visible explosion” of discourse on sexuality and the functioning of cinema both as a significant part of the various productive discourses of sexuality and as a site for the exercise of the will to knowledge about sexuality.<sup>94</sup>

Last in this section on the film let me propose that it is possible to precisely discern in the form and style of the film two issues that would become central to the developing concerns about cinema: first, the film’s meshing of fact and fiction and its “sensational” representation of controversial real-life events; second, the development of a form of storytelling predicated on the emotional engagement of spectators. In one of those curious oddities of the historical archive these two issues informed a fascinating response to the film—from Harry Thaw himself! After somehow seeing the film, Thaw instructed his lawyer to complain about the inadequacy of its representation of the events in which he had participated. When a New York exhibitor went to trial for showing the film, Thaw’s lawyer read out a statement: “Mr. Thaw has requested me to inform the court that the moving pictures which have just been under consideration are not what they purported to be. He wants it distinctly understood that the picture of his wife is not a good one, and that the other pictures do not show the marriage ceremony as it occurred, nor the principals in it. The same applies to the tragedy on the roof garden.”<sup>95</sup> A consequence of a very peculiar exhibition context and act of reception, this response provides a further example of the film’s

curious positioning in relation to the uncertain boundary of the real and representation: Thaw, emotionally engaged in the original events in such a way as to be led, so his lawyers claimed, to murder, watches those events actually take place, sees himself represented in prison while being in prison, and follows the fantasy resolution of his acquittal. Not satisfied with that, though, his concern is with the realism of the film, with the *dramatization* of his acts and with the film's departure from the real in search of the *thrilling* that was part of broader shifts away from a reliance on intertextual referentiality to self-enclosed fictional diegesis.

Like Thaw, many other commentators were concerned about the "sensationalization" of this film and others and about the emotional engagement of spectators in events represented on-screen. I now turn toward an account of the development and parameters of those concerns.

#### SCHOOLS FOR CRIME

A cycle of "sensational" films proliferated on the eve of the nickelodeon boom, tapping into the "popular sensationalism" then characteristic of sensational melodrama (such as *The Millionaire's Revenge*) and the tabloid press.<sup>96</sup> The cycle became increasingly problematic after the nickelodeon boom, when moving pictures were seen in greater numbers by lower-class, immigrant audiences—as the concerns expressed about the most visible example of this cycle, *The Unwritten Law*, attest. Immediately after its release the film was singled out by the trade press, reform groups, and various police forces as an unacceptable representation. The newly formed trade journal *Moving Picture World* had spoken out against the film as early as 16 March 1907, just twelve days after it was copyrighted. Alongside a brief note announcing the film—which would "show the entire tragic story from the time Evelyn Nesbit was a young girl to the thrilling episodes in the court room"—there was a bracketed paragraph from the journal's editor asserting, "surely there is enough rubbish on the market, without inflicting the public with such nauseous films. We hope the better elements of the public will express their disapproval, and that legal steps will be taken to prevent such exhibitions."<sup>97</sup> Even though the film was extremely popular in many places, creating what the *New York Clipper* described as "a sensation at the theatres and exhibition halls," *Moving Picture World* maintained its stance against the film.<sup>98</sup> Trade journals evidently quickly functioned to police the "respectability" of the business, seeking to marginalize troublesome films and maverick producers.

The exhibition of the film ran into trouble in a number of places and was, as already noted, stopped by police in Superior, in Worcester, and in Houston (in the latter case, despite the exhibitor's offer to cut out the "mirrored bedroom scene").<sup>99</sup> Two exhibitors in New York City were arrested for showing the film.<sup>100</sup> Becoming for many a symbol of the immorality of cinema, the film was frequently singled out for condemnation at the precise moment when a series of reports and investigations were emerging about the recent proliferation of nickelodeons and about the effects of films on audiences and on standards of morality. Evident in many of these reports were concerns similar to those expressed in the response to the Thaw-White scandal itself, notably in relation to concerns about perversity, class, agency, and the positioning of women and adolescents in the public sphere.

A quite specific pivot of reform concern from the scandal, to the film, to cinema more generally is perhaps most immediately visible in the *Chicago Tribune's* influential "crusade" against nickelodeons in early 1907.<sup>101</sup> On 10 April 1907 the *Tribune* discussed at length Delmas's famous closing address at the Thaw trial outlining the condition of dementia Americana. In the same edition an editorial entitled "The Five Cent Theatres" began the crusade by castigating nickel theaters, suggesting that they "minister to the lowest passions of childhood," that they "make schools of crime where murders, robberies and holdups are illustrated," and that "[t]he outlaw life they portray in their cheap plays lends to the encouragement of wickedness. They manufacture criminals to the city streets."<sup>102</sup> Like other publications criticizing the nickelodeons, the *Tribune* viewed the potential usurpation of the role of the school by the nickel theater with considerable unease, for the school was seen by many as the primary instrument of moral formation, of Americanization, and as central to the wider "sacralization" of childhood.

Later the same week the paper extended this crusade against the nickel theaters in an article entitled "Nickel Theatres, Crime Breeders," on the same day that it reported a hung jury in the Thaw trial (the circulation of newspapers was highest on days when verdicts in big murder trials were announced). Nickel theaters, the paper argued, destroy the sanctity of the home in two ways. First, the films they show are "suggestive" (and, furthermore, many of them are of "Parisian design").<sup>103</sup> Here the *Tribune's* list of titles was seen to speak for itself, including *Beware, My Husband Comes; The Bigamist; Gaieties of Divorce*; and so on. Second, nickel theaters destroy the sanctity of the home because the space of the theaters directly opposes that of the domestic space and because they have "invaded" the "residence districts," with their "tawdry facades" and "screaming ragtime" standing alongside the "harassed householder."<sup>104</sup>

The corruption of childhood innocence, the encouragement of wickedness and criminality, the immorality of commercialized amusements and the pursuit of pleasure, the desecration of the domestic sphere—these were familiar themes indeed to those readers engaged in the ongoing rhetoric of the Thaw trial. In a move that highlights this coalescence of reform concerns, *The Unwritten Law* came to occupy a central place in the *Tribune's* crusade. After describing the film at some length, singling out the scenes in White's apartment for particular condemnation, the paper reported on audiences watching the film:

It was noticed that after 4 O'clock the audiences were composed largely of schoolgirls, who came in with books or music rolls under their arms. The interest these girls in short dresses took in the production may be gathered from the fact that they remained sometimes for two or three views of the pictures. . . . A good many grown women got up and went out before the completion of the series. It shocked them. But the girls remained. Around 6 O'clock or just before that hour the character of the audiences . . . shifted again. This time they were composed largely of girls from the big department stores, who came in with bundles under their arms. . . . [T]hey frequently are found talking with men of mature years, whom they could not have met before going to the theatres.<sup>105</sup>

Like Nesbit, the schoolgirls and the young working women were threatened with perverse male desire, either with its representation—and the “seductive” power of the screen—or with its actual presence within the nickel theater (those men of mature years mirroring Stanford White's perversity). In this way those schoolgirls and young working women watching and rewatching the textualization of the Thaw-White scandal were inscribed into a narrative of sexual danger similar to that visible on the screen and in the initial scandal.

Perceptible in many of the initial concerns about nickelodeons was the anxiety that they were dangerous places for women and teenagers. Included here were lurid accounts of women being abducted into “white slavery,” from what one reformer dubbed these “recruiting station[s] of vice,” or stories of nickelodeon managers seducing children (the *Tribune* ran such stories, and the Chicago Vice Commission, for example, reported on a case in which “a proprietor of one of these nickel theatres assaulted fourteen young girls”).<sup>106</sup> White's pursuit of chorus girl Nesbit was an important intertext for these concerns about women and children in public space and about the dangerous immorality and perversity of “men of mature years.” In this way the scandal and the figuration of Nesbit provided one of the dominant ways

of encoding the “dangerous” spaces of heterosocial leisure in the context of broader debates about the shifting topographies of public and private space. The developing critique of moving pictures and nickel theaters thus borrowed from the melodramatic narrative constructed from the Thaw-White case, inscribing cinema into a melodrama of concern focused on pleasure beyond the domestic sphere, perversity, and the place of women and children in the public sphere of leisure. Rhetoric about morality and respectability informing Thaw’s trial and the reporting of the Thaw-White scandal spread outward at this precise moment, encompassing the cultural figuration of cinema. As a number of scholars have argued, scandals are principally intertextual in nature, and “moral panics” are frequently “fundamentally serial,” shifting from topic to topic and assuming an “infinite variety of tone and posture.”<sup>107</sup>

The move from the Thaw-White scandal to the scandal of its reenactment and the moral panic about cinema generated differences in focus and “posture” also, though, for the developing regulatory concerns about cinema came to focus almost exclusively on concerns about the effects of moving pictures and the space of nickelodeons on lower-class and immigrant audiences. Here efforts to gather knowledge about immorality, illicit sexuality, and dangerous pleasure that animated the Thaw-White scandal spread outward from the decadent upper classes and “high flying bohemian set” to include those lower-class and immigrant audiences who had for the first time begun to participate in commercialized leisure activities. Central, though, to both the initial sexual scandal and the moral panic about cinema were the discourses and practices of middle-class self-definition *and* social control. Linked together, the reform and regulatory discourses central to the sexual scandal and to the emergence of concerns about cinema were tied to the pivot of definition and control so central to the regulatory discourses and practices of the period.

Lower-class and immigrant immorality and criminality became central to the concerns articulated about nickelodeons in the series of journalistic accounts and reports about them that flourished initially in midwestern cities.<sup>108</sup> Late in 1906 a clergyman in Chicago claimed that moving pictures “inflame the minds of the younger generation, seriously diverting their moral sense and awakening prurient thoughts which prepare the way for future sin.”<sup>109</sup> A number of newspapers in the city reported these claims, and shortly thereafter the Chicago City Club initiated a report on the city’s nickelodeons that was published in April 1907. The City Club, whose members were drawn from middle-class men, was a civic reform organization,

aiming to bring together those men “who sincerely desire to meet the full measure of their responsibility as citizens . . . who are united in the sincerity of their desire to promote public welfare.”<sup>110</sup> It was one of those voluntary associations that, as Richard Ohmann has suggested more generally, participated in class formation at this moment, creating a class style and elaborating a solidarity of purpose among the middle class.<sup>111</sup> Suggesting that the theaters were “distinctly harmful to the children of the city,” the report focused attention on the immoral environment and the immoral content of many moving pictures and on the “hypnotic” effect of moving pictures on children. The City Club asked the Chicago juvenile courts and probation officers about the effect of moving pictures on the criminality of children, and they similarly reported that “daring hold-ups, shop lifting and murders depicted by moving picture machines were getting the children of the city into trouble.”<sup>112</sup>

Late in 1906 prominent charity administrator Sherman C. Kingsley began an investigation of the city’s nickelodeons, and the results of this investigation were published in leading reform journal *Charities and the Commons* in June 1907.<sup>113</sup> “Evil consequences have demanded the attention of juvenile and municipal courts, probation officers and social workers,” Kingsley noted in his report, before going on to describe penny arcades and nickelodeons as frequently “objectionable.”<sup>114</sup> Kingsley called for the building of more playgrounds in the city’s slum districts to counteract the problematic influence of nickel theaters. Guided in the proper way, Kingsley argued, the child’s “instinct for play” could become a force for “*character building*,” inculcating the correct “social virtues” and allowing “moral growth” to occur.<sup>115</sup> Kingsley’s concern to develop supervised playgrounds for the inner-city youth was part of a broader strategy of progressive reform that was linked, historian Roy Rosenzweig has argued, to new ideas about adolescence and play that were closely connected to anxieties about the urban, immigrant working class.<sup>116</sup> Like Kingsley, play reformers believed that the correct management of the juvenile life cycle and the proper provision of play facilities would socialize children into the roles, behaviors, and values expected of workers and citizens. As I suggested in the previous chapter, early reports on nickel theaters such as those undertaken by Kingsley and the City Club were quite clearly enmeshed with discourses on delinquency that had, as both Anthony Platt and Ian Hacking have suggested, a fairly recent provenance, predicated on discourses about adolescence and concerns about wayward children of an urban lower-class and/or immigrant population.<sup>117</sup>

Concerns about “delinquent” audiences became more explicit when the Juvenile Court Committee undertook investigations of Chicago’s nickel the-

aters. Later investigations by the Juvenile Protective Association (the renamed Juvenile Court Committee) were highly critical of nickelodeons of moving pictures, singling out for criticism in particular those films “of a rather lurid type [that show] criminal adventures,” of which *The Unwritten Law* was a visible example.<sup>118</sup> Nickel theaters emerged as problems in relation to debates about youthful delinquency that were quite closely linked to broader concerns about an ungovernable urban immigrant population.

Reports on nickel theaters and juvenile delinquency frequently posited a model of spectatorship akin to hypnosis, a stance that was subtended by debates in the disciplines of crowd psychology, sociology, and the emerging discipline of social psychology. Linked to the broader intensification of discourse about “agency” in the nineteenth century, this work on “hypnosis” and “suggestibility” proposed that individuals would be capable of being influenced by others in a process that was heightened in relation to images. Hippolyte Bernheim’s 1884 book *Suggestion*, for example, defined *suggestion* as “the production of a dynamic change in the nervous system of a person . . . by another person by means of the calling forth of *representations* or ideas,” and this definition proved influential on other scholars working in both psychology and sociology.<sup>119</sup> Repeatedly in this work, scholars suggested images had a particularly strong effect on the minds of audiences. Gabriel Tarde described *suggestion* as a process of “inter-psychical photography,” the “quasi-photographic reproduction of a cerebral image upon the sensitive plate of another brain.”<sup>120</sup> Likewise, Gustave Le Bon, writing just before the Lumière brothers unveiled the cinematograph, declared that the suggestible crowd was formed by images: “Crowds being only capable of thinking in images are only to be impressed by images. It is only images that attract them and become motives for action. . . . Nothing has a greater effect on the imagination of crowds than theatrical representations.”<sup>121</sup> Le Bon went so far as to suggest that cinema should be placed in the hands of government.

Late-nineteenth-century work on hypnosis, suggestibility, and crowd psychology influenced sociologist Edward Ross, whose books *Social Control* and *Social Psychology* defined the parameters of the debate in the United States.<sup>122</sup> Ross argued that suggestibility was variably inflected with respect to age, race, ethnicity, and gender so that “suggestibility is at its maximum in young children,” “suggestibility is not a weakness produced by civilization,” and “[h]ysteria, the mental side of which is exaggerated suggestibility, is much more common in women than in men.”<sup>123</sup> Given the long-standing association of independence with worthy citizenship, suggestible subjects were frequently configured as beyond the borders of the citizen ideal.

Even more critical, groups that were most vulnerable to suggestibility were also likely to imitate what they saw. “Suggestion and imitation,” Ross wrote, “are merely two aspects of the same thing, the one being the cause, the other effect.”<sup>124</sup> Work on delinquency in particular emphasized this. William Healy, in a book entitled *The Individual Delinquent*, included several case studies concerning children influenced by the movies to commit criminal acts, concluding that “[t]he strength of the powers of visualization is to be deeply reckoned with when considering the springs of criminality. . . . It is the mental representation of some sort of pictures of himself or others in the criminal act that leads the delinquent onward in his path.”<sup>125</sup> Imitation, suggestion, and delinquency were critical concepts in the emerging perceptions of the effects of moving pictures at this moment and were tied to broader debates about agency, adequate socialization, governance, and the social body. Local questions about audiences were linked with broader questions about subjectivity, rationality, and moral responsibility.

Imitation and suggestibility were also frequently perceived as heightened in relation to the “realism” of images and stories. Commenting on the City Club’s findings that images of criminality were being imitated by children, *Moving Picture World* noted, “Here was a little too much realism of the wrong sort.”<sup>126</sup> Links between “realism” and “suggestibility” became increasingly central to conceptions of how moving pictures affected audiences. Writing in 1910, Frank Woods—who wrote under the pseudonym “the spectator”—suggested, “The strange power of attraction possessed by motion pictures lies in the semblance of reality which the pictures convey. . . . [B]y means of the impression of reality the motion picture exerts on the minds of the spectators an influence akin to hypnotism or magnetism by visual suggestion.”<sup>127</sup> William Healy claimed that the effect of moving pictures on spectators was given “added force” because of “the concrete issues which are represented.”<sup>128</sup> Likewise, psychologist Hugo Munsterberg linked suggestibility to the “fundamental suggestion . . . that it is life which we witness” and cautioned that “the intensity with which the plays take hold of the audience cannot remain without social effects. . . . The associations become as vivid as realities, because the mind is so completely given up to the moving pictures.”<sup>129</sup> Later these arguments would support claims that films should be distanced from “reality,” should not realistically portray criminal or immoral events, or indeed real-life events like the Thaw-White scandal or the “white slavery” scare, because of fears about the emotional engagement of the suggestible and imitative audiences who frequented nickelodeons.

Kingsley's report and the report of the Chicago City Club were informed by this widely disseminated rhetoric about socialization, agency, and the malleability of subjectivity and in turn helped inform the crusade of the *Chicago Tribune* against nickel theaters and moving pictures, beginning at the same time as the close of the Thaw trial and of the publication of the City Club's report. Nickel theaters, the *Tribune* argued, should not be "tolerated for a day in a community where truth and honor and good citizenship are urged as worthy of the aspirations of childhood."<sup>130</sup> Concerns about class and ethnic difference were central here, for the *Tribune* described the audience as made of "children of the poor," those "families of foreign laborers" who "formed the early stage of that dangerous second generation which is finding such a place in the criminals of the city."<sup>131</sup> Here the paper's concerns were exacerbated by the strikes that had rocked the city between 1904 and 1906 and by what journalist George Kibbe Turner described as a "wave of crime" that swept across the city in late 1906 and early 1907.<sup>132</sup> Located in this context, the audiences singled out by early reports about nickelodeons and by the *Tribune* were part of a population that seemed to many middle-class Americans at the time visibly out of control.

Clearly concerned about the class and ethnic base of the audience at nickelodeons, the *Tribune* and other reports and accounts of audiences at this moment were concerned also to delineate clearly the differing effects of moving pictures and moviegoing on boys and girls (as we have seen, the paper's concern about *The Unwritten Law* was based partly on the film's perceived effect on the morality of schoolgirls and young working women). Like other accounts of the period, the paper suggested there was a split here, with moving pictures either "seducing" young girls and teenagers into sexual immorality or influencing young boys to commit criminal acts (and concern was expressed that Harry Thaw would come to be seen as a hero for young boys).<sup>133</sup> Two examples from the paper illustrate this. The paper reported that one fourteen-year-old boy "walked out from these pictures of murder and robbery, which he gazed at for hours, with his eyes popping and his mouth open in wonderment, went home, secured his father's revolver and walked on the street ready to kill." Accosted by the man he attempted to rob, the boy was taken to juvenile court, where "[h]is mother wept for him and promised to teach him better." His sentence was suspended "on the promise that he would never again venture into a 5 cent theatre."<sup>134</sup> It is worth noting, in passing, how a concern with the effect of moving pictures on the body of moviegoers—here, the "popping" of the boy's eyes may be

linked with a set of debates about how moving pictures strain and damage the eyes—was linked to deeper moral problems. Like the classic trope of melodrama, bodily effects represent a more fundamental moral malaise, linking the body of the spectator to problems in the body politic.

Likewise, the paper asserted, “There were a number of little girls who should have been playing with dolls who were ruined through going to the nickel theatre.”<sup>135</sup> This was illustrated with an example of a girl who had run away from home with a man named Sorenson, the manager of a “tawdry” nickel theater on Halstead Street:

The young girl was 15 years old and from all the evidence in the case was of pure and unsophisticated mind until she began looking at the scenes of love and passion supplied by Sorenson’s tawdry place. Day by day she frequented the place. . . . The man saw her pretty cheeks and fresh young face and laid his nets. Finally there came a day when she did not go home and when the police found her she was living in a room in a West Madison street hotel with Sorenson.<sup>136</sup>

The choice of story type the *Tribune* uses here, its mode of emplotment, would certainly be familiar to those engaged in the ongoing rhetoric of the Thaw trial: a “pure” girl of “unsophisticated mind” is seduced both by “scenes of love and passion” and by a sexually rapacious male villain, coded here, however, in terms of ethnic otherness (at least, the report is clear that the nickel theater was on Halstead Street, a street densely populated by different immigrant groups). Like the account of the young working women and the schoolgirls watching *The Unwritten Law*, this story linked anxieties about actual seduction with the figurative seduction of the cinema screen. The story was concluded with a suitably disciplinary coda: “she wept when she saw her mother,” the paper reported, “but it was too late. She was sent to the Erring Women’s Refuge.”<sup>137</sup> “Erring” beyond the domestic led directly to “ruination.”

Reports and accounts of nickelodeons beginning from late 1906 focused principally on young lower-class and ethnic audiences in explicitly gendered ways. Such audiences were part of population groups deemed troublesome by many middle-class Americans, and cinema was identified as a problem of governance in close connection with wider fears about criminality, sexual immorality, and urban disorder. In this sense cinema became a crucial contested site within the broader policing of working-class and immigrant heterosocial cultures. In the following two sections I consider these clashes further, describing the divergent reform responses to cinema emerging at this moment, the initial trade press response to the regulatory concerns about cinema, and the actions of state authority.

## UPLIFT THEATERS

Early in May 1907, just a month after the publication of the Chicago City Club's report on Chicago's nickel theaters and in the midst of the *Tribune's* ongoing campaign, a special meeting of the City Club was convened to debate its findings and to work out a policy for regulating the nickel theaters.<sup>138</sup> Juvenile court judge Julian Mack argued for the complete exclusion of children under thirteen, a stance already articulated by the *Tribune* and in other accounts of the nickel theater business. Arguing against this, Jane Addams, founder of the settlement house Hull House, suggested that moving pictures and nickel theaters could be "made instructive" and thus productive of social virtue and moral growth if they were more closely supervised by the police and by citizen groups.<sup>139</sup> Addams placed this potential cinema in a category reserved by others like Kingsley for playgrounds and parks, as a potentially positive force in the shaping of citizenship and of the urban environment. Addams's position was symptomatic of the growing interest of some middle-class progressive reformers in seeking to shape and use cinema as a way to reform mass audiences.

The debate in the City Club effectively mandated two distinct and opposing positions on the nickel theater business. On the one hand, a coercive approach aimed, if not at the total eradication of nickel theaters, at least at prohibiting children from visiting them. On the other hand, there was an attempt to shape the institution in such a way as to help mold a population of cultivated, moral, and socially responsible citizens. Nickel theaters became part of a broader debate about effective strategies for dealing with the widely perceived sense of a moral and social breakdown in the early twentieth century, split between what historian Paul Boyer terms "negative and positive environmentalist" responses to urban reform.<sup>140</sup>

Aside from the articulation of different regulatory strategies, the meeting had visible and productive effects on the nickel theater business, for Addams subsequently set up a model nickel theater within the confines of Hull House and sought to use moving pictures as part of the remit of settlement work. Such work was closely associated with a growing female reform activism in the late nineteenth century and with the goal of assimilating immigrants into American society and culture.<sup>141</sup> Education was seen as central to this assimilation of immigrants, to the securing of a new American "type," and to the creation of "good citizenship." In her autobiography, *Twenty Years at Hull House*, Addams wrote generally of the aims of Hull House in this respect: "It seemed to me that Hull House ought to be able to devise some educational enterprise which should build a bridge between

European and American experience in such ways as to give them both more meaning and a sense of relation."<sup>142</sup> For a brief period moving pictures were seen as one element of this strategy of acculturation and education, as Addams (and others) sought to imagine and produce a cinema beyond the realms of the almost-established commercial aesthetic.<sup>143</sup> Even the *Chicago Tribune* commented positively on the use of moving pictures "in connection with settlement work."<sup>144</sup> Labeled by the *Moving Picture World* "the uplift theatre," the model theater opened at 335 South Halstead Street on 16 June 1907 in relatively close proximity to Sorenson's "tawdry" nickel theater and others showing films like *The Unwritten Law*, the two perhaps existing for a few months side by side as diametrically opposed understandings of the social function of cinema.

Addams's uplift theater can be linked with the tradition of the exhibition of "educational" moving pictures by traveling exhibitors such as Lyman Howe and Burton Holmes to middle-class audiences in venues like the Brooklyn Institute of Arts and Sciences.<sup>145</sup> Exhibitions such as these frequently focused on the nonfictional and tapped into the broader validation of the nonfictional within middle-class cultural practices in the late nineteenth century. Like these exhibitions, the uplift nickel theater showed principally actualities and travel pictures, interspersed with lectures, and "stories with moral lessons" and "happy domestic situations," but it differed in that it targeted working-class and immigrant children as part of a strategy of inculcating "better" taste.<sup>146</sup>

"Educational" films were validated more generally from this moment on, with an emergent sense that this educational role could be moved to center stage in the cinematic institution as a whole, with the nickel theater in effect becoming like a school. After the close of the experiment of the uplift nickel theater Addams praised the educational potential of cinema: "It is unfortunate that the five-cent theatre has become associated in the public mind with the lurid and unworthy. Our experience at Hull House has left no doubt in our minds that in time moving pictures will be utilized quite as the stereopticon is at present, for all purposes of entertainment and education, and that schools and churches will count the films as among their most valuable equipment."<sup>147</sup> Lyman Howe, a well-known traveling exhibitor, likewise asserted in January 1907 that "[t]he day is not far distant when every schoolroom will have its moving picture machine. . . . I have the same forecast from more than 500 teachers who now realize the educational possibilities of the animated camera."<sup>148</sup> Far from being schools of crime, the argument ran, moving pictures and nickel theaters were valuable adjuncts to the school, that institution seen by many as the primary instrument of moral

formation and Americanization. Film exchanges began to shift the content of their lists, resulting in a revival of the scenic picture accompanied by a travel lecturer.<sup>149</sup> Rhetoric about the educational potential of cinema, and about its potential use in schools, began here as a central strategy for some progressive reformers and for many within the film industry to counter the bad press garnered by “sensational” subjects such as *The Unwritten Law*.

Yet the uplift theater closed after just three months. Gertrude Britton, the manager of the theater, blamed the closure on the theater’s inability to obtain suitable films. “Funny pictures of the kind desired by Hull House theatre,” she noted, “were difficult to find. Those of the ‘slap stick’ and vulgar variety were numerous but not wanted.”<sup>150</sup> Industrial strategies already in place by 1907 helped influence a stance on the social functioning of cinema, effectively working against the validation of “educational” films and marginalizing a conception of cinema as a force for education and acculturation. The proliferation of nickelodeons and the association of cinema with a popular commercial culture had indeed led to the marginalization of traveling exhibitions directed at middle-class audiences.<sup>151</sup> Later Addams would also acknowledge the difficulties Hull House had in reorientating film away from its commercial focus on entertainment, concluding that the efforts of Hull House in regard to nickel theaters were better served by assisting the Juvenile Protective Association in its campaign to gain knowledge about nickel theaters and thus improve them.<sup>152</sup> In her 1909 book, *The Spirit of Youth and the City Streets*, Addams argued that cheap and immoral moving pictures shaped “the moral codes and the data from which [children] judge the proprieties of life” in a way that was consistent with the widespread concerns about the suggestible effects of moving pictures articulated from early 1907 onward.<sup>153</sup> It is worth noting also that such work had a general and long-term influence on the beginning of large-scale mass communications research. The Payne Fund Studies on moving pictures and youth, which were carried out principally by scholars associated with the department of sociology at the University of Chicago in the late 1920s, deliberately harked back to Addams’s *The Spirit of Youth and the City Streets* in their projected volume entitled *Boys, Movies, and City Streets*.<sup>154</sup> A published volume of the Payne Fund series of books, entitled *Movies, Delinquency, and Crime*, paid close attention to the question of the immigrant spectator in an analysis of the connection between cinema and delinquency, recalling the emergence of that concern from 1907 on.<sup>155</sup>

Even given the problems noted by Britton and Addams, there may actually have been a more prosaic reason for the demise of the uplift theater than the unavailability of films: it was, it seems, unable to attract a large

enough audience. *Moving Picture World* had a report in June on the theater that, significantly, quoted children disaffected with the show: “Bet your life its pretty, all right, and it lasts good and long and dat *Cinderella* show was swell, but its slow to make a go of it on dis street,’ he said. ‘Things has got ter have some hustle. I dont say its right, but people like to see fights ‘n’ fellows getting hurt, ‘n’ love makin’, ‘n’ robbers, and all that stuff. This show here ain’t even funny, unless those big lizards from Java was funny.”<sup>156</sup> Even supposedly malleable children voted with their feet. The uplift theater itself was seemingly not immune to the industry’s commercial aesthetic, and it sat uneasily next door to Sorenson’s “tawdry” nickel theater as the films shown failed to compete with the excitement of *The Unwritten Law*. Commercial and regulatory strategies interacted in complex ways, necessitating compromise strategies by reformers and by the film industry.

#### EXHIBITIONS OF CRIME

While the Hull House experiment in noncommercial and nontheatrical exhibition was in progress, *The Unwritten Law*—replete with hustle, fights, fellows getting hurt, and sex—was banned by police in Chicago.<sup>157</sup> Likewise, two exhibitors in New York City were investigated by the New York Society for the Prevention of Cruelty to Children after showing *The Unwritten Law*, described by a Superintendent Jenkins as “lewd and disgusting.”<sup>158</sup> Arrested and tried, the exhibitors were found guilty of “imperiling morals” and “impairing morals” and fined \$100. Shifting its attention from the actual actions of Stanford White, the society had evidently pursued the textual traces of White’s actions, further evidence of the convergence of concerns about the “sacralization” of children visible both in the Thaw-White scandal and in the developing moral panic about cinema. Losing patience with the film as a consequence of these investigations and the broader concerns expressed about *The Unwritten Law*, *Moving Picture World* blamed it for the reform concerns developing about cinema. “The exhibition of this one film alone has been the cause of more adverse press criticism than all the films manufactured before, put together, have done,” the journal claimed; furthermore, “[t]here is nothing to elevate, nothing to entertain, or any good lesson to be gained in its exhibition.”<sup>159</sup>

Looked at as an example of the early attempts by the film industry to figure out what was appropriate entertainment for a mass audience and to deflect regulatory concerns, this response of *Moving Picture World* is intriguing. “Elevating” films were frequently praised from this moment on

by a film industry anxious to reposition its cultural status in the face of emerging regulatory concerns about cinema. Even so, it is worth noting that “to entertain” is constructed in *Moving Picture World’s* complaint as a positive goal, clearly divorced from the scandalous or the “sensational.” A similar perspective on the instructional and entertaining was more widely visible. For example, in January 1908 *Moving Picture World* reprinted an article from the *Cleveland Plain-Dealer* that lamented the proliferation of immoral moving picture shows. The article stated that “such exhibitions as these should certainly be prohibited. They teach no good lesson, and they do not even furnish amusement.”<sup>160</sup> In a review of another Lubin film in 1909 the journal called the film “a Lubin which seems to be somewhat uncalled for. . . . The photography is good and to a certain extent the picture may interest those who are thoughtless but there is a certain degree of delicacy which should be observed about such matters that is plainly violated here. The picture serves no useful purposes. It is not *instructive* and cannot be called *entertaining*.”<sup>161</sup> Part of the film industry’s response to the developing regulatory concerns was to initiate a stance on the validity of the “instructional” and the “entertaining,” a stance that I will trace out in the following chapters.

Locating the problem of cinema in the discrete film text, *Moving Picture World’s* stance on *The Unwritten Law* sought also to block the metonymic slippage central to, for example, the *Tribune’s* critique of the film as symptomatic of the immorality and danger of the whole institution of moving pictures and nickel theaters (the principle, as *Moving Picture World* had phrased it, that “‘Birds of a feather flock together’”). Isolating the single text emerges in the trade journal’s response as a strategy to defuse the broader reform impetus. *Views and Film Index* suggested something similar, foreseeing at the beginning of 1908 that

[t]here will be no more immoral or criminal pictures put out and an effort will be made to push as vigorously as possible such pictures as are *elevating* and *instructive* as well as *amusing*. Geographical, classical, pure comedy and similar lines will be followed with a touch of mystery and spectacular as well. It is a matter of record that the only failures of consequence in the business are the result of such subjects as the Thaw trial and the French creations.<sup>162</sup>

Initiating a semiotic rather than physical policing, this stance would become increasingly central to efforts to usher in a self-regulation of the industry. In effect, these debates about reception produced strategies of containment that effectively split between, on the one hand, a physical intervention at the site of representation—made most obviously by the police walking onto

the stage and stopping films—and, on the other hand, a process of regulating films prior to exhibition that can be done centrally (and also a process of regulating nickel theaters through a whole array of professional discourses and practices on the safety and hygiene of the theaters).<sup>163</sup> Emerging at this moment in 1907 is, I believe, a shift from a literal policing of the cinema, as seen, for example, in Houston, Worcester, Superior, and so on, to a metaphorical policing that emerged in censorship institutions and self-regulatory strategies.

Later in the same month that the uplift theater closed down, and just a month after the debate about moving pictures and nickelodeons at the Chicago City Club, Alderman John Z. Uhler proposed to the Chicago City Council an ordinance that would require police censorship of all films to be shown in the city of Chicago. It was initially regarded as an unusual extension of regulatory powers. “The question involved in this ordinance is a novel one,” Assistant Corporation Counsel Cassels wrote to Uhler, for the ordinance “is in advance of the usual legislation regulating and controlling places of amusement,” and work on the police power of the states suggested that it “may be regarded as prohibited by the spirit of the Constitution.”<sup>164</sup> Even so, Cassels proceeded to downplay this potential constitutional problem by suggesting that “amusements” cannot be protected on free speech grounds and by pointing to preexisting legislation that allowed the city council “[t]o license, tax, regulate, suppress and prohibit” amusements.<sup>165</sup> Nickelodeons could, it was argued, be inscribed into these preexisting regulatory powers, and moving pictures could not claim the protection of the free speech guarantee of the First Amendment.

Leaving aside the broad issues about free speech and the limits of police power, Cassels saw the “novelty” of the ordinance lying principally in its shift of regulatory focus from building regulations to the regulation of morality. “It must be admitted,” he wrote, “that the ordinance under consideration places the morality and decency of the pictures exhibited in five cent theatres and penny arcades on the same ground as the Municipal Code now places the safety and healthfulness of the building in which such exhibition is held.” Legislation prior to this had been “for the purpose of seeing that the buildings are safe and healthful,” whereas “the present ordinance is designed to make sure before the license is granted that the exhibition shall be clean and *decent*.”<sup>166</sup> At stake in the censorship ordinance was an extension of regulatory powers to the regulation of cinema as a category of “amusements” and to the regulation of the “decency” of exhibitions—in effect, the construction of a new regulatory arena for the emergent cinema that shifted

from the policing of the safety of public space to the policing of the morality of representations.

Assigned to the committee on judiciary matters, the report recommending passage of the bill was submitted four months later, and the city council voted and passed the measure on 4 November, setting in place the first functioning censorship board directed solely at moving pictures and nickelodeons in the United States. Stating its intent to prevent “the exhibition of obscene and immoral films . . . of the class commonly shown in mutoscopes, kinetoscopes, cinematographs and penny arcades,” the ordinance set up a board of censors drawn from the police to view all films to be shown in the city. “It shall be unlawful for any person, firm or corporation to show or exhibit in a public place or in a place where the public is admitted anywhere in the City of Chicago any picture or series of pictures . . . without first having secured a permit therefore from the Chief of Police of the City of Chicago.”<sup>167</sup> Exhibitors or film exchanges had now to submit an application for a permit to screen a film for exhibition and then send a copy of the film to the police board of censors to be screened. A censoring of representations like this rather than public performances made sound practical and economic sense, for it was clearly easier to ban such films as *The Unwritten Law* than to police the separate screenings of the film at scattered sites of exhibition by placing police bodies between audiences and screens. Shifting focus to a policing of representation, the censorship ordinance marks an important moment, and innovation, in the development of a structure of governance for cinema.

Linking policing with the governance of morality was not unusual in the United States. Reformer Raymond Fosdick’s comparative study of European and American police forces had suggested in 1920 that “[n]owhere in the world is there so great an anxiety to place the moral regulation of social affairs in the hands of the police” as in the United States.<sup>168</sup> Later historians have similarly suggested that regulating morality was part of the profound influence of what Robert Fogelson calls “the catchall tradition of American policing,” linked as it was to a broader regulation of the urban environment through such activities as suppressing vice, curbing juvenile delinquency, and looking for missing persons.<sup>169</sup> Likewise, Sidney Haring has suggested that police work in the late nineteenth century “consisted of patrolling the city for deviations from middle-class standards of public order” and that popular leisure practices frequently came to function as sites of intervention for the making of professionalized police forces.<sup>170</sup> A police censor for moving pictures—the state regulation of morality and public order—suggests

the longevity of this tradition of regarding the literal policing of morality as central to social control and urban governance.

Late in 1908 a legal case sought to work out the constitutionality of the police censor board and, by implication, the constitutionality of other censor boards directed at moving pictures. Exhibitor Jake Block had been denied a permit for two films, *The James Boys in Missouri* (Essanay, 1908) and *Night Riders* (Kalem, 1908), and had appealed the decision to the Illinois Supreme Court. Lawyers working for Block argued that the basis in Illinois state law for Chicago's censorship ordinance described the regulating of amusements in general, as well as the suppression of "obscene or immoral publications, prints, pictures, or illustrations," yet the ordinance in question applied only to "the exhibition of pictures of classes and kinds commonly shown in mutoscopes, kinetoscopes, cinematographs and penny arcades."<sup>171</sup> The censorship ordinance thus unconstitutionally discriminated against the exhibitors of moving pictures, it was claimed, making a distinction between moving pictures and other forms of commercialized amusements. In particular, they argued that the ordinance drew an unfair distinction between cinema and the theater, for whereas the films were disallowed, "certain plays and dramas were being performed in certain playhouses in the city of Chicago of which the pictures were reproductions of parts."<sup>172</sup> The lawyers launched an intriguing line of defense: the films, they claimed, were based on the "American historical experience" and thus could not be challenged on the grounds of immorality and obscenity. From this perspective the basis of the films in historical actuality, in nonfictional discourse, protected them from concerns about morality and obscenity—as it had, for example, for those newspaper proprietors charged with obscenity in reproducing details of Evelyn Nesbit's testimony at the Thaw trial.

Chief Justice James H. Cartwright dismissed these claims in the Illinois Supreme Court in early 1909. It was the purpose of the law, Justice Cartwright asserted, "to secure decency and morality in the moving picture business, and that purpose falls within the police power."<sup>173</sup> Notions of "decency," "immorality," and "obscenity" were central to this power, and although it is "doubtless true," Cartwright noted, that there are differences as to what is immoral or obscene, "the average person of healthy and wholesome mind knows well enough what 'immoral' and 'obscene' mean and can intelligently apply the test to any picture presented to him."<sup>174</sup> Cartwright's logic assumed a universal subject of moral judgment.

Even though the ordinance focused solely on moving pictures, Cartwright noted, it did not necessarily license other immoral representations; furthermore, there is something specific to the regulation of moving pictures—

the audience. “On account of the low price of admissions,” Cartwright claimed, nickel theaters “are frequented and patronized by a large number of children, as well as by those of limited means who do not attend the productions of plays and dramas given in the regular theaters. The audiences include those classes whose age, education and situation in life especially entitle them to protection against the evil influence of obscene and immoral representations.”<sup>175</sup> He thus concluded that exhibition of the pictures “would necessarily be attended with evil effects upon youthful spectators.” A concern about the effects of moving pictures on children and those rather enigmatically characterized as “of limited means” that had animated the development of reform concern in early 1907 and led to the establishment of the police censor board was central also to the establishment of the board’s constitutionality. Discourse creates institutions that come, in turn, to sustain those discourses. Important precedents were set here, paving the way for the proliferation of municipal and state censor boards from this moment on.<sup>176</sup>

Responding also to the claim that the films depicted “experiences connected with the history of the country,” Cartwright suggested that it did not follow that they were “not immoral” since they “necessarily portray exhibitions of crime.”<sup>177</sup> Representations of history in moving pictures—at least if they portray “crime,” that central motor force of history—could be immoral and obscene and could thus have damaging effects on those of “limited means” and on the children of an urban immigrant population who were seen to be the most frequent moviegoers. Of course, the representation of the history of the United States—or, for that matter, of the immorality of elites—to those groups had critical ideological import. The representation of criminal events in moving pictures was of a different order from their depiction on the stage. For Justice Cartwright clear distinctions needed to be drawn between moving pictures and historical and theatrical accounts. Even though it is almost certain that the two films under consideration—like *The Unwritten Law*—replayed historical actuality through fictional conventions, that they were only retrospectively discursively positioned as straightforward representations of historical actuality, the decision took that positioning at its word and disallowed it.

Untangling the complicated layers of this case is important to our understanding of the interaction between regulatory forces and the film industry at this moment. Allying cinema on the one hand with the theater and on the other with nonfictional discourse—the at least ostensibly nonfictional discourse of history—seemed to offer a way for Block to circumvent the powers of the police censor board. Yet these alliances were de-

nied by the state Supreme Court amid fears about the effects of films on audiences. Film was, this suggested, distinct from the theater and from history and uniquely a target for regulatory concern principally because it could have damaging effects on vulnerable (and potentially dangerous) audiences. The audience base for cinema meant that it could not simply represent controversial real-life events. Cartwright's concerns can be situated clearly in the context of the anxieties about "sensational" films such as *The Unwritten Law* and the effect of moving pictures and nickel theaters on children, and indeed on those of "limited means," that emerged so forcefully in early 1907. Legal discourse is a cultural text, evidently enmeshed with the shared knowledge of the culture traced out in this chapter.

Legal discourse is also, as Pierre Bourdieu suggests, peculiarly performative, having special power to produce social effects.<sup>178</sup> It is these effects that I turn to in the following chapters. Before doing that, though, let me briefly replay the central arguments of this chapter. The regulatory space instantiated by the Thaw-White scandal informed the developing regulatory concerns about cinema in early 1907 in quite specific ways—in relation to discourses about sexuality, perversity, and the dangers of heterosocial spaces—and in relation to the more general dynamic of class definition and assertion. Further, the filmic reenactment of the scandal became a focus for concerns about the boundaries of what could be seen on cinema screens, the effects of particular kinds of storytelling—psychological realism—and about the meshing of fact and fiction, or the commingling of ideals of cinema as a "visual newspaper" with sensational fictionalization. Concerns about moving pictures, film form, and nickelodeons were tied together with broader discourses on the "masses" and on social order and social control. Located in this context, the concerns about cinema also articulated anxieties about social boundaries and the sustainability of democracy.

Knowledge is not transparent, though, and it intervenes in the social world, playing a fundamental role in rendering aspects of existence thinkable and calculable and amenable to intervention. In this way the explosion of different types of knowledge about nickel theaters and their audiences in late 1906 and early 1907 rendered the field of cinema practicable and amenable to governmental regulation, leading clearly to the establishment of the police censor board in Chicago in late 1907 and the legal upholding of its constitutionality in early 1909. Similar boards sprang up in the wake of this legal precedent, and, collectively, such boards had considerable effects on the shaping of film form, style, and content and on the imagined social functioning of cinema. Knowledge about cinema, then, had critical effects on the shaping of cinema.

As this chapter has also suggested, a governance of cinema emerged from a jumble of reform and state forces, from the efforts of settlement workers, play reformers, juvenile court judges, probation officers, and police forces in a way that is characteristic both of the regulatory space of the period and of the “regulation of consumption” in the “modern world,” dispersed as it is—critical legal theorist Alan Hunt suggests—“throughout a range of both public and private forms of governance.”<sup>179</sup> Future developments in Chicago led to the gradual withdrawal of state forces and the subsequent history of the Police Censorship Board in Chicago makes this clear, for in 1909 reformers lobbied for and won the right to institute an eleven-person censor board to sit alongside the police board. In turn, this overt linkage of policing and reform gave way in 1914 to a single board made up entirely of reformers (and this board introduced the “pink permit” system, whereby children could be entirely barred from movies receiving an “adults only” rating, one of the first age-based rating systems in the country and clearly still central to the regulation of cinema).<sup>180</sup> The situation as a whole looked like this: a reform-generated concern about cinema led to direct state action—both walking onstage to stop films and later censoring films—which gradually gave way to reform-led activism and to the self-regulatory strategies of the film industry. A shift, then, from intervention by the state toward an internalization of that intervention, although with the threat of state intervention never far from the surface, set in play a series of interactions among state forces, reform groups, and the film industry that had considerable effect on the still malleable cinema.

### 3 Reforming Cinema, 1907–1909

Legal questions about the Sunday opening of nickelodeons, alongside broader concerns about their safety and morality, prompted the mayor of New York City to call a public meeting to gain “light and leading” on the issues in late 1908.<sup>1</sup> Leading off the discussion in the packed aldermanic chamber, a loose coalition of clergy and members of child-saving organizations “condemned the nickel theatre as a moral sinkhole and a physical deathtrap.”<sup>2</sup> Singling out specific “suggestive” films, these critics of the nickelodeon business focused on the effects of filmgoing on young audiences. Leading “to the corruption of the minds of children,” filmgoing, commentators suggested, “degrades and lowers the tone of . . . future citizenship” and gives rise “to a new form of degeneracy.”<sup>3</sup>

Lawyers for the film industry, film industry entrepreneurs, and sympathetic reformers opposed these familiar arguments about cinema and children in various ways—by calling for a form of censorship similar to the one exercised in Chicago,<sup>4</sup> by suggesting that nickelodeons provided the “moral and educational uplifting” of “the poor,” and by suggesting that nickelodeons effectively countered the deleterious effects of the “rotten” saloon, forcing the closure of saloons and providing safe and respectable “family theatre.”<sup>5</sup> Speaking to this latter point, the lawyer for the film exhibitors at the hearing suggested that the Sunday opening of nickelodeons meant that “many a former drunkard now spent that day in such shows with his family.”<sup>6</sup> Likewise, a supervisor of the Juvenile League observed, “Years ago, the man was in the rum shop on Sunday night. Where do you find him now? Side by side with his children witnessing a moving picture show.”<sup>7</sup>

Leaving this rhetoric aside, the mayor responded the following day by issuing a blanket revocation of common show licenses in the city and an or-

der that future licenses would not allow Sunday shows, citing as he did so concerns about physical safety and about the capability of cinema to “degrade or injure the morals of the community.”<sup>8</sup> Shutting down some 550 nickelodeons on Christmas Eve, this was the pinnacle of repressive state action in the preclassical period, cutting straight to the heart of the film industry in the biggest market in the country. Exhibitors in the city responded quickly to the mayor’s dramatic decision, banding together to form the Association of Moving Picture Exhibitors of New York and succeeding in gaining injunctions against the mayor’s decision that allowed them to reopen for business.<sup>9</sup> A self-regulation of films was mooted to mollify the intensified state, religious, and reform intrusion into the operation of nickelodeons. *Moving Picture World*—perhaps thinking back to the crisis over *The Unwritten Law*—suggested that “the portrayal of sensational crime” and trials, “the lingering over the details [of] such things as murders and executions,” and images of prisons and prison life should be prohibited to make cinema respectable.<sup>10</sup> Shortly thereafter, the Association of Moving Picture Exhibitors approached the sympathetic civic reform organization the People’s Institute to organize a board of censorship to review all films shown in New York City.<sup>11</sup>

Largely staffed by middle-class “progressive” reformers, and at the ground level overwhelmingly by women volunteers, the New York Board of Censorship met for the first time in March 1909. Among the films “reviewed” at the first meeting was *A Drunkard’s Reformation* (Biograph, 1909), a film that told the story of the reformation of a male “drunkard” after he attends a temperance play at the theater.<sup>12</sup> The *New York Herald* commented:

Until the noble young man with the high forehead and the bow tie resolved that rum should never be his master and began life anew in a beautiful apartment papered with wandering rose bushes it seemed that the new Board of Censorship for Moving Picture films . . . would have reason to object to the first films which were spread before them. But the reformation in the case of the young man, whose life was depicted by the screen, was so sudden and so complete that . . . [the] censors gathered in the offices of the Motion Pictures Patents Company found no fault with the first sad, sweet story of the young man’s life. The film which showed the transition from wickedness to grace was one of the 28 which were inspected yesterday at the first session of the censors. . . . *The Drunkard’s Reformation* took the lead early in the session and held it to the close. It seemed a pity that such a nice young man as he whose history was the subject of the picture should have

ever yielded to the insidious highball and the brain stealing rickey. Still, he found no happiness till he threw away his pint flask and took a new hold on life and its possibilities.<sup>13</sup>

Likewise, one of the censors present told a reporter that the film might have been criticized “had it not pointed out a *moral lesson*, and concluded with a *happy ending*” that showed the family, threatened by the effects of alcohol on the father, reunited.<sup>14</sup> “Reform came about in this way,” the censor continued. “The man was prevailed upon to accompany the little child to the theatre and there he saw enacted on the stage the story of his own life. When the curtain fell on the last act, he was a *reformed man*.”<sup>15</sup> Like *The Unwritten Law* two years before, the film was singled out by commentators, not now, though, as symptomatic of the immorality of cinema but instead as indicative of the newfound morality of cinema, heralding the film industry’s “transition from wickedness to grace.”

Looking to respond to widely articulated concerns about the social functioning of cinema beginning in late 1906 and the increasingly repressive practices of state, religious, and reform groups from 1907 onward, film industry entrepreneurs evidently sought several rhetorical and material strategies to sever cinema’s associations with “vice” and reposition cinema as “respectable.” Seen in clear outline during the highly charged and particularly fraught period from late 1908 to early 1909 in New York City, this institutional project included three principal strategies. First, the industry argued that cinema effected the “moral and educational uplifting” of children and “the poor” by providing “moral lessons,” a position similar to that articulated in Chicago slightly earlier and consistent with widely held beliefs about the pedagogic formation of morality. Second, trade associations established friendly relations with sympathetic reformers and with institutions of cultural reproduction to fashion a “self-regulation” of cinema to police or validate representations and formations of filmic discourse. Here there was a shift from external policing to one of self-governing, initiating a complex balancing of policing and self-management that continued throughout the transitional era and indeed beyond. Last, there was the repeated suggestion that cinema was diametrically opposed to the space of the saloon and was capable of *reforming men* and returning them to their families. Saloons destroyed the home, the argument ran, whereas cinema supported the home. This logic about domesticity and cinema informed rhetoric about the social function of cinema and also film content and form, including a cycle of temperance dramas from 1909, of which *A Drunkard’s Reformation* was but the most visible example; thus, the formation of a

particular narrative system around 1908/1909 became closely intertwined with the idealization of domesticity.

Linked together, these strategies marked the beleaguered film industry's attempts to reposition cinema as respectable by defusing rhetoric about the immorality of the medium and by situating it in particular ways with regard to other cultural practices and to the broader regulatory space of the period. Such a response to regulatory discourses and practices was predicated on the successful preexisting strategies of theatrical and vaudeville entrepreneurs. It was enmeshed also with broad cultural shifts, principally with developments specific to the self-definition of the middle class—in terms of social and cultural experience—in conjunction with gendered conceptions of “respectability” and difference. And it was related also to economic shifts attendant on the rise of a “culture of consumption” and reorganization of the public sphere around the female shopper.<sup>16</sup> Located in this context, we can say that a reformation of cinema at this moment was consistent with a gendering of moral authority and rhetoric of “maternalism” that made sense for the film industry on a number of levels and that, the following analysis suggests, informed conceptions of the educative cultural function of cinema and a gendering of the moral address of cinema around 1909.<sup>17</sup>

Building on the story of the contestation over cinema from late 1907 in the previous chapter, this chapter shifts attention from the second-largest film market to the largest film market in New York City and focuses more precisely on the industrial response to the criticisms of cinema. In turn, the chapter addresses the effects of that response—in interaction with state, religious, and reform forces—on the shaping of the material space of nickelodeons and of film content, form, and proposed social function.

## EDUCATION OR SACRED ENTERTAINMENT

Laws restricting Sunday activities—so-called blue laws—were common in the regulation of social behavior in the nineteenth century, linked to religious ideals and frequently to the maintenance of “good order,” “moral tone,” and public welfare.<sup>18</sup> Sabbatarian policy was an established part of the regulatory matrix pivotal to governance in the nineteenth century but became increasingly contested around the turn of the century, as new forms of entertainment and recreation emerged alongside ever-larger numbers of people who held divergent views as to the proper way to spend Sundays and as a declining liberal Protestantism clashed with an emerging therapeutic culture of consumption.<sup>19</sup> Entertainments held on Sundays were viewed by

some Protestant elites as symptomatic of the broader secularization of society and of the immorality of the increasingly Catholic immigrants. In this context many argued both that the immorality of secular commercial culture was rendering the moral authority of religion problematic, as “the red laws of riot, carnival and immorality” substituted for the morality of blue laws, and that the gathering together of working-class and immigrant groups outside of work presented problems of public order and governance.<sup>20</sup> Yet for others, particularly working-class and immigrant groups, Sunday entertainments were necessary for recreation outside the long work hours that frequently left only Sundays free from work. Likewise, Sunday shows were important to cultural entrepreneurs for commercial viability.<sup>21</sup>

Initially, legal debates and policy decisions about Sunday entertainments commonly targeted the saloon, itself an institution regularly singled out by Protestant ministers as symbolic of the troubling shift toward an urban, secular, and Catholic base to America and as a worrying forum for public and political gathering and discussion.<sup>22</sup> Arguments against saloons were regularly suffused with concerns about moral order and good governance. Anxieties about secularization and governance underpinned also the struggle over the Sunday opening of vaudeville and nickelodeons that emerged in New York City in late 1906 and that, as we have seen, led in part to the mayoral hearing in late 1908 and the repressive closing of the city’s nickelodeons. Looking to revive blue laws already on the statute book, the Interdenominational Committee for the Suppression of Sunday Vaudeville was organized in late 1906.<sup>23</sup> Sunday shows drive “out of the mind all holy thoughts which have sanctified the day,” members of the committee argued, and Sunday closing laws were essential if the church were to be able to fulfill its important civic task of “the making of the youth into good citizens.”<sup>24</sup>

Even saloons themselves, some argued, were not as bad as Sunday shows.<sup>25</sup> Increasingly, the committee focused its attention on the nickelodeons that had sprung up in the city throughout 1907. For example, in January 1908 the *New York Times* reported that at a meeting of the American Sabbath Union “Canon Chase . . . will call the attention of those present to the moving picture show and penny arcade situation. Most of the clergy assert that these places do more harm in one Sunday than the vaudeville operators do in a year, because there are at least 500 of them in the city, open from early morning until late at night, and because they are so cheap as to attract thousand [*sic*] of young persons.”<sup>26</sup> Like those who articulated concerns about the saloon and about the Sunday opening of saloons, the committee continually expressed anxiety about the gathering together of unsupervised “rough elements.” In a letter to Mayor George McClellan, treasurer of the

committee the Reverend A. B. Churchman wrote: "The especial point we would like to make against Sunday opening would be that, being a holiday, the rougher element of the neighborhood would be idle, and much more likely to congregate than upon any other day."<sup>27</sup> Simultaneously, then, the committee expressed fears about secularization and the undercutting of religious authority in the education of the young, a concomitant demoralization, and an ungovernable "rougher element" closely associated with immigrant men.<sup>28</sup>

Late in 1907 the situation came to a head when State Supreme Court justice James O'Gorman revoked the license of William Hammerstein's Victoria Theatre for violating an old 1860 statute that had banned the presentation on Sunday of "any interlude, tragedy, comedy, opera, ballet, play, farce, Negro minstrelsy, Negro or other dancing or any other entertainment of the stage."<sup>29</sup> In his decision O'Gorman explicitly invoked concerns about the physical and moral well-being of audiences and about "public peace" and "good order," stating that "the Christian Sabbath is one of the civil institutions of the state and that for the purpose of protecting the moral and physical well-being of the people and preserving the peace, quiet and the good order of society the Legislature has authority to regulate its observance."<sup>30</sup> Like the decision of the Police Censorship Board in Chicago the previous month, this decision was consistent with the belief that the state should intervene in the running of commercial entertainments to regulate "moral well-being" for the "good order" of society. In the wake of this the police enforced O'Gorman's "drastic" decision for two "blue Sundays" in a row, stopping theatrical and cinematic entertainment in the city.<sup>31</sup>

A vocal and diverse opposition sought redress, arguing that the decision perverted the basis of secular government in the United States, that it effectively constituted class legislation, and that it left the door open for the dreaded saloon to prosper.<sup>32</sup> Speaking to this latter point, prominent vaudeville entrepreneur Frederick Freeman Proctor suggested that Sunday shows served "admirably to keep young men out of the saloon and away from the possibility of an undesirable atmosphere on the street."<sup>33</sup> Likewise, Ted Marks of the American Theatre asserted, "People go to the Sunday concert when they might go to saloons"; and a Father Curry observed, "The closing of theatre and amusement places simply puts a premium on the back rooms of saloons and other holes of the kind."<sup>34</sup> William Hammerstein of the Victoria Theatre similarly asserted, "We have thousands of foreigners who go to church in the morning and spend the rest of the day in recreation. This is their belief and if they do not go to concerts they will go to saloons. The saloons are always open, law or no law."<sup>35</sup> A cartoon in the *New*

*York World* entitled “The Only Place Left?” showed a drunk man stumbling out of a saloon next to a theater with a sign reading “Closed, No Concert Today.”<sup>36</sup> Entertainment on Sundays, this logic ran, counteracted the deleterious effects of the saloon on “foreign” men and public order.

Looking to counter O’Gormon’s decision, a group of vaudeville managers, including Hammerstein, appealed to the Board of Aldermen, and legal steps were taken to circumvent the decision by the allowance of “harmless amusement” on Sundays.<sup>37</sup> Known as the Doull ordinance, after proposer Alderman Reginald Doull, the ordinance defined “harmless amusement” as “sacred or educational” entertainment.<sup>38</sup> After repeating the 1860 charter provisions invoked by O’Gormon against minstrelsy, tragedy, comedy, and so on, the amendment stated, “Provided, however, that nothing herein contained shall be deemed to prohibit at any such place or places on the first day of the week, commonly called Sunday, sacred or educational, vocal or instrumental concerns, lectures, addresses, recitations and singing, provided that such above-mentioned entertainments shall be given in such a manner as not to disturb the public peace or amount to a serious interruption of the repose and religious liberty of the community.”<sup>39</sup> Educational or sacred entertainment, the ordinance suggested, could complement the civic task of the church and “public peace.” In spite of protests from members of the Interdenominational Committee, who argued, “The worst result of Alderman Doull’s ordinance would be the opening of the vast number of moving picture shows on Sunday throughout the city,” the ordinance was quickly passed.<sup>40</sup> With “slap stick hung behind the wings,” this led to what the *New York World* called a “pale blue Sunday.”<sup>41</sup>

Further than that, the ordinance led to a series of intense debates about what constituted “harmless amusement,” “educational entertainment,” and their opposite, most frequently figured as “degraded amusement,” that had important consequences for the film industry. “What is a sacred or educational monologue?” asked the *New York Times* on the eve of the first pale blue Sunday, “and at what point does one pass beyond the sacred or educational?”<sup>42</sup> Professor Felix Adler, of the Society of Ethical Culture, summed up this dilemma: “It is desirable that there should be Sunday laws, but somehow a legal distinction must be made between educational uplifting art and degrading amusement; a separation of the wholesome from the vicious.”<sup>43</sup> Yet it was not clear how that distinction could be made. Alderman Doull himself told the *New York World* he was “not prepared to say just what his amendment would designate as ‘harmless amusement,’” and the city’s corporation counsel also professed to be uncertain.<sup>44</sup> “I think it is framed so as not to conflict with the Penal Code,” he said. “Why, suppose a missionary

should return from Africa and want to tell of his experiences there? The Penal Code wouldn't stop that, even though it might be very entertaining because of the humor of it or for other reasons."<sup>45</sup> Sunday closing debates led to a series of complex debates about how to classify entertainments with respect to conceptions of "harm," religion, and education.

Uncertainty about the constitution of "harmless amusement" was even more pressing for the film exhibitors of the city, who were unsure whether moving pictures would be considered "harmless educational entertainment" or "degraded amusement." At the time the Doull ordinance was being drafted the *New York Times* asserted that it offered "no relief to moving picture shows, penny arcades, nickelodeons and the ordinary five and ten cent entertainment houses."<sup>46</sup> Likewise, the day before the first pale blue Sunday, the *New York World* reported, "Managers of moving picture shows had received a 'tip' that under no circumstances would they be allowed to open."<sup>47</sup> It was said that corporation counsel Pendleton had "specifically mentioned moving picture exhibitions as being forbidden."<sup>48</sup> Amid confusion about the parameters of the Doull ordinance, it appeared that moving pictures were to be inscribed outside the configuration of "harmless amusement," outside the "sacred" and the "educational," and aligned with "degraded" institutions such as penny arcades and the saloon.

Lamenting what they called "this invidious distinction" between moving pictures and other entertainments, *Moving Picture World* and others associated with the exhibition of moving pictures contested this logic.<sup>49</sup> Showing moving pictures as part of their entertainment on the first pale blue Sunday, nickel theater owners and vaudeville managers sought to force a test case to reposition moving pictures within the confines of the Doull ordinance. Keith and Proctor's vaudeville theater showed the Vitagraph production of the *Passion Play*, with sacred music and scriptural readings, clearly attempting to inscribe moving pictures into the context of the "sacred."<sup>50</sup> Even so, several of those showing moving pictures were arrested and the subsequent court cases considered further the definition of moving pictures in relation to conceptions of "harmless amusement." Specific questions were raised about whether moving pictures could be regarded as similar to stereopticon slides, which had a long history of being used as part of educational lectures to middle-class audiences.<sup>51</sup>

Late in December some clarity to the complicated situation was achieved through these test cases, for a time at least, when the attorney for the film exhibitors, Gustavus Rogers, gained an injunction against the police closing of nickel theaters on Sundays.<sup>52</sup> Legal decisions by the city magistrate and by the State Supreme Court upheld the exhibitors, and this precarious

legal consensus effectively inscribed moving pictures within the confines of the Doull ordinance.<sup>53</sup> Nickelodeons and moving pictures could now be considered as “harmless amusement,” as consistent with religious norms, and as educational and could be exhibited in a manner that did not “disturb the public peace or amount to a serious interruption of the repose and religious liberty of the community.”

Early in 1908 this stance on moving pictures was further validated by the publication of a report written by the Women’s Municipal League and the People’s Institute after the two organizations had jointly undertaken an investigation of nickel theaters in New York City beginning in late 1907. Sympathetic to nickel theaters in relation to other entertainments, such as cheap vaudeville and penny arcades, the report suggested that the “nickelodeon is a family theater, and is almost the creation of the child.”<sup>54</sup> Even though “some of these places are objectionable,” the two organizations noted, “many are commendable, and, provided influence is brought to bear upon the central film agencies, they offer an opportunity for educational influence.”<sup>55</sup> Not surprisingly, *Moving Picture World* seized on this suggestion and happily reported that the Women’s Municipal League and the People’s Institute had shown that “nickelodeons were furnishing upon the whole healthy and even educational amusement.”<sup>56</sup> Likewise, the *New York Daily Tribune* noted, “The educational value of the moving picture films showing human activities in other lands and various historical reproductions is, according to the report of the committee, of great importance.”<sup>57</sup> At the same time, praise was heaped on travel lecturer Burton Holmes’s engagement at Carnegie Hall in January 1908, for Holmes used moving pictures as part of a series of lectures on the five best governed cities of the “Old World”—simultaneously demonstrating the educational potential of cinema and seemingly positioning cinema on the side of good governance.<sup>58</sup>

The trade press began to regularly publish articles on the educational potential of cinema. Articles with titles like “The Masses Are Being Educated” and “Growth of an Educational Idea” proliferated, the latter suggesting that motion pictures were “being more and more looked upon as an educator as well [as] a means of entertainment” and speculating on the possibility of municipal nickelodeons run by the board of education.<sup>59</sup> Late in 1908 *Moving Picture World* cited the letter Jane Addams wrote after the demise of the uplift nickel theater at Hull House in late 1907, in which she had suggested that “in time moving pictures will be utilized quite as the stereopticon is at present for all purposes of education and entertainment and that

schools and churches will count the films as among their most valuable equipment."<sup>60</sup> Related rhetoric suggested the cultural function of cinema could be linked to that of the church.<sup>61</sup> The representation of cinema as fulfilling an educative cultural function helped to uplift the cultural status of cinema, to ally it with the cultural function of the school and the church, and to legally protect cinema from repressive and extremely costly regulatory interventions.

Yet this rhetoric was not entirely successful. Sunday closing issues became moot again in the city in May 1908 when the various injunctions against police interference with Sunday shows granted in the lower courts in January were set aside in the Appellate Division of the State Supreme Court.<sup>62</sup> Although once again this issue was resolved in favor of the film exhibitors in June, the continuing controversies about the morality of the Sunday opening of nickelodeons and about the effects of cinema on vulnerable and dangerous populations led to the critical mayoral hearing in late December 1908.<sup>63</sup> Here, as we have seen, critics and defenders of the film business stood face-to-face and argued either that cinema had dangerous effects on young audiences or that it provided for the "moral and educational uplifting" of audiences and that it kept men from the saloons and reunited families.<sup>64</sup>

Looked at in the context delineated thus far, the strategies articulated by film industry entrepreneurs at the hearing make more sense, for the suggestion that cinema fulfilled an educative cultural function clearly responded directly to anxieties about the effects of filmgoing on young audiences, sought to ally cinema with the cultural function of the church, and drew on the lessons learned from the successful struggle over the Doull ordinance to rhetorically link cinema to the sacred and the educational. Likewise, the suggestion that cinema was diametrically opposed to the space of the saloon drew on the context of widely articulated regulatory concerns about saloons and borrowed from the strategy articulated by vaudeville entrepreneurs such as Frederick Proctor in late 1907 in response to the O'Gorman decision, where they had repeatedly suggested that Sunday shows counteracted the deleterious effects of saloons.<sup>65</sup>

An increasingly common dichotomy in film industry rhetoric, this widespread suggestion merits further investigation for its logic and for what it tells us about the strategies of the film industry and the context in which these strategies were articulated. Further examination will also set up my analysis of the effects of these strategies on film content, form, and proposed social function.

## SUBSTITUTES FOR THE SALOON

Like vaudeville entrepreneurs such as Proctor, those associated with the film industry had begun to suggest even before the mayoral hearing that moving pictures counteracted the deleterious effects of the saloon. *Moving Picture World* suggested in mid-1908 that “moving picture shows are doing temperance work quietly”; furthermore, “Men who formerly were rarely seen on the streets in company with their wives and children have come to the practice of taking their family for an hour almost nightly to the five cent shows.”<sup>66</sup> *Views and Film Index* similarly suggested that nickelodeons “keep men out of saloons.”<sup>67</sup> Likewise, the summary of the report undertaken by the Women’s Municipal League and the People’s Institute in early 1908 praised nickelodeons as a “family theater” distinct from the penny arcade that is “like the saloon from which the family has stayed away.”<sup>68</sup> The head of the Police Censorship Board in Chicago stated,

I consider the moving picture theatre properly conducted a boon to any community. It affords entertainment for young and old and my observation has been that it has had a tendency to bring together parents and children who spend the evening in the neighborhood picture house; there the father can not only entertain himself and his family with the price of a few drinks, which might otherwise be spent in the saloon, but he has the double enjoyment of being with his family.<sup>69</sup>

Lots of other examples of this rhetoric are easy to find. Economist Simon Patten’s observation that the nickelodeon was “the first cheap amusement to occupy the economic phase that the saloon has so long exclusively controlled” was widely reported.<sup>70</sup> An anonymous poem entitled “A Newsboy’s Point of View,” written circa 1910 and published in Herbert A. Jump’s *The Religious Possibilities of the Motion Picture*, described how a newsboy witnessed his girlfriend’s father giving up drink after seeing a film about the evils of alcohol, confessing “I never knowed just what a bum I’d gone an’ got to be / until those movin’ pitchers went an’ showed myself to me.”<sup>71</sup>

Later, prominent reformer and chairman of the National Board of Censorship Frederick Howe asserted that “men now take their women and families for an evening at the movies where formerly they went alone to the nearby saloon.”<sup>72</sup> Exhibitor William Fox suggested that instead of getting drunk the workingman could take his family to the nickel theater and discover that “he was getting a much bigger kick holding his kid’s hand or the hands of his wife, than he would be from getting his drink at the bar.”<sup>73</sup> Where the “saloon is anti-social in its effects on the family,” said Orrin

Cocks, the advisory secretary to the National Board of Censorship, moving pictures “hold together the whole family.”<sup>74</sup> Indeed, the National Board of Censorship actually conducted investigations in the early 1910s to try to prove that saloons were closing down because of nickel theaters.<sup>75</sup> In situating cinema in the context of the broader regulatory space of the period, defenders of the film industry sought consistently to place mainstream cinema in opposition to the saloon and, implicitly, other male-only entertainment spaces such as cheap variety, gambling halls, dime museums, concert saloons, peep shows, and, perhaps, nonmainstream “stag” cinema and past filmmaking traditions.<sup>76</sup>

Emerging in mid-1908 and running through to the teens, the suggestions that cinema was, in the words of Vachel Lindsay, a “substitute for the saloon” drew directly on the strategies of vaudeville entrepreneurs such as Frederick Proctor and William Hammerstein in their response to the Sunday closing debates and, more generally, on the strategies of these entrepreneurs to reposition vaudeville as “respectable” entertainment.<sup>77</sup> Cultural historians have shown how this took place in the late nineteenth century through a differentiation of vaudeville from “concert saloons,” which had combined stage entertainment in a variety format with alcohol served by waitresses and had attracted principally male audiences.<sup>78</sup> In seeking family audiences for purposes of respectability and economic success, vaudeville entrepreneurs such as Tony Pastor, Benjamin Franklin Keith, Edward Albee, and Proctor drew on the successful strategies of theatrical entrepreneurs in the mid-nineteenth century to render theatrical entertainment respectable by appealing directly to women audiences, who, “particularly as wives and mothers, carried designations of respectability,” a process that Richard Butsch has termed “re-gendering.”<sup>79</sup> Both theatrical and vaudeville entrepreneurs sought to reposition their respective entertainments as respectable by appealing to women and family audiences, and this informed a reformation of theater space and transformations in representational practices. Specifically, entrepreneurs banned the sale of alcohol at theaters, banished prostitutes from the gallery, segregated theaters according to race, “pacified” audience behavior, employed ushers to discipline audiences, relocated theaters to near shopping districts (Proctor’s was near “Ladies Mile” in New York City), produced “moral domestic dramas,” and developed matinee performances.<sup>80</sup> The principal aim was to situate theatrical entertainment as a complement to women’s domesticity and their family obligations.

A regendering of theater and vaudeville was predicated on fundamental cultural shifts, principally the formation and self-definition of the “dis-

tinctive identity” of the middle class in terms of gendered codes of respectability.<sup>81</sup> Conceptions of respectability were instrumental in establishing class status in nineteenth-century America, historians have shown, suggesting that the middle class was formed—in terms of social and cultural experience—around particular conceptions of gender and respectability and that in this respect “middle-class formation was woman’s work.”<sup>82</sup> A broader “feminization” of middle-class culture developed from this, consistent with a widespread ideology of female moral authority.<sup>83</sup> Scholars have shown how this informed sentimental domestic fiction, the proliferation of domestic advice books, improving tracts, journals such as *Ladies’ Home Journal*, and an increased self-restraint and self-discipline among the middle classes.<sup>84</sup>

Such a context is important for our understanding of the strategies of film industry entrepreneurs in the early twentieth century. Rhetoric about cinema as a safe, family space, opposed to the homosocial space of the saloon—spilling over also into the production of moral domestic dramas, such as *A Drunkard’s Reformation*, that attempted to fuse education and entertainment—clearly drew on the strategies of theatrical and vaudeville entrepreneurs and on broader issues about middle-class self-definition.<sup>85</sup> Several other factors further supported these strategies. As we saw in the previous chapter, standards of respectability had become increasingly important around the turn of the century in response to the ever more visible social accompaniments of industrialization and the rise of a “culture of consumption” that seemed to many opposed to the cultural formation of respectability. Harry Thaw, Stanford White, and Evelyn Nesbit were positioned as part of this feared unmooring of moral and, thus, social order. Less about the formation of the middle classes, these skirmishes about the terrain of the respectable were about the continuing self-definition of the middle class as respectable in opposition to those groups “above” and “below” (in particular, historians have suggested, the lower middle classes) and, in turn, about the increasing activism of the middle class in relation to others.<sup>86</sup>

Important also was the fact that public regulation of respectability around the turn of the century was increasingly carried out by middle-class women reformers who cleverly used these conceptions of female moral authority and corresponding “maternalist” rhetoric to regulate cultural practices and to articulate what historian Barbara Leslie Epstein terms a “politics of domesticity” that shaped public policy in a number of ways and reclaimed for women a right—albeit a circumscribed right—to public space and public participation.<sup>87</sup> Legislation with regard to welfare, particularly child welfare, temperance reform, and social hygiene was perhaps the most visible exam-

ple of this “maternalist” policy.<sup>88</sup> In particular, a feminist crusade for temperance grew out of a tradition of female evangelism that was transformed in the late nineteenth century into a social morality centered on the defense of “home values” that positioned the saloon and its clientele of, in particular, lower-class and immigrant males as problematic to the home and family. In articulating a “politics of domesticity” organizations like the Women’s Christian Temperance Union (WCTU) sought to “curb the self-assertive, boisterous masculinity of the saloon, to support and protect the family, and to return the husband—the immigrant workingman in particular—to the home.”<sup>89</sup> In this context sections of the middle class sought to redefine masculinity as actively domestic, distinct from the perversity of an upper class exemplified by Stanford White and Harry Thaw and from the immorality of lower-class and immigrant saloon goers.<sup>90</sup>

Lamenting the deleterious effects of the saloon, women reformers sought to shore up the family by reforming the saloon and also by regulating culture, seeing in this strategy an important way to “save” children, reinforce domesticity, and regulate deviant masculinity. As part of a catchall strategy of “home protection,” the WCTU campaigned against “impure” literature, immoral dancing, indecent art, moving pictures, and nickelodeons as “schools of crime.”<sup>91</sup> It is worth noting here that this maternalist regulation shifted increasingly away from regulation based on the language of piety and purity, for these middle-class women frequently moved from Christian-identified to secular women’s organizations, where religion became less central to their activism and where the presumption of respectability and motherliness became increasingly important.<sup>92</sup>

Reeling from the widespread concerns about the effects of moving pictures on children and from intensified religious disapproval, the beleaguered film industry evidently sought in this maternalist rhetoric an effective way to reposition cinema as respectable. The pervasive rhetoric about cinema replacing the saloon, reforming men, and reinforcing the family drew precisely on this regulatory context, forging a curious and certainly fragile alliance with early feminist maternalist discourse on the terrain of the condemnation of the saloon and the configuration of masculinity associated with it. Suggestions that cinema substituted for the homosocial space of the saloon thus bypassed the more profound Protestant condemnation of the saloon as symptomatic of the dangerous and immoral heterosocial leisure world to ally with the more specific (partly) secular feminist critique of the saloon as destructive of home life.

We cannot, of course, take this alliance as evidence of the politically progressive nature of the film industry. It is certainly the case that the “poli-

tics of domesticity” articulated by the film industry was a limited one, not extending to, for example, that articulated by more radical feminist activists or to an embrace of the suffrage issue. Rather, this rhetorical alliance was advantageous to the efforts of film entrepreneurs to both continue operating in the face of extreme concerns about cinema and to make cinema seem respectable. For the film industry it made sense to bypass extreme religious disapproval by alliance with more “progressive” discourses and by association with the cultural capital that the self-definition of the middle class gave to middle-class women.

Equally important to this rhetorical alliance was the question of economic capital, for the film industry was cognizant of what theatrical, vaudeville, and other entrepreneurs knew well—that women were crucial to the new culture of consumption, were frequently principal familial decision makers, and were thus vital to commercial success. In advertising trade journals in the early years of the twentieth century it was estimated that women accounted for as much as 85 percent of consumer spending.<sup>93</sup> *Views and Films Index* had suggested as early as May 1907 that the “wonderful growth in numbers of so called ‘store shows’ and ‘nickelodeons’ in the past twelve months has been due to a great extent to the patronage accorded this class of amusement by the women and children.”<sup>94</sup> Likewise, *Moving Picture World* noted that “mothers . . . take the children and spend many restful hours there at small expense,” and *Nickelodeon* baldly asserted that “Most of the nickels are feminine.”<sup>95</sup> Journalistic accounts and recreation surveys in the 1910s suggested that women formed a significant component of the motion picture audience.<sup>96</sup> Some theater managers sought to exploit the fact that women frequently took a prominent role in family decision making. The managers of one theater, for example, made this clear when they confessed to women, “We want and need your patronage, for where you attend, so will follow the husbands and sons.”<sup>97</sup> Likewise, scholars have also recently shown how fan culture catered increasingly to young women in the 1910s.<sup>98</sup> In an editorial in 1914 *Motography* spelled out clearly the logic operative from 1907: “The ladies are the real spenders and the real pleasure seekers. This may work itself out in three different ways: the ladies may spend their own nickels and dimes, or they may persuade the men to spend theirs, or the men may spend in the hope of pleasing the ladies. But ladies are always the prime movers, the originating cause of expenditure.”<sup>99</sup>

Located in this context, it is apparent that reform strategies for repositioning cinema as respectable meshed fortuitously with the commercial aesthetic of the film industry to cater to women audiences as central players in the new culture of consumption and to attract family audiences. It is cer-

tainly the case that this audience of women was viewed with considerable unease by certain elite reform groups steeped in an ideology of separate spheres, as the previous chapter showed and as other scholars have noted, but it was nevertheless an increasingly critical audience for the industry, existing as it did at the confluence of respectability and profitability.<sup>100</sup>

Accordingly, press reports from newly opened nickel theaters and moving picture palaces from 1907 onward repeatedly announced their intentions to “cater especially to the patronage of women and children,” to “families, especially ladies and children,” and promised to be “ladies and children’s resort[s] in earnest.”<sup>101</sup> At the same time, exhibitors such as Eugene Cline asserted that “better business in the long run” would come to theaters patronized by “ladies and children.”<sup>102</sup> The proprietors of the Swann Theater in Chicago in 1908 went so far as to assert, “The policy of the house recognizes the eternal feminine as the great factor in determining the nature of any amusement enterprise,” further promising that “the pictures shown are always carefully selected with the view of pleasing the ladies.”<sup>103</sup> Female theater owners were also frequently singled out for praise by the trade press for the air of respectability they brought to the business.<sup>104</sup>

A reformation of the material space of nickelodeons followed. Included was the innovation of lighted theaters to counter the possibility of immoral behavior (particularly offensive male harassment), consistent with anxieties about the sexualization of public space like that seen in the Thaw-White controversy and with a widespread effort to literally and figuratively light the city’s dark corners and thus to create moral elevation.<sup>105</sup> Also important was the introduction of restrooms and nurseries for babies that, taken together with improved ventilation, perfumed deodorizers, mirrored common areas, luxurious decorations, and uniformed attendants, borrowed from department store interiors, which had been carefully designed in the 1890s to appeal to female consumers.<sup>106</sup> Exhibitors also initiated matinee showings to attract female audiences (often half-priced), held competitions such as baby photograph contests, offered free gifts of teddy bears and perfume, and provided space for baby carriages. In these and other ways they made a conscious effort to transform the rowdy space of nickelodeons to meet the polite standards of early-twentieth-century decorum, even projecting slides during the intervals between films to emphasize this (see figure 8).<sup>107</sup> A segregation of black and white audiences was, it is worth noting, frequently rigorously policed as part of the designation of cinema space as “respectable.”<sup>108</sup> Such changes signaled a clear attempt to cater to (white) women and family audiences and at the same time to assuage reform and governmental anxiety about cinema by positioning cinema as akin



Figure 8. Slide shown between films (c. 1908–14). Courtesy Library of Congress Prints and Photographic Division.

to domestic space—effectively creating a public space that was homelike, blurring the boundaries between public and private space, and thus seeking to reconcile the seemingly contradictory cultural formations of respectability and consumption. Scholarship on the location of nickelodeons and on audiences, so far revolving around questions of class and ethnicity, may also profitably begin to consider the question of gender and space, considering, for example, whether nickelodeons were located along what historian Stuart Blumin calls an “axis of respectability” in thoroughfares that were well lit, like department stores and vaudeville theaters such as Proctor’s were.<sup>109</sup>

Recognizing the importance of women and family audiences—or, at the very least, rhetorically asserting their importance as part of a strategy of “uplift”—film industry entrepreneurs made claims also about what kinds of films should be shown (see figure 9). *Views and Film Index* suggested that the patronage of women and children made it “necessary for the exhibitor to see that the pictures he furnishes are free from anything offensive or suggestive.”<sup>110</sup> *Nickelodeon* put it somewhat more strongly:



Figure 9. Slide shown between films (c. 1908–14). Courtesy Library of Congress Prints and Photographic Division.

The police censorship of films by any community means only one thing—someone, some time, has tried to show pictures that should not have been shown. To a man this is interesting. To see a censored film becomes desirable. . . . The point is here: That same film would have little interest for any woman. A woman’s curiosity is strong—but it is not a man’s curiosity. The inference is that the exhibitor who counted noses in his audience before the show started would not run such a film.<sup>111</sup>

It was suggested that women, and particularly mothers, would make the best censors.<sup>112</sup> Implying the necessity of a shift away from risqué films such as *The Unwritten Law*, the importance of women audiences to the film industry at this moment would consequently have effects on what kinds of films were produced and, I suggest later in this chapter, on film form.

#### MORALS AND THE COMMUNITY

The suggestion that cinema fulfilled an educative cultural function and that it reinforced domesticity failed to persuade Mayor McClellan, who, as we

have seen, issued a blanket revocation of common show licenses on Christmas Eve 1908.<sup>113</sup> Even though much of McClellan's statement addressed fire and safety issues and general public health issues, his conclusion shifted to a consideration of moral and spiritual "health":

Because of the serious opposition presented by the rectors and pastors of practically all the Christian denominations in the city, and because of the further objections of the Society for the Prevention of Cruelty to Children and the Society for the Prevention of Crime, I have decided that licenses for moving picture shows shall only be issued hereafter on the written agreement that the licensee will not operate the same on Sunday. And I do further declare that I will revoke any of these moving picture show licenses on evidence that pictures have been exhibited by the licensees which tend to degrade or injure the morals of the community.<sup>114</sup>

Here state action was tied together with public health and public morality. In a separate letter McClellan rebuked the police for failing to enforce existing legislation. "I am convinced," McClellan wrote in response to the evidence presented to him that certain shows had violated ordinances and statutes, "that if this proof can be supplied by private sources, it is incomprehensible that the same cannot be secured by the Police Department."<sup>115</sup> Regulating moving picture shows should not be left to "private sources," the mayor asserted, but should be undertaken by the state.

Exhibitors in the city responded by banding together to form the Association of Moving Picture Exhibitors of New York and quickly gained four temporary injunctions against the mayor's actions. These injunctions ruled that a blanket revocation was an arbitrary action and that licenses could only be revoked individually and for cause.<sup>116</sup> In turn, the mayor responded by pushing the Sunday closing issue further, ordering Police Chief Theodore Bingham to explain the rules appertaining to Sunday shows to showmen.<sup>117</sup> Bingham obtained a long list of forbidden public performances from Corporation Counsel Pendleton, which followed in part the 1860 statute invoked by the Interdenominational Committee in late 1906 and Justice O'Gorman in late 1907 to ban the performance of any tragedy, comedy, opera, ballet, farce, minstrelsy, dancing as part of a performance, boxing, impersonation of characters, and so on but now included any moving pictures "giving a play or part of a play." Significantly, moving pictures "illustrating lectures of an instructive or educational character" would be permitted.<sup>118</sup> Educational moving pictures were acceptable, but the presentation of "plays"—presumably meaning fictional stories—were not.

Like the Doull ordinance had in late 1907, this led to a series of tussles

over the parameters of the educational in moving pictures. Nickel theaters reverted for the most part on Sundays to the actuality-dominated program of the years before the rise of the story film and the nickel theater. The police watched closely to guard the border between the educational and the entertaining. “Police Act as Critics,” the *New York Tribune* observed, suggesting further that “Bingham’s Men Have to Determine Whether Entertainments Are Educational.”<sup>119</sup> Yet policing the category of the “educational” was fraught with definitional difficulties, linked not only to textuality—how to decide which film was educational and which was not—but also to the conditions of exhibition, as exhibitors employed lecturers to comment on the films to thus color them with the sheen of the illustrated lecture and to deliberately blur the already fuzzy distinctions between the educational and the entertaining.<sup>120</sup> For example, under a headline reading “Moving Picture Shows Recruit ‘Educational Lecturers’ to Keep the Police at Rest,” the *New York Times* described this situation at William Hammerstein’s vaudeville house, the Victoria:

Upon a screen was thrown the title “Travels in Northern Europe.” Then a moving picture showing a railway track with scenery on either side appeared on the screen, giving the impression of a journey from an unusual angle. The “lecturer” stepped down left center. As the track first appeared he announced: “Railroad track.”

Then he was silent for several minutes. Meanwhile the film had spun along. The track was still in view. “More railroad track” said the lecturer. The audience, thoroughly appreciating the situation, laughed and applauded.

The film traveled faster. The land of the journey was now in the region of snows. The reindeer appeared at the side of the track.

“Reindeer,” announced the educational lecturer.

Suddenly the reindeer lowered their heads and seemed to be eating Iceland moss or snow or something.

“Luncheon on snow,” said the lecturer. Then the film darkened.

“Pennsylvania tunnel,” said the lecturer.<sup>121</sup>

A series of skirmishes took place at exhibition sites and the police arrested a number of exhibitors and showmen who were thought to have crossed the border of the “educational” into the “entertaining.” In one case, for example, a vaudeville performer was arrested for limping off the stage. “The audience laughed,” the *New York Times* observed, and the “police said ‘vaudeville’ and arrested them, with the manager of the house.”<sup>122</sup> A cartoon in the *New York Herald* showed a policeman looming over a youngster and warning, “If I see you smile again, I’ll arrest you, young feller.”<sup>123</sup>

Stalemate reigned at the close of 1908, then, as state intervention was

checked but continued via a literal policing of exhibition space and as film industry entrepreneurs continued to seek a way to uplift the cultural status of cinema and bypass regulatory practices. A number of developments followed from this, as regulatory and commercial imperatives interacted to further shape the content, form, and the proposed social function of cinema.

#### UPLIFT DRAMATIC FILMS

Late in February 1909, shortly after this renewed struggle over Sunday closing and the category of the “educational,” a committee delegated by the Association of Moving Picture Exhibitors of New York (AMPENY) approached civic reform organization the People’s Institute to seek advice “regarding the public hostility to which the motion picture art was subject” and the practicality of creating a censorship board.<sup>124</sup> Clearly responding to the regulatory concerns delineated thus far, the exhibitors directed this also against a more surprising foe—the production companies who had recently banded together in the legal superstructure of the Motion Picture Patents Company.<sup>125</sup> Established coincidentally in the midst of the intensification of regulatory discourses and practices in late 1908, the Patents Company had quickly used this situation to legitimate itself and to deflect concern about monopolistic practices.<sup>126</sup> It immediately adopted the slogan, “Moral, Educational and Amusing.”<sup>127</sup>

Early in January 1909 the Patents Company met with members of film exchanges and informed them of its terms of trade. Among the new regulations was a requirement that exchanges supply the company with a list of the theaters they serviced; the company would in turn determine which of those theaters it was prepared to license. It demanded that theaters be clean, well ventilated, well lit, and safe.<sup>128</sup> In claiming the right to license theaters, the Patents Company was seeking to blame exhibitors for the perceived immorality of cinema, the consequent low cultural status of cinema, and reform and governmental intervention. Exhibitors associated with AMPENY responded in February 1909 by calling for censorship to “protect them from the film manufacturers who it was alleged foisted improper pictures on them.”<sup>129</sup> A struggle emerged between exhibitors and producers who, although united on some level in the necessity of responding to regulatory discourses and practices, were divided as to the proper course of action—with producers suggesting theater space was the problem and exhibitors suggesting film content was responsible for the troubles besetting the industry.

In approaching the People's Institute in late February to begin a censorship of films, the exhibitors sought to both deflect reform and state anxieties and interventions and to outmaneuver the Patents Company. A number of factors made the People's Institute a sensible choice. First, the People's Institute had declared itself against the formation of the Patents Company and had condemned monopoly in the industry.<sup>130</sup> Second, the institute had undertaken, alongside the Women's Municipal League, the report favorable to nickelodeons published in early 1908, and the director of the institute, Charles Sprague Smith, had spoken up in defense of the film industry at the McClellan hearing.<sup>131</sup> Smith had also repeatedly suggested that some entertainment forms could function as "counter-attractions," particularly in relation to the "saloon problem," and this rhetoric suited well the needs of film entrepreneurs, particularly exhibitors seeking to situate cinema space as respectable space.<sup>132</sup> Third, the institute already had a dramatic department that ran a review of current plays alongside reports on their suitability for various audiences.<sup>133</sup> Last, the institute pursued educational work as a central goal of its civic reform platform and thus dovetailed well with goals of entrepreneurs to present filmgoing as an educational experience in play at least since the Doull ordinance in late 1907 and to thus deflect regulatory concerns about children at moving picture shows.<sup>134</sup>

Looked at from the other side, a board of censorship was desirable for the People's Institute as a way of using the "new social force" of moving pictures as a "counterattraction" to less desirable entertainments like saloons, a counterattraction that could then create "more desirable citizenship." Like the Arnoldian stance articulated by, for example, Jane Addams in mid-1907, the institute thought that a carefully regulated moving picture business could educate audiences and could extend the civic educational work of the institute. John Collier, the secretary of the institute and chief architect of the proposal for the board of censorship, had previously written, "All the settlements and churches combined do not reach daily a tithe of the simple and impressionable folk that the nickelodeons reach and vitally impress every day. Here is a new social force, perhaps the beginning of a true theatre of the people, and an instrument whose power can only be realized when social workers begin to use it."<sup>135</sup> Such a perspective on the educational potential of cinema was shared by other reform organizations, and the proposal for an experimental censorship board put forward by the institute in early March included representatives of the Public Education Association, the public schools, and the League for Political Education.<sup>136</sup> Its membership, *Moving Picture World* commented, consisted principally of "persons connected with public and private educational institutions in New York."<sup>137</sup>

In accordance with the proposal, exhibitors associated with AMPENY agreed to screen only films previously approved by the board and to meet its costs. It was uncertain whether the producers in the Patents Company would cooperate with the board, but the company had little choice if it wanted to avoid being effectively locked out of the most profitable single market in the country and, on 20 March the Patents Company agreed to cooperate with the board.<sup>138</sup> The first meeting of the New York Board of Censorship of Motion Picture Shows took place on 26 March and included the viewing of *A Drunkard's Reformation*. The exhibitors had succeeded in depicting the movie problem principally as a problem of film content, necessitating the regulation mainly of texts and not exhibition spaces. And this was further mandated when the board abandoned its original plan to inspect films showing in nickelodeons, deciding, instead, to inspect films at their source, the manufacturer.<sup>139</sup> Equally significantly, the exhibitors had succeeded in aligning an influential reform organization with a commercial strategy of "uplift."

For the Patents Company the uplifting of the cultural status of cinema could also be advantageous, and it accordingly sought to co-opt the moral authority of the board, supplying a screening room and a stipend for expenses and proclaiming in statements that the Patents Company had started the board and that the board "will put the moving picture show on a level with the very finest and highest types of theatrical entertainment."<sup>140</sup> Local or municipal censorship boards had proliferated around the country in imitation of the one established in Chicago and the Patents Company had quickly realized that the New York board could impose a national standardized product that bypassed expensive and problematic reediting of film prints and that this could also be controlled in some ways by the Patents Company. Furthermore, the board could be utilized as one aspect of the Patents Company's attempts to marginalize foreign producers. In an early statement about the formation of the Patents Company, the company claimed one of its goals was to "eliminate the cheap and inferior foreign films which have been forced upon the market, and to so educate the public taste that only high class and attractive films will be accepted as reaching the American standard."<sup>141</sup> Non-American films were seemingly more frequently censored by the board, suggesting that the board's regulation of cinema effectively complemented the policies of the Patents Company.<sup>142</sup>

Not surprisingly, the Patents Company strongly supported the trade press and reform journals in their suggestions that the board become a national organization, obviating the need for the local censorship that frequently took the "shape of a blue coat and brass buttons and a club."<sup>143</sup> The New York

Board of Censorship of Moving Picture Shows became the National Board of Censorship in May 1909.

Early statements of the standards of the board focused on “obscenity” and on “crime-for-crime’s sake.”<sup>144</sup> “[C]rime for its own sake we condemn,” Collier wrote in June 1909, “pictures whose chief appeal is to morbid appetite we condemn, bad taste where it becomes vulgarity we condemn. We condemn anything that seems *dangerously suggestive* in its tendencies.”<sup>145</sup> In relation to this the board cautioned against “unwritten law themes” and scenes of “barrooms, drinking, drunkenness.”<sup>146</sup> Yet the board focused in the main less on content and more on the organization of content. “[B]arring indecency, barring ghouliness,” Collier continued, “there is hardly any incident in life or drama that may not be *so treated*,” for the board would evaluate whether “the sum total of effect, the unified effect, is positive and harmless” and thus base its “decisions on the general effect a picture will have on an audience.”<sup>147</sup> Similar statements made up the board’s first articulation of its policy and standards of censorship in October 1909, which reiterated that scenes glorifying crime and vice would be objected to but that “[t]his does not imply the cutting out of any representation of a crime for such might be incidental to an entirely proper and desirable story.”<sup>148</sup> Regulation by the board was not simply repressive, then, but was *productive* of a certain configuration of filmic discourse and of particular narrative patterns, fundamentally encouraging filmmaking based on a moral discourse.

Significantly, regulation, and the moral discourse associated with it, was closely linked to middle-class women reformers, who quickly made up the majority of volunteer censors at the board—by 1912, 57 of 75 censors were women, and by 1915 the figure had risen to 100 out of 115.<sup>149</sup> The “great policing force of the business” was staffed largely by women reformers, working from a “politics of domesticity” that designated them as respectable and important moral arbiters for the community and nation.<sup>150</sup>

Censorship was never the sole aim of the National Board of Censorship, though, for it sought also to promote an educative cultural function for cinema. The statement of intent and standards published in *Moving Picture World* in October 1909 read: “The National Board of Censorship has been organized for the improvement of motion pictures and for their further extension in this country as social and educational forces. Its work consists of censoring moving pictures and dealing constructively with the social, civic and educational problems connected therewith.”<sup>151</sup> As well as its obvious commercial function, the statement continued, “The Board also sees in the moving picture an agent which can educate” and that is “capable of use in direct pedagogical ways.”<sup>152</sup> Supporting this argument, the board gave

some model shows to demonstrate the “social possibilities of moving pictures,” significantly beginning in May 1909 with a show organized for an audience of public school teachers that included slides reproducing classical statues, paintings, and architecture, and a number of films, including “several of a Biblical nature.”<sup>153</sup> Likewise, in February 1910 Charles Sprague Smith arranged a “special program of educational motion pictures” for clergymen and church workers in order to “demonstrate the possibilities of pictures for social entertainment and instruction.”<sup>154</sup> Significantly, most of the films shown were actualities, suggesting a film program similar to the actuality-dominated ones of the years before the rise of the story film and the nickel theater and to the blue and pale blue Sunday exhibitions.<sup>155</sup>

The board would continue for some time to promote the educational potential of cinema and its proposed role as a forum for public discussion. In the pamphlet *Suggestions for a Model Ordinance for Regulating Motion Picture Theaters*, for example, the board proposed that moving pictures should be valued as “a form of journalism, of editorial discussion, and of platform discussion” and, further, suggested, “The motion picture may within a few years become the most important vehicle of free public discussion in America.”<sup>156</sup> Lagging behind only the press and the public school, chairman Frederick Howe later suggested, moving pictures should be seen as the “greatest educational agency of the age . . . universalizing our knowledge of common topics . . . and making America think together.”<sup>157</sup> The board disseminated “educational films” to nonprofit organizations in the teens and organized committees and publications that sought to “further the production, selection, distribution, and use of selected motion pictures and programs for young people.”<sup>158</sup> Significantly, the board’s Committee on Children’s Pictures and Programs, set up in 1916, was run mainly by women from the General Federation of Women’s Clubs.<sup>159</sup> The sense of the malleability of audiences, particularly children, in this rhetoric matched in some respects the accounts of social scientists and “repressive” reformers but with the import of this turned around, for now cinema’s “suggestive” potential could be configured as crucial to the education of children and the goals of better citizenship.

A number of developments sought to capitalize on this conception of the social function of cinema. Influential distributor (and Essanay “photoplay” competition judge) George Kleine began in late 1909 a distribution catalog devoted solely to educational films “suitable for school, church, college and lecture work,” including actualities and scenic and industrial films alongside films of literary classics and well-known historical events.<sup>160</sup> Sugges-

tions that moving pictures could supplement children's education, and might even become part of the school curriculum, proliferated. Thomas Edison, for example, claimed that "I look for the time, and it's not far distant, when every college and school in the world will boast of its projecting machine and library of educational films."<sup>161</sup> Likewise, *Nickelodeon* quoted a high school teacher asserting that "moving pictures have an educational value which will be recognized. At a small cost moving picture machines can be installed in the public schools." The journal commented favorably on the president of the board of education in Detroit noting that "[i]t is only a question of time when we will be using motion pictures in our schools to teach such subjects as geography and history."<sup>162</sup> Later, *Moving Picture World* and *Motography* began columns surveying "Current Educational Releases," and the Patents Company set up its own educational unit, which distributed actualities, biblical films, literary classics, and films of historical events.<sup>163</sup> Cinema could even function, one commentator suggested in late 1908, as "a kind of recreative *school* for the whole *family*."<sup>164</sup>

Simultaneously, the trade press began a concerted campaign to boost "educational" films, particularly "scenic" or travel pictures, suggesting that they were more popular with audiences than producers and exhibitors thought and that they also effectively conflated education and entertainment. Educational, or in this context principally actuality films, had been central to exhibition practices prior to the rise of the story film and the nickelodeon but had become increasingly marginalized as entrepreneurs sought mass audiences. (Recall, for example, the boy who was unimpressed with the films shown at the uplift theater at Hull House in Chicago, complaining, "Things has got ter have some hustle. . . . This show here ain't even funny, unless those big lizards from Java was funny.")<sup>165</sup> Yet the trade press sought to revive these films at this moment, clearly responding to regulatory concerns and to the widely felt need to foster an accommodation between the educational and the entertaining in moving pictures and to thus serve what Constance D. Leupp called "the double duty of holding interest and giving instruction."<sup>166</sup>

*Nickelodeon*, for example, asserted that "the educational picture is viewed with as much pleasure as is the story picture" and later suggested that travel and "scenic pictures" had both educational and entertaining components:

Among those who have thought much about it, there is a prevalent misunderstanding of the function of the scenic picture. It is popularly classified as educational; yet scenery is fundamentally and primarily

merely entertaining. That is, it appeals to our emotional side. We respond to beautiful scenery, whether real or pictured, much as we respond to beautiful music. It is educational first because anything that is beautiful and appeals to the better emotions is educational; and second, because it gives us a knowledge of the harmony of construction of this beautiful old world of ours. But the educational function is purely secondary.<sup>167</sup>

Seeking to carefully define the parameters of the educational and the entertaining, as those police officers had done in New York City's nickelodeons in late 1908 and early 1909, the journal's campaign to revitalize the popularity of the travel genre included also details from polls apparently showing travel pictures at the top of audience preferences. A poll conducted by the *St. Louis Morning Times*, the journal suggested, clearly showed that "[t]he preference of the public is for travel pictures." Likewise, a poll conducted by the *Baltimore News* resulted in "[t]ravel and educational pictures receiv[ing] such large proportions of the votes that it is hardly worth while to consider the other classes at all."<sup>168</sup>

Trade journals used these supposed poll findings to try and persuade exhibitors to show these films. "The chance is at hand for the progressive exhibitor to show the metal [*sic*] he is made of," *Nickelodeon* wrote in early 1910. "Those exhibitors who have tabooed educational subjects are of two classes: The ones who, not intellectual themselves, cannot appreciate the attractiveness of such subjects to the people; and the ones who, acknowledging the interest of the subjects, are unfortunately situated amongst a low-class patronage which enjoys only the slap-stick comedy or the melodrama."<sup>169</sup> For the trade press the promotion of cinema's educative cultural function sought to assuage regulatory discourses and practices and to attract a "better class" of patronage for commercial reasons. The promotion of the educational potential of cinema was linked closely also to the efforts to attract women audiences, for women's traditional role was closely linked to the education of children.

It is apparent also that the promotion of nonfictional scenic and travel pictures was consistent with other practices in the culture that validated the nonfictional. For example, the American Library Association and many librarians enforced restrictions on children checking out fictional books and steered them toward nonfiction.<sup>170</sup> Librarians frequently worked with a hierarchy of genres that placed nonfiction over fiction and that effectively saw fictional texts as divorced from educational imperatives.

Yet also developing in the period was the growth of a use of fiction as part of education, in particular a conception of fiction as crucial to moral formation.<sup>171</sup> This latter sense became increasingly important to film industry

entrepreneurs, who evidently realized that nonfictional scenic and travel pictures were simply unpopular with mass audiences seeking entertainment and that what was needed was a subtler joining of the goals of education and entertainment and nonfiction and fiction, both at the level of discourse and practice.

It was in this context that *Nickelodeon* championed what it called “the uplift dramatic film.” In the journal’s account such a film was fictional, narrative, entertaining, but also educational:

The uplift dramatic film is peculiar. It is in a class by itself. It is not an educational subject in the ordinary sense of the word; rather it is an altruistic drama—a story of things and men as they should be. . . . Its purpose is truly educational, but the musty flavor conjured up by that word is concealed in a sugar coating of drama and perhaps even comedy. Under the guise of relaxation and amusement we are educated, uplifted and inspired.<sup>172</sup>

Sugar-coating the educational was an important compromise formation, as the film industry struggled to situate itself in relation to regulatory space and to simultaneously pursue commercial goals. “Many exhibitors will not show educational films thinking the audience will not like them,” the journal noted. “But the uplift picture is the answer.”<sup>173</sup> The cultural capital of educational films could be tied together with entertainment, this logic suggested, divorcing education from the nonfictional scenic and travel pictures or from biblical films—from the actuality programs of those blue and pale blue Sundays—and uniting it with thrilling or comic forms, shifting from a sense of education as the presentation of facts to a sense of education as moral formation. “Uplift dramatic films” were the halfway point between the sense of cinema’s educative cultural function, visible from progressive reformers like those associated with the board of censorship, and the commercial imperatives of the mainstream film industry.

The stories of “things and *men* as they should be” in these “altruistic dramas” frequently focused on precisely that—the reformation and conversion of various configurations of deviant masculinity and the delineation of a moral configuration of masculinity in accordance with ideals of domesticity. Here stories of individual transformation and moral renewal internalized the strategies of film entrepreneurs to reposition cinema as respectable and as central to a reconfigured heterosocial leisure world, effectively positioning the reformation of masculinity and the family on-screen as metonymic for the reformation of cinema itself. In the following section I consider in detail some of these altruistic dramas or, what we might call, fictional conversion narratives.

## A CHANGED MAN

Theatrical temperance dramas had proliferated in the mid-nineteenth century in conjunction with the reformation of the cultural status of theater that was aligned with ideals of education and with appeals to women and family audiences as signifiers of respectability. The creation of museum theaters in the 1840s, billed as “lecture rooms,” was an important development within this process of reformation. Such theaters featured lectures on a variety of educational and moral topics but began also to be used for the presentation of “moral dramas,” significantly beginning with the temperance drama *The Drunkard: Or the Fallen Saved* (1843), described at the time as a “moral domestic drama.”<sup>174</sup> The play ran for more than one hundred performances at a time when theaters typically changed their bills every night, and it was chosen by P. T. Barnum to open the American Museum in 1848. “By mid-century,” theater historian Bruce McConachie notes, “temperance reform plays were ubiquitous.”<sup>175</sup> Museum theaters and temperance dramas drew a new audience of the religious middle class and, in particular, of middle-class women to the theater, cutting across class formations by fusing ideals of entertainment and “instruction” and by setting in process the acceptance of theater in the guise of education, morality, and respectability.

Like in this earlier moment, a cycle of filmed temperance dramas emerged from 1908 as an important part of the film industry’s efforts to reposition itself as respectable through appeals to gendered conceptions of respectability and to the educative cultural function of cinema.<sup>176</sup> A number of these films had direct theatrical intertexts, such as *Ten Nights in a Barroom* (Essanay, 1909), *What Drink Did* (Biograph, 1909), *A Drunkard’s Reformation* (which showed the “drunkard” reforming after attending a theatrical production of *Drink*, itself based on Emile Zola’s novel *L’Assommoir*), and *Drink* (Pathé, 1909) itself.<sup>177</sup> Others drew on this discursive tradition and the thematic repertoire of theatrical dramas, including *Father and Drunkard* (Pathé, 1908), *The Broken Locket* (Biograph, 1909), *The Drunkard’s Fate* (Selig, 1909), *The New Minister; or, The Drunkard’s Daughter* (Kalem, 1909), *The Expiation* (Biograph, 1909), *The Honor of the Slums* (Vitagraph, 1909), *A Change of Heart* (Biograph, 1909), *The Rocky Road* (Biograph, 1910), and *A Slave to Drink* (Kalem, 1910). Temperance films were closely linked to industry rhetoric about family values and the distinctions between nickel theaters and saloons.

Stories of male reformation and moral renewal in accordance with gendered norms of morality and the wider regulatory discourses about temperance sought self-consciously to appeal to women audiences (at least, to

what the film industry assumed women wanted to watch). These films were also consistently advertised as “educational,” as providing “lessons” or “sermons.” *Effecting a Cure*, for example, was advertised as “A Lesson to the Wives of Recreant Hubbies,” and the bulletin accompanying it noted, “This Biograph subject will afford many a wife an opportunity to profit by its lesson.”<sup>178</sup> Likewise, *What Drink Did* was described as “a powerful moral lesson”; *A Drunkard’s Reformation* was described as “the most powerful temperance lesson ever propounded” and as “a masterful powerful sermon on the evils of the drink habit”; and Selig advertised *The Drunkard’s Fate* as a “temperance masterpiece” that “teaches a great temperance lesson” that, *Variety* observed, “some patrons of picture houses may profit by.”<sup>179</sup> Thomas Edison met with the Women’s Christian Temperance Union in 1910 to discuss producing protemperance movies as part of his broader plans to develop educational pictures for public schools.<sup>180</sup> Temperance films clearly and overtly intervened in debates about the cultural function of cinema, internalizing external debates in representational norms and narrative patterns.

“Sacralized” children were central players in the reformation of masculinity in many of the temperance films, playing central roles in resolving narrative conflict and containing transgression. In *Father and Drunkard*, for example, the son is sent by the mother to bring the father home from the saloon but is thrown roughly aside and falls into a river. Seeing his son struggle, “the man in him plays strongly,” and the father saves the child.<sup>181</sup> In the final scene the father smashes the liquor bottle and earnestly vows never more to drink. The family is reconstituted through the reformation of the father—from drunkard to father, as it were—that is initiated by the child. And the last scene exemplifies a new emphasis on narrative closure emerging from 1908, which so frequently represented a reunited family embracing as film entrepreneurs self-consciously sought to initiate similar reconciliations in the spaces of their auditoriums.<sup>182</sup>

Likewise, *What Drink Did* and *Ten Nights in a Barroom* tell the story of the reformation of a father and family through the actions and sacrifice of a child. *What Drink Did* opens with a happy family seated around the breakfast table. The father plays with his two daughters and, when leaving for work, hugs them and his wife (figure 10). At lunch at work, kettles of beer are brought in, and he is coaxed into taking a drink. After work he is asked to go for a drink to a saloon with colleagues and, although evidently reluctant, joins them. Scenes of him drinking and increasingly enjoying himself are intercut with scenes of his wife and children at home, with the wife becoming ever more concerned (figure 11). This contrast edit intervenes to

comment on events, making clear to the audience the effects of drinking on the family, setting in place a structure of allegiance with the moral position of the mother and establishing the home as the “space of innocence” in contrast to the saloon.<sup>183</sup> After returning home, the father brushes his family aside, and the following morning he ignores his daughters, in a clear contrast with the opening of the film. “The blight of rum,” the bulletin accompanying the film notes, “changes the stamp of nature, turning the heretofore good-tempered man into a veritable demon.”<sup>184</sup>

The next day the man initiates the drinking, and one of his daughters is sent to look for him at the saloon. He brushes her aside twice, and when she returns again, he pushes her over. At this, the barman gets angry and in a scuffle is hit by the father; the barman gets a gun and shoots but accidentally kills the daughter. In virtual tableau the father cradles his dead child. The close of the film moves forward in time. The man leaves work and is asked if he will go for a drink. He declines and arrives home, where his wife and child await—now dressed in gray (figure 12), in clear contrast to the white of the opening of the film—and the family embrace. The man kneels, cries, and holds his child. In the somber conclusion, carried through the *mise-en-scène* and through the contrast with the opening of the film, the dangerous effects of drinking and “how men should be” are made clear. The film was accordingly validated by a trade press anxious to promote the respectability and educative potential of cinema, with a review in *Moving Picture World* noting, “A moral lesson is taught in this excellent Biograph film” and suggesting, “The film could be used to advantage by religious and temperance organizations.”<sup>185</sup>

The scene of the reformation of the drunkard was central to most of the films in the temperance cycle, clearly suggesting that a certain type of masculinity was problematic and needed to be brought into line with the dictates of domestic ideology.<sup>186</sup> *The New Minister; or, The Drunkard's Daughter* ends with the drunkard “now a reformed man” restored to his estranged daughter.<sup>187</sup> In *The Honor of the Slums* the husband spends his time at the saloon, and his wife joins the Salvation Army to ensure other families do not end up like hers. After a barroom fight the husband reforms and also joins the Salvation Army. *Moving Picture World* thought the film “unusually strong from a religious standpoint” and suggested that it “could well be used by religious organizations in illustrating the saving grace of what they preach.”<sup>188</sup> Likewise, *A Change of Heart* tells the story of a son of “indulgent parents” getting mixed up with the wrong crowd. “Drinking is always the feature of such parties,” the bulletin intones, “and the head and heart benumbed by the fumes of alcohol are never normal and the being is



Figures 10–12.  
*What Drink Did*  
(Biograph, 1909).  
Frame enlargements  
courtesy of the  
Library of Congress  
Prints and Photo-  
graphic Division.

morally weakened, oft-times falling into a morass of irreparable ruin.”<sup>189</sup> The son dupes a “country girl” into going through a pretend marriage ceremony but after speaking to his mother realizes the error of his ways and persuades the woman to marry him for real.

Reformation and moral renewal in these films do not usually come directly from the actions of the mother—who is frequently marginal—but instead from the actions or sacrifice of children, a representational tradition that has a long history in melodrama and can be tied together with the “sentimental” culture central to a proliferation of so-called sentimental fiction in the late nineteenth century.<sup>190</sup> Here it was evidently also positioned as a response to the debates about children and cinema detailed in the previous chapter and was tied together with conceptions of the moral authority of women delineated above, frequently intertwined with the moral guidance of children. Stories of male reformation, moral renewal, sacralized children, and reunited families reflected and refracted the broader regulatory space of the period and responded to the regulatory and economic imperatives facing the film industry, which clearly sought to present these stories as analogous to the reformation of the industry and as a projection of the moral, respectable, and domestic nature of cinema.

*A Drunkard's Reformation* is in many ways the most self-conscious of these films in respect to the broader regulatory and commercial context sketched in thus far. The film opens with the wife and daughter at home and contrasts this with a shot of the father at the saloon. The two spaces are contrasted through parallel editing, which suggests a temporal simultaneity but spatial differentiation and sets up a structure of allegiance with the moral position of the suffering mother. The father returns home and disrupts the domestic space, frightening the wife and daughter with his drunken violence (figure 13). He is, however, persuaded to take the daughter to the theater to see the temperance drama. His wife prays at home, and he repents and returns home, the *Biograph Bulletin* noted, “a changed man” as a result of “the psychological influence” of the play on the audience (figures 14–17).<sup>191</sup> He throws down a bottle of wine, and the final shot—showing the “good husband, seated at home, smiling wife at his side, and girl on his knee” bathed in the light from the hearth—was singled out for praise by one of the censors who saw the film at the first meeting of the New York Board of Censorship (figure 18).<sup>192</sup> A precise “morality of space” is set up here, with the saloon and the theater pivoting on the domestic space—the saloon threatening that space and the theater upholding it, taking the man out of the saloon and returning him to the home as the “space of innocence” so central to melodrama.<sup>193</sup> Theatrical space is one where fathers and children can be

together safely. This is a moment also when film entrepreneurs were consciously drawing on an association with the model of theater and its shift into the realms of respectability.

This representation of the positive “psychological influence” of drama responds to contestations over the social and psychic functioning of moving pictures, utilizing filmic discourse—such as parallel editing, implied point of view, shot/reverse shot, lighting—for the presentation of moral discourse and for the representation of film as an educational medium. For Tom Gunning and for Roberta Pearson, both of whom offer insightful readings of this film, this filmic discourse is linked to the articulation of character and to the setting in place of structures of “identification” such that audiences are effectively “aligned” with certain characters and sorts of behavior as opposed to others.<sup>194</sup> *A Drunkard’s Reformation* shows this in process, with the drunkard literally miming the process of alignment at the theater in an extended twenty-shot sequence that cuts between the play and the drunkard’s reaction to it, forming a proto-point-of-view/reaction shot pattern and a perceptual alignment that allows a form of access to the character’s emotions. This alliance is further enabled by an acting style that leans toward the psychological delineation of character. In doing this the film itself suggested that the regulatory problem of emotional engagement at the cinema was less the problem many had believed and more in fact a solution—for such engagement was refigured as one of moral instruction. The film is, then, as Gunning asserts, not simply a film with a moral lesson but an actual demonstration “that *film can be moral*; that watching an edifying drama can have a transforming effect on the spectator.”<sup>195</sup>

In addition, I would argue, given the context outlined here we may be more precise about the rhetorical parameters of this transforming effect, for it is a *male spectator* who is represented as being reformed by edifying drama—becoming, commentators noted, a “changed man,” a “reformed man”—as it is insistently the male drunkard in these temperance dramas who must undergo the process of reformation.<sup>196</sup> In line with rhetoric articulated by early feminist reformers about temperance and by the film industry about the cultural function of cinema, these films suggest that certain configurations of masculinity are problematic and need to be reformed. Accordingly, the “moral orientation” of *A Drunkard’s Reformation*, and the filmed temperance dramas more generally, positions spectators in a structure of allegiance with the moral position of women and children. Male spectatorship in *A Drunkard’s Reformation*, we may say, is actually about opening up to the instruction of women and children—and this mirrors the position of the industry more widely at this contested moment in cinema history.



Figures 13–18.  
*A Drunkard's Reformation* (Biograph, 1909).  
Frame enlargements  
courtesy of the Museum  
of Modern Art.



Such a situation was not limited to the issue of temperance, though, for a validation of gendered notions of respectability in the culture at large extended well beyond the confines of the temperance issue to a series of discourses about sexuality—as the debates about Stanford White and Harry Thaw suggested—that were in turn refracted in various ways in film texts. “Social purity” and “social hygiene” campaigns in particular focused on the regulation of “dangerous” sexuality and the promulgation of norms of morality, often (although not exclusively) aimed directly at the regulation of male sexuality and the enforcement of a “single standard of purity” and existing in parallel with the validation of a morally renewed masculinity and the virtues of “home protection” in the temperance debates.<sup>197</sup> Similar to the temperance films, a number of films emerged at this moment that either validated a configuration of moral masculinity or showed the reformation of masculinity and linked this to norms of sexual morality and, I suggest below, debates about “social hygiene.” Singling out one particular film, *The Drive for a Life* (Biograph, 1909), the following section pursues this cultural (re)figuration of masculinity in detail, continuing the account of the conjoining of stories of male reformation and moral renewal with the “story” of the reformation and moral renewal of cinema and setting up the further consideration of the effects of this on film form.

#### MALE FACTORS AND MALEFACTORS

Shortly after the establishment of the New York Board of Censorship and the release of *A Drunkard's Reformation*, the Biograph studio released *The Drive for a Life*, a film that told the story of a young man abandoning his mistress in order to marry a respectable girl. The film begins with an intertitle that reads, “The young man determines to put away an unworthy past for a higher future,” before we see the young man, named Harry Walker by the bulletin that accompanied the film, visiting the “young widow” Mme. Lebrun to announce his forthcoming marriage to Mignon.<sup>198</sup> Lebrun pleads with Walker to stay, but he leaves and visits his fiancée, Mignon, at her family home. He gives her a ring, they kiss, and as he leaves, her family surrounds her, admiring her engagement ring. Lebrun goes out on an errand some time later and encounters Walker out driving with Mignon. She follows them, but they remain unaware of her presence; she then returns home and proceeds to forge Walker's signature on a note to Mignon. An insert shot shows Lebrun injecting candy with poison, and an intertitle reads, “Forging his handwriting, the poisoned candy is sent on its terrible mis-

sion." Walker arrives at Lebrun's house to return some letters and discovers the attempt to poison Mignon; he sets off on a race to the rescue, arriving just at the moment Mignon and her family are about to eat the candy. The film ends as the two lovers kiss.

Like the temperance dramas, the film tells a "moral lesson" that centers on the reformation of the male character, linked here to the putting away of an "unworthy past," associated with Walker's relationship with the widow Lebrun, for the sake of a "higher future" of moral worth attendant on marriage to Mignon. Located within a representational tradition in early cinema of widows as sexually active (and frequently as bad mothers),<sup>199</sup> the film clearly suggests that the "determined" reformation of Walker moves along a trajectory from a position of unworthy sexuality to the higher future of domesticity.<sup>200</sup> Visual contrasts between the two women support this moral contrast, for Mignon is consistently positioned in the center of the frame, surrounded by her family, all dressed in white, whereas Lebrun's home is darker, less grand, and more cluttered, and she lives alone. Similar valorizations of whiteness are, of course, visible more widely in the output of Biograph and in director D. W. Griffith's career;<sup>201</sup> a corresponding representation of "deviant" femininity as destructive of domesticity was also common in early film.<sup>202</sup>

Walker embodies the splitting of masculinity across the character functions of hero and villain commonly seen in melodrama, divided, as he is, between a past immorality and future morality. In this representational tradition villainy and deviancy are usually coded across various icons of difference—in relation to ethnicity, race, class—and are frequently linked to sexuality, for the villain's advances are usually coded as sexual; and his defeat and punishment by the hero mark a reaffirmation of morality and frequently domesticity. Something like this structure, with numerous complications, was visible in the reporting and filming of the Thaw-White scandal. Lots of other films from around 1907 onward correspond to this structure, seen perhaps most clearly in a host of films about women and families threatened by criminals.<sup>203</sup> *The Drive for a Life* bestows on this narrative structure a more psychological dimension, though, for the contrasts exist *within* Walker in a way that is indicative of the increasing centrality of representations of psychologically rounded characters to the textual system emerging from 1909 onward.<sup>204</sup>

In the film sexuality beyond marriage has potentially *poisonous* effects on domesticity. Looked at in this way, *The Drive for a Life* can be connected to broader discourses about sexuality that focused on the potentially dangerous and "poisonous" effects of "unworthy" sexuality on the individual,

the family, and the social body. “Social purity” debates about the effects of “unworthy” sexuality—principally male sexuality—proliferated in the late nineteenth century, fueled, like the temperance debates, by religious idealism and by early feminist rhetoric.<sup>205</sup> A sense of the “social” nature of “purity” informed an increasingly secularized stance on these questions in the “social hygiene” movement in the early twentieth century, a stance that, alongside debates about the eradication or regulation of prostitution, focused on a regulation of dangerous male sexuality.<sup>206</sup> “The male factor,” influential social hygienist Prince Morrow stated, “was the chief malefactor.”<sup>207</sup> Accordingly, “male unchastity” meant that there was “more venereal infection among virtuous wives than among professional prostitutes” and that the “debased harlot and the virtuous wife” were consequently linked “in the kinship of a common disease.”<sup>208</sup> Again, deviant configurations of masculinity, crossed by considerations in particular of ethnicity and class, were the focus of reform rhetoric.

Social hygiene rhetoric was predicated on a theory of congenital venereal disease that suggested that “unworthy” sexuality led to venereal diseases that, in turn, produced “degeneration” through a “poisoning” of the family. Sex led almost inevitably to venereal diseases in this rhetoric, diseases that were, historian Alan Brandt notes, frequently termed “family poisons.”<sup>209</sup> Severe consequences followed for the population as a whole, for such infections were hereditary and thus part of what Morrow described as “that relentless law of Nature which visits the sins of the fathers upon the children.”<sup>210</sup> Venereal diseases, Morrow asserted, “are not merely diseases of the human body, but diseases of the social organism.”<sup>211</sup> In much social hygiene work on venereal disease and heredity, the individual body was linked with the social body, an association indicative of how discourses about sexuality joined both the private and the public in discussions about population “strength,” governance, and moral order and of how these collective discourses became a critical criterion for normative definitions of middle-class behavior.<sup>212</sup> Such rhetoric joined with an increasingly vocal eugenics movement that centered on concerns about birth rates and hereditary endowment in often explicitly nativist terms.<sup>213</sup> The policing of configurations of masculinity was central to debates about sexuality and moral order.

Locating *The Drive for a Life* in this discursive context is instructive, for the effects of Walker’s unworthy past are precisely to threaten a *poisoning* of Mignon and of the higher future of their domestic happiness. In this, the poisoned candy links “debased” Lebrun with “virtuous” Mignon as a consequence of Walker’s actions (indeed, in a curious sense, on Walker more centrally, for it is because the note resembles his handwriting that the candy

is accepted). Like the drunkards in *Father and Drunkard*, *What Drink Did*, *A Drunkard's Reformation*, and other films of this stripe, the “young man” in *The Drive for a Life* undergoes a reformation and moral renewal in accord with norms of respectability linked to the idealization of domesticity.<sup>214</sup> And again, the representation of male reformation and moral renewal functions as an allegory for the reformation of cinema, so a film like *The Drive for a Life* self-consciously marks a shift from the industry’s “unworthy past” of representations of perverse sexuality in, for example, *The Unwritten Law* to a “higher future” of respectability and acceptance. In this sense the conceptions of masculinity and moral order that animated discussions of issues such as temperance, social hygiene, and, indeed, cinema are internalized, becoming issues that inform film content and form, as the film industry strove to position characters as what we might call “ethical exemplars” and cinema itself as a “moral technology.”<sup>215</sup>

Even so, the reform agenda is clearly more coded in *The Drive for a Life* than it is in, say, *A Drunkard's Reformation*. No doubt this was partly about the problems of representing illicit sexuality, but it is also indicative of the gradual internalization of reform debates and of notions of the educative function of cinema in films in a way that was in line with *Nickelodeon's* later championing of an “uplift dramatic” genre that sugar-coats an educational function with drama and comedy and thus with the commercial aesthetic of the film industry. A balancing of the “instructional” and the entertaining in this fashion may also be a consequence of regulatory concerns about cinema and the formation of censorship institutions, which together gradually pushed the representation of controversial issues into metaphors that could thus circumvent censorship action and be read differently by different audiences—what film historian Ruth Vasey, writing about a later period, calls “the principle of deniability.”<sup>216</sup> Later, regulatory imperatives would force the representation of reform issues closer to the margins of the mainstream industry—an issue I pursue in the following chapters.

#### A NARRATOR SYSTEM

Stability of a sort was achieved, then, by mid-to-late 1909 in relation to discursive, textual, and institutional formations: a certain conception of a balance between education and “harmless entertainment” was supported by many; stories of reformation and the reconstituted family were widely produced and praised; and a newly formed national self-regulatory body policed cinema. State regulation had accordingly been held back and the in-

dustry was seeking an all—or almost all—inclusive audience, reaching across class divides by appealing to women and family audiences through the reformed material space of nickelodeons, conceptions of cinema as educational, and fictional conversion narratives focused on the restoration of familial order.

The broader parameters of this narrative configuration merit further attention here, for its formation and longevity is a subject of great importance to film historians and film theorists. Cinema historians have suggested that a “crisis” in film form around 1907 resulted in the elaboration of a particular narrative discourse from around 1909 that formatively marked American filmmaking thereafter. Kristin Thompson and Tom Gunning have delineated a radical shift from “primitive” to “classical” or from “a cinema of attractions” to a cinema of “narrative integration” that pivots on these years, a transition effectively from an emphasis on visual pleasure to storytelling (a shift seen in incipient form within *The Unwritten Law* and more clearly between *The Unwritten Law* and *A Drunkard’s Reformation* and *The Drive for a Life*).<sup>217</sup> A “narrator system” was set in place around 1908/1909, Gunning’s justly influential account suggests, that rendered the resources of filmic discourse—framing, point of view, editing, mise-en-scène—subsidiary to the task of narration and that concurrently positioned the viewer differently from the externality of the cinema of attractions, actively engaging the spectator in “stitching” together a synthetic spatial whole according to a narrative logic. As in *A Drunkard’s Reformation* and *The Drive for a Life*, eye-line matches, point-of-view shots, patterns of alternation, and parallel editing emerged to render character motivations and psychology clear in the service of telling a story. This development was, Gunning argues, linked to industrial transformations but also to a conscious attempt by the film industry to attract middle-class audiences, so much so that the “desire for middle-class respectability . . . ultimately provoked the narrative discourse of film” that was articulated as a “conscious movement into a realm of moral discourse.”<sup>218</sup>

Such a configuration of moral discourse, the above account has suggested, might be more precisely delineated, for it was closely linked to gendered norms of respectability. Cinema’s shift from “unworthy past” to “higher future” and move into the realm of moral discourse was aligned with the complex configuration of classed *and* gendered conceptions of respectability so central to the self-definition of the middle class. Evident in stories of male reformation and moral renewal like those in the temperance dramas and in *The Drive for a Life*, this shift informed also the more general elaboration of a narrative configuration intertwined with an idealization of do-

mesticity. Even a cursory glance at films of the period will show that they frequently tell stories about how a family that is initially threatened or separated, often as a consequence of the actions of deviant male characters, is saved or reunited at the end, brought back together by the agency of narrative. The “development of cinematic language was,” Nick Browne suggests, “linked to a particular subject matter . . . the family.”<sup>219</sup> Saving the family was central to the new narrative discourse of film, which was closely aligned—as we have seen—with a melodramatic heritage that sought in the family evidence of the essential moral nature of the universe in a “desacralized” society and that frequently worked, Linda Williams has suggested, to construct the moral legibility of victim-heroes like those assailed by various configurations of deviant masculinity.<sup>220</sup> The “melodramatic mode” was, some scholars have suggested, closely though complexly allied with appeals to women audiences.<sup>221</sup>

Likewise, “saving the family” was absolutely central to many reformers of the period—in particular to those middle-class women reformers who utilized conceptions of gender and respectability to articulate a “politics of domesticity.” “The ideology of domesticity,” Margaret Marsh writes, “was primarily woman defined, and had at its center a cultural institution, the family.”<sup>222</sup> The slogan of the Women’s Christian Temperance Union, “Home Protection,” accurately described the narrative trajectory of many films of the period. Given this context, we may perhaps reconsider the “narrator system” as a relay between the various levels delineated here—the sustained tradition of female activism in relation to reform questions and cinema, the reenactment of elements of those agendas on-screen, and the policing of those representations by a newly formed National Board of Censorship staffed overwhelmingly by women.

No doubt several provisos need restating here, though, for this configuration was complex and fragile. Saving the family in film can certainly be seen to be consistent with patriarchal norms, in particular a nostalgic attempt to reinscribe women into the private sphere and to link women’s domestic and reproductive labor to their fundamental natural and moral destiny.<sup>223</sup> Like the accounts of young women spectators lured into immorality by the cinema, this logic clearly situated “erring” beyond the domestic as troublesome. In situating cinema in regulatory space, film industry entrepreneurs drew on particular strands of female reform activism and not others and on particular conceptions of female purity and respectability that were simultaneously undergoing broad-based shifts and that could also be extremely disabling (as the scandal surrounding Evelyn Nesbit or the representation of a figure like “widow” Lebrun suggested). And although the

regulatory and economic importance of women and family audiences was certainly critical to the film industry at this precise moment, it could become in some respects problematic. Shelley Stamp has shown how women's presence at the cinema and the implications of female spectatorship were troublesome to industry entrepreneurs and some reformers in the 1910s.<sup>224</sup> Likewise, Lauren Rabinovitz has shown how film industry entrepreneurs solicited the female gaze but also confirmed women's status as object of the gaze, what she felicitously terms a "double edged process of subjectification and objectification."<sup>225</sup> Historians have shown also how significant shifts took place regarding the feminization of middle-class culture in the 1920s, notably in the modernist assault on a mass culture regarded as "feminized," and in a remasculinization of antiobscenity legislation that delimited the role of women reformers.<sup>226</sup>

Even with these extremely important provisos in mind, however, it is imperative that we recognize the cultural authority wielded by middle-class women reformers within the broader context in which they operated—the self-definition of the middle class, the establishment of politicized groups of women, the rise of a culture of consumption—and the effects this had on the regulation and shaping of cinema. In recognizing this we should not ignore how important a disciplining of female bodies on-screen and in the auditorium was to efforts to present cinema as respectable, yet we should also not ignore the perhaps surprising—or at least hitherto occluded—evidence that a simultaneous and equally important disciplining of the male body was also critical to the production of cinema as respectable in a way that was consistent with broader discourses about the social body exemplified in many ways by the campaigns for temperance and social hygiene. I pursue this issue of the regulation of masculinities in more detail in the following chapter, which focuses on the regulation of the body of the black boxer Jack Johnson, on-screen and off, delineating further a configuration of respectability that was simultaneously inclusive of white women and of reformed white masculinity yet exclusive of black Americans.

## 4 Film Fights, 1910–1912

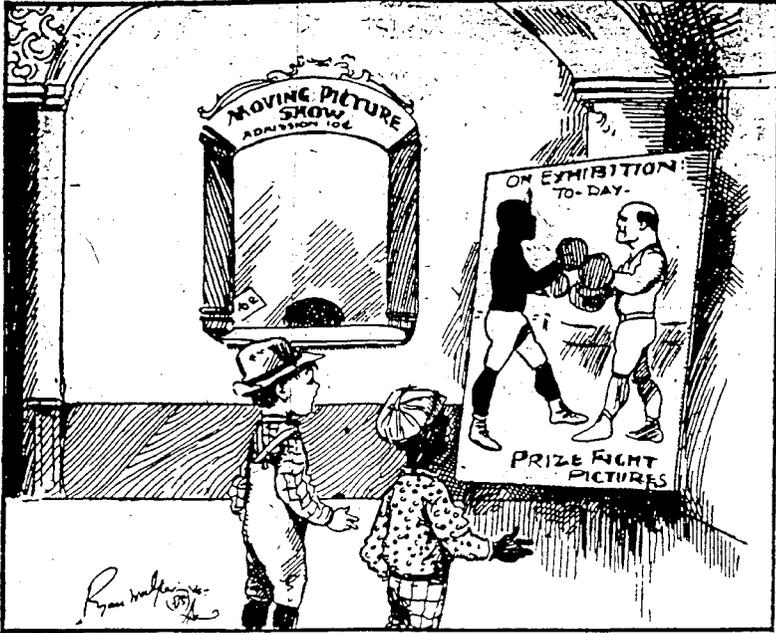
Looking for a way to sidestep a ban on the exhibition of films showing the African American boxer Jack Johnson's 1910 world-title fight against the white boxer Jim Jeffries in the states of Arkansas and Tennessee, entrepreneurs devised a clever plan—to show the film on a barge midstream of the Mississippi River, literally in between states and so on “territory” claimed to be outside the jurisdiction of the two state governments.<sup>1</sup> In the event, police officers ignored the constitutionally correct claims that navigable streams were outside the jurisdiction of state authority and boarded the barge to stop the projection of the film and, specifically, of the shocking images of Johnson knocking down the previously undefeated Jeffries and winning the fight.<sup>2</sup> Liminal or “heterotopic” spaces such as boats in between states were clearly not beyond the purview of an intensified governmental surveillance, as troublesome films—and, with them, cinema more generally—were increasingly brought into the orbit of a “state sovereignty” that was evidently “fully, flatly, and evenly operative over each square centimeter of a legally demarcated community.”<sup>3</sup>

Similar actions were taken against the other fight films of Johnson, starting from the distribution of his first world-title victory against white boxer Tommy Burns, in March 1909, at precisely the moment that reformers, exhibitors, and producers in New York City were collaborating to form the New York Board of Censorship to render cinema respectable, to connect it to an educational cultural function, and to distance it from a sporting male culture that tended to frequent saloons and prizefights (the two commonly seen as closely linked).<sup>4</sup> A cartoon entitled “Educational?” in the *Jackson (Mississippi) Clarion-Ledger* showed two boys outside a moving picture show. The boys (one black, one white) are looking at a poster depicting a fight between a black boxer and a white boxer (representing Jack Johnson

and Jim Jeffries). The cartoon thus showed how the films undercut the defensive rhetoric of the film industry (see figure 19). The films were also quickly singled out for criticism by the Women's Christian Temperance Union, who extended their moral surveillance of films like *The Unwritten Law* and of cinema more generally as part of a "politics of domesticity" by suggesting that fight films incited an "ungovernable spirit" in young male audiences.<sup>5</sup> Self-regulation started shakily for the film industry, then, which gave itself what *Moving Picture News* described as "a black eye" with the unfortunate timing of the release of *Johnson-Burns Fight* (Gaumont, 1908) and so consequently faced the first tests to its newfound—or almost found—respectability, further seen with the debates about *Johnson-Ketchel Fight* (Kalem, 1909), *Johnson-Jeffries Fight* (J. & J. Company, 1910), and *Johnson-Flynn Fight* (Jack Curley, 1912).<sup>6</sup> Never was there "a time," said *Moving Picture World* after the release of *Johnson-Jeffries Fight*, "when the general interests of the moving picture business were more at stake."<sup>7</sup>

The board of censorship initially sidestepped the first of many crises by passing *Johnson-Burns Fight* before belatedly responding to the intense and widespread concerns about Johnson's films by reserving the right to ban fight films according to the "grade" of boxers.<sup>8</sup> In late 1910 John Collier, secretary of the People's Institute and chairman of the board of censorship committee, said, "There has been much debate among our members about allowing pictures of prize-fights to be reproduced. The final decision was, in effect, tolerant of such films where there was nothing extremely brutal shown and where the persons who took part in them were of a better grade."<sup>9</sup> No such uncertainty existed for many local and state governments, which, like those in Arkansas and Tennessee, simply banned Johnson's fight films, evidencing an increasingly activist stance in relation to troublesome films that led to the establishment of state censor boards from 1911 onward, to a delimitation of the authority of the national board, and to the enactment of extremely important federal legislation directly in response to the Johnson fight films in 1912. Legislation directed at cinema reached the federal level for the first time here, for the framers of what came to be called the Sims Act defined the films as "commerce" and used the commerce clause of the Constitution to regulate the movement of fight films between states.<sup>10</sup> Simply put, the fight films of Johnson became caught up in, helped usher in, a reshaping of governmental—at both state and federal level—involvement with cinema, setting in play at the same time a series of significant debates about the definition of cinema that would have far-reaching effects on the regulation and shaping of cinema thereafter.

Laws against prizefighting had been in place in many states by 1896, but



EDUCATIONAL?

Figure 19. “Educational?” *Jackson (Mississippi) Clarion-Ledger*, 21 July 1910.

the intensified concern about Johnson’s fights and subsequent films was not only because prizefighting was generally regarded as a brutal contravention of standards of “respectability” but more precisely because Johnson’s fight victories and the films recording them visibly contravened racist doctrine, subverting proposed racial hierarchies that in the Supreme Court and in the boxing ring at least had hitherto seemed stable and secure.<sup>11</sup> “Scientific racism” suggested that a black man could not be heavyweight champion of the world.<sup>12</sup> Equally troubling for white elites, Johnson’s lifestyle outside the ring was characterized by many as “abhorrent,” “disgusting,” and immoral, and there was consequently widespread concern about—echoing Collier’s eugenically tinged language—the “grade” of Johnson.<sup>13</sup> His relationships with several white women were singled out for criticism, leading to a federal investigation beginning shortly after the enactment of the Sims Act under similarly designed legislation directed at so-called white slavery by the newly formed national policing organization, the Bureau of Investigation. Typical of various publications, the *Police Gazette* immediately described Johnson as “the vilest, most despicable creature that lives.”<sup>14</sup> Leg-

isolation directed at regulating the movement of Johnson's fight films, and subsequently of Johnson's body, was fundamentally racist, designed to shore up a fragile "color line" by policing images of an assertive black masculinity, by policing bodies and celebrity and, through this, of disempowered and thus potentially "ungovernable" populations.

Seen together, then, the regulation of Johnson's fight films and the regulation of Johnson himself point to an enmeshing of disciplinary regimes aimed both at producing subjugated racialized bodies and suppressing moving pictures. A critical interlinking of regulatory projects can be seen revolving around the figure of Johnson, as a policing of Johnson himself slipped over into a policing of films of Johnson fighting and vice versa and as the "Jack Johnson controversy" informed an intensification of municipal, state, and federal regulation of cinema, as evidenced on that boat on the Mississippi. Subtending this intensification of governmental concern about cinema was a tightly connected set of anxieties about race, morality, mobility, and national identity, suggesting that the developing regulation of cinema was enmeshed with disciplinary structures of white supremacy and that a now evidently racist policing of disempowered population groups informed and shaped the policing of cinema.

Leading on from the concerns articulated in the local (albeit nationally influential) markets of Chicago in 1907 and New York City in 1909, this chapter focuses on the flourishing of extremely important definitional debates about cinema and the subsequent enactment of federal legislation and establishment of regulatory institutions directed at the national market. Shifting focus slightly from the foregoing analysis of questions of class, ethnicity, and gender, I want to consider in detail a series of questions about race, respectability, and regulation to deepen my analysis of the regulatory space of the period and its critical effects on the definition, regulation, and shaping of cinema.

#### INTERSTATE COMMERCE

In the wake of Johnson's world-title victory in late 1908 and subsequent successful defense in late 1909 there emerged a campaign to persuade retired undefeated boxing champion Jim Jeffries to return to the ring to fight Johnson and to defend what Jeffries himself called the "athletic superiority" of the "white race."<sup>15</sup> Jack London wrote, "Jim Jeffries must now emerge from his alfalfa farm and remove that smile from Johnson's face. Jeff, it's up to you. The white man must be rescued."<sup>16</sup> Jeffries agreed, stating that

COMPLIMENTS OF THE

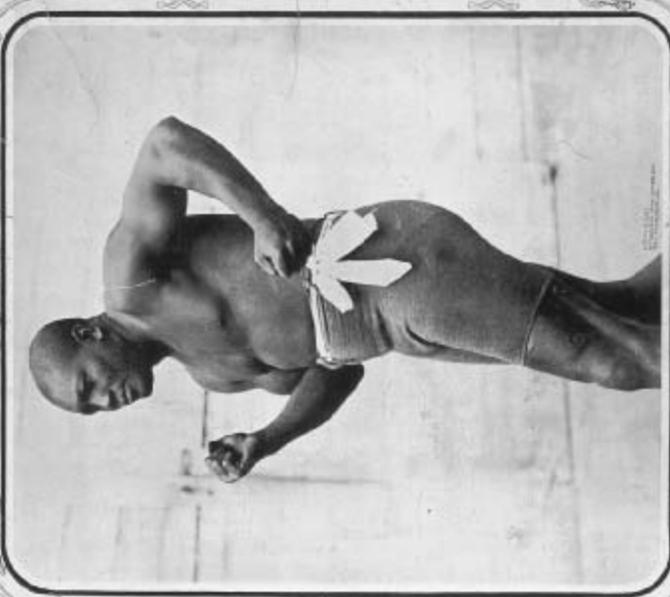
# SAN FRANCISCO CHRONICLE

CONTESTANTS FOR THE WORLD'S CHAMPIONSHIP, JULY 4, 1910



**JAMES J. JEFFRIES**

BORN IN  
 WILMINGTON  
 DELAWARE  
 HEIGHTS  
 5 FT 10 IN  
 WEIGHT  
 205 LBS  
 FIGHTING  
 STYLE  
 BOUTS  
 10



**JACK JOHNSON**

BORN IN  
 WILMINGTON  
 DELAWARE  
 HEIGHTS  
 5 FT 10 IN  
 WEIGHT  
 205 LBS  
 FIGHTING  
 STYLE  
 BOUTS  
 10

**CHRONICLE HAS THE BEST SPORTING PAGES ON THE PACIFIC COAST**

Figure 20. Poster advertising the Johnson-Jeffries fight. *San Francisco Chronicle*, 4 July 1910. Courtesy of the Library of Congress Prints and Photographic Division.

he would fight Johnson “for the sole purpose of proving that a white man is better than a Negro.”<sup>17</sup> Set for 4 July 1910 in Reno, Nevada, the fight was highly anticipated and widely reported (figure 20). Some five hundred reporters covered the event, including—in one of those curious surprises of the historical archive—Al Jolson, who wrote in *Variety* that Johnson’s relatively easy victory was “really too sad to write about.”<sup>18</sup> Jolson’s sadness was shared by many, who seemingly saw in the defeat of Jeffries the vanquishing of the supremacy and strength of the white male body and, indeed, of whiteness itself.<sup>19</sup> Rioting followed the fight, mainly in the South, incited by whites dissatisfied with the result; at least eighteen African Americans were killed.<sup>20</sup> Subverting the tendency toward the nationalization of commemorative and patriotic activity in play at least since the Civil War, Johnson’s victory on Independence Day problematized discourses intent on unifying the nation and resulted in a resurgence of sectionalism.<sup>21</sup> Nevada’s geographic liminality translated for many into a moral marginality that should have led to the state’s expulsion from the Union. “Nevada has no right to remain a part of our nation,” said Chicago Baptist minister the Reverend M. P. Boynton, suggesting further that “there should be some way by which our nation could recall the charter of a state that has become a desert and a moral menace.”<sup>22</sup>

Leaving aside for the time being long-term respectability for the promise of short-term profits, members of the Patents Company purchased the rights for the film of the fight for the considerable sum of \$200,000, seemingly with the hope that Jeffries would win and that the film would prove, in the words of *Moving Picture World*, a “gold mine.”<sup>23</sup> The company planned to distribute the film nationally by selling territorial distribution rights, a precursor to the “states’ rights” distribution system that enabled the distribution of feature films starting from around 1911.<sup>24</sup> Negotiating between profitability and respectability was evidently an ongoing project for the mainstream film industry, which clearly had not entirely jettisoned the production of controversial subjects in favor of the “moral, educational, and amusing films” their rhetoric trumpeted. Some concessions were made to the goals of respectability, though, for the Patents Company argued that the distribution of the film on a states’ rights basis would result in exhibition in higher-class venues, avoiding the patronage of children. The company also declared that it would show the films as “stag shows” and not to women—a strategy that ran counter to the broader trends within the industry delineated in the previous chapter but that sought to protect the company from anxieties about “suggestible” and “delicate” women and children watching the films.<sup>25</sup>



SAVE THE CHILDREN!

Figure 21. "Save the Children!" *New York Tribune*, 9 July 1910.

*Johnson-Jeffries Fight* was immediately controversial. Led by such groups as the United Society for Christian Endeavor and the Methodist Epworth League, reformers urged state and city officials to ban the film, suggesting in particular that the exhibition of the film would "multipl[y] many times fold" the race riots that followed the fight.<sup>26</sup> Letters to newspapers called on officials to prevent the "evil and demoralizing influences" of the fight pictures from "tainting and brutalizing" the "minds of the young."<sup>27</sup> An editorial cartoon in the *New York Tribune* entitled "Save the Children!" showed the two hands of Public Opinion and Christian Endeavor blocking out the images of the fight (see figure 21). Some reformers and officials couched their concerns about fight films in terms of the proposed black audience reaction to Johnson's victories, supposing once again a greater mimetic potential in "other"



Figure 22. "There's a Reason." *Moving Picture World*, 20 August 1910, 403.

audiences—what Todd Boyd has called a “monkey see, monkey do” logic—and showing a concern for the “race pride” of black audiences and for public order, now racially inflected.<sup>28</sup> In much of the rhetoric surrounding these films there was a clear sense that images of black power on-screen would lead directly to expressions of that same power outside the space of exhibition. A number of cities had anticipated race riots following the exhibition of the Johnson-Jeffries film and had placed police on the borders of black neighborhoods, positioning them as gatekeepers to a racially bifurcated public space. Said Mrs. James Crawford, vice president of the California Women’s Club: “the negroes . . . are to some extent a childlike race, needing guidance, schooling and encouragement. We deny them this by encouraging them to believe that they have gained anything by having one of their race as a champion fighter. Race riots are inevitable, when we, a superior people, allow these people to be deluded and degraded by such false ideals.”<sup>29</sup> A cartoon published in *Moving Picture World* referenced concerns about the “race pride” of black audiences, showing a smiling black audience seated alongside disgruntled white audiences at a showing of *Johnson-Jeffries Fight* (figure 22). Segregation in movie theaters and public space, a visible reminder of racial hierarchies, was seemingly threatened by the effects of the fight film.<sup>30</sup>

Legislation guarding against the response of male audiences was called for. “If the pictures of this contest were permitted,” Cardinal Gibbons, Archbishop of Baltimore, said,

I am sure hundreds of children would see them, and what would be the result? Their morals would not only be contaminated, but they would

have the wrong ideal of a true hero. After seeing the pictures a boy would naturally infer that the real American hero was a man bespattered with blood and with a swollen eye given him by another in a fistic encounter. The boy would go and try to do likewise. This would be a sad state of affairs.<sup>31</sup>

Like the Women's Christian Temperance Union's concern about the "ungovernable response" of male audiences, reformers clearly feared the effects of the films on population groups seen as threats to governance, groups such as boys, lower-class and immigrant men, and African American men.

Governors in states across much of the South immediately agreed to prohibit the films. Several northern governors and a number of city mayors across the nation followed suit, frequently by invoking "public nuisance" laws.<sup>32</sup> In Chicago the chief of police (and head of the censor board) banned the film, declaring that henceforth "no pictures or representations in any form of acts illegal in the state of Illinois" would be permitted.<sup>33</sup> Some officials simply conflated films of Johnson fighting with Johnson's physical presence, so that, for example, the chairman of the Atlanta Police Board banned the film of Johnson's victory over Jeffries, stating, "We don't want Jack Johnson down in this part of the country. If he is wise he will not come to Atlanta."<sup>34</sup> Like the police chairman, government officials increasingly raised questions about the national distribution of films and the consequent supplanting of local diversity. The North/South divide was the major fault line, yet the films were seen as dangerous by reformers and officials across the nation because they threatened to disaggregate fixed national communities and to problematize the maintenance of a national identity based on what Etienne Balibar terms a "fictive ethnicity" predicated on the marginalization and denigration of black Americans.<sup>35</sup> Structures of regulation functioned to support this larger fiction, controlling and delimiting the social aspirations of black citizens.

There was resistance to this delimitation, however, for the films were shown in a number of black communities and on the emerging black theater circuit, providing occasions for celebration and for challenges to the hypocrisy of the regulatory concerns about the films and, indeed, to the fiction of white supremacy.<sup>36</sup> Later, a group of black Americans in Chicago revived *Johnson-Jeffries Fight* in response to the local debut of *The Birth of a Nation* (Epoch, 1915).<sup>37</sup>

Leaving the ring for some two years, Johnson stoked regulatory concerns about his "fast" lifestyle through his well-publicized relationships with several white women, through a nationwide vaudeville tour capitalizing on his notoriety (like Evelyn Nesbit's the following year), and through his love of



Figure 23. Jack Johnson at the wheel, 1910. Courtesy Library of Congress Prints and Photographic Division.

fast cars and racing, a love that led to innumerable speeding tickets and became for many symbolic of Johnson's troublesome freedom of movement (figure 23).<sup>38</sup> He fought again for the world title in 1912, against the next "Great White Hope," Jim Flynn. The fight was to be held in New Mexico once again on the Fourth of July and was again to be filmed, this time by the independent producer Jack Curley rather than the Patents Company, thereby marking a clear marginalization of the genre from a mainstream industry burnt by the furor over *Johnson-Jeffries Fight*.<sup>39</sup>

In light of the debates over the 1910 fight and film and concern that the film would be widely distributed across the nation, Representatives Seaborn A. Rodenberry of Georgia and Thetus Sims of Tennessee and Senators Furnifold Simmons of North Carolina and Augustus Bacon of Georgia introduced bills in both the House and the Senate in May and June 1912 calling for the prohibition of the interstate transportation of fight films.<sup>40</sup> Rodenberry's motivation was clear. Labeling Johnson "an African biped beast," he asserted that "no man descended from the old Saxon race can look upon that kind of contest without abhorrence and disgust."<sup>41</sup> He described his bill as an attempt "to prevent the display to morbid-minded adults and suscep-

tible youth all over the country of representations of such a disgusting exhibition."<sup>42</sup> Sims, perhaps thinking back to that troublesome barge on the Mississippi, described the bill as an attempt "to prevent the shipping through the mails and in interstate commerce of moving picture films of prizefights, especially the one between a Negro and a white man to be held in New Mexico on the 4th of July."<sup>43</sup> The bill would suppress the movement of prizefight films, not their exhibition, which could theoretically take place if the films were produced and exhibited in one state.

In this, regulation concentrated on the disciplining of movement in a way consistent with the regulatory history of objects traveling in the mails, the first issue in the realm of "public morals" to claim the attention of the national government in the nineteenth century.<sup>44</sup> The banning of the movement of so-called obscene materials through the mails was initiated in 1842 but only coherently enforced after moral reformer Anthony Comstock proposed a revision in 1873 that effectively broadened the customs statute to include books, pamphlets, and pictorial matter.<sup>45</sup> In 1876 post office censorship was specifically authorized in the alteration of the statute to declare all obscene matter "non-mailable" and to thus prohibit its delivery. Comstock, who became a special agent of the post office and founder of the New York Society for the Suppression of Vice, vigorously policed the mails.<sup>46</sup> In time, the regulation of the distribution of "obscene" matter was aided by the growth of federal powers under the commerce clause, which gave over power to regulate commerce traveling between states to the federal government. The Sims Act emerged into this regulatory context, bringing moving pictures into the orbit of federal governance in relation to movement and morality, as the films of Johnson boxing entered the statute book as problems of "traffic." Some of these concerns about the traffic in films were perhaps symptomatic of broader concerns about the ever-increasing circulation of signs in the culture of modernity and about the establishment of new communications networks—like the train, the telegraph, and the telephone—that seemed to abolish spatial barriers and telescope time and space.<sup>47</sup>

Congress acted quickly after Johnson's easy victory and passed the act on 31 July 1912.<sup>48</sup> Unbeatable in the ring, Johnson, "at least on film, had proven vulnerable to the 'white hopes' of Congress."<sup>49</sup> In passing the Sims Act the federal government intervened directly in constructing the boundaries of what could legitimately be seen, an intervention evidently aimed at bigger cultural and political game. Images of blacks defeating whites were evidently outside a discursive formation that frequently represented whites beating blacks as leading to transcendence—*Uncle Tom's Cabin* being the

most visible example—but the reverse as “obscenity.”<sup>50</sup> Johnson as a mediated figure was the opposite of Uncle Tom, who was the embodiment of a self-abnegating black masculinity and who was repeatedly subject to physical violence and peril in order to save endangered whites.<sup>51</sup> In his victories inside the ring Johnson punctured these images of self-sacrifice and the fiction of white supremacy. The Sims Act’s overt policing of this fiction may be seen as a literalization of a broader “edgy, constant patrolling” of whiteness that, in its intensity, may speak also to what Eric Lott has termed “the necessary centrality and suppression of ‘blackness’ in the making of American whiteness.”<sup>52</sup>

Racialized boundaries were evidently erected to deny Johnson representation. In his book *White Screen, Black Images*, James Snead refers to the banning of the Johnson fight films as an example of what he terms “omission,” one of the devices whereby black people have been consigned to minor significance on-screen. Snead writes, “The repetition of black absence from locations of autonomy and importance creates the presence of the idea that blacks belong in positions of obscurity and dependence.”<sup>53</sup> Suppressing the films of Johnson, and later those of black filmmakers like Oscar Micheaux, worked to support the fiction of white supremacy and black dependence.<sup>54</sup> Looking closely at the films themselves suggests that certain practices of marginalization were in place even there, for between rounds one of the battery of cameras filming the event panned to follow Jeffries to his corner, fixing the white boxer as protagonist and clearly privileging white spectatorship.<sup>55</sup>

Legislation prior to the Sims Act was local in origin, like the Chicago censorship ordinance of 1907 or the piecemeal banning of *Johnson-Jeffries Fight* in states and cities under “public nuisance” legislation. The Sims Act initiated a crucial but still largely unexplored moment in the history of the federal government’s intervention into the policing of cinema. Specifically, the act was important because it defined cinema as “commerce” and this definition, particularly for the implications it carried regarding cinema’s relation to the press and to First Amendment guarantees of free speech, would play a central role in the regulation and shaping of cinema in the following years. No doubt coming out of a history of racism, and for the film industry principally a consequence of bad luck in the face of Johnson’s boxing brilliance, this “accident” of history would ultimately have significant ramifications for the industry.

The bill had been referred to the House Committee on Interstate and Foreign Commerce, where it was described as a bill to protect “the more advanced States which have forbidden pugilism as brutal and brutalizing

against having prizefights brought into their borders by way of moving-picture shows, which are only a little less harmful than the degrading sport which they describe."<sup>56</sup> It effectively defined the fight films—and, seemingly, moving pictures in general—as “commerce” and thus brought them within the orbit of federal government intervention, for the regulation of commerce traveling between states was delegated to the federal government under the terms of the Constitution. If the fight films were adequately described as “commerce,” and therefore as distinct from the press or “amusements,” then they could be regulated by the federal government.<sup>57</sup> Logical difficulties certainly suffused the Sims Act, since it evidently evolved in close conjunction with a concern over what motion pictures signify (in this case, the subversion of proposed racial hierarchies). In a strange twist the definition of film as commerce and its links to other forms of commerce like livestock or food was facilitated by the ability of moving pictures to function as signs.

Not everyone was convinced that such a definition was accurate. Industry entrepreneurs continued to play up the importance of the nonfictional to the industry’s respectability, ballyhooing cinema’s educative cultural function and, beginning around the furor over *Johnson-Jeffries Fight*, specifically suggesting that cinema should be seen as akin to the press. So, in response to the banning of the films in Chicago after the chief of police had declared that “no pictures or representations in any form of acts illegal in the state of Illinois” would be permitted, *Nickelodeon* wrote that “it is scarcely a step further to declare the printed description of illegal acts to be illegal in itself.”<sup>58</sup> *Nickelodeon*, *Moving Picture World*, and other defenders of the film industry saw this as the central point: the press had been running reports on the fight, so why couldn’t the fight be documented on film? The issue came to center on a discussion of the relation of cinema to the press and to the constitutional guarantees of the First Amendment. Should cinema, but not the press, be conceived of as “commerce”? And further, if the fight pictures were commerce, did that mean that the federal government had the right to regulate moving pictures more generally? Such questions must be seen as a crucial site for a discursive struggle over the definition of cinema and its social functioning, for the answers eventually given would be important in the broader discursive construction of cinema as an entertaining aesthetic medium distinct from the press and the “political.”

Anticipating the debates in the House and Senate about the Sims Act, *Moving Picture World* wrote, “If ‘public morality,’ upon which alone the enactment of such bills could be defended, is injured through moving pictures, why is it not equally injured through pictorial representations of a

prize fight in the newspapers? . . . The roots of this evil of discriminating against the moving pictures must be attacked by enfranchising the motion picture and placing it on an equal footing with the newspapers before the law."<sup>59</sup> In a discussion of the history of the freedom of the press two months later (described as "one of the most valued traditions of the race"), the journal imagined "the day when the same express privilege of freedom now bestowed upon the newspapers will be extended to the motion picture." It called on the government to alter the First Amendment to read, "No law shall be passed to abridge the liberty of the press or of the cinematograph."<sup>60</sup> Sympathetic reformers and officials supported such claims. For example, in response to a proposed motion picture code that included a censorship provision put forward by the Board of Aldermen in New York in late 1912, Mayor William Gaynor wrote a widely quoted rebuttal: "It has hitherto been the understanding in this country that no censorship can be established by law to decide in advance what may or may not be lawfully printed or published. Ours is a government of free speech and a free press. That is the cornerstone of free government. The phrase 'the press' includes all methods of expression of writing or pictures."<sup>61</sup>

Struggles for the freedom of the screen were waged in the main over the fight films, although certainly with a degree of reluctance. By 1912 the mainstream industry was no longer producing fight films and was increasingly unhappy about the films and the trouble they were causing for the film business. Even so, it was also conscious that important definitional debates were at stake that would impinge on what cinema could or would be. "While we have not a word to say in favor of prize fights," *Moving Picture World* noted, "we cannot help pointing out once more that, under the theory of [the Sims Act], Congress would have the right to bar from the benefits of interstate commerce any film which, in its argument, might be objectionable."<sup>62</sup> In the words of Frederick Howe, chairman of the National Board of Censorship, the film industry was quick to question "the ultimate effect of the assumption by the State of the right of regulating this important avenue of expression."<sup>63</sup> Like Howe, many in the film industry feared that the Sims Act would open the floodgates to other measures of censorship, with "the Congress of the United States . . . becom[ing] a censor in the old historic sense of the word, i.e., an inspector and supervisor of public morality."<sup>64</sup> Indeed, in 1915 *Moving Picture World* published comments by Postmaster General Albert S. Burluson suggesting that the 1912 Sims Act "could be extended to include other objectionable films" so that "it is very probable that the Government's complete control in the field of interstate commerce would be adequate to debar from interstate commerce films held to menace pub-

lic morals.”<sup>65</sup> In saying this, Burleson, who as postmaster general had executive power to ban objectionable mail, was drawing clear links between the federal government’s power to regulate the mails and to regulate interstate commerce. Later attempts to instigate federal censorship would cite the Sims Act as a significant precedent, something I discuss further in my conclusion.<sup>66</sup>

No such federal censorship would emerge, despite legislative activity beginning in 1914 and running through the teens and beyond. Even so, it is clear that the Sims Act was seen by many as a significant step in the direction of increased governmental activism and control in relation to cinema. By setting in place a definition of fight films as “commerce,” the act effectively separated these films and indeed cinema more generally from the First Amendment constitutional guarantee of free speech. In doing so, it suggested that the production of controversial topical films documenting or based on real-life events would be difficult and problematic—as we will see in the following chapter, which traces out the controversy over the “white slave” films produced the year after the Sims Act was passed.

Legislation focused on the disciplining of circulation and was closely tied to governmental concerns about race, morality, mobility, and national identity. Similar issues were in play in relation to Johnson himself, as this regulatory structure shifted from images to bodies when Johnson was incorporated into the “moral panic” over “white slavery.” Such a “panic” and specific scandalous event opens out to the issues animating the broader regulatory space of the period, enabling us to see in more detail the context out of which the Sims Act emerged and the precise way in which a regulation of cinema became intertwined with a policing of ethnically and racially coded bodies and populations.

## COLOR LINE

Like concerns about audiences and cinema, the phenomenon of “white slavery” began to receive sustained attention in journalistic, sociological, and governmental reports from 1907 onward. George Kibbe Turner’s “The City of Chicago: A Study of the Great Immoralities,” in the April 1907 issue of *McClure’s*, marked the beginning of a wider “moral panic” about the forcible abduction of women into prostitution, extended further by Turner’s 1909 article about vice in New York City, “The Daughters of the Poor,” and by the subsequent proliferation of news reports, vice investigations, local and national legislation, “docu-novels,” plays, and films.<sup>67</sup> No doubt some

of the anxieties underpinning the scare were related to the concerns about women and public space that animated the Thaw-White scandal in 1906 and 1907, immediately preceding the emergence of concerns about white slavery;<sup>68</sup> but such concerns were now evidently enmeshed with nativist rhetoric and racist practices, for Turner and many others argued that it was principally white women who were being abducted and that the white slavers were overwhelmingly ethnic and racial “others.”<sup>69</sup> The white slave traffic, said Jean Turner Zimmerman in *America's Black Traffic in White Girls*, is “carried on and exploited by a foaming pack of foreign hellhounds . . . the moral and civic degenerates of the French, Italian, Syrian, Jewish or Chinese races. . . . [A]n American or Englishman conducting such a business is almost entirely unknown.”<sup>70</sup> Conceptions of differential configurations of morality and respectability were central to the white slavery scare, just as scholars have suggested they were central to a burgeoning racist strain in nativist thought and to ideologies of nationalism and race.<sup>71</sup> Later, the trial of Johnson as a white slaver would make apparent the nexus of concerns about ethnicity, race, sexual immorality, and nationalism in play in the white slavery scare and in the so-called progressive period more generally.

Local, national, and international concerns about white slavery led to an international conference held in 1902 and to the subsequent formulation of a treaty in 1904 calling for a “supervision . . . [of] stations, ports of embarkation” and international journeys to monitor and legislate against “the traffic in women” and to set in place an international policing of space and mobility in response to the more general crises of social displacement and dislocation caused by migratory and immigratory movement.<sup>72</sup> The United States was not able to fully ratify the treaty with the other nations because of a lack of a national police force but signed in principle in 1905. Shortly thereafter, a national policing force was established after President Roosevelt and Attorney General Charles Bonaparte defied the wishes of Congress and their concerns about the expansion of national police power to create the Bureau of Investigation in June 1908 (this became the Federal Bureau of Investigation in 1935).<sup>73</sup> Later the same month, Roosevelt proclaimed the 1904 treaty in effect, to be policed by the Bureau of Investigation.<sup>74</sup> The transnational surveillance of borders set in play by the 1902 conference and 1904 treaty was central to the establishment of a national policing institution, then, as the regulation of sexuality, racial hierarchies, and the sanctity of the nation fed directly into the construction of a state-controlled agency of surveillance that would fix, arrest, or regulate movement and bring order to society in part through an ordered knowledge of its component populations and population movement.

Legislation focused on a policing of borders and national space, closely linked to the surveillance of ethnic and racial “others” and to the alleged importation of immorality. Immigration Acts in 1903 and 1907 intensified a policing of the nation’s space, responding to heightened concerns about the influx of non-Protestant southern European immigrants.<sup>75</sup> The 1907 act had set up an immigration commission to be undertaken by Senator Dillingham to report on the effect of immigration on economic conditions, education, vice, crime, insanity, and so on. Some of the report, entitled “The Importation of Women for Immoral Purposes,” was published in 1909. Claiming that immigration had increased “offenses against chastity,” the report went on: “The vilest practices are brought here from continental Europe, and beyond doubt there have come from imported women and their men the most bestial refinements of depravity. The toleration with which continental races look upon these evils is spreading in this country, an influence perhaps even more far-reaching in its degradation than the physical effects which inevitably follow it.”<sup>76</sup> Scares about white slavery and the importation of immorality clearly figured as a legitimating ground for the definition of national sovereignty over and against other nations, furthering the consolidation of national identity through the projection of deviance beyond national borders and thereby inculcating a collective sense of political community based on shared and defended space. A discourse of nationalism was structured around a moral hierarchy that kept an ethnic and racial politics of exclusion at its core, in accordance with a widely held belief in the existence of what sociologist Edward Ross called “moral varieties in the human species.”<sup>77</sup>

Dillingham’s report called for a strengthening of state intervention and increased cooperation among states to counter the immoral traffic in women; in doing so it led to calls for the creation of a federal law to regulate interstate “commerce” in women. Theodore Roosevelt supported this: “The Federal government must in ever increasing measure proceed against the degraded promoters of this commercialism, for their activities are inter-State, and the Nation can often deal with them more effectively than the States.”<sup>78</sup> Led by the report and by the growing furor over white slavery, Representative James Mann introduced a bill making it a felony under the United States criminal code to knowingly transport any girl or woman in interstate or foreign commerce for the purpose of “debauchery” or “any other immoral purposes.”<sup>79</sup> Similar to those who put together the later Sims Act, Mann sought here to use the commerce clause to enable the federal government to intervene directly in the policing of morality. Mann, who as Republican chairman of the House Committee on Interstate and Foreign Com-

merce had previously used the expanding power of the commerce clause to enact railroad rate regulations and the Pure Food and Drug Act, used large parts of the Immigration Commission's report and other accounts of white slavery to fashion a narrative of innocent white women abducted into sexual slavery primarily by immigrants.<sup>80</sup> Different discourses of "purification" were merged here.

Led easily through the House Committee on Interstate and Foreign Commerce by Mann, the bill was supported by President Taft in his annual message to Congress in December 1909. President Taft suggested that in his opinion it would be constitutional for federal law to prohibit the transportation of persons across state lines for the purposes of prostitution.<sup>81</sup> Several different reform organizations and publications urged their members and readers to write to their congressmen to lobby for the passage of the bill.<sup>82</sup> In Congress some concerns were raised about the projection of federal power "into local and state jurisdiction," but they were muted in the face of what one speaker called "the crime of crimes" that demanded the support of "every man who has the purity of the women of the country, the sanctity of the family life of this country, at heart."<sup>83</sup> Speaking for the necessity of the act, Mann persuasively (although ludicrously) argued that "the white slave traffic, while not so extensive, is much more horrible than any black slave traffic ever was in the history of the world."<sup>84</sup> It was critical to good governance, argued Representative Cox, who incisively summed up the connections between morality and governance, stating that the "strength of our government lies not in its great standing army or in its strong navy, but it lies in the building up, keeping, and maintaining [of] a strong, healthy sentiment of morality having in view high ideals of life."<sup>85</sup>

The act was easily passed and was signed into law by President Taft on 25 June 1910. The Mann Act, as it came to be called, certainly did vastly increase the police power of the federal government. In particular, the act was a "bureaucratic bonanza" for the Bureau of Investigation, the power of which increased steadily as a consequence of the Mann Act (as late as 1938, J. Edgar Hoover, director of the FBI, suggested that the act would enable the bureau to attack "the problem of vice in modern civilization").<sup>86</sup> Some concerns were subsequently raised about the construction of national police power, and the constitutionality of the act was challenged in 1913 but upheld by the Supreme Court, which reasoned that if Congress could deprive the facilities of interstate commerce to lotteries, obscenity, diseased cattle, fight films, and impure drugs, it could certainly withhold interstate movement from persons transporting or enticing women and girls for prostitution and debauchery.<sup>87</sup> The *New York Tribune* described it as "one of the most significant

interpretations of the Constitution as a grant of national power,” and *Survey* commented that the decision was “the most advanced step yet taken” in construing the federal power over interstate commerce.<sup>88</sup> No doubt the significance of the act made it a critical precursor to the 1912 Sims Act, directed at the prevention of the movement of “immoral” films across state lines. Both acts make apparent connections between racism and the increase of federal power, suggesting something of the struggle for a white national identity based on a racial differentiation from both external and internal “others.”<sup>89</sup>

Some of the debate in the House of Representatives consequently veered away from the standard focus on the immorality of ethnic others to consider the danger of an internal other—African American men.<sup>90</sup> In this an external racism that was directed against “foreigners” fused with an internal racism, directed against a population regarded by many as second-class citizens within the nation space. The white slavery scare fused here also with the virulent myth of the black man as rapist. Such a myth proliferated from the late nineteenth century, years marked by a steady retreat from Reconstruction’s promise of racial equality;<sup>91</sup> it was clearly subtended by a broader social scripting of blackness that equated it with innate depravity and that, Robyn Wiegman argues, functioned more widely to deny the black male full admittance to the patriarchal province of the masculine.<sup>92</sup>

The connection between the discourse about white slavery and the myth of the black male rapist became clearer in late 1912 when Johnson was tried under the Mann Act. Shortly after his 1912 world-title victory, the mother of a white woman who worked for Johnson—and/or was romantically linked with him—accused Johnson of abducting her daughter. He was arrested in October. Not surprisingly, there was considerable outrage. In Texas the *Beaumont Journal* suggested, “The obnoxious stunts being featured by Jack Johnson are not only worthy of but demand an overgrown dose of Southern ‘hospitality’”; the *Fort Worth Citizen Star* commented, “We bet we know one person that isn’t singing ‘I Wish I Was in Dixie.’”<sup>93</sup> Responding to the notoriety and visibility of Johnson, the Bureau of Investigation decided to press for a Mann Act conviction immediately, despite the fact that there were considerable problems in fitting Johnson’s alleged actions with the terms of the act, which was aimed principally, or even wholly, at commercial transportation and, as such, did not extend to abduction.<sup>94</sup> Compounding prosecutorial difficulties, the daughter had traveled herself to Chicago, had been a prostitute for some time, and would not testify against Johnson, her future husband.

Notwithstanding these problems, the Bureau of Investigation reasoned

that given Johnson's libertine lifestyle and frequent movement across state and national borders, it was certainly likely that he might some time have been guilty of transporting another woman across state lines for what the Mann Act vaguely referred to as "any other immoral purposes."<sup>95</sup> No one was sure whether the act could be used to prosecute those who had traveled across state lines for the purposes of immorality (or even what that "immorality" could include), but lawyers and the bureau were willing to interpret the act as broadly as possible.<sup>96</sup> Assistant United States Attorney Harry Parkin told the bureau to "endeavor to secure evidence as to illegal transportation by Johnson of any other woman for an immoral purpose." Washington agreed, and Attorney General Wickersham wrote to the Chicago office of the bureau that the Department of Justice would cooperate fully in the effort to target Johnson.<sup>97</sup> The bureau actively pursued Johnson, submitting his past, and particularly his mobility, to an exhaustive surveillance that finally succeeded in finding another white woman who had been in a relationship with Johnson and had traveled across state lines to meet him.<sup>98</sup>

A grand jury was convened on 7 November 1912 to consider the white slavery charge. Johnson was arrested and indicted. Tried in May 1913, he was quickly convicted. His celebrity and visibility resulted in a stiff sentence of a year and a day in the Illinois State Penitentiary. Judge George Carpenter declared, "The life of the defendant by his own admissions has not been a moral one. The defendant is one of the best-known men of his race, and his example has been far reaching and the court is bound to consider the position he occupied among his people. In view of these facts, this is a case that calls for more than a fine."<sup>99</sup> So it came to pass that Johnson, the son of a former slave, had become a white slaver, with that term clearly functioning—as Mann's rhetoric in the House had suggested—as a displacement of an entirely different configuration of slavery (and of the racial sexual abuse under that system). Johnson became a white slaver effectively because of his relationships with white women, as a framework of discipline and strategy of policing controlled and limited black male sexuality and mobility. In this, governmental intervention reinforced structures of white supremacy and functioned in a way similar to how Robyn Wiegman has theorized the performative and specular structure of lynching: "as a disciplinary activity that communalizes white power while territorializing the black body and its movement through social space."<sup>100</sup> Simply put, penal discipline enforced the physical punishment that Johnson seemed able to avoid each time he entered the boxing ring.

No disciplinary structure is all-powerful, though, for power insistently

breeds resistance, as when black Americans revived *Johnson-Jeffries Fight* in response to *The Birth of a Nation*. Johnson's subsequent actions make this clear also, for he escaped bail and prison by leaving the United States. The narrative of this escape, as related in his autobiography, is worthy of a Hollywood fiction: masquerading as a member of an all-black baseball team and utilizing one of the predicates of racism, that "black men all look the same," he boarded a train for Canada, where the team was scheduled to play.<sup>101</sup> Although he was trailed by members of the Bureau of Investigation, Johnson was not arrested because the Mann Act was not covered under the extradition treaty between the two countries. Further, because Johnson had purchased a ticket from Canada to Europe, he could not be deported from Canada as an "undesirable immigrant," for he was officially classed as an "alien" passing through.<sup>102</sup> Sailing for Europe, Johnson joined that transatlantic traffic in exiled African Americans; he titled this chapter in his autobiography simply "Exile." Lest we imagine a straightforwardly utopian conclusion, though, biographer Randy Roberts has challenged this narrative, suggesting that the government turned a blind eye in accordance with a prophetic memorandum from bureau chief Charles DeWoody that stated, "I believe we all agree . . . on the advantage to the country if Johnson were to be exiled from it."<sup>103</sup> Likewise, a writer to the *New York Call* seemed unconcerned about Johnson's escape, for it meant that "Anglo-Saxon America is relieved of a most dangerous menace to the preservation of its color."<sup>104</sup> Like films showing Johnson fighting, the fighter himself was effectively pushed outside the nation space. He finally returned to the United States in 1920, serving out his sentence before going on to become, among other things, a bit-part player in Hollywood.<sup>105</sup>

The "technology of exclusion" embodied by the Bureau of Investigation focused not simply on Johnson as a "dangerous individual" but on a considerably broader terrain—the aggregation and governing of populations so central to proliferating ideologies of nationalism.<sup>106</sup> Racism can be seen as the most revealing "concrete" effect of the play of modern political technologies on the life of individual bodies and on the level of populations and the way they reproduce, suggesting that the disciplining of individual bodies is intimately connected to the "global" regulation of the biological processes of human beings and that discourses of sexuality and racism are closely connected.<sup>107</sup> This regulation necessitated the development of a range of new tactics and techniques of government, in particular the construction of "apparatuses of security," which refers both to the collective mass of a phenomenon—for example, control over population movement—and to the management of the population in its depths and details.<sup>108</sup> Scares over white

slavery, and Johnson's inscription with them, make this clear. Like the regulation of Johnson's fight films, power was directed through the denial of free movement, mapped now onto the body of Johnson and connected to a policing of the "mobility" of sexuality to cross "racial borders."

A similar policing was replayed in a flurry of "miscegenation bills" introduced after Johnson's conviction, regulating not only interracial sexuality but also its results, the alleged "decline" of the population, in a form of legislative activity that has been seen as the ultimate sanction of the American system of white supremacy since the demise of slavery.<sup>109</sup> Seaborn Rodenberry, so central to the passage of the Sims Act, angrily observed that "in Chicago, white girls are made slaves of an African brute" and that "[n]o brutality, no infamy, no degradation in all the years of Southern slavery, possessed such a villainous character and such atrocious qualities as the provision of the laws of Illinois, New York, Massachusetts, and other states which allow the marriage of the Negro, Jack Johnson, to a woman of Caucasian strain." "Intermarriage," he continued, was "abhorrent and repugnant to the very principles of a pure Saxon government. It is subversive of social peace. It is destructive of moral supremacy."<sup>110</sup>

Looking back from this vantage point on the Sims Act's policing of the image of Johnson might suggest that at its margins it was influenced by a desire to prevent the display of a desirable black male body from erotic contemplation. Boxing films were generally looked on with suspicion in this regard, even when the two fighters were white, with commentators often noting the number of women in the audience.<sup>111</sup> This concern was doubtless increased when one of the fighters was black and increased again when that fighter had a history of relationships with white women. Of course, such erotic contemplation was not confined to a female audience, and one finds in the press much commentary on what one journalist called "the surpassing beauty from the anatomist's point of view" of Johnson's body. Likewise, the *New York Times* observed, "There was a sigh of involuntary admiration as [Johnson's] naked body stood in the white sunlight."<sup>112</sup> As Stuart Hall, among others, has argued, racism is frequently marked by the constant coupling or complex play of racial fear and desire, ambivalence and attraction.<sup>113</sup>

Located in the context sketched here, Johnson's conviction was clearly linked to the broader concerns about the sanctity and purity of the race and nation addressed by Rodenberry and subtending the white slavery scare more generally. Symbolic of a racially coded immorality, Johnson—or at least, constructions of Johnson—was widely seen as challenging to proposed racial hierarchies, to moral norms, and to governmental authority, a state

of affairs that led to his conviction and exile and that was evidently complexly enmeshed with the banning of fight films from the screens of the United States. Legislation directed at Johnson's fight films fused with that directed at Johnson himself.

Such a situation was further evident when the constitutionality of the Sims Act was challenged in a later case that focused on the films of Johnson and explicitly brought the Sims Act and the Mann Act together. Although exiled from the United States, Johnson remained heavyweight champion of the world until he fought Jess Willard in Havana in 1915 and finally lost his title, his punishment in the ring able at last to function as specular assurance of the negation of the threat he had posed to the existing structures of racism. Not surprisingly, there was much demand to see the film of the fight, *Johnson-Willard Fight* (Pantomimic, 1915). *Variety* observed that "it is not expected that the authorities will hold the same antipathy against the exhibition of a white champion on the sheet as it did against the black one," and the *Chicago Post* suggested that "it may be necessary to rejigger the interstate law that forbids the transportation of fight pictures from one state to another."<sup>114</sup> Working on this understanding, the producer, Lawrence Weber, attempted to import the film past alerted customs authorities and what *Moving Picture World* columnist W. Stephen Bush described as "the frowning watchfulness of Uncle Sam."<sup>115</sup> In the event, port authorities confiscated the film, and Weber challenged this, and the Sims Act, in a federal district court and in the United States Supreme Court.<sup>116</sup>

Lawyers for Weber argued that moving pictures should not be regarded as commerce. "We most emphatically deny that these films are articles of commerce," said attorney and former senator Charles Towne, for "[i]t has been declared again and again that theatrical exhibitions, operas, plays, and the like are not articles of commerce."<sup>117</sup> Lawyers also questioned what exactly the article of commerce was—that is, if Weber was not actually selling the films but merely transporting them to exhibit them locally, the commercial transaction was the exhibition context, not the interstate shipping of the films. Weber could then ship films from one state to another as a lawyer might carry law books from one state to another, lawyers suggested, and the federal government had no jurisdiction over that, for it fell under the police powers of the states. Judge Thomas G. Haight dismissed these arguments, though, and asserted again that "the essential, material character" of moving pictures meant they could not be removed "from the class of tangible things that are the subject of 'commerce' in any definition of that word." Consequently their exclusion as articles of commerce "was no

different in legal character than sponges gathered at a certain season of the year . . . imitations of coins . . . diseased cattle . . . lottery tickets,” and other articles whose similar exclusion by Congress had been upheld by the courts.<sup>118</sup>

Judge Haight disagreed further with Weber’s arguments about the scope of federal power, pointing out a case in which a man had sent for a woman from a different state and had been held to have violated the Mann Act although no prostitution had taken place. The case was, of course, that of the *United States of America v. Johnson*. The Mann Act converged with the Sims Act over the figure of Johnson to purify the social body from internal dangers via a disciplining of movement. A racial politics of exclusion, central to the emergence of the Mann Act and at the core of a discourse of the nation, was crucially implicated in the construction of a discourse of cinema.

Losing the argument in court and the appeal to the Supreme Court, a final twist to the case took shape when Weber challenged the Sims Act in another way, showing again—like the example of the boat on the Mississippi—the struggle between commercial entrepreneurs and regulators in respect to the Johnson fight films.<sup>119</sup> The negatives of the film had been developed and printed in Toronto and were to be exported from there to the South American and European markets. A scheme was devised, though, whereby those pictures could be transported across the border of the United States without contravening the terms of the 1912 act: the film was to be projected from the Canadian side of the border and “rephotographed” on film in the United States, across a border measuring just a few inches. On 15 April 1916, more than a year after the actual fight, a group carefully carried the negatives to a rendezvous point at the international boundary stone one mile north of the Delaware and Hudson railway stations at Rouses Point.<sup>120</sup> A tent was set up over the stone with its northern stakes pegged into Canada and its southern stakes pegged into the United States. A customs official observed the proceedings, which apparently took five days. The images of the fight—of Johnson’s defeat and of Willard’s knockout blow—crossed the now permeable border in patterns of light.

Weber’s conceptual move was certainly impressive, repositioning the ban on interstate commerce as referring only to the actual filmic material—the celluloid itself—and thus freeing the images from their embodiment on/as film. He planned to do the same thing at state borders within the United States.<sup>121</sup> However, this plan ran aground on the intransigence of the customs authorities, who evidently believed that the “transfer of light waves across an international boundary constitutes importation.”<sup>122</sup> A federal

statute for unlawful importation of a fight film was issued. Weber again challenged this in a federal district court, arguing that the Sims Act only prohibited “the importation of something physical or corporeal,” but the judge again reversed his attempt to separate images from celluloid.<sup>123</sup> The *New York Times* and *Moving Picture World* reported: “The argument that this process did not amount to bringing in the picture from Canada is met, Judge Hand said, by the unquestioned fact that a pictorial image, though not a physical object, was in Canada and is now in New York and that its presence here was caused by the traveling of rays of light.”<sup>124</sup> Even intangible rays of light were subject to the intensified “panoptical” gaze of regulatory authority, marking an extreme policing of the movement of images and their ability to circulate in a way denied their referent—Johnson himself, still exiled from the United States. This case stands as a remarkable prefiguring of more contemporary debates about the permeability of national borders with respect to satellite technology and the difficulty of a customs post in dealing with electronic products that, unlike celluloid, assume no materiality and that effectively render national borders “osmotic membranes through which information and communication flows pass.”<sup>125</sup>

Legislation directed at the regulation of the movement of films and bodies was connected, then, consistent with a structure of discipline that, as Michel Foucault has suggested, “fixes . . . arrests or regulates movement.”<sup>126</sup> Similar debates about mobility, morality, and governance informed other regulatory initiatives directed at cinema from this moment, shifting from a regulation of the movement of images to the regulation of the corporations and institutions distributing films and to the setting up of state boards of censors as barriers to the national circulation of films.

#### OBSCENE, INDECENT, OR IMMORAL

Lawyers working for the federal government filed suit against the Patents Company on 15 August 1912, just two weeks after the enactment of the Sims Act, charging the Patents Company with operating as a “trust” that utilized unfair business practices.<sup>127</sup> State power manifested a concern now not only with a regulation of representation but also with a regulation of the commercial operations of the film industry—for the industry, a proposition more threatening than censorship itself.<sup>128</sup> Historians have shown how the “trust question” was central to “progressivism” in general, marking as it did an increased concern about the powers of ever-larger corporations like Standard Oil and intense (and still current) debates about the question of

where corporate autonomy should end and government regulation begin.<sup>129</sup> In the important Sherman Anti-Trust Act of 1890 the government forbade “every contract, combination, in the form of trust or otherwise, or conspiracy in the restraint of trade” and by doing so exerted its power to regulate interstate commerce across state lines to control not only actual commerce but also those industries manufacturing products that were to move in interstate commerce.<sup>130</sup>

In the long trial against the Patents Company, which began in January 1913, the company argued as part of its defense that the federal government was overstepping its constitutional powers, that the company had stopped the exhibition of “indecent films in low dance halls and saloons” and helped finance the national board, and that, in any case, motion pictures “are not articles of commerce like lumber, cheese, beef or turpentine. They are works of fine art and of a literary and dramatic essence.”<sup>131</sup> “A broad and fundamental difference exists,” lawyers for the defense argued, “between literary and artist products on the one hand and purely commercial products on the other”; and moving pictures should properly be conceived of as “intellectual and mental expressions, creatures of the brain and the imagination.”<sup>132</sup> If this definition was accepted, moving pictures would not be subject to interstate trade regulations, and the Patents Company would not be liable to prosecution under the terms of the Sherman Act.

In the event, such arguments carried little weight in court, for the Mann Act (and the upholding of its constitutionality) had enlarged the federal police power in relation to morality and because the policing of Johnson’s fight films and the enactment of the Sims Act had already suggested that cinema was to be conceived of as “commerce.” In a decision announced in October 1915 the district judge agreed with the government that the Patents Company had violated the Sherman Ant-Trust Act, and he ordered the company dissolved.<sup>133</sup> Explaining his important decision, the judge argued that although “photo-plays” were like theatrical presentations (or art) they were dissimilar in that “additional accessories” like the screen, film, and the camera were necessary.<sup>134</sup> In short, the motion picture business was commerce and thus subject to interstate and business regulation.

Some of the attention generated around “trusts” reflected a concern that the increasingly national economy was overpowering a local specificity, in particular that of localized formations of morality. Legal notions of “community standards” in relation to a national consumer culture emerged in this respect in 1913.<sup>135</sup> Cinema, as a relatively early instance of mass culture, was troublesome here, for it was seen to override local norms and sub-cultural distinctions. In the wake of the widespread distribution of contro-

versial films such as Johnson's fight films, questions were asked by reformers and officials about the most effective way to regulate the movement of films among states and about the possible role of state government alongside the federal government in this.

Censor boards at the state level emerged from 1911 onward as a partial response to these questions, following the precedent of municipal censor boards like that in Chicago, and the upholding of the constitutionality of that board in 1909, and setting in place another level of government activism in relation to cinema. State boards were predicated on the "police power" assigned to states in the Constitution, defined as the right (and duty) of the states to protect the health, morals, and safety of their citizens. The police power was implemented with special vigor when public health and morals appeared to be at stake.<sup>136</sup>

The first state board was set up in Pennsylvania as early as mid-1911, but it did not start functioning until 1914.<sup>137</sup> It was established with a clear distinction in mind between moving pictures on the one hand and the press and the stage on the other. Initial discussions described the proposed bill as an "attempt to keep motion pictures attuned to public opinion and not necessarily in harmony with productions of the stage or newspapers, but rather to restrict the motion pictures to such as would afford clean entertainment or amusement and to eliminate everything which would tend to debase or inflame the mind to improper adventures or false standards of conduct."<sup>138</sup>

Like the board in Chicago, the Pennsylvania board was set up to censor "immoral and obscene films."<sup>139</sup> No film could be sold, leased, lent, or exhibited in the state until it had been inspected by the board, initially made up of one man and one woman (the bill stipulated that a woman should be included), and films would not be passed if they were seen to be "sacrilegious, obscene, indecent or immoral" or if they tended "in the judgment of the board to debase or corrupt morals."<sup>140</sup>

Other states took this formulation as a precedent, notably Ohio in 1913, Kansas in 1914, and Maryland in 1916. Like Pennsylvania, the state legislature in Ohio vowed to disallow films that were "sacrilegious, obscene, indecent or immoral" and would similarly not allow "an indecent subject, nor [one] representing lust."<sup>141</sup> The boards in Kansas and Maryland employed similar language, setting out to disapprove of films "such as are cruel, obscene, indecent or immoral, or such as tend to debase or corrupt morals" and those that are "sacrilegious, obscene, indecent, or immoral."<sup>142</sup> State boards functioned as barriers to the free flow of the circulation of films, as moral gatekeepers seeking to protect the morality of local spaces by polic-

ing external others. They were frequently likened to “moral boards of health.”

Local officials argued that state boards were necessary because the national reach of moving picture organizations was troubling to local community standards and because the New York–based National Board of Censorship was increasingly seen by many to be an ineffective censor for the nation’s movie screens. Ever since the formation of the board concerns had been raised about its close relation to the film industry, given that the board was financed in the main by the industry. Such concerns were brought to a head when the Women’s Municipal League resigned from the board in 1911, citing concerns about the efficacy of the board because of its close ties with production companies.<sup>143</sup> “[T]he National Board of Censorship does not satisfactorily perform the work for which it was organized,” said chair of the league’s Committee on Motion Pictures Mrs. Gilbert Montague, and “this work cannot be satisfactorily performed without the exercise of authority which lawfully can be vested only in some branch of the local government.”<sup>144</sup> The league, which had earlier cowritten the favorable report on nickelodeons in New York City with the People’s Institute and had been a founding member of the board, further suggested that “special releases” sold on a states’ rights basis were slipping beneath the surveillance of the board, which was consequently not functioning effectively “within the local field.”<sup>145</sup>

League concerns focused in part on prizefight films, which the board by and large ignored because they were produced outside the mainstream of the industry and were, in any case, part of an ad hoc production and distribution setup. Walter Storey, general secretary of the board, observed that the “corporation controlling the [*Johnson-Jeffries Fight*] fight pictures is a syndicate, recently organized for this sole purpose, with whom the Board has no agreement. These pictures are therefore not submitted to the Board for its decision.”<sup>146</sup> Likewise, John Collier explained, “if we attempted to suppress such a film we would come into conflict with persons who ordinarily help us very much in our work of trying to see that the usual pictures shown are of a moral character. While the members of the board would naturally be opposed to such pictures, we will not, therefore, be called upon to pass an opinion on them.”<sup>147</sup> No doubt such explanations did little to mollify the increasingly vocal critics of the board, who saw this inactivity in respect to fight films and to the films of foreign distributors as evidence of the compromised nature of the board and of the practice of self-regulation.

Local reformers and officials had similar reservations about the National Board of Censorship, frequently arguing that what could play safely in New York City was substantially different from what could play in smaller towns

and cities. State boards of censorship emerged in part in response to a growing sense that a national consumer market was overriding local particularity and that the National Board of Censorship's control over the distribution of films was partial and based on metropolitan standards. Similar concerns about the mobility of films to cross borders were replayed on the national level with the passage of a tariff act in 1913 banning the importation of "obscene" foreign films—showing again, as with the regulatory concerns about Johnson's fight films, how the regulation of cinema was increasingly enmeshed with questions about the policing of movement and the moral basis of cultural and national identity.<sup>148</sup>

Legislation directed at a regulation of the distribution of films emerged, then, in response to the controversial Johnson fight films, informing the initiation of federal legislation that defined the films as commerce and seemingly differentiated cinema from the constitutional guarantees of the First Amendment. Legal definitions in the Sims Act, the upholding of its constitutionality, and the decision rendered against the Patents Company circumscribed the social functioning of cinema, differentiating cinema from the press (and from literature and art) and bringing it together with lumber, cheese, diseased cattle, and turpentine. Some of the concerns in the Sims Act, in the decision against the Patents Company, in the formation of state boards, and in the passing of the 1913 tariff act were about a policing of the movement of images and corporations involved in the distribution of images and were clearly tied to broader concerns about what Senator Rodenberry called "moral supremacy," mobility, and governance.

Specifically, the Sims Act showed the centrality of conceptions of race to these pressing questions of governance, demonstrating again how the regulation of cinema was enmeshed with the broader regulatory space of the period and, as the concerns about race and sexuality central to the white slavery scare and the regulation of Johnson further suggested, with a policing of ethnically and racially coded bodies and of population groups regarded as troublesome or, worse still, "ungovernable." Legislation directed at the cinema, at the regulation of the movement of images, was inextricably tied to a regulation of the movement of black bodies through social space and of troublesome population groups. As the regulation of cinema shifted onto the federal level, it shifted also onto the terrain of broader ideologies of nationalism and race so central, many have argued, to the experience of "modernity" more generally.<sup>149</sup>

The National Board of Censorship faced severe challenges to its authority to regulate the cinema screens of the nation in the wake of this increased state activism, further intensified when a series of films representing white

slavery were produced from late 1913 onward, with terrible timing for the board and for the film industry (just like the release of *Johnson-Burns Fight* in 1909). The so-called slave reels were extensively debated within the board and within the broader culture, as they set in play a further series of questions about the relation of cinema to the press and other forms of investigative discourse and about the broader social functioning of cinema.<sup>150</sup> Could film continue to engage in the representation of controversial real-life subjects? Could sexuality be an acceptable screen subject? How should the borders be drawn around what cinema could show and be and what it could not show and not be? Such questions animated intense debates about the white slave films and produced answers that would have important ramifications for the film industry, which was on the cusp of the transition to the production of feature-length fiction films.

## 5 Judging Cinema, 1913–1914

Late in 1913 police in New York City raided the Park Theater while a screening of the feature film *The Inside of the White Slave Traffic* (Moral Feature Film Company, 1913) was in progress. Each of the five reels of the film was gathered up as they came off the projector by a police officer stationed in the projection booth in a literal enactment of a policing of the borders of the public sphere authorized by state “obscenity” legislation and by the penal code.<sup>1</sup> The producer of the film, Samuel H. London, challenged the actions of the police and argued that the film was produced for the uplift of public morals. He quickly obtained a temporary injunction to resume screenings, in the process booking the film also into the Bijou Theater to cater to the increased demand from audiences to see the film, and preparing prints for states’ rights distribution (a headline in the *New York Tribune* read “Slave Reel Spins; Police Hands Tied”).<sup>2</sup> Led by a deputy police commissioner’s claim that the film was “calculated to harm the morals of young people” and a police magistrate’s warrant to stem the “riot of obscene spectacles that is going on in our city,” the police sought to untie their hands by raiding the Bijou while a screening was going on—instigating a mini-riot in the cinema—but were again temporarily halted until Justice Gavegon in the New York Supreme Court vacated London’s injunctions in late December and thus effectively prohibited the films from screens in the city.<sup>3</sup> He did so by marshaling some familiar arguments about the sanctity of “public decency,” suggesting that in showing things themselves illegal—not now prizefights but houses of prostitution, or what he called “the inside workings of a sewer”—the film was itself illegal and that it would consequently “deprave and corrupt the morals of those whose minds are open to such influences.”<sup>4</sup> He went further, articulating a new line of attack that was predicated, it seems, on the logic of the definition of cinema as commerce—that

the film could not be said to furnish a “moral lesson” as London had claimed and was not “good for the public,” as a number of social reformers defending the film in court suggested, because it was produced “not for the uplift of *public* morals but for *private* gain.”<sup>5</sup> London was subsequently tried and, after an exhibition of the film in the courthouse before judge and jury and a defense strategy that emphasized the film’s realism, convicted of exhibiting material “tending to corrupt the morals.”<sup>6</sup>

London’s film had followed closely on the heels of the equally controversial white slave film *Traffic in Souls* (IMP/Universal, 1913), the two films bringing on-screen the question of sexuality that in the Jack Johnson scandal had remained off-screen and thus directly participating in the broader configuration of concerns about sexuality, otherness, and governance underpinning the white slavery scare.<sup>7</sup> Linked together in public discourse, the films stirred what W. Stephen Bush, writing in *Moving Picture World*, called “the imps of censorship,” creating myriad problems for the National Board of Censorship, which was uncertain how to respond to the films at a time when—as we have seen—the board’s authority was wavering, when state censor boards were starting to censor films crossing their borders, and when the possibility of a federal censorship of moving pictures was being seriously considered in hearings in early 1914 held before the United States House of Representatives Committee on Education.<sup>8</sup>

Many in the film industry consequently sought to distance themselves from the films and the “slavers” that followed their commercial success. *Variety* and *Moving Picture World* banned advertisements for the white slave films in early 1914, just as the national board produced a special bulletin delineating the strict conditions under which white slavery could be shown.<sup>9</sup> Concerned that the films would do “more harm than it is possible to calculate” in ushering in further measures of censorship, commentators like Bush followed Gavegon’s sewer metaphor and public health rhetoric and advised those showing the later white slave film *The House of Bondage* (Photo Drama Motion Picture Company, 1914) to “disinfect and fumigate the projection booth.”<sup>10</sup>

It was apparent, also, that they were enmeshed in what the *New York Dramatic Mirror* saw as a “struggle between those who want to publish broadcast facts about the white slave traffic and the police” and that the films then further instantiated a series of substantive questions about—in broad terms—the nature of knowledge, the public, democracy, and, more pressingly for the film industry, cinema’s positioning in the public sphere.<sup>11</sup> *Moving Picture World* saw the question begged by *Traffic in Souls* in similar terms:

It is a big subject—one that has been given grave consideration by many thoughtful men and women. These divide naturally into two groups—one favoring battling with the evil, or, as the more advanced would phrase it, the evils of the evil, in the old-time secret way; the other would come into the open and fight a condition as ancient as the beginnings of history with modern weapons—and the chief of these is publicity. To those who hold the latter of these opinions, “Traffic in Souls” will be warmly welcomed.<sup>12</sup>

The National Board of Censorship invited a host of social reformers to review *Traffic in Souls* at a specially convened meeting to consider “the broader question of the propriety of the treatment of these darker social problems through the medium of the stage or motion pictures.”<sup>13</sup> Reformers, entrepreneurs, and filmmakers had, as we have seen, championed the educative cultural function of moving pictures, evidenced by a film like *A Drunkard’s Reformation* and in the rhetoric around the “uplift dramatic” genre, but now this stance and alliance was tested, for it was unclear whether—after the Sims Act—film could engage with “darker” real-life “social problems” in a way similar to that of other forms of discourse, such as the press. No consensus yet existed here, and the tensions between differing conceptions of the social functioning of cinema produced uncertainty at the textual, discursive, and institutional levels.

Following the skirmishes over the two films, though, was a series of important decisions about cinema’s positioning in the public sphere, setting in play a critical shift in the film industry’s sense of the social functioning of cinema away from that articulated by social reformers arguing that film should be “good for the public,” as those reformers had done in defending *The Inside of the White Slave Traffic*, and toward the delimited sense of the social functioning of cinema adhered to by the precepts of the Sims Act, by the police, and by Justice Gavegon. The discourses and practices circling the white slave films effectively marked the breakdown of the alliance between progressive social reformers and the film industry and, accordingly, set in play two critical developments: first, the ending of the board’s preeminent role in policing cinema and the setting up of new institutional arrangements; second, the further establishment of an institutional strategy to avoid controversial “political” subjects and to provide “harmless entertainment” that had considerable ramifications at the textual level. In this sense the struggle over the white slave films in late 1913 and early 1914 further clarified the definition of what a “mainstream” cinema would be, setting in place a by and large institutionally accepted boundary line defining the acceptable and unacceptable social functioning of cinema. This boundary line marked

the establishment of a textual, institutional, and discursive formation central to the founding of what scholars have subsequently termed “classical Hollywood cinema.”

“LET ‘EM ALONE; IT’S THE MOVIES!”

Toward the beginning of *Traffic in Souls* there is a scene shot around the Battery in lower Manhattan, the disembarkation point at which immigrants arrived from the landing station Ellis Island, the so-called gateway to America. In the scene two women marked clearly as Swedish immigrants—they wear “traditional” costume and pigtails—disembark from the *Ellis Island* ferry while actual immigrants are coming ashore, some of whom look directly at the camera, and these images come to resemble for a moment those of earlier actualities like *Emigrants Landing at Ellis Island* (Edison, 1903) and *Arrival of Emigrants, Ellis Island* (American Mutoscope and Biograph, 1906) (figure 24). Here the fictional and the real stand momentarily side by side in a literal enactment of the more general enmeshing of fact and fiction in early cinema that has been characterized by David Levy as a “two-way traffic across a weak ontological frontier.”<sup>14</sup> Led across a different kind of frontier, the narrativized diegesis picks up pace as the sisters are met by their brother. White slavers provoke him into a fight, though, and a passing policeman arrests him, thus allowing one of the white slavers to escort the sisters to a brothel purporting to be a Swedish Employment Agency.

A subsequent account of the filming of this scene in *Motion Picture Story Magazine* suggested this action caused consternation among the unwitting real-life extras:

Suddenly, in full view of the crowd, a roughly clad man walked up and deliberately pushed the young immigrant, then struck him a violent blow. . . . Cries of indignation arose from the crowd, the old game was so obvious. The two men who interfered with the immigrants were about to be roughly handled by the crowd, when someone on its outer fringe cried: “Let ‘em alone, it’s all right!” A roar of laughter arose. Even above the noise a peculiar rattling buzz could be heard. Then came another voice: “Let ‘em alone; it’s the movies!”<sup>15</sup>

Even though the distinct self-enclosed space of the fictive was reasserted as a consequence of the recognizable buzz of moving picture cameras, director George Loane Tucker reshot the fight scene on a deserted waterfront, shifting away from the “actuality” or “documentary”-like nature of the scene and toward the self-contained transparent unity central to the classical cin-



Figure 24. *Traffic in Souls* (Universal, 1913). Frame enlargement courtesy of the British Film Institute.

ema's economy, in which the fictive and the real are seamlessly elided.<sup>16</sup> Linking a direct address and a fictional disavowal of the audience, a plurality of origins of *mise-en-scène* and "actuality" with fictional narrativized diegesis, this moment shows clearly a textual instability suggestive of the competing textual logics at work at this unstable and volatile moment in film history.

No doubt the uncertainty surrounding the weak frontier between fact and fiction peculiarly visible in the filming of the scene and in the scene itself was a consequence of the different textual aims underpinning the film. It had seemingly first been conceived when Mrs. S. M. Haggan, president of the Immigrant Girls' Home in New York City, approached Walter Mac-Namara, "special photoplay writer" at Universal, with the aim of producing a film to educate immigrant women about the threat of white slavery.<sup>17</sup> Haggan was clearly part of that larger movement, gathering momentum after the turn of the century, in which teachers, settlement workers, and professional patriots aimed to "Americanize" immigrants and hasten the process of acculturation through which they might embrace the values and behaviors of mainstream America. Her working assumption seems to have

been that film was a universal language—hence perhaps her approach to Universal—that would overcome the difficulties she had experienced in producing leaflets to distribute among immigrant women arriving at Ellis Island.<sup>18</sup> Such a stance stands in a direct line from that articulated by settlement worker Jane Addams in setting up the uplift nickel theater at Hull House in 1907, a further example of a conception of cinema as an agent of education and acculturation and of the efforts of social reformers to use film for noncommercial goals and for the public good.

Evidence exists to suggest also that Haggren later sought to exhibit the film in noncommercial contexts, notably onboard steam ships and at the quarantine station and the detention sheds at Ellis Island, an exhibition context that brings to mind Judith Mayne's ironic suggestion that traditional film histories picture "movie houses and nickelodeons . . . [as] the back rooms of the Statue of Liberty."<sup>19</sup> Likewise, an unidentified newspaper article suggested the Travelers' Aid Society was connected to the film and sought a similar exhibition context: "The Travelers' Aid Society is behind the venture, has arranged for several of the leading steamship companies for the presentation of the pictures before the steerage passengers on the largest lines as a warning against bogus employment agencies that prey upon newly arrived immigrants. A number of scenes are laid around the piers and depict the methods used by the organized vice interests."<sup>20</sup> It was seemingly to be shown only to those traveling in steerage, below the waterline (those who could afford to travel above the line avoided Ellis Island and the rigorous surveillance of immigration officers). Later such practices would be more widespread, as the national board arranged screenings of films for immigrants detained at Ellis Island and as "Americanization" pictures were produced for exhibition on steamships.<sup>21</sup> In the case of *Traffic in Souls* the exhibition context would have suggested that the film be construed as "documentary-like." Indeed, scholars have suggested that documentaries are not characterized simply by a particular configuration of textuality but by the setting in place of a certain interpretive frame, what Noël Carroll has termed the "indexing" of film texts.<sup>22</sup> In this context the indexing of *Traffic in Souls* at Ellis Island for those immigrants arriving or waiting in detention sheds would seem to suggest that the film was presented, and possibly perceived, as documenting a frightening reality waiting for those women on the other side of the Statue of Liberty.

Leading on from Haggren's engagement with the project and the sense of a socially engaged cinema enclosed therein, Universal was keen to promote the film as linked to the work and goals of social reformers, suggesting in fact that it was based on the reality of social reform documents. The

film's publicity claimed it was "based upon the Rockefeller white slave report and upon the grand jury investigation undertaken by D. A. Whitman," to be an "authentic expose," and to have been "staged at the suggestion of a number of prominent social workers, who felt it was the best way to make public the lessons to be drawn from the vice investigations."<sup>23</sup> The document referred to here was George Kneeland's *Commercialized Prostitution in New York City*, published under the auspices of the Bureau of Social Hygiene (which was financed by John D. Rockefeller) in the summer of 1913.<sup>24</sup> Universal's strategy was consistent with that articulated slightly earlier by theatrical producers, who had similarly sought to represent controversial social problems onstage and had done so by seeking alliances with social reform groups.<sup>25</sup> It also clearly followed from the logic of the broader championing of the educative cultural function of cinema as a central strand in the attempted gentrification of cinema. Like the temperance films, the film was described by Universal as a "Truthful picture-sermon" that attempted to "point a lesson"; in some reviews it was indeed praised as providing "a lesson to young and old."<sup>26</sup>

Yet, notwithstanding this history and Universal's publicity strategy, the film was emphatically not simply a "documentary" on the white slave trade; rather, it tied this ostensible goal to "make public" the vice investigations together with established fictional, narrative, and generic patterns. Evident at the level of the image and the broader narrative configuration, the transformation of reform rhetoric and the reform document show precisely how opposed conceptions of the social function of cinema clashed in this exemplary transitional film and in the historical moment. This transformation illustrates in compelling detail how commercial imperatives and the established discursive logic of mainstream cinema ultimately pushed away from explicit engagement with the real and the controversial toward the goals of "entertainment." Later, the regulatory response to the film would validate this shift, marking a significant break with the stance articulated with the establishment of the National Board of Censorship and the alliance of social reformers and the film industry and clearing the way for the validation of mainstream cinema as "harmless entertainment."

A hybridity of textual logics is immediately apparent because of the film's proximity to a film previously written by Walter MacNamara, entitled *The Rise of Officer 174* (Independent Moving Picture Company, 1913). Indeed, the pamphlet Universal produced to promote and preemptively defend *Traffic in Souls* stated that "'Traffic in Souls' follows the same idea as 'Officer 174' except that one dealt with gambling and the other deals with prostitution."<sup>27</sup> In the earlier film the eponymous hero solves an art theft and is

promoted to detective in the first reel. He is put in charge of solving the vice problem of the city, but the “underworld” appeals to “the man higher up,” who attempts to bribe the officer and discredit him.<sup>28</sup> However, the officer’s girlfriend works for the man higher up and records the plot on a Dictaphone, thus convicting the latter and exonerating Officer 174. *Traffic in Souls* tells a similar story, for after the abduction and subsequent rescue of the Swedish immigrants, the main narrative follows the story of “Little Sister,” named Lorna Barton in the script outline and in publicity surrounding the film, who is abducted from her workplace by a white slaver and subsequently rescued by the efforts of her sister and her sister’s fiancé, Officer Burke. Like in *The Rise of Officer 174*, Mary unknowingly works for Trubus, “the man higher up,” and when she recognizes this, she records his discussions with the white slavers, with the help of an invention by her disabled father, leading to the rescue of Lorna in a police raid led by Officer Burke and the arrest and subsequent suicide of Trubus.

Linked together by a remarkably similar story, the films were also related by their proximity to an emerging popular genre of detective films and to a cycle of detective serials beginning in 1910, often featuring women leads in a way that might be seen to evolve logically from the commercial and regulatory imperatives that led to an earlier gendering of the narrator system.<sup>29</sup> MacNamara evidently then joined Haggen’s interest in some form of “documentary,” in a film capable of education and acculturation, with an already rehearsed genre and fiction. Haggen’s conception of the social functioning of cinema crossed the borders of MacNamara’s in a way that mirrored—perhaps because it was productive of—the mixing of real and fictional immigrants in those scenes from the Battery.

Like the eventual hierarchization of *mise-en-scène* in that scene from the Battery and the shift toward self-enclosed narrativized diegesis, this mixing or hybridity of textual logics was not carried out on equal terms, and the film is marked by a shift from the focus on the documentation of the methods of white slavers seen with the abduction of the Swedish immigrants from the Battery toward the story of the abduction and rescue of Lorna. In his insightful analysis of the narrative structure of *Traffic in Souls* and its positioning on the cusp of a multireel classical cinema, Ben Brewster has shown how the film shifts from what he terms “the quasi-documentary” opening to the “less documentary”-oriented main narrative.<sup>30</sup> He discerns three significant narrative breaks. The first two reels introduce the families who will come to dominate the film, both the Barton family and the family of Trubus, the leader of the white slave traffic yet also a prominent social reformer, head of the International Purity and Reform

League and a Citizens League formed to stamp out the white slave traffic. Following this the film shifts to the “quasi-documentary” presentation of the white slavers’ methods, including the scene at the Battery as the Swedish immigrants are abducted and a sequence showing how a rural migrant was abducted from Penn Station and taken to the same brothel in which the Swedish immigrants were trapped. This section is distinct from the “less documentary”-oriented longer main narrative, where we follow in detail the abduction of Lorna Barton by the white slavers led by Trubus and her subsequent rescue. The film itself then seems to chart a shift away from Haggen’s and other social reformers’ interests in the documentation of white slavery toward fiction and toward accepted narrative conventions in a way consistent with the commercial logic of the “uplift dramatic” genre that sought to join together—as a poster advertising *Traffic in Souls* phrased it—“thrilling realities” and that effectively privileged the “thrilling” over the “sermon” (figure 25).

Leaving aside the question of levels of “documentary,” we may see this shift on the textual level as one from an “iterative” narrative to a “singular” narrative, where iteration is a level of narrative linked to an abstract and categorical intention to demonstrate certain types of facts and where singular narration is the detailed narration of key events.<sup>31</sup> In *Traffic in Souls* the abductions at the Battery and Penn Station figure as moments of quasi iteration—a newspaper insert accordingly proclaims that “50,000 Girls Disappear Yearly”—whereas the main narrative’s concentration on the abduction of Lorna figures as a shift toward singularity.<sup>32</sup> Lorna’s characteristics are accordingly carefully prefigured in the film’s exposition, which shows her struggling to get out of bed and to get to work on time; thus, the opening segment of the film sets in play her “flighty” nature and foreshadows her later succumbing to the flattery and glamour offered by the white slaver posing as a suitor.<sup>33</sup> She is held partly accountable for her actions given that the film, as Shelley Stamp observes, “equates social and romantic interests outside the home with moral and sexual decay.”<sup>34</sup> In the script outline Lorna is derogatively described as “a good little feather headed pleasure loving girl.”<sup>35</sup> Mary Barton is counterpoised to this. She is described in an intertitle as “the head of family” and is seen clearing away the breakfast dishes and kissing her “invalid inventor” father dutifully before she leaves for work on time. Running into her fiancé, Officer Burke, on the way to work, she refuses to kiss him while a window cleaner is looking, showing the correct propriety in relation to public display in a gesture that seems also, Janet Staiger observes, to self-consciously reference the film’s proclamation of its own propriety.<sup>36</sup> Later she will play a prominent role in rescuing Lorna,



Figure 25. *Traffic in Souls* (Universal, 1913). Poster courtesy of the Collection Museo Nazionale del Cinema, Torino.

combining aspects of the “new woman” or serial heroine with a restoration of domesticity, a construction that positions her as a symbol of the ideal female social reformer.<sup>37</sup> Leaving behind the quasi-documentary opening, with its focus on the categorical, the film follows the conventions of character-centered storytelling and seeks to engage audiences in familiar ways through structures of allegiance, suspense, and excitement.

Apparent here also is the way the story shifts onto the terrain of melodrama, focusing on the threatened family and developing a story complete with upper-class exploiter; passive, victimized heroine; and absent, or seemingly ineffective, father (a story not too dissimilar, it is worth noting, from the way the Thaw-White scandal was represented). White slavery as a topic becomes enmeshed with established conventions of melodrama, linking the film with the temperance dramas proliferating from 1909 but now showing the family being rescued not through the reformation of the central male character but principally through the agency of the central female character, Mary, backed up by the invention of the father and the police. Given that the film exemplified a narrative configuration that Brewster suggests would be central to the full-blown elaboration of classical conventions just around the corner, the centrality of female agency here is intriguing, even if once again its aim is the restoration of the troubled domestic sphere.

Leaving Haggen’s interests and the interests of the broader social reform constituency behind in the film in this shift toward familiar structures and the “thrilling” had, it is worth noting, implications on the ideological plane, for the shift from Haggen to MacNamara or Universal is a shift away from the concern to document the abduction of immigrant women and toward a concern about the abduction of native-born white women.<sup>38</sup> Indeed, Charlie Keil has suggested that because “the world of filmed fiction is almost exclusively white” in early cinema, the distinction between fact and fiction “manifests itself most clearly in the representation of people of color . . . who can be themselves within a documentary format but are translated into blackfaced or war painted white actors at the point of dramatic representation.”<sup>39</sup> A subordination or marginalization of documentary formats from mainstream cinema had important ramifications for the representation of difference in that mainstream cinema.

Tying the account of white slavery together with familiar fictional and narrative conventions, *Traffic in Souls* directly contradicted the reform document Universal claimed it was based on, George Kneeland’s *Commercialized Prostitution in New York City*. Kneeland’s report had, for example, explicitly denied the existence of a center to the traffic. In the introduction to the report Rockefeller himself observed that the vice traffic was a “dispersed

network which had been elaborated below the surface of society," and this sense of the dispersion of the traffic pervades Kneeland's account.<sup>40</sup> Likewise, the 1910 grand jury report referenced by Universal had also asserted that "a trafficking in the bodies of women . . . is carried on by individuals acting for their own individual benefit."<sup>41</sup> *Traffic in Souls* suggests something very different, for in the film the white slave traffic is run by Trubus, "the man higher up," and is linked to individual characteristics—Trubus's greed and his social climbing, evident in his pleasure at his daughter's engagement to the "society catch of the season"—and not to the impersonal forces (economic inequality, the breakdown of social control attendant on modernity, and so on) that for Kneeland and others caused prostitution and white slavery.<sup>42</sup> A dispersion of forces is individualized as the document is converted into diegesis, then, showing not only the tendency toward "singularity" in cinema and mainstream fiction but also the enmeshing of the reform document with established melodramatic conventions.

Likewise, Kneeland's report and other accounts of white slavery implicated the police in the vice traffic, suggesting that the traffic was only possible because of a complex system of graft and bribery. The police are seen as inadequate to what Kneeland termed "the proper surveillance of urban space," so that the prostitute could "slowly, but surely, establish herself securely under the eye that does not see and the ear that does not hear." Kneeland reported that on one occasion of abduction "the victim called loudly for the police and though an officer stood on the other side of the street, his eyes were withheld and his ears were stopped."<sup>43</sup> *Traffic in Souls* suggests something very different, for in the film Officer Burke emerges as the hero. He single-handedly rescues the two Swedish immigrants and the migrant woman abducted in the first two reels and, in doing so, overtly refuses a bribe proffered by a white slaver. Later he plays a prominent role in rescuing Lorna.

Looked at like this, Officer Burke can in fact be seen as the hinge point around which the two narratives and the two configurations of textuality in the film swivel. After rescuing the immigrants and migrant, Burke returns to the station and is commended by his captain. The next scene shows Lorna being abducted from the candy store where she works, an action that, in Brewster's analysis, sets off the main narrative. Burke is now assigned the task of rescuing Lorna, and this is achieved through the combined efforts of Burke, Mary, and Mary and Lorna's inventor father. It works like this: Mary is sacked the day after Lorna's abduction from the candy store where she and Mary work because of the bad publicity the abduction brought to the store. She is immediately reemployed, however, by Trubus's wife as



Figure 26. Publicity still for *Traffic in Souls* (Universal, 1913). Courtesy British Film Institute.

Trubus's secretary (the previous secretary had been caught by the wife kissing someone else and so sacked—she had not shown the propriety that Mary had earlier). On her first day at work Mary is asked to clean up the Dictaphone microphone that Trubus uses to talk to his “go-between” in the vice traffic. She immediately recognizes the voice of the white slaver who had abducted Lorna and traces the wire of the Dictaphone down to the office below. She alerts Officer Burke, and together they hatch a plan to record Trubus's conversations with the help of Mary's father's invention of a device “for intensifying sound waves and recording Dictaphone sounds on a phonographic record.” Leaving Trubus's office with the rolls of recorded conversation, Mary arrives at the police station just after Burke has discovered the location of the brothel where Lorna is being held. Together they drive there. Lorna is rescued by the police just before being whipped into submission. A staged still produced for publicity emphasized this heroic police rescue (figure 26), and the representation of the efficiency of the police was important enough to be the focus of one of the posters produced for the film, which showed the white slavers and the white slaves caught within a rectangle, surrounded by the shadowy figures of the police. Later, Officer Burke and Mary take the recorded rolls of conversation to Burke's captain, and he, in turn, tells Trubus that “the invention of the father of the girl you

sought to ruin will convict you." So, unlike the police in the Kneeland report, whose "eyes were withheld . . . and ears were stopped," the ears of the father, the agency of the "new woman," and the "active watching" of the police together extend through urban space, secretly recording and surveilling the dark recesses of criminality and the city.<sup>44</sup>

It certainly seems likely that the representation of the efficacy of the police and the downfall of the criminals was linked to developing regulatory conventions that directed filmmakers to show respect for the law and to show that crime does not pay. Early calls for regulation frequently emphasized this, and the National Board of Censorship would stipulate, "The results of the crime should be in the long run disastrous to the criminal so that the impression is that crime will inevitably find one out. The result (punishment) should always take a reasonable proportion of the film."<sup>45</sup> Accordingly, the pamphlet Universal produced to promote and preemptively defend the film declared, "Punishment is meted out to each and every individual who does wrong in the story."<sup>46</sup> In the conclusion to the film Trubus's wife dies, seemingly from the shame brought on the family. His daughter disowns him, telling him, "You killed my mother," and he commits suicide.<sup>47</sup>

Likewise, the police are effective and heroic as what MacNamara and Tucker, in the script outline, called "the guardians of the public," a fact that was picked up on in reviews of the film.<sup>48</sup> *Moving Picture World* observed that "the forces of law and order, represented by many fine types of policemen, are upheld throughout the six parts of the picture. . . . The treatment of the police side of the story is deserving of all praise. The views of the station are many. We get a look-in on the camaraderie of the bluecoats off duty and we see some of the dangers and temptation to which they are subjected on duty."<sup>49</sup> The film effectively internalizes a policing, enacting a shift from a situation whereby actual police stood between screens and audiences or gathered up rolls of "obscene" film to one where the police on-screen arrive just at the moment of heightened sexual revelation—when Lorna was about to be forced into prostitution—to reinforce legality and morality and to save the family. In doing so the film offers a culturally affirmative vision that directly contradicts evidence in the real world to show police as honest and heroic and to show criminals brought to justice.

One might even suggest that the cultural figuration of policing and criminality informs the narrative structure of the film, for the interwoven cross-cutting strategies in the film link spaces in the city associated with the Barton family, with the Trubus family, with the white slavers, and with the police and provides a spectacle that mirrors the surveillance within the film.<sup>50</sup> A

sense of policing criminality is then further internalized in the film, informing the innovative editing patterns that would go on to be central to classical Hollywood norms (in this sense, as Tom Gunning observes, detection narratives are prototypical classical narratives).<sup>51</sup> Evidently this mapping of the now legible city sought to explicitly reposition cinema from its positioning as a “zone of darkness” to the side of light. Likened by Universal to a “searchlight,” the film was associated with those other reform attempts to shine light on the “abyss of moral turpitude” visible in modern urban spaces, calling to mind both Michel Foucault’s characterization of such reform movements as part of “a dream of a transparent society . . . the dream of there no longer existing any zones of darkness” and Franco Morretti’s characterization of detective fiction as “a totalitarian aspiration towards a transparent society.”<sup>52</sup> The film internalized a policing in representational and formal terms and so mirrored the broader institutional goals to self-police the industry.

*Traffic in Souls* was, then, effectively split between differing conceptions of the social functioning of cinema, for it aimed both to document and narrate certain types of real-life situations in an attempt to “persuade and promote” awareness of the threat of white slavery as a practical “call to public rather than private response” and at the same time to produce out of this an entertaining, thrilling fiction that followed already familiar and commercially successful conventions.<sup>53</sup> In effect, the film’s shift from the quasi documentary to the less documentary is a shift from a certain conception of the social functioning of cinema to another notion, away from Haggen’s imperative to engage with the outside world toward fiction, genre, and the ultimately self-enclosed space of mainstream cinema. The iterative and educational objective collides with a different goal, then, to narrate the singular fictional example of Lorna; and in the process the broader parameters of the white slavery scare become rendered as backdrop to a story that conforms to familiar generic and narrative norms. Important also to this process of constructing cinema as harmless entertainment was the presentation of a culturally affirmative vision, making the construction of the police here as the heroes and the hypocritical social reformer as the villain a remarkably prescient moment in the symbolic mapping of institutional alliances and goals at this moment. A coda to the film makes this clearer, further joining the new woman together with the police: Mary and Officer Burke visit the police captain to seek leave to get married, telling him, “We’ll name the first one after you,” so ending the film with the imagination of a child born to this union of the woman with agency and the police.

WITHOUT ANY EXAGGERATION  
OR FICTIONAL INDULGENCE

Like *Traffic in Souls*, *The Inside of the White Slave Traffic* was linked by its producers to reform discourse, but this connection was pushed further discursively and textually. The film was, consequently, treated differently than *Traffic in Souls* by the National Board of Censorship and, as we have seen, by state forces. London, who wrote the film, had in fact worked within Rockefeller's Bureau of Social Hygiene and for the Justice Department, a fact stressed in publicity preceding the film, which was said to be "based on Real existing facts gathered by U.S. Government Investigator Samuel H. London, the man the Rockefeller [report] uses as an authority on White Slavery."<sup>54</sup> He claimed the aim of the film "was to disclose the entire system of degradation for the benefit of civic leagues, Y.M.C.A.s and other bodies that are working for the betterment of social conditions."<sup>55</sup> Publicity for the film also prominently displayed endorsements from several well-known reformers, including feminists Charlotte Perkins Gilman, Carrie Chapman Catt, and Inez Millholland Boissevain (the latter two would defend the film in court in front of Justice Gavegon).<sup>56</sup> London sought also to make apparent the altruistic and educative goals he claimed subtended the production by naming his production company The Moral Feature Film Company; the releasing outlet was similarly titled The Sociological Film Research Corporation.<sup>57</sup> A little later such strategies, and the controversial mixing of allegedly educational aims with sensational detail, would be central to the so-called exploitation film.<sup>58</sup>

London's strategy to surround the film with references to reform discourse and to draw on the support of prominent reformers was extended from Universal's strategy with regard to *Traffic in Souls* by constructing the enunciator as *real* within the film. Extant versions of the film begin with the intertitle "Produced by Samuel H. London, the noted sociologist, from facts gathered during his international investigation of the white slave traffic, in civic co-operation with the United States Department of Justice."<sup>59</sup> The film continues by asserting, "This is the only authentic white slave picture ever made," and by listing the endorsements of prominent reformers and notable figures, including Charlotte Perkins Gilman; Carrie Chapman Catt; chairman of the National Board of Censorship, Frederick Howe; Mrs. W. K. Vanderbilt; author of *Damaged Goods*, Dr. Eugene Brieux; three Supreme Court justices; a former assistant United States attorney general; and "every sociologist of note from Atlantic to Pacific." Even then the action does not begin, for a final preliminary intertitle proclaims, "This is a pictorial report

of the life and habits of those engaged or associated in The White Slave Traffic. Their ramifications and systems employed—as they are in truth and fact, without any exaggeration or fictional indulgence.” These claims of authenticity functioned to position the film as extremely realistic, as an extension of the “documentary-like” aspects of *Traffic in Souls* through the construction of an “enunciator who functions as a *real* origin” (an action, Roger Odin has suggested more generally, that “founds the process of *documentarization*”).<sup>60</sup>

Location shooting was accordingly ballyhooed in prepublicity and in advertisements for the film as central to the film’s authenticity. A piece in the *New York Dramatic Mirror* in the summer of 1913 reported that members of the production were arrested while filming in El Paso, Texas. “Between interruptions,” the journal claimed, “they secured a film the likes of which, so report says, has never been approached before.”<sup>61</sup> *Variety* suggested the film “goes in for the utmost fidelity in picturing the evil” and went on to identify some of the vice district locations used—where “women who ogle encounter men who observe”—noting, “The setting is real, the girls actual, the ‘sailors’ apparently chance philanderers caught by the camera.”<sup>62</sup> Likewise, *Outlook* observed that the vice district of New Orleans was “portrayed with an accuracy which left little to the imagination,” and *Motion Picture News* noted that the film “shows actual scenes in the underworld” and was thus “probably the most authoritative” of the white slave films.<sup>63</sup> London himself claimed the film was “as near a photographic representation as possible of the great evil.”<sup>64</sup> Even more than *Traffic in Souls*, the film was positioned as a realistic representation of white slavery that drew on real discourses and used actual locations to get as “near as possible” to “authentically” portraying the sexual traffic in women. London’s strategy here was clearly an extension of Universal’s: to cover the film in references to reform discourse and to approach a “greater realism,” eschewing “fictional indulgence” in the documentation of facts for a supposedly educative cultural function.

Even though the film wraps this quest for realism and authenticity in a fictional story of the abduction of one young woman and the story of her life as a white slave, its treatment of this story and the account of the white slave traffic was considerably different from that seen in *Traffic in Souls*. Less focused on personalized drama, the film seeks, as Shelley Stamp observes, to sketch some of the social and economic circumstances that contributed to prostitution and white slavery.<sup>65</sup> So, the action begins after the preliminary intertitles by showing the white slaver and pimp George Fis-

cher going about his business in broad daylight, suggesting something of the tacit acceptance of prostitution by local businessmen and residents. Next we meet Annie, who is introduced as “The Innocent in Danger” and shown at work at a tedious job in a textile factory. A shot shows Annie at work at a sewing table in the midst of a row of other women working at identical tables filling the frame. Her boredom at work leads her to accept an offer of a date from George, but when they go to a cafe, she suddenly becomes drowsy, evidently having been drugged like Lorna was in *Traffic in Souls* (and, indeed, like Evelyn Hudpseth in *The Unwritten Law*). He offers to take her home, but she awakes the following morning to find herself in his apartment, and she realizes with horror what had seemingly transpired the night before.

Like contemporary feminist commentators were simultaneously suggesting, this representation of Annie’s work environment seemingly draws a direct link between tedious and poorly paid work and the slide into prostitution. Emma Goldman, for example, suggested that “the economic and social inferiority of women is responsible for prostitution.”<sup>66</sup> Jane Addams similarly observed that “no-one knows under what degree of economic pressure the old restraints may give away.”<sup>67</sup> Later in the film, Annie seeks to leave prostitution and to work in a department store while still paying her pimp, and we see her counting the money she has been paid and looking disappointed. It is evidently considerably less than she can earn as a prostitute and will not be enough to convince her pimp that she is still working as a prostitute. Goldman, Addams, and others believed economic inequality caused prostitution, and this argument is at least obliquely followed in the film, suggesting an account of prostitution that is certainly considerably different from that offered in *Traffic in Souls*, where Lorna’s acceptance of a date with the white slaver is carefully foreshadowed with evidence of her “feather headedness” in a way consistent both with what has been called a “finery to fall narrative,” with a “systematic grafting of morality onto economics,” and with a narrative mode that ties character traits together with goals (laziness with the desire for “finery,” excitement).<sup>68</sup> Later still, *The Inside of the White Slave Traffic* shows a man and a woman—seemingly a client and prostitute—talking on a street when a police officer enters and arrests the woman and sends the man away (see figure 27). An intertitle observes, “One law for man—another for woman,” joining the film to arguments frequently articulated by feminists about the consequences of wrongheaded police practices and the acceptance of a sexual double standard.<sup>69</sup>

Leaving George’s apartment, Annie returns to her parents, but her irate



Figure 27. *The Inside of the White Slave Traffic* (Moral Feature Film Company, 1913). Frame enlargement courtesy of the Library of Congress Prints and Photographic Division.

father banishes her from the house. A didactic title warns, “Parents, beware the ‘Out of My House’ policy,” in a way consistent with other accounts of white slavery that warned parents against turning their daughters away and with the self-proclaimed instructive purposes of the film. Expository and edifying titles litter the film like dialogue titles do in *Traffic in Souls*. Annie returns to George, and he proposes marriage, although a title warns viewers, “the marriage ceremony is seldom genuine.” He soon tells her that he cannot afford to support them both and must temporarily “place her with friends.” He takes her to a brothel, and, as an intertitle notes, “the usual developments” follow, leading Annie into prostitution. The film is quite explicit here, at one point showing Annie in a nightdress in her apartment as a man—presumably a client—leaves and as George emerges from the back of the frame (see figure 28). George soon sends word that he has left town. His messenger, Sam Brand, offers her assistance, suggesting they go to New Orleans to annul the marriage and get married themselves, but this had been set up by George, who receives \$300 from Brand for the “turnover,” and once in New Orleans Brand forces Annie to continue to prostitute herself.



Figure 28. *The Inside of the White Slave Traffic*. Frame enlargement courtesy of the Library of Congress Prints and Photographic Division.

She runs away from Brand and from New Orleans, traveling to Denver and Houston but is barred from work and lodgings because news of her escape has filtered through the “system.” An intertitle translates the code used by the slavers, including “Gillette blade” for girl, “crying” for police, and “smile” for “police can be fixed” (an acknowledgment of bribery not seen in *Traffic in Souls*).

Learning of her whereabouts through the white slave network, Brand tracks Annie down, and she returns to him and to prostitution, evidently having nowhere else to turn. In the final scene, added after negotiations with the National Board of Censorship, Annie imagines an alternative life for herself, picturing her parents at home and Annie entering with her own children. The family embrace and sit down to eat before the shot returns to Annie, who gets up and holds out her arms before realizing it was all just a dream. She puts her head in her hands, and a final title proclaims, “And in the end, she was laid away, an outcast in Potter’s Field,” before a shot of a row of unmarked graves.

Even though the film follows the travails of Annie, its narrative is evidently of a different order from the main narrative of *Traffic in Souls*, for

it proffers what Janet Staiger describes as a “social structure explanation” of causality and prostitution that eschews melodrama and personalized agency.<sup>70</sup> Especially apparent here is the difference in levels of characterization, for we are not drawn into Annie’s thought processes until the dream sequence at the very end (and only then because the national board suggested this—and what this suggested about the national board’s understanding of the function of character and narrative I will consider below). Likewise, the white slavers are never individualized in the way that Trubus was; they are effectively interchangeable, and there are no heroic characters like Mary and Officer Burke to push the narrative forward. Effectively devoid of agency, the characters function as particular types rather than as the semirounded individuals of *Traffic in Souls*, and the film does not seek to engage spectators in patterns of alignment and allegiance other than those brought to the story because of its intertextual referentiality. The story never sets up a clear moral structure, relying instead on the moral outlook brought to the film by spectators (or forced on it by the National Board of Censorship, although even there the ending is not the culturally affirmative one of *Traffic in Souls*, and there is no reference to the punishment of the white slavers). Looked at like this, the narrative mode of the film can be linked, on the one hand, to an earlier “cinema of attractions” and its presentation of spectacles of immorality or, on the other, to the later emergence of the “propaganda” or “agitational” film.<sup>71</sup> Either way, it is clearly distinct from that articulated in the bulk of *Traffic in Souls* and in the classical Hollywood narrative style for which that film is such an important precursor—a distinction evidently caused by a differently conceived purpose or function, pushing *The Inside of the White Slave Traffic* away from “fictional indulgence” toward realism, the “quasi documentary,” the social-structure model of causation and pushing *Traffic in Souls* toward melodrama, character-centered agency, and “entertainment.” These distinctions, and the consequences they had for regulatory agencies, were important for the definition of mainstream cinema and the shaping of its particular configuration of the metaphoric and referential.

London’s efforts to produce an “authentic,” realistic, and “quasi-documentary” film, evidenced on the profilmic level in extensive location shooting, landed him in a curious kind of trouble—a number of people who were inadvertently caught on camera and who thus ended up in the film brought legal cases against him. Shortly after the film was released a businessman brought suit against London because his factory was used in the film as the factory where Annie worked and from where she was abducted by George. Likewise, a restaurant owner sued London, charging that the film

led people to believe his restaurant, which had been used as a location, was the headquarters of the white slave traffic (his wife had appeared in the window of the restaurant in the film and was allegedly tainted with this association).<sup>72</sup> Legal cases such as these about defamation and privacy would certainly suggest to producers that the studio and the self-enclosed space of the fictive was safer, as Tucker had presciently seen when filming *Traffic in Souls*.

Yet more important than the small-scale threat of legal action was the further push toward the delineation of the social functioning of cinema enacted with respect to these two white slave films, for as we will see below, the films, the debates about the films, and the performative discourses enacted by the National Board of Censorship considerably sharpened discursive and institutional norms with regard to the definition of mainstream cinema.

#### MAKING FILMS REAL

Legal definitions of *obscenity* directed at the regulation of what kind of material could appear in public had from the late nineteenth century focused on the effects of such designated material on those “whose minds are open to such immoral influences” and had come to be configured as principally relating to sexuality, so highly charged because of its links to the broader political questions of populations and governance. Literary or visual accounts of prostitution and white slavery became, accordingly, privileged sites for a series of skirmishes over the definition of obscenity and of the boundaries of the public sphere in the early twentieth century, for the public discussion and representation of this was viewed by some as obscenity and as a “pollution” of the public sphere but by others as, in some cases, a necessary “searchlight” to eradicate “vice” and safeguard or police populations. Skirmishes over the representation of these subjects helped light up both the issue of intermedial relations in the period—simply, what media could be configured as “safe” to represent the subject—and the increasingly vexed question of the positioning of cinema with respect to the public sphere.

Literary culture was seen to be just about assimilable to a nonobscene, high-minded, and reformist intent in the representation of prostitution, a situation illuminated by a 1913 trial that significantly revised the legal definition of obscenity. In the dock was Mitchell Kennerley, charged by founder of the Society for the Suppression of Vice Anthony Comstock with publishing obscenity after Kennerley published a novel representing the life of a prostitute. The novel, *Hagar Revelly*, was written by doctor and social

hygienist Daniel Carson Goodman, who claimed he sought through the novel to teach “the innocent youth of the land . . . the wiles of vice.”<sup>73</sup> Comstock had deemed the book “rotten” and had led a force of United States marshals on a raid of Kennerley’s offices. Kennerley’s attorneys petitioned for a dismissal of the indictment. In a ruling rejecting this plea (on the grounds that a jury would have to pass on the obscenity question), Judge Learned Hand nevertheless took occasion to try to distinguish among different classes of “victims” of discussions of controversial subjects and in doing so significantly revised the tenets of the standard so-called Hicklin test of obscenity, predicated on concern about the effects of obscene material on the most susceptible people. Judge Hand argued that to accept the potential victim specified by the Hicklin test meant effectively reducing the “treatment of sex to the standard of a child’s library in the supposed interest of a salacious few,” thus “fettering” thought to “the necessities of the lowest and least capable.”<sup>74</sup> He consequently suggested a significantly different conception of morality than that articulated by others such as Comstock, taking as a starting point the belief that morality and obscenity was not definite but was ever changing and so suggesting that a more flexible definition of obscenity would be “the present critical point in the compromise between candor and shame at which the community may have arrived here and now.”<sup>75</sup>

Kennerley and Goodman’s case was passed on to a federal court jury following Judge Hand’s intervention, and at the trial Kennerley’s defense attorney stressed Goodman’s reformist intent, in the process quoting a letter from muckraking journalist Ida Tarbell that praised Goodman and the novel and calling as witnesses Columbia University sociologist Jeremiah Jenks and former editor of reform journal *Collier’s* Norman Hapgood to testify to the merits of the novel.<sup>76</sup> Kennerley was acquitted, and Goodman perceptively noted that the verdict signaled “a direct change in public sentiment,” showing that people had “begun to understand that if the shadowy recesses of an alleyway need to be pointed out, it is better to illuminate the alley than to board up each end.”<sup>77</sup> Literary culture could not simply be indicted for addressing adult audiences and could in certain circumstances—when reformist intent was relevant, for example—be protected from charges of obscenity and from the corresponding delimitation of its place in the public sphere.

Literary culture certainly extended to the legitimate theater, which had by the late nineteenth century been imbued with a sense of high cultural status, but the problem of the visual enactment of “shadowy alleyways” and controversial subjects made the theater more susceptible to concerns about

the public representation of—in particular—sexually charged material and then to corresponding regulatory controls.<sup>78</sup> The uncertain positioning of theatrical representation was illuminated in the summer of 1913, when the plays *The Lure* and *The Fight* premiered in New York City, representing prostitution and white slavery (preceding and perhaps inspiring the production of the white slave films).<sup>79</sup> Several commentators suggested the subject was not fit for the stage. Harvard psychologist Hugo Munsterberg, for example, denounced the plays at length in the *New York Times*, arguing that the public dissemination of knowledge about such subjects was troublesome and led to a harmful “psycho-physiological reverberation in the whole youthful organism.”<sup>80</sup> His position was supported by the police, who attended *The Fight* with a stenographer on hand to record the dialogue.<sup>81</sup> Later, New York’s chief police magistrate summoned the producers of the plays to a meeting to demand changes be made.<sup>82</sup> Yet others disagreed, arguing that the public discussion of the subject was acceptable and important. Frederick Howe wrote to the police magistrate, supporting *The Fight*.<sup>83</sup> Significantly, the plays were supported by large numbers of feminists, and at one point the Women’s Suffrage Party organized a special performance of *The Fight* that attracted an audience of one thousand people, including among their numbers some, like suffragist Carrie Chapman Catt and Howe, who would go on to support *The Inside of the White Slave Traffic*.<sup>84</sup> Here was a significantly different feminist interpretation of popular culture from that articulated by organizations such as the Women’s Christian Temperance Union (WCTU), for figures like Catt and Millholland Boissevain and others, such as Charlotte Perkins Gilman, and O. H. P. Belmont called for a use of theater and film to engage with pressing public questions about prostitution and sexuality in a more liberal way than the WCTU.<sup>85</sup>

Even aside from this particular take on the plays, many argued that the theater was a suitable space for the discussion of controversial subjects because, the People’s Institute pointed out, “it reaches few save of an already *sophisticated* group.”<sup>86</sup> Similar arguments had been made slightly earlier in the year with regard to the play *Damaged Goods*, written by Eugene Brieux and telling the story of a man who contracted syphilis but nevertheless married and consequently fathered a child that also suffered from syphilis. The play had been produced under the auspices of the *Medical Review of Reviews* and was endorsed by many prominent reformers, including Howe, Rockefeller, Mrs. William K. Vanderbilt, Charlotte Perkins Gilman, and others.<sup>87</sup> A *New York Times* editorial on the play suggested that good could come from the dramatic treatment of “subjects generally considered too delicate for common conversation,” and although many reviews

of the play rhetorically asked if the stage was the appropriate place for the discussion of venereal disease, they generally concluded that the play served a useful purpose of “sociological propaganda.”<sup>88</sup> So although it was certainly not clear-cut and was contentious, there was a body of opinion that suggested that the legitimate theater could be a place to “talk” about delicate subjects because audiences frequenting the theater were generally “sophisticated,” by which was no doubt meant adult and principally middle class.

Following the skirmishes over the boundaries of the public sphere and the place of literary culture came the even more highly charged controversies over the white slave films in late 1913. The films became embroiled in a series of questions about the definition of cinema in relation to other media and about the social functioning of cinema. Could cinema be seen as similar to literary culture? Was an ostensibly reformist intent justification enough for the filmic presentation of controversial subjects like white slavery? And above all, could cinema engage in the public discussion of those controversial subjects?

London and Universal’s efforts to present their respective films as reform-minded evidently sought to preempt these questions by inscribing cinema into the context of reform discussions of the subject like Goodman’s novel. London’s film was indeed supported by many prominent social reformers, as the preliminary intertitles had suggested. Suffragist Carrie Chapman Catt, philanthropist Mrs. William K. Vanderbilt, and feminist and lawyer Inez Millholland Boissevain supported the film in court in front of Justice Gavegon, where Vanderbilt suggested it was “good for the public.” In a letter to the *New York Times* Inez Millholland Boissevain called for the acknowledgment of freedom of speech for all media and affirmed in particular the importance of “frank, scientific . . . discussion and presentation of all subjects pertaining to sex” as opposed to a position of “Comstockery.”<sup>89</sup> The film was also championed by Frederick Robinson, president of the Sociological Fund at the *Medical Review of Reviews*, the organization that had sponsored the theatrical production of *Damaged Goods*. Robinson castigated “ignorant police officials” for suppressing the film, hoping that the debate about the film would “determine once and for all time whether the police may constitute themselves the judges and censors in our community.”<sup>90</sup> Later, he promised to exhibit the film in private screenings.<sup>91</sup> Likening *Traffic in Souls* to the novels about white slavery and to the white slave plays, Universal, too, sought to suggest that the film, and so cinema more generally, could be compared with literary culture, as London had suggested in drawing a link between *Damaged Goods* and *The Inside of the White Slave*

*Traffic*—both examples of the wider institutional efforts to link cinema to that culture.<sup>92</sup>

Less convinced than Universal, London, and sundry social reformers, other commentators argued that cinema should not be a place for the public discussion of controversial subjects like white slavery. Even before the release of *Traffic in Souls* the *New York Times* editorialized about the problems it presented in a way distinct from the paper's response to *Damaged Goods*, suggesting that it was a grave mistake "to put before the promiscuous audiences of the motion picture theatres" material on the vice trade supposedly gleaned from social hygiene reports like the Rockefeller-financed Kneeland report. Such reports were "meant to be circulated discreetly," the paper continued, and "never meant for indiscriminate circulation, least of all in pictorial form before audiences composed of both sexes and all ages."<sup>93</sup> Indeed, Rockefeller, who had supported the theatrical production of *Damaged Goods* and the white slave novel *The House of Bondage*, distanced himself from the film *Traffic in Souls*, stating, "I and those associated with me in this work regard this method of exploiting vice as not only injudicious but positively harmful."<sup>94</sup>

Visual or "pictorial" representation was seen by many as particularly troublesome, especially because of the excessive mimetic capability of cinema that, as we have seen, for some commentators led to its increased powers of suggestibility and then to cinema's potential to induce imitative acts and behaviors. When coupled with—in heavily loaded language—the "promiscuous" and certainly not "sophisticated" audience, these concerns led many to suggest that cinema should be differentiated from other media and that its place in the public sphere of political debate should be carefully delimited. Less sophisticated and promiscuous audiences should be kept from the public dissemination of certain kinds of knowledge—and this was literally enacted when those police officers gathered up each "obscene" reel of *The Inside of the White Slave Traffic* as it came off the projector. Censorship anxiety was closely tied to concerns about indexicality and realism.

Located in this context, the National Board of Censorship's review of *Traffic in Souls* and later *The Inside of the White Slave Traffic* took on added significance, for the films clearly posed the increasingly pressing question of how cinema should function in society and also begged the question as to what role and stance the national board should take both in relation to these films and to the broader questions about cinema they suggested. This latter debate was particularly pressing for the board given the concurrent challenges to its authority, seen in particular in the emergence of state cen-

sor boards and in the intensified state actions exemplified by the police response to *The Inside of the White Slave Traffic*.

Even though the censoring committee initially passed *Traffic in Souls*, the board hierarchy decided to set up a special screening of the film for the general committee and the advisory committee and for representatives of several prominent social reform agencies not on the advisory committee. A letter stated clearly the two central questions suggested by the film:

The film has been referred for final action by our censoring committee, and it will be easy to rid it of all elements which might be called suggestive, but the broader question of the propriety of the treatment of these darker social problems through the medium of the stage or motion pictures remains to be considered, and also the question as to whether it is rightly within the province of the National Board of Censorship to interfere with such public discussions through moving pictures.<sup>95</sup>

Hesitant enough to review the film twice, the board clearly saw it as “extremely important” because “a precedent would be created by any action taken” that would have implications not only for the production of other white slave films but also for the establishment of a more clearly defined sense of what cinema could or would be and to a clarification of the role of the board with regard to this question.<sup>96</sup> Likewise, Universal took the meeting seriously enough to produce a short pamphlet to describe its aims and to preemptively defend the film.<sup>97</sup>

A record of the meeting still exists, letting us see clearly the stance taken by social reformers and the board in relation both to the film and to the role of cinema in representing real-life controversial subjects. It took place on 27 October 1913 and was attended by the General Committee of the board, the Censoring Committee, other staff such as John Collier, and by guests from the Union Theological Seminary, the Camp Fire Girls, the Committee of Fourteen for the Suppression of Raines Law Hotels, the City Vigilance Committee, the Sanitary and Moral Prophylaxis Society, the Travelers’ Aid Society, the Civic Theatre Movement, and by at least two assistant district attorneys.<sup>98</sup> Not surprisingly, some of the reformers took issue with the representation of Trubus as a white slaver *and* a social reformer. Some were also offended by the final intertitle, referring to the imagined baby of Mary and Officer Burke. Some voiced concerns about the unrealistic representation of the police. Miss Wilson of the Censoring Committee observed, “refusing the bribe was too good to be true,” clearly referring to the scene where Officer Burke apprehends the white slavers who had abducted the two

Swedish immigrants and the rural migrant and refuses their offer of money to turn the other way.<sup>99</sup>

Linked to this, several of the reform reviewers were concerned that the film's concentration on the rescue of Lorna downplayed the suffering of white slave victims. Percy Mackaye of the Civic Theatre Movement suggested that "the ending is wrong in that it seems to show that justice is always meted out to offenders"; and Frederick Whitin of the Committee of Fourteen argued that "there is an over-emphasis on the rescue side . . . and this over-emphasis militated against the moral effect the picture should have." For many, the film did not seem "true to life" and so should, Assistant District Attorney Mr. Reynolds asserted, "be modified in the end to make it less hysterical and more *real*." This question of making the film "more real" emerged as critical. Mrs. Brown, of the General Committee of the board and of the New York Federation of Women's Clubs, offered this advice: "If the story was carried out in more detail as to how girls are influenced and brought under the control of men, the picture would have greater value." Indeed, without this detail it was possible that "girls seeing this picture would not realize their relationship to the story," and so the "picture should be made more real to get results." Yet not everyone agreed with this, and there was some concern that a realistic representation would involve showing some of "the alluring side involving luxuries, entertainments, clothes and so forth," which might work against the overall aim to emphasize "the disagreeable side." Less should be shown, some said, of the nightclub where Lorna was taken by the white slaver, for this seemed to show in part the exciting urban lifestyle and milieu inhabited by pimps, white slavers, and—it was seemingly thought—prostitutes.<sup>100</sup>

Lurking within these concerns about realism or restraint was the question of how best to police what Mrs. Brown called the audience's "relationship to the story." For some this relationship was linked to concerns about how to guide the response of girls and young women and for others to concerns that the film and the white slave films that followed in its wake could encourage a deviant male response along the lines of, as one commentator noted elsewhere with respect to the lesson of *The Inside of the White Slave Traffic*, "that any man was a fool to work hard for little money when it is easy to get a girl who will support him in comfort and enable him to live like a gentleman."<sup>101</sup> In Chicago *The Inside of the White Slave Traffic* was banned when a specially formed committee viewed the film and decided that although its "effect on girls" would be good, "it would have a different result when shown to boys."<sup>102</sup> Later, John Sumner, secretary of the New York Society for the Suppression of Vice, would observe similarly that white slave

films provided “a thorough education in this line of crime to young, unmoral male persons of whom there are entirely too many in all of our cities.”<sup>103</sup> Like the concerns about *The Unwritten Law* and the Johnson fight films, some of the concerns about the white slave films were about the possibility of deviant male responses. All the films clearly undercut the industry’s rhetoric about male reformation at the cinema.

Even so, the reform reviewers generally accepted a stance that controversial subjects needed to be discussed in public and that cinema could participate in this, and they suggested, further, that to do so it needed to realistically represent the conditions associated with white slavery. Hence, they argued *Traffic in Souls* should eschew the conventions of the happy ending, concentrate less on the rescue of white slaves and the unrealistic representation of the police, and show more of the actions of the white slavers and the effects of this on young women. In effect, most of the reform reviewers effectively called for an extension of the first two “quasi-documentary” reels in the film or for a film closer to the realism of *The Inside of the White Slave Traffic* and for a greater degree of social involvement for cinema.<sup>104</sup> Even though the film was acceptable to them, it did not go far enough in its engagement with the real world, for it was too caught up in the self-enclosed fictional world where policemen are heroes and criminals are always caught. This stance was not uncontested, though, for others suggested that excessive realism was troublesome and that the subject needed to be carefully wrapped up in a fictional world where morality could be clearly delineated to emphasize “the disagreeable side” of the subject to better police the audience’s “relationship to the story.”

Acknowledging the reformers’ comments, the board members offered their opinions and then voted on the film (only the board members could vote). Showing his concern about the concurrent establishment of state censorship boards and the questions raised about the board’s ability to regulate the cinema screens of the whole nation, Advisory Secretary Orrin Cocks saw the film as troubling. He suggested “that we must not look at this picture in [*sic*] the point of view of people living in the big cities” because the “majority of the people in the United States hesitate to speak of these things and they would not like this picture.” He further suggested that the board should not condone putting “the dirty side of life before the people,” and, consequently, he “did not care to have a hand in spreading this kind of information.” Yet others disagreed. John Collier observed “that the small towns and cities know about this thing” and pointed out that in any case “it is well for them to know about it, since the small town girls furnish a large number of the city prostitution.” Likewise, Chairman of the Board

Frederick Howe took a characteristically progressive stance on the film, stating “this evil will diminish and finally vanish when every body knows all about it,” so the “picture is desirable as tending to inform people on this subject.”<sup>105</sup> A vote was taken, and the film was passed (six to two), subject to five relatively minor cuts, including a reduction of the scenes in the brothels, the elimination of the idea that Trubus was a philanthropist and reformer and that the Purity League met in his office, and the elimination of the final intertitle.<sup>106</sup>

Significantly, the board stipulated also that an intertitle stating that “50,000 girls disappear yearly” that was attributed to the Traveler’s Vigilance Society needed to be changed “to relieve the Traveler’s Vigilance Society of the responsibility for the statement.”<sup>107</sup> Less concerned about the actual accuracy of the statement, the board was conscious that the film’s claim to reference real-world talk about the subject was troublesome, suggesting, in part at least, that the film could be passed relatively easily because it did not realistically represent the white slave traffic, as several of the reform reviewers wanted, but bent the subject to the exigencies of a fictional story where morality was clearly delineated (the call to cut the scenes in the brothel suggested this also). Looked at like this, the board’s conflicted, and at least partly split, stance stood somewhere between the differing positions articulated by the reform reviewers, leaning toward an endorsement of the legitimacy of “the subject and this method of treatment” but not following that logic to a wholesale endorsement of the realistic representation of the subject of white slavery.<sup>108</sup>

If the discussion of *Traffic in Souls* suggested cracks in the stance of the board and its understanding of the social functioning of cinema, the discussion of *The Inside of the White Slave Traffic* widened those, leading ultimately to a collapse of the effectiveness of the board and contributing to a breakdown of the alliance between reformers and the film industry. London had screened the film initially for reform agencies but submitted the film to the board for review seemingly to enable him to commercially show the film. The board’s General Committee reviewed the film on 10 December, and some details of the meeting survive, showing a quite different reaction than that articulated in response to *Traffic in Souls*. A Mr. Downer’s response summarized the general tenor of the concerns when he said that “the picture was merely a representation of facts for facts sake, rather than an attempt to present a moral for the facts.” Likewise, Orrin Cocks observed that the film was “not worked out with enough dramatic power,” a Mrs. Tait said it “should be made more dramatic,” and a Mr. Kaighn advised London to “have a good dramatic man working with him.” Such dramatization, Dr.

James Warbasse of the Executive Committee argued in an extraordinarily misogynistic response, should “show what happened to the girl in the end; her becoming a drug fiend hag; a sufferer of venereal diseases; a suicide; a specimen for the doctor’s dissecting table; and finally filling a grave at Potters Field.”<sup>109</sup>

After “prolonged discussion” the board voted to not pass the film as it presently stood but to suggest changes that, if enacted, could lead to the film’s being passed. London was asked to “greatly reduce (at least two-thirds of its length) the scene showing the New Orleans crib district, leaving these scenes only long enough to carry the actual action taking place in them absolutely necessary to the story.” Likewise, the “disorderly house scenes” should be shortened, “leaving these scenes,” the board pointed out in a subsequent letter to London, “only long enough to show the action taking place without dwelling unnecessarily on the scene.”<sup>110</sup> The profilmic real, so central to London’s claims for the film, was troublesome for members of the board, and they suggested it should only be introduced where it was useful for the *story*, that the documentation of actuality should be subservient to the fiction, like it evidently was in *Traffic in Souls*. Like some of the reform reviewers watching *Traffic in Souls*, the board was here expressing concerns about the realism of *The Inside of the White Slave Traffic*, for this realism seemed to leave open the possibility of prurient viewing and did not adequately police the audience’s “relationship to the story.”

To rectify this, the board called for the addition of the fictional material suggested by Warbasse so that the film would follow the melodramatic narrative pursued by a film like *Traffic in Souls*. Along with the call for the “addition of scenes showing the down-fall and end of the girl” was a call for “additional scenes showing the punishment of the trafficker,” suggesting that the board wanted the film to literally enact the kind of policing that was so central to *Traffic in Souls*.<sup>111</sup> Equally important to concerns about particular content were anxieties about the organization of that content, so the board’s suggestions called for an enmeshing of the treatment of white slavery with fiction and with certain narrative patterns—the ideological-parameters of which were particularly apparent in this imagined conclusion to the film, showing the triumph of the law and a concern about “fallen women” that would come to preoccupy censors at later moments.<sup>112</sup>

Even though the board members were initially inclined to see the film as acceptable, they quickly changed their minds about the film two days later amid concerns about London’s motives in submitting the film to them, about London’s misrepresentation of the film as having been “approved by the Rockefeller Investigating Committee,” and about the circulation of the film

beyond “private bodies of a sociological nature” to a commercial audience.<sup>113</sup> The board voted to reconsider its decision of 10 December and to withhold judgment on the film, effectively classifying it as a special release like the Johnson fight films in what was an acknowledgment of the board’s difficulty in reaching a decision on the film and of its problems in reconciling different positions on the social function of cinema.<sup>114</sup> Told this, London communicated to the board that he would “abide by the Board’s verdicts” and would “make no use of the board’s verdict, save as the Board might itself permit.”<sup>115</sup> In the light of this the board decided to once again review the film—this constant changing of its mind evidence of its difficulty in the face of the film—and called for a further vote on the film on 16 December, distributing the following voting slip to members of the General Committee:

1. I vote that the film: *The Inside of the White Slave Traffic* be passed by the Board subject to the changes and additions recommended by the General Committee when it reviewed the film.
2. I vote that the entire matter be taken up at a General Committee meeting at which the film will be again reviewed.
3. I vote that the Board refuse to take any action whatever on the film in question.<sup>116</sup>

The second option was chosen, and the board wrote to London on 18 December restating the changes asked for at the meeting on the tenth, notably the reduction of scenes of excessive realism and the inclusion of “a moral ending to the drama” in which the girl ends up in Potters Field. A further meeting of the General Committee was scheduled to take “final action” on the film.<sup>117</sup>

It took place on 22 December in the midst of the police action against the film, as the board and the police quite literally competed to be the arbiters of the city’s cinema screens. Even with the changes suggested by the board (still visible in the extant print), the board finally rejected the film, although the decision was not unanimous, and chairman Frederick Howe did not vote for this.<sup>118</sup> Likewise, Dr. James Warbasse told the *New York World* he would resign over the banning of the film and knew of other members who felt the same way.<sup>119</sup> The board was evidently split over how to respond to the film, a difference of opinion publicly acknowledged by Warbasse and by the *World’s* subheading “Censors Split Over Films,” with some, like Howe and Warbasse, holding on—like those reformer reviewers watching *Traffic in Souls*—to a conception of the political possibilities of cinema that for others was increasingly unacceptable. Here, though, those others, including the relatively conservative Cocks, carried the day, effecting a revised delineation

of the role of the board and of the board's conception of the social functioning of cinema.

A letter to London, written in part by Cocks, stated that the "board felt that the picture was distinctly an illustration of the white slave traffic" and that the subject is not made unattractive, does not arouse repressive action, and tends to satisfy morbid curiosity." The letter suggested that "instead of pointing a moral," the film "points to an easy method of obtaining money by both men and women."<sup>120</sup> Here the board's decision was similar to decisions articulated by the minority of reform reviewers at the *Traffic in Souls* screening, for they suggested that the excessive realism of the film was problematic and needed to be contained within a framing moralistic narrative that policed the audience's "relationship to the story" to deter both men and women from entering the vice trade. Such a policing was particularly important for the board because it was conscious that if the film was passed, it would be seen by a "popular" rather than a "selected audience"; at least some within the board operated from a position that suggested that audiences for motion pictures were "not composed of people of culture and refinement, but are made up largely of members of the lower middle class, and generally speaking, with the more light minded of these."<sup>121</sup> The concern for what was now seemingly the majority within the board was about the propriety of disseminating knowledge about sexuality to "light minded" lower-middle-class audiences in a medium that was becoming inextricably linked to a commercial and entertainment imperative.

The two white slave films caused enormous problems for the board, then, and ultimately led to a split that would widen during the next two years. Even though the board was evidently uncertain about how to deal with the films and the broader questions about the social functioning of cinema they posed, there were some indications that its take on these questions suggested a gradual and halting disengagement from that articulated by some reformers in relation to both *Traffic in Souls* and *The Inside of the White Slave Traffic* toward an acceptance of a delimited role for cinema in the public sphere of political discussion. The board still clung to the belief that cinema was a place for talk about controversial subjects but argued that this talk had to be carefully policed to conform to fiction and to certain narrative patterns, that excessive realism was troublesome, and that controversial subjects should be enfolded within a melodramatic or self-enclosed fictional world. Through these debates *The Inside of the White Slave Traffic* was produced as a prototypical documentary or propaganda film in its engagement with "truth and fact" and its lack of "fictional indulgence" and was condemned for this. *Traffic in Souls* was sanctioned precisely for its *fictional*

*indulgence*, its framing of fact within the parameters of fiction and within certain narrative paradigms. Regulators were beginning to see this framing as a way of providing ideological security, transforming indexicality and realism into socially acceptable fantasies. *Traffic in Souls* and *The Inside of the White Slave Traffic* were effectively caught in the midst of a divide in the process of formation. The creation of a boundary line with the two films on either side stands as an important moment in a wider discursive delineation of the function of cinema at the inception of the developing multireel classicism.

A number of white slave films were produced after the commercial success of *Traffic in Souls* and *The Inside of the White Slave Traffic*, and the board tried unsuccessfully to clarify its uncertain position by issuing a Special Bulletin in February 1914. It suggested on the one hand a more thorough acceptance of the stance suggested in the board's refusal to pass *The Inside of the White Slave Traffic*, beginning, significantly, by announcing that the members of the board "recognize that moving picture houses and the vaudeville theatres are primarily places of amusement and not of serious discussion and education." It continued by noting that "the lack of dialogue and the necessity of emphasis on the dramatic" in motion pictures make them "a difficult medium" for the promulgation of educative goals.<sup>122</sup> This position was further articulated when the board reconsidered *The Inside of the White Slave Traffic* also in February 1914 and again refused to pass it, noting in the decision that the film was "not sufficiently dramatic."<sup>123</sup>

Yet the board still clung to its increasingly shaky belief that cinema could participate in the public discussion of controversial subjects and fulfill an educative cultural function and in the Special Bulletin drew a distinction between "indecent pictures" that were exploitative commercial representations and "sex problem photoplays" (note the shift from "pictures" to "photoplays"). How the boundary line between those two categories of films was to be drawn was uncertain, although it was certainly not clarified by the Special Bulletin or by the board's increasingly ineffective deliberations on the crucial question of how to define the correct public role for cinema.<sup>124</sup> A number of "sex problem" pictures, or photoplays, were produced following the Special Bulletin, some of which I will consider in the following chapter, further troubling the board and extending public discussion of the thorny problem of delineating the social function of cinema.

Clarification came not from the board but from the mainstream industry, which increasingly disengaged itself from the production of controversial films based on real-life events and shifted toward the self-enclosed space of the fictive and the harmlessly "entertaining"—a shift already visible in

nascent form in *Traffic in Souls*. Even though the trade press initially supported *Traffic in Souls* and saw it as a valid attempt to inscribe cinema within the public discussion of controversial subjects, there emerged a general sense that *The Inside of the White Slave Traffic* and the “slave reels” that followed were bad for business because of the regulatory furor generated around them at a time when the industry was reeling from the proliferation of municipal and state censor boards.<sup>125</sup> The *New York Dramatic Mirror* observed that “when the small-city press and the small-city pulpits get their say, then the few victories that have been won in the fight to ward off local censorship will have to be fought all over again, with a strong weapon placed in the hands of the agitators.”<sup>126</sup> Indeed, many of the white slave films were banned from towns and cities across the country, including New Orleans, Washington, Pittsburgh, and Chicago.<sup>127</sup> The first act of the Pennsylvania State Board of Censors was to ban the white slave film *Smashing the Vice Trust* (1914), and when that board delineated its standards, it included, as the first standard, “The Board will condemn pictures, and parts of pictures, dealing with ‘white slavery,’” justifying this on the grounds that the films led to what one of the board’s members described as the “demoralization of the population.”<sup>128</sup>

Equally important to the institutional critique of the films was the simple sense that they were generally bad for business because they alienated the core family audience. Louis Reeves Harrison expressed the concerns about the audiences for the films most clearly in two editorials in *Moving Picture World*. In a discussion of so-called red-light films Harrison argued that there were “good business reason[s]” for keeping such films out of theaters, since motion picture exhibitions qualified as “‘family’ entertainment, and nearly all such places are frequented by women and children.” He went on: “no part of [a] varied program should be violently offensive to the best patrons of the place” and, in a subsequent editorial, noted that “if moving pictures become apostles of decadence, it is not unreasonable to expect that family support of the exhibitions will be alienated, and that legislation antagonistic to the entire industry will result.”<sup>129</sup> Some feared the white slave films would appeal to deviant male audiences, as we have seen. A letter in the reform journal *Outlook* from a social worker in New York City talked with horror of her research trip to three afternoon performances of *The Inside of the White Slave Traffic*, when “[e]ach time at least three quarters of the audience was composed of men”—a chilling image indeed for the film industry.<sup>130</sup>

Exhibitors agreed that the white slave films were troublesome. In a survey conducted by the national board in 1916, exhibitors overwhelmingly

asserted that “the great majority of their patrons are entirely opposed to this type of picture.”<sup>131</sup> Like some in the industry had realized in 1909, the pursuance of a family audience made sound commercial sense and at the same time assuaged regulatory anxieties. Led by this logic, the mainstream industry sought increasingly to differentiate itself from what was seen as the moral excesses of those outside the mainstream like London and of those films that go too “close to the danger line . . . in teaching a moral lesson,” setting in play the conditions that would lead to a standardization of product, to a limiting of entry to the market, and to the establishment of “exploitation cinema” across the border from the mainstream.<sup>132</sup> Self-regulatory bodies would themselves come, in part, to play the role of gatekeeper to the mainstream.<sup>133</sup>

After the debates over the white slave films, then, a critical shift emerged in the alliance between progressive social reformers and the film industry, for the industry was at this stage by and large happy to accept a delimited role for cinema, whereas many reformers—those who vociferously supported London’s film, for example—continued to call for a more socially engaged cinema. Here was a significant transformation in the alliance between cultural capital and nascent economic capital that had in 1909 helped rescue cinema from the severe consequences of unchecked state action and that had formed the national board as a buffer between that action and the film industry. By the end of 1913 this alliance was troubled, and the board—itsself formed out of progressive reform—was caught between two poles, some members continuing to side with a progressive social reform conception of the possible social function of cinema but others becoming increasingly conscious that such a conception was problematic and that film needed to be treated differently from other media, a stance also advocated by gathering state forces and by many at the center of the film industry itself. In this sense tensions came to a crisis point with respect to *The Inside of the White Slave Traffic*, forcing a reassessment of the role of the board, a reimagining of institutional arrangements to police cinema, and a more clearly defined sense of “correct” textual formations.

## TWO PROBLEMS

Hesitant to clearly respond to the two white slave films, the board entered a period of soul-searching shortly thereafter. A letter written by Collier to Cocks in January 1914 laid out clearly his concerns about the state of the film industry and the questions this posed for the board. Collier wrote that

“the motion picture is now monopolized for theatrical and amusement purposes. . . . [T]his monopoly attaches to itself the commercial interest of the present exhibiting group, the present exchange group and the present manufacturing group” and so prevents these groups “from developing a proper educational department.”<sup>134</sup> He continued:

The Board stands alone in the field of social work for the improvement of motion pictures. This field may be divided into two problems. The first problem is the relation of the motion pictures, commercially established, to public welfare. The second problem is the educational use of motion pictures. . . . But the Board, although it resulted from an all-round effort aimed both at regulation and education, was itself organized for regulation. . . . Now, as I see it, the pressing problem is: do the two fields of work essentially conflict? Must one or the other be dropped out, shall the Board take steps to ensure that the problem it has ceased to attend to shall be taken care of by some other agency?<sup>135</sup>

Losing its way largely as a consequence of the struggles over the social functioning of cinema seen particularly in relation to the Jack Johnson fight films and the white slave films, the board was increasingly conscious that the promotion of the educational use of moving pictures that was central to its formation and self-definition was inimical to the commercial mainstream. Increasingly, it was clear that the alliance between the industry and reformers was fractured and that the board was split between the poles of regulation and productively pushing for revised conceptions of cinema.

In the following years the board did seek to set in play the promotion and distribution of educational films. For example, in 1916 the board set up the Committee on Children’s Pictures, the Better Films Committee, and the National Committee on Films for Young People, the latter aiming, as its name implies, to “foster the production, selection, distribution and use of selected motion pictures and programs for young people.”<sup>136</sup> In some respects the formation of such committees marks the emergence of alternative institutions of production, distribution, and reception, seen more fully in the 1920s with the establishment of a new set of cultural institutions fostering both a middlebrow appreciation of film and a continuation of the sense of the social and political potential of movies in the emergence of a more clearly defined documentary cinema. The debates over the social functioning of the medium helped to clarify what a mainstream cinema could be but also, and at the same time, what its alternatives would be.

In the absence of the immediate realization of those alternatives and of the clarification of the educational use of moving pictures, the board affirmed in the most detailed way yet its standards for regulating moving pictures

in its annual report for 1913, written and published in early 1914. In it the board asserted first that it “prohibits obscenity in all forms.” Likewise, it prohibited “vulgarity,” unless “an adequate moral purpose is served,” and—in what seems like a clear reference to the white slave films—scenes that “have a deteriorating tendency on the basic moralities or necessary social standards.”<sup>137</sup> These standards were widely publicized given that Howe, Collier, and Cocks all wrote articles or gave interviews for well-known magazines outlining the role of the board. Howe, for example, argued that the censorship question had become pressing because of the white slave films. He defended the industry on the familiar ground that it helped shut down saloons and suggested that the board passed on 98 percent of films in the United States, acting on “behalf of the general conscience and intelligence of the country.”<sup>138</sup> Likewise, Collier and Cocks made strenuous claims to counter accusations that the board promulgated only metropolitan standards by talking of its efforts to consider the standards of the entire nation. “[T]hough located in New York,” Cocks wrote, “the National Board does not accept as a basis of criticism the standards of the New York stage or of its complicated liberal and abnormal life” but always seeks “the point of view of typical Americans.”<sup>139</sup>

Even so, many were convinced that the board’s difficulties in dealing with high-profile controversies over the Johnson fight pictures and the white slave films made them an inadequate regulatory force, seen by many as too liberal, as compromised by their close relation to the film industry, and as operating from standards that suited only New York City. “The time is now for a forward movement,” *Moving Picture News* asserted, “and the doing away with an effete body of people who have not the courage of their convictions when a great crisis arises.”<sup>140</sup>

As the board’s efficacy waned, state intervention once again became more important. The situation in New York City is instructive. Early in 1914 government officials reorganized the municipal bureaucracy in order to put the regulatory mechanism envisioned in the previous year’s moving picture ordinance to work, transforming the hitherto relatively powerless License Bureau into a department and enabling the hiring of inspectors to monitor the establishments it licensed and to report to the mayor “any offense against morality, decency or public welfare contained in such exhibitions.”<sup>141</sup> George Bell was appointed the new commissioner of licenses, and he quickly moved to enlarge his role in the regulation of moving pictures. In June 1914 Bell and the board set up a formal system of cooperation to ensure that the films condemned by the board were not shown in the city, formalizing a system of regulation under which state and voluntary authority reinforced and de-

pended on each other. In addition, though, Bell began reviewing the decisions of the board more closely. His efforts may have been influenced by the difficulties surrounding the prosecution of London with respect to the production of *The Inside of the White Slave Traffic*.<sup>142</sup> Even though London was ultimately convicted, the process of obtaining the conviction was lengthy and costly. In contrast, the moving picture ordinance empowered the license commission simply to revoke the license of a motion picture theater for a variety of offenses that included showing “immoral” films. License commissioners could act much more quickly and effectively than police officials and increasingly began to do so.

Simultaneous to this increased licensing power at the local level were federal debates about moving picture censorship, initiated amid the controversies over the white slave films in early 1914 with the proposal of a bill to censor moving pictures at the federal level. The bill was drafted by the Reverend Wilbur F. Crafts of the International Reform Association and introduced in the Senate on 18 March by Senator Hoke Smith of Georgia and in the House of Representatives by Dudley M. Hughes of Georgia. It followed the legislative path of the Sims Act, proposing that the president should establish a five-person Federal Motion Picture Commission with the authority to “license every film submitted to it and intended for entrance into interstate commerce, unless it finds that such a film is obscene, indecent, immoral, or depicts a bull fight or a prize fight or is of such a character that its exhibition would tend to corrupt the morals of children or adults or incite to crime.”<sup>143</sup> Lobbying for the bill, Crafts cited the Sims Act as a significant precedent, alongside the Interstate Commerce Commission and its regulation of the interstate movement of trains, the 1913 tariff act regulating the importation of films, and state censorship boards.<sup>144</sup>

In hearings held by the House of Representatives Committee on Education on the Federal Motion Picture Commission Bill in March and May 1914, Crafts directed much of his attention at what he saw as the ineffectiveness of the National Board of Censorship. He argued that the board was a failure because of its lack of power to compel all manufacturers to submit their films for inspection, because it was too closely allied with the manufacturers, because it was too liberal and took the standards of the New York stage as its basis for judgment, and because it was thus not national in scope.<sup>145</sup> Its ineffectiveness, he noted, was evident in its inability to stop “black and white” fight films.<sup>146</sup> Likewise, sponsor of the bill, Congressman Hughes, told W. Stephen Bush that federal censorship might be necessary because of the trouble caused by “some of these fellows who show pictures like the ‘White Slave’ films.”<sup>147</sup> Such immoral films, Crafts asserted in familiar rhet-

oric, strike “at the plastic hearts of our children,” causing them to “imitate” immoral acts.<sup>148</sup> The Reverend William Sheafe Chase supplemented this argument about children by broadening it out in a way consistent with earlier debates about children and motion pictures, arguing that moving pictures were particularly pernicious because the films can be seen by “the youngest and most ignorant,” particularly those “who can not understand the English language and those who can not read.”<sup>149</sup> Less obvious than this familiar appeal to concerns about the effects of moving pictures on children and immigrant populations, though, was Crafts’s clever borrowing of the rhetoric of the film industry in his suggestion that if federal censorship were established, then—and only then—moving pictures could be “substituted for the saloon” and could be used by schools to set up a “nation wide system of motion picture evening schools.”<sup>150</sup>

Less convinced by this than they were by the thought that at least federal censorship would obviate local and state boards, some in the industry flirted with the idea of supporting the federal bill. Others, however, including *Moving Picture World*, *Motion Picture News*, and the National Board of Censorship, waged a vigorous campaign against this logic, arguing that even if a federal censor board was created, local and state boards would not be disbanded.<sup>151</sup> It was certainly increasingly apparent to many in the industry, though, that what was needed was a stronger self-policing, for the board was—as the rhetoric of Crafts showed—increasingly seen as part of the problem and not the solution. The House report on the bill, published in early 1915, provided further grist for the mill here, for in strongly supporting the creation of a federal censor the report noted that the existence of local and state boards “clearly demonstrates the inadequacy of the so-called ‘National Board of Censorship,’ which by its very unofficial character can not exercise effective censorship” and that evidence presented before the committee “discloses that a very considerable percentage of the pictures approved by the unofficial board are declared by the local boards unfit for exhibition.”<sup>152</sup> In the federal hearings film industry representatives were consistently lukewarm in their support of the board, and in late 1915 the mainstream industry established the Motion Picture Board of Trade of America to campaign against censorship.<sup>153</sup> Even though the federal censorship bill did not pass through Congress because of the House’s other commitments, it was evident that new institutional arrangements and alliances were called for, as the National Board of Censorship struggled to effectively counter the threat of state action as the film industry shifted from its fragile alliance with progressive reform.

Linked to the beginnings of new institutional arrangements, the indus-

try had to imagine new textual forms to assuage intensified regulatory concerns. The debates about *Traffic in Souls* and *The Inside of the White Slave Traffic* had clearly shown a textual model that worked and one that did not work, and it was increasingly apparent that the way forward for the industry was to provide an entertainment form that could be defined as “harmless.” On the one hand this was clearly a question of what to leave out—white slavery, for example—and on the other hand it was a question of what to include, of how to positively shape cinema as harmless. Here *Traffic in Souls* functioned as a partial model, for the film’s shift into familiar fictional and narrative paradigms and its culturally affirmative worldview marked one way forward, shifting beyond the “political” (in the broadest sense) in a way that would be pursued more overtly by much of the mainstream production that followed and that would be increasingly central to classical Hollywood cinema. Linked to this was the film’s prescient representation of heroic policemen defeating corrupt reformers! In this sense the films themselves could carry out the work that was proving increasingly difficult at the institutional level, and in doing so they would enable the “movies” to be “left alone” by external forces, like the voice in the crowd remarked when *Traffic in Souls* was being filmed. “Keep the picture out of politics,” urged *Moving Picture World*, and politics would no doubt keep out of the picture business.<sup>154</sup>

We might say, then, that the importance of *Traffic in Souls* to the film industry was less its innovative use of certain stylistic and narrative norms and more its role in the delineation of the function of cinema and its hesitant steps toward the enfolding of controversial subject matter within familiar fictional and narrative paradigms. Here I am suggesting also that we think of the constitution of classicism not simply as a textual and industrial question but also as a question of defining the “correct” function of cinema and in working out how that function could be achieved. This became clearer with respect to the debates about the white slave films. Indeed, if the year 1913 itself might be likened, in Charles Musser’s wonderful phrase, “to the midpoint of a dissolve” in film history, then the debates about the white slave films and about the social functioning of cinema instantiated by them mark a moment that straddles that transition when one image begins to fade as another becomes clearer.<sup>155</sup> This image was brought into clearer focus just seven days after the House issued its report on the bill to establish federal censorship, when a Supreme Court decision about the validity of state censorship further helped define and shape cinema—a decision I consider in the following chapter.



# Conclusion

In Lexington, Kentucky, police officers were directed by the commissioner of public safety to sit among the audience to control “demonstrations” and “enthusiastic outbursts” when *The Birth of a Nation* (Epoch, 1915) played the city’s opera house in early 1915. The result marked a curious conjuncture of film, highbrow culture, and state authority.<sup>1</sup> Even though moving pictures were outgrowing the nickelodeon and could now be linked to opera, like those judges in the Essanay competition in 1910 had presciently imagined, the forces of state authority maintained their surveillance of cinema screens and audiences. Hence police in Boston sought to prevent black people from buying tickets to the film when it played the Tremont Theater, although the concern here was less about the audience’s “enthusiasm” than about its anger at the film’s racism. In Boston, then, law enforcement’s fears and its strategy for handling them were consistent with the broader policing of racially bifurcated public space evident in the prosecution of Jack Johnson and in the moral panic about white slavery.<sup>2</sup> Inside the Tremont, Pinkerton detectives were scattered throughout the auditorium to stop demonstrations against *The Birth of a Nation* like those that had taken place when the film was shown in the Liberty Theatre in New York City, when protestors had thrown eggs at the screen at the moment when a black man was shown chasing a young white woman with the intention of raping her.<sup>3</sup>

The recently formed National Association for the Advancement of Colored People (NAACP) called for the suppression of the film, denouncing it as a “vicious” misrepresentation of black people that “created race hatred” and that “would likely lead to a breach of the peace.”<sup>4</sup> In some places the campaign to suppress the film succeeded, helped along by a number of civil disturbances that accompanied its exhibition. Local censor boards, councils, or mayors refused to allow the film to be seen in cities such as Cleveland,

Ohio; Wilmington, Delaware; St. Louis, Missouri; Topeka, Kansas; Louisville, Kentucky; and San Antonio, Texas.<sup>5</sup> Likewise, the film was banned, at least initially, by statewide authorities in Illinois, Michigan, Kansas, and Ohio.<sup>6</sup> Ohio censors rejected the film in accordance with the remit of the state censor board that had granted the board authority to pass films of a “moral, educational or amusing and harmless character” and to ban films that were “sacrilegious, obscene, indecent or immoral.”<sup>7</sup> The film was, they said, “not harmless.”<sup>8</sup> Epoch appealed, but the board restated its opinion that the film “was harmful and not of a harmless character.”<sup>9</sup>

Initially passed by the beleaguered National Board of Censorship, the film was reviewed again when officers in the New York chapter of the NAACP contacted head of the board Frederick Howe to demand the film be reassessed. A General Committee meeting of the board passed the film again, though, by a vote of fifteen to eight, stipulating that one intertitle be eliminated and one added and that scenes suggesting the rape of white women by black men be excised.<sup>10</sup> Like he had with *The Inside of the White Slave Traffic*, Howe ran contrary to the majority of the board, preferring in this case an outright ban on the film because it would “lead to race trouble” and because “[m]en might be killed as a result of it.”<sup>11</sup> He refused to affix his name to the seal and resigned from his post shortly thereafter. Early the following year the board changed its name from the National Board of Censorship to the National Board of Review. This change followed a series of debates about its name and identity throughout 1915 that further reflected the uncertainties and splits besetting the board evident in nascent form in the debates about the Jack Johnson fight films from 1909 and more clearly in those surrounding the white slave films in late 1913 and *The Birth of a Nation* in early 1915.

Notwithstanding the concerns of the NAACP, Howe, and other progressive reformers like Jane Addams, many defended *The Birth of a Nation*, and even at \$2 a seat in salubrious venues like the Lexington Opera House or Liberty Theatre in New York City, it was very widely seen and extraordinarily profitable.<sup>12</sup> Less was at stake, it seems, in this representation of, as Michael Rogin describes it, “a nation reborn from the ride of the white robed Knights of Christ against black political and sexual revolution” than in the representations of black empowerment visible in the Jack Johnson fight films.<sup>13</sup> No less a figure than President Woodrow Wilson, whose *History of the American People* was quoted in the film, is famously alleged to have said after seeing *The Birth of a Nation* at the first-ever screening of a film at the White House, “It is like writing history with lightning. And my only regret is that it is all so terribly true.”<sup>14</sup> Likewise, prominent vice crusader the Reverend Dr. Charles Parkhurst claimed, “This drama is a telling illus-

tration of the possibilities of motion pictures as an instrument of instruction in History."<sup>15</sup> The film's director, D. W. Griffith, mounted a similar line of defense, asserting that the film was true in its historical detail and backing this up by offering to pay the president of the NAACP ten thousand dollars if he could find a single historical inaccuracy in the film.<sup>16</sup> Imagining a future role for cinema as a visible record of history available in a public library of films, Griffith forecasted that instead of reading about history and "ending bewildered without a clear idea of exactly what did happen," people could "press the button and actually see what happened. There will be no opinions expressed. You will merely be present at the making of history."<sup>17</sup> The film was for many a realization of the potential of moving pictures, particularly as regards the provision of education and the documentation of real-life events.

Like many had argued in response to the regulatory furor surrounding the Johnson fight films, Griffith defended his film by suggesting that film deserved the constitutional guarantees of free speech enshrined in the First Amendment. The ideological valence was transformed here, though, for at issue was the right to show racist images—formed, it could be suggested in part, in actual response to Johnson's victories and visibility—and not the racist suppression of images of black empowerment.<sup>18</sup> Ironically, the call for the rights of cinema under the constitutional guarantee of free speech, waged so intensely around the Johnson fight films, culminated in Griffith's call for the exclusion of African Americans from social participation. Griffith's 1916 pamphlet *The Rise and Fall of Free Speech*, in fact, utilized much of the rhetoric about the potential of moving pictures recounted so far, suggesting that moving pictures "keep men away from saloons and drink" and describing cinema as the "laboring man's university" and moving pictures as "the pictorial press." He visually linked censorship to the police, to a blinkered sanctimonious figure, and to women (figure 29). If people "muzzle the 'movies,'" Griffith wrote, they will "defeat the educational purpose of this graphic art," for "[c]ensorship demands of the picture makers a sugar-coated and false version of life's truths." A cartoon included in the pamphlet showed a globe of the world and a moving picture camera tugging on opposite ends of a length of fabric with "History" written on it (figure 30). The world complains, "I can't accept this fabric—it's nothing but warp!" The moving picture camera responds, "Sorry, sir! The censor took the woof!" Like some had argued when supporting the white slave films, the central contention here was that film could make visible the "truths of history" or contemporary social problems "while at the same time bringing diversion to the masses."<sup>19</sup>



**The Three Fates**

Figure 29. D. W. Griffith, *The Rise and Fall of Free Speech* (California, 1916).

Linking the referential with the pleasurable, this argument about the potential social functioning of cinema was central for those defending the film industry and for those hoping to utilize moving pictures for public good from 1907 onward. Yet it had, as we have seen, become increasingly shaky, as some reformers and entrepreneurs began to see the necessity of accepting the separation of mainstream cinema from the referential and the construction of the function of cinema as “harmlessly” pleasurable. A curious circularity is visible here, for Griffith’s practical validation of the positive social function of cinema in the “uplift dramatic” films he directed in 1909 (like *A Drunkard’s Reformation*) helped associate cinema with the trappings of middle-class culture and stave off regulatory concern; yet by 1915 the conception of the function of cinema underpinning those films, *The Birth of a Nation*, and the stance of the at least initially admiring National Board of Censorship was increasingly contested. In this respect we might say that Griffith helped invent classical cinema but was quickly cast aside from the mainstream, a process of marginalization not only a consequence of the narra-



Figure 30. D. W. Griffith, *The Rise and Fall of Free Speech* (California, 1916).

tive complexity of *Intolerance* (Triangle, 1916), as others have suggested, but, equally important, because of the different conception of the social function of cinema evident in *The Birth of a Nation*, *The Rise and Fall of Free Speech*, and *Intolerance* from that of a later classicism.<sup>20</sup>

Legal decisions further mandated the gathering sense of the correct social functioning of cinema, culminating in a crucial Supreme Court decision in early 1915 on the validity of state censorship that legislated also the legal status and function of cinema and, as we shall see, insisted on a split between the referential and the pleasurable, or entertaining, functions of cinema. Even though the Supreme Court justices had apparently liked *The Birth of a Nation* when it was screened exclusively for them—apparently the chief justice had been a former Klan member, and the Court would in the same year authorize the legal suppression of films of Johnson boxing—the decision they rendered effectively disallowed the conception of the function of cinema that Griffith shared with many others.<sup>21</sup> Cinema was now to be conceived of as a business with a public role distinct from that of the press, becoming the only medium of communication in the history of the United States subject to legal prior restraint. Legal decisions enabled additional state intervention, further eroding the authority of the national board and, more important, narrowing down the definition of the function of cinema, effectively validating the just-about-established compromise formation that defined cinema as harmless entertainment to remove it from the contentious sphere of the political. Legal discourse is, as Pierre Bourdieu has observed,

peculiarly performative discourse.<sup>22</sup> The consequences for the shaping of mainstream cinema and the formation of alternatives to that in the early 1920s were considerable.

Looked at from both sides of the divide between preclassical and classical cinema, the 1915 Supreme Court decision can be considered on the one hand as the culmination to the debates about the function of cinema beginning in 1907—the appropriate conclusion for this book—and on the other as a critical moment in the consolidation of the definition of the function of cinema that also governed subsequent regulatory debates about cinema and, indeed, the shape of cinema in the classical period. Accordingly, this final chapter continues by considering in detail the issues at stake in the legal decisions beginning in late 1913 that culminated in the Supreme Court in early 1915, in the process recapping the major issues at stake in the regulation of cinema in the transitional period, before shifting to an account of the consequences of those decisions in the late teens and through the 1920s.

#### A BUSINESS, PURE AND SIMPLE

Lawyers for the interstate film exchange Mutual Film Corporation challenged the Ohio state censorship ordinance in late 1913, gaining a temporary injunction against the state censorship board and halting its work after just two months of censoring activity. Walter N. Seligsberg argued in the District Court of the United States for the Northern District of Ohio that the censorship law imposed unconstitutional burdens on interstate commerce and thus had invidious effects on property rights.<sup>23</sup> Linked to this was a secondary argument about free speech rights, predicated on the definition of motion pictures as “publications” in line with a previous Supreme Court decision that held that a painting was a publication and, as such, was protected by state and federal constitutions guaranteeing people the right to freely speak and publish their sentiments. Legislators in Ohio had no right to abridge or restrain the freedom of publication, Seligsberg argued, so “[u]nless this court is prepared to say that Ohio could pass a law providing for the censorship of newspapers and magazines, it cannot sustain the censorship of motion pictures.”<sup>24</sup> The same arguments were mounted by Mutual’s lawyers slightly later in separate cases challenging the constitutionality of the Chicago police censor board and the Pennsylvania and Kansas state boards, motivated, as the balancing of the economic and free speech arguments suggested, principally by economic concerns about delays to dis-

tribution, expensive censorship fees, and the viability of the developing national traffic in films.<sup>25</sup>

A decision was not rendered in the Ohio case until April 1914. Mutual's case was denied in line with the Ohio attorney general's arguments that the censorship law fell within the police power abrogated to the states, a precedent that was quoted in the subsequent denial of Mutual's cases in Chicago, Pennsylvania, and Kansas.<sup>26</sup> The police power extends, judges in the various cases noted, "to the making of regulations promotive of domestic order, health, morals and safety" and could be defined as the "principle of self-preservation of the body politic," standing as "a chief function of government."<sup>27</sup> Legal prior restraint was necessary to counteract the threat moving pictures presented to the preservation of the body politic. Even though lawyers for Mutual had described moving pictures as "harmless," the judges acted from the position that "it does not matter that the subject in the main is harmless; it does matter, however, if something associated with it that [*sic*] is *harmful*."<sup>28</sup> The free speech argument was denied on the grounds that corporations were not citizens and thus not included in constitutional guarantees of free speech. Even if they were, there is a clear distinction, the judges asserted, between the press and moving pictures. "Counsel overlook a broad distinction between the things they describe in their bills and the objects with which they make comparison," the judges noted, for moving pictures are aimed principally at "furnishing entertainment and amusement."<sup>29</sup>

Lawyers for Mutual duly filed an appeal with the Supreme Court, and the Court agreed to hear the cases together in January 1915. The legal strategy adopted by Mutual here differed from before, though, for now the free speech question was given precedence over that involving the restraint of trade. Lawyers for Mutual argued that the company was entitled to invoke the protection of the state constitutional guarantees of free speech and freedom of publication because moving pictures were publications and thus "constitute part of 'the press' of Ohio within the comprehensive meaning of that word," defined by the lawyers with the help of a suitably inclusive dictionary definition as "a means of making or announcing publicly something that otherwise might have remained private and unknown."<sup>30</sup> A description of the "use, object, and effect of motion pictures" by the lawyers was accordingly heavily skewed toward a sense of cinema's educative social function: "They depict dramatizations of standard novels, exhibiting many subjects of scientific interest, the properties of matter, the growth of the various forms of animal and plant life, and explorations and travels; also events of historical and current interest,—the same events which are described in words

and by photographs in newspapers, weekly periodicals, magazines, and other publications, of which photographs are promptly secured a few days after the events which they depict happen."<sup>31</sup> The critical argument here was about the proposed social function of cinema and its positioning in the cultural topography of America, following on from the arguments mounted within the film industry about the suppression of the Johnson fight films, the validity of the white slave films and *The Birth of a Nation*.<sup>32</sup>

Lining up face-to-face in the highest court of the land, then, were lawyers exemplifying the two sides of the argument about the social functioning of cinema that had rumbled from late 1906 onward. On one side the lawyers argued that moving pictures were educational and should be conceived of as similar to the press. Similar rhetoric informed the stance of those defending moving pictures in the *Block v. Chicago* case in 1908, at the McClellan hearing in the same year, in relation to the Johnson fight films from 1910, and the white slave films from 1913. Lawyers on the other side in the Supreme Court disagreed. "[U]ncensored pictures were detrimental to the morals and perverse of true education," they argued, and should be restrained according to the police powers abrogated to the states.<sup>33</sup> Immoral and definitely not educational, this rhetoric called for the careful governmental policing of cinema.

It was this latter argument that carried most weight with the Supreme Court justices, for the decision rendered in late February 1915 denied Mutual's claims and its conception of the function of cinema. No doubt moving pictures had "many useful purposes as graphic expressions of opinion and sentiments, as exponents of policies, as teachers of science and history" and could be "useful, interesting, educational and moral," Justice Joseph McKenna wrote in the court's unanimous verdict, "[b]ut they may be used for evil, and against that possibility the statute was enacted." He continued: "Their power of amusement, and, it may be education, the audiences they assemble, not of women alone nor of men alone, but together, not of adults only, but of children, make them the more insidious in corruption by a pretense of worthy purpose. Indeed, we may go beyond that possibility. They take their attraction from the general interest, eager and wholesome it may be, in their subjects, but a prurient interest may be excited and appealed to."<sup>34</sup>

Moving pictures excited prurient interest among mixed audiences in "things which should not have a pictorial representation in public places and to all audiences" and were "capable of evil," even more so when they "pretended" to worthy purpose as the white slave films and *The Birth of a Nation* had done.<sup>35</sup> Keeping separate the referential from the prurient the justice's comments made clear that a skepticism about referentiality was above

and beyond the denigration of “prurient films” even if the concerns were frequently intertwined. Later, the legal definition and regulation of newsreels as distinct from the press further demonstrated this distinction between cinema and the press and the anxieties about the social functioning of cinema and its referential appeal.<sup>36</sup> The logic of the justices’ argument suggested that the “pretense to worthy purpose” in film should be avoided, that cinema should be linked to fictional goals and nonpractical ends.

Like the lawyers arguing against Mutual had contended, the justices’ held that free speech claims could not include “the right to offend against all laws of morality by a display of obscenity or the like” and that obscenity legislation—the right to ban “speech” from public places—was a critical support to government.<sup>37</sup> Moving pictures could not be considered part of the press, then, for their potential to do evil. Certainly they “may be mediums of thought,” Justice McKenna wrote, returning to the central claims of Mutual’s lawyers, but so are things like the circus and other shows and spectacles that were rightly not included under the guarantees of the First Amendment or state guarantees of free speech and were subject to the police power of the states. “It cannot be put out of view,” McKenna wrote,

that the exhibition of moving pictures is a business, pure and simple, originated and conducted for profit, like other spectacles, not to be regarded, nor intended to be regarded by the Ohio Constitution, we think, as part of the press of the country, or as organs of public opinion. They are mere representations of events, of ideas and sentiments published and known; vivid, useful, and entertaining, no doubt, but, as we have said, capable of evil, having power for it, the greater because of their attractiveness and manner of exhibition.<sup>38</sup>

Entertainment, for the Justices, was a category distinct from ideas, and a boundary line between the two needed to be affirmed and policed. Logically dubious as these claims about the hard-and-fast division between information and entertainment and about the links between operating for profit and constitutional status were,<sup>39</sup> they clearly followed from the logic of the earlier Sims Act, defining fight pictures as commerce. They also followed from the broader logic informing the debates about morality, obscenity, government, and the effects of the “power” of moving pictures to excite prurient and antisocial interests in suggestible audiences and so to generate “evil” that gathered pace from late 1906 onward. The decision was widely applauded and accepted.<sup>40</sup>

Let me quickly recap the parameters of regulatory discourses about cinema from late 1906 and the ensuing practices. The emergence of nickelodeons from around 1905 led to a series of investigations of the effects of moviego-

ing on children, women, and lower-class and immigrant audiences, who were constructed in much of this rhetoric as both vulnerable and dangerous. Nickelodeons and moving pictures produced various kinds of antisocial behavior, many of these reports suggested, including juvenile delinquency and sexual immorality. The “attractiveness” of moving pictures could produce imitative behavior, and, coupled with their “manner of exhibition” in ill-lit spaces, this could lead to the excitation of “prurient interest.” Legislative measures followed, starting at the municipal level in late 1907 and including state legislation from 1911, federal regulation of the interstate commerce in boxing films in 1912 and a federal tariff act in 1913. I have suggested that these concerns about cinema and audiences were tied to broader regulatory anxieties about social order in early-twentieth-century America, linked to the context of modernity—waves of immigration and anxieties about racial purity and national identity, the shifting parameters of public and private spheres, the growing antagonism between an industrial proletariat and a new middle class in the process of defining itself. Linked together, the regulatory debates about cinema were, I have argued, tied together with broad concerns about the governing of mobile and changing population groups in early-twentieth-century America.

The Supreme Court justices’ judgment on cinema marked a clear response to these concerns about the effects of cinema on populations and governance. The perception of the power of cinema and of the size and composition of its audience ultimately led to the limiting of the function of cinema. Law relied here on what Justice McKenna called in the decision “common sense,” although it was a sense evidently built up and shaped through the debates and legal decisions described in this book.<sup>41</sup> Law “creates the social world,” Pierre Bourdieu observes, but “it is this world which first creates the law.”<sup>42</sup>

Law and the social world’s creative and performative powers were particularly evident here, for the *Mutual* decision was a vital and, indeed, “momentous” one that governed the validity of state censorship and the legal prior restraint of moving pictures until the Supreme Court reversed the decision in 1952.<sup>43</sup> The consequences of the decision were both specific and far-ranging, including the mandating of increased state regulation of cinema and the validation of a definition of the function of cinema that confirmed the working definition of cinema as “entertainment” that should be divorced from the “pretense of worthy purpose.” In this sense a critical line in the sand was drawn, divorcing mainstream cinema from a function similar to the press and linking it to the goals of harmless and culturally affirmative entertainment.

## NOT THEATRICAL ENTERTAINMENT

Legal judgments following the *Mutual* decision invariably cited it as a precedent for the legality of the state regulation of cinema, this being the most immediate consequence of the decision. It was cited in the verdict of the Pennsylvania Supreme Court to deny Mutual's arguments about the legal status of cinema and the state's censorship board in June 1915 and in more than three hundred cases in subsequent legal decisions on the regulation of cinema.<sup>44</sup> Let's take just a couple of examples in the immediate aftermath of the decision, in the process rounding up the account both of the concerns about white slave films and of the importance of growing links between licensing and regulatory authority detailed in the previous chapter.

Late in 1916 New York licensing commissioner George Bell publicly criticized the national board's decision to pass another white slave film, *Is Any Girl Safe?* (Anti-Vice Motion Picture Company, 1916), and he prohibited the film from exhibition in the city. "In taking such action," Bell wrote in a reference, it seems, to *The Birth of a Nation* case, "the National Board is again drifting back into the position in which it found itself a year or so ago, when it seemed totally unable to deal with objectionable pictures presented to it."<sup>45</sup> No white slave films should be shown in New York City, Bell asserted, for they did not "teach great moral lessons but on the contrary have a thoroughly bad effect."<sup>46</sup> A legal case ensued after the producers of the film challenged the authority of Bell and the licensing commission office to extend their jurisdiction over licenses to ban the film itself. New York Supreme Court justice Cohalan ruled, though, that Bell had the power to prevent the exhibition of films if he believed them "immoral" and cited as the significant precedent the *Mutual* case.<sup>47</sup> Licensing regulation, considered as within the police powers of the states, could also include the control over the content of films, as the *Mutual* decision had suggested.

Licensing power was extended again by Bell when he banned the films *Birth Control* (Message Feature Film Company, 1917) and *The Hand That Rocks the Cradle* (Universal, 1917), noting as he did so that information about contraception and limiting the population was "contrary to public welfare" during wartime and in any case could not be classified as "theatrical entertainment."<sup>48</sup> Once again regulatory decisions were enmeshed with concerns about sexuality and population strength. Legal challenges ensued, but the decisions ultimately concurred with Bell, and the judges cited again the *Mutual* decision as the significant precedent for the extension of state licensing and regulatory authority.<sup>49</sup>

Largely as a result of the *Mutual* decision, the specter of federal censor-

ship was raised again when the Smith-Hughes bill to create a federal censorship board to disallow the exhibition of any “obscene, indecent or immoral film” was reintroduced to Congress in 1916 (it had been warmly received but not passed in 1914). Leading off discussion, the Reverend Wilbur Crafts observed that the *Mutual* decision had denied “that there is an analogy between the press and miscellaneous pictures exhibited for amusement and financial profit” and had thus “swept away” most of the legal arguments presented against the bill in 1914.<sup>50</sup>

Linked to the *Mutual* decision, Crafts observed, was another Supreme Court decision that further buttressed the state regulation of cinema—the upholding of the Sims Act. Lawrence Weber had attempted to contravene the terms of the Sims Act by bringing pictures of Jack Johnson’s boxing defeat in 1915 in to the United States via various methods, including the rephotographing of the film across the boundary stone separating Canada from the United States (see details in chapter 4). Denied by a federal district court, Weber appealed to the Supreme Court, but the Court dismissed his arguments and confirmed that the films could be defined as commerce and therefore were subject to federal regulations.<sup>51</sup> Crafts cited this alongside the *Mutual* decision as evidence of the delimited legal status of cinema. Even further than that, he allowed himself the opportunity to reflect on the Sims Act itself. Looking back on a long career as moral crusader, Crafts recalled that his work on the passage of the Sims Act was “my first work in restraining motion picture films,” and he claimed:

I would be content if I had initiated only this one of the 16 acts of Congress introduced originally at my request, and had no other definite civic accomplishment to my credit for my whole life. It would have been worth while to have lived if only to save the country from being flooded with pictures of a Negro indicted for white slavery and a white man voluntarily standing on the same brutal level, which, but for that law, would have been shown all over the country as a brace of heroes.<sup>52</sup>

Initially rather surprising, the reappearance of Johnson here is clearer on reflection, for the question of cinema’s relation to the press had been forged in relation to the Johnson fight films and to the broader regulatory space surrounding the issues of race and governance instantiated by Johnson’s victories. Legislation directed at the regulation of cinema and its inscription beyond constitutional guarantees of free speech had been closely linked to concerns about race and public order, issues equally clear in the ongoing controversies over *The Birth of a Nation*. The Sims Act connected with the *Mutual* decision here, with the fear generated by Johnson and his visible subversion of proposed racial hierarchies gluing them together.

As had happened with the 1914 hearings, though, the bill was supported by the House but did not become law because of other legislative commitments and, seemingly, because President Woodrow Wilson, who had earlier supported *The Birth of a Nation*, expressed an aversion to the bill and to federal censorship when Carl Laemmle, of Universal, and a delegation of exhibitors met with him to discuss the bill and the film industry.<sup>53</sup> Even without the passage of the federal censor bill, existing regulatory institutions tightened their grip, and others were created after the *Mutual* decision. Immediately following the decision, and the comparable one in the Pennsylvania Supreme Court, the Pennsylvania state censor board commenced for the first time a rigorous policing of moving pictures entering the state, revising the terms of the 1911 statute that set the board up and also making explicit the board's standards, including the banning of white slave films and films about eugenics, venereal disease, birth control, "race suicide," and those holding up "to ridicule and reproach races, classes and other social groups."<sup>54</sup> Numerous other cities and states set up similar boards as state power steadily increased, including Portland, Oregon, in late 1915, Maryland in 1916, Missouri in 1919, New York in 1921, and Massachusetts in 1922.<sup>55</sup> Evidently the "failure" of regulation leads directly to further enactments of regulatory practices. As Michel Foucault remarks with respect to prisons, "failures" are crucial enablers for the continued existence of regulatory and disciplinary practices and institutions.<sup>56</sup>

Increasing pressure from state licensing and regulatory authorities provided further evidence to industry personnel that the national board was failing to act as an effective buffer between state forces and the film industry. New institutional arrangements were sought by the industry to buttress its fight against censorship and efforts to reposition its cultural status, leading to the establishment of the National Association of the Motion Picture Industry (NAMPI) in July 1916 to effectively take over the board's role.<sup>57</sup> NAMPI sought to enroll representatives from all sectors of the industry and to facilitate discussion among them, to monitor government regulation of their business, and "to do and perform all such acts as may tend to promote the welfare of the industry at large."<sup>58</sup> A censorship committee was organized in January 1917, with none other than D. W. Griffith as chairman, and slides were produced for display in theaters in between films, proclaiming, "Keep the Pictures Clean and Keep Them Out of Politics. We Do Not Believe the American People Want Censorship" and "Present Laws Give Ample Protection."<sup>59</sup> Even a short film was produced, entitled *The Nonsense of Censorship*.<sup>60</sup> Linked to these publicity efforts, the committee involved itself in partisan politics at the municipal level, funding candidates who were

friendly to the motion picture industry.<sup>61</sup> In doing so NAMPI registered a shift away from the film industry's previous reliance on social reformers for cultural capital and toward a more politically savvy conception of self-regulation, a trend further evident later when former postmaster general and chairman of the national Republican Party William Harrison Hays was hired to head up the industry's self-regulatory efforts. Increasingly, discipline and government were internalized.

NAMPI further marginalized the national board. No doubt the board's diminishing significance as an important player in the regulation of cinema was partly because the board had attracted a lot of negative attention in the federal hearings in 1914 and 1916 and because the industry was increasingly conscious of the need for political as well as cultural capital. The General Federation of Women's Clubs' withdrawal of support for the board in early 1918 marks another important moment in the gradual demise of the effectivity of the board, given the importance of a feminized configuration of respectability to the establishment of the board's moral authority.<sup>62</sup> It was also becoming increasingly clear that the board embodied a conception of the social function of cinema that was anachronistic for the mainstream industry after the *Mutual* decision. The board's belated response to License Commissioner George Bell's aggressive expansion of the remit of the licensing office made this clear, for after surveying responses to the white slave films in late 1916 it issued a statement still caught in the same problematic evident in its uncertain response to *Traffic in Souls* and *The Inside of the White Slave Traffic*: "The National Board seeks to reflect public opinion. Therefore, no picture hereafter will be passed . . . which is concerned wholly with the commercialized theme of 'white slavery,' or which is so advertised as to give the impression that it is a lurid, 'White Slave' picture. This bulletin is issued in a co-operative spirit. It does not apply to strictly propaganda pictures . . . obviously for social betterment."<sup>63</sup> Like before, the board was caught in the interstices of different conceptions of the social function of cinema, torn between an acceptance of a delimited social role for cinema and the belief that this role could be expanded to incorporate "propaganda." The establishment of Better Films Committees from 1916 pointed the way to the board's validation of nontheatrical exhibition and, indeed, production.<sup>64</sup> Later, the board would effectively give up its regulatory functions and in the early 1920s become a middlebrow reviewing organization, publishers of—that word again—*Exceptional Photoplays*.<sup>65</sup>

Industry personnel shifted away from the national board's conception of the possible social function of cinema, a shift evident, for example, in the vitriolic attacks on those white slave and sex problem films that continued

to cause the board problems. *Is Any Girl Safe?*, *Birth Control*, *The Hand That Rocks the Cradle*, and others were condemned in the trade press for being “too preachy,” with Edward Weitzel of *Moving Picture World* arguing that “the family photoplay theater, in the opinion of the writer, is not the proper place” for the consideration of “serious ethical questions” and should therefore be reserved for “amusement and recreation,” not “propaganda.”<sup>66</sup> The association of the “photoplay” with the family, in contradistinction to the newly conceived and board-supported genre of “propaganda,” was ever more central to the mainstream industry’s self-definition and its accommodation to the prevailing regulatory context. Increasingly, the films produced outside the mainstream industry for propaganda purposes were stirring up those “imps of censorship” and causing trouble to film industry entrepreneurs.<sup>67</sup>

Commercial issues were clearly crucial here. The industry had by 1917 become a national and increasingly capitalized industry that was conscious of long-term economic goals in a way that Siegmund Lubin, producing *The Unwritten Law* in 1907, or Samuel London, producing *The Inside of the White Slave Traffic* in 1913, were not. A spokesperson for Paramount bemoaned the effects of the search for short-term profits on the industry: “Too many persons engaged in the business look upon it as a temporary means of getting money, instead of a permanent business, the continued profit of which is dependent upon the quality and character of the productions.”<sup>68</sup> The years 1914 to 1917 had seen the establishment of large feature-film production companies and the merging of production and distribution systems, perhaps most notably the 1916 merger of production companies Famous Players and the Lasky Corporation with the distributor Paramount. Late in 1917 the exhibitor chain First National Exhibitors’ Circuit developed a production arm, and Paramount began construction on an exhibition circuit in 1919, financed by a \$10 million stock issue underwritten by Wall Street financiers Kuhn Loeb, evidence of the increasingly close relationship between the film industry and East Coast financial establishments.<sup>69</sup> Loew’s, Pathé, Fox, Metro Goldwyn Mayer, and Universal followed Paramount’s lead to become vertically integrated—that is, integrating production, distribution, and exhibition within one company—and their stock was also floated on the New York Stock Exchange. East Coast financiers now sat on the board of directors at studios and demanded economic stability and “responsibility.” Vertically integrated companies were also arguably in violation of the Sherman Anti-Trust Act of 1890, and the larger companies were thus faced with a continuous legislative battle to maintain the basic structure of their business, beginning when the Federal Trade Commission inaugurated an ex-

tensive investigation of Paramount in 1921. Economic concerns about trust regulation would become central to the industry's acquiescence in measures of censorship from this moment on.

Hollywood was also becoming a global industry, particularly in the years 1916 to 1918, as film historian Ruth Vasey has shown in compelling detail. The necessity of making films that could easily cross various boundaries, both national and international, was increasingly pressing for film industry entrepreneurs, who needed to protect both general investments in real estate and specific investments in increasingly expensive multireel feature films, the budgets of which had increased from an average of about twenty thousand dollars in 1914 to fifty thousand dollars in 1919. From about 1917, a movie's foreign sales—already representing about 20 to 40 percent of its expected revenue—began to be calculated into the budgeting of its negative cost. Vasey's important account has shown how the industry's attempts to create noncontroversial films pushed companies in the direction of the construction of Hollywood as a "mythical kingdom," to the production of films that submerged political issues into the universal, and into an agreed "industry policy" that sought explicitly to avoid controversial and politically sensitive images and stories.<sup>70</sup> Economic concerns made this all the more imperative, and these concerns effectively dovetailed with the logic of the 1915 *Mutual* decision, pushing mainstream cinema ever more closely to the presentation of what Griffith had in 1915 scornfully termed "a sugar-coated . . . version of life's truths."<sup>71</sup>

Regulatory and economic concerns were then closely linked by the mid-teens, enabling the fragile coexistence of industry and state interests. Even as this compromise formation was worked out, though, an event in the broader sociopolitical sphere set the grounds for intensified concerns about population strength and governance and, at the same time, a potentially revised conception of the function of cinema and the relation between cinema and state. The event was, of course, America's entry into World War I in April 1917.

#### PRIMARILY ENTERTAINMENT

Immediately on entry into the war President Woodrow Wilson established the Committee on Public Information to help shape public opinion to support the war effort. Wilson and the head of the committee, George Creel, called on the film industry to undertake a propagandistic role in this effort.<sup>72</sup> Just two months after the United States entered the war, Wilson himself

wrote to William Brady, the head of NAMPI: "It is my mind not only to bring the motion picture into fullest and most effective contact with the nation's needs, but to give some measure of official recognition to an increasingly important factor in the development of our national life. The film has come to rank as a very high medium for the dissemination of public intelligence and since it speaks a universal language it lends itself importantly to the presentation of America's plans and purposes."<sup>73</sup> NAMPI worked closely with the so-called Creel Committee, supporting the production of short instructional films and encouraging film stars to rally to the war effort, notably through public speaking and support of liberty bond campaigns. The spaces of cinemas themselves were used as important communal sites in this context also, notably through the Creel Committee's organization of a national organization of volunteer speakers, the so-called Four minute men, to make patriotic talks in moving picture theaters. The film industry was accordingly granted the status of an "essential industry."<sup>74</sup>

Lobbies strewn with flags and recruiting posters helped suggest that the space of cinema had transformed from a site of moral danger to a site of national importance, to what Wilson in a letter read out by the Four minute men called "a great democratic meeting place of the people."<sup>75</sup> Leaving behind, it seems, the antagonistic relation between government and cinema characterizing the prewar period, the government's response to moving pictures during wartime suggested a shift in the conception of the social functioning of cinema. Not now seen solely as a threat to governance, moving pictures could, in fact, be utilized by state forces to propagandize for the cause of democracy and buttress governance. Like reformers had argued as early as 1907, the power of moving pictures could, it was thought, be harnessed for positive purposes, creating "good citizenship" and sustaining democracy.

Even so, this partial reconfiguration of the relation between state and cinema was severely delimited. Indeed, the heightened concerns about populations, governance, national security, and national identity during wartime inevitably spilled over into increased surveillance of cinema screens. *The Birth of a Nation* was, for example, prohibited from several states during the war because of its possible effects on race relations.<sup>76</sup> Concern directed at films representing birth control was, as I have suggested, linked to anxiety about the effect of these films on population strength during wartime. Indeed, the legality of License Commissioner Bell's banning of the film *Birth Control* was justified in part because of the need to prevent "any exhibition [in wartime] at a licensed theater that might be to the prejudice or disadvantage of the state or nation."<sup>77</sup> Likewise, Robert Goldstein, the producer

and writer of *The Spirit of '76* (Continental, 1917), a film depicting scenes of British brutality during the Revolutionary War, was prosecuted under the terms of the important 1917 Espionage Act, which was directed against the creation of "insubordination" or "disloyalty." Goldstein was sentenced to twelve years imprisonment.<sup>78</sup> The Committee on Public Information also banned from lucrative foreign distribution films that featured scenes of strikes, labor protests, poverty, or domestic violence.<sup>79</sup> Later, after the end of the war and in the midst of labor militancy and the well-documented "red scare," the Joint Committee on Motion Picture Activities set up to monitor federal film activity called for the banning of the actual production of films about socialism and labor problems.<sup>80</sup> Explicit concerns about overtly political films were critical here.

Illustration of the transient and delimited nature of the renegotiation of the role of cinema came also in the shape of a renewed concern in the immediate postwar period about sex hygiene films, showing again how concerns about cinema were enmeshed with regulatory anxieties about sexuality and governance. *Fit to Fight* (American Social Hygiene Association, 1918) was produced during the war by the government to educate soldiers about the dangers and effects of venereal disease. Retitled *Fit to Win*, the film was released to a wider audience in the immediate postwar period but was caught up in considerable controversy, including the emergence of a Catholic-led campaign against the film that foreshadowed the later actions of the Catholic Legion of Decency.<sup>81</sup> *Moving Picture World* asserted that the film "does not belong in a family theater to be shown to a mixed audience of men and women," and the film was banned in New York City, a decision upheld by the U.S. Circuit Court of Appeals.<sup>82</sup> Similar problems befell the film *The End of the Road* (American Social Hygiene Association, 1919), which was directed at informing women of the dangers of venereal disease.<sup>83</sup> Indeed, psychologists carried out an investigation of the effects of *Fit to Win* and *The End of the Road* on audiences and concluded that such films should not be shown indiscriminately, that the instability of meaning inherent in sex problem films should be carefully policed, and that exhibition context and audience composition were crucial considerations.<sup>84</sup> The study was one of the first serious social science investigations of the effects of cinema. The difficulties besetting these films after the war showed how transient the renegotiation of cinema's role during wartime was, how quickly the prewar definition of the social function of cinema was reestablished, and how the basic assumption about the need for some form of state control of cinema remained current. Indeed, once again state concerns were tied together with the issues of sex-

uality, populations, and governance, the import of which were only intensified during wartime.

Immediately after the end of the war, the regulatory concerns about cinema continued, including the establishment of three state censor boards between 1919 and 1922 and the enactment of federal regulations banning the interstate transport of all "obscene" films (logically extending the precepts of the Sims Act).<sup>85</sup> NAMPI's call for recognition of the "freedom of the screen" in 1920 was, then, summarily rejected.<sup>86</sup> A series of scandals surrounding a number of film stars further intensified concerns about Hollywood, particularly in relation to its projection of images of "deviance."<sup>87</sup> Evelyn Nesbit ceased making films in this context in 1922. Ellis Paxson Oberholtzer, longtime censor in Pennsylvania, revived the concerns expressed about the representation of Harry Thaw in the same year. "If a . . . degenerate named Thaw slew Stanford White in 1906," he wrote, "we are not desirous of exaggerating such episodes until they come to be regarded as outstanding illustrations of American life."<sup>88</sup>

Ironically, part of the problem for the film industry in the aftermath of the war was the industry's perceived success as a molder of public opinion during the war, for if propaganda was as successful as Creel and others widely claimed, then the mass media was as powerful as many feared. "It has been discovered by individuals, by associations, and by governments," Raymond Dodge wrote in "The Psychology of Propaganda" in 1920, "that a certain kind of advertising can be used to mold public opinion and control democratic majorities."<sup>89</sup> Indeed, anxieties about the effects of mass media mushroomed in the 1920s, evident, for example, in the growing body of work on the shaping of public opinion.<sup>90</sup> One example of this ongoing regulatory concern about cinema has particular resonance for this book—the establishment of a Motion Picture Commission in Chicago.

Like it had in early 1907, the *Chicago Tribune* mounted a campaign about film censorship in Chicago in mid-1918, reacting to concerns about the efficacy of the Police Censor Board, uncertainty about the locus of power in the board, and confusions over a proposed amendment to the ordinance governing censorship in the city.<sup>91</sup> The *Tribune* suggested that a "commission be appointed to consider all the questions that [had] arisen in connection with the exercise of censorship authority in Chicago," and the next day the city council acted on the *Tribune's* suggestion to set in place a committee to determine what type of censorship the city should enforce.<sup>92</sup> Late in September the Chicago Motion Picture Commission convened for the first time, and between then and May 1919 the commission heard testimony from exhibitors, producers, censors, social reformers, and social scientists about the

effects of moving pictures on audiences. The commission in fact sponsored a survey conducted by University of Chicago sociology professor Ernest W. Burgess to quantify the effects of motion pictures on school children, further evidence of the growing interest of social scientists in precisely measuring the effects of cinema.<sup>93</sup> His report included tabulated responses to questions about the attendance of children, the effects of moving pictures on schoolwork and home life, and the general and specific moral effects of moving pictures. In the responses to Burgess's questionnaires teachers complained in familiar ways that moving pictures induced in young girls the "vampire attitude," taught young boys "boy bandit games," and stopped children from becoming "good citizens."<sup>94</sup>

The commission report published in the summer of 1920 reflected these views. It quoted in detail from the *Block v. City of Chicago* decision in the Illinois Supreme Court in 1909, upholding the legality of the Police Censor Board, and from the *Mutual* decision in the Supreme Court in 1915 to show that the right of the state to exercise control was a given that had been "settled beyond any doubt."<sup>95</sup> The commission called for the establishment of a department for "controlling motion pictures" and for the banning of the pink permit age-based rating system established in 1914 because "no picture should be exhibited that could not be shown before the father and mother in company with their children."<sup>96</sup> The new censorship code was adopted in 1922. Censor boards had been in place in Houston, Texas, since 1919 and Dallas, Texas, since 1921; others were set up in Wichita Falls, Texas, and Pasadena, California, in 1922; Gainesville, Texas, and Birmingham, Alabama, in 1923; and Palo Alto, California, and Waco, Texas, in 1924.

NAMPI responded to the intensification of regulatory concerns in the postwar period initially by clamping down hard on the sex hygiene films, evidencing concerns about the muddying of the divide between entertainment and education or propaganda and about the morality of the films. Labeling *The End of the Road*, in particular, as "morally unfit," the association issued a resolution in 1919 "unanimously declaring war to the bitter end on anyone making or showing salacious pictures" and established a code commonly called the Thirteen Points and Standards in 1921, agreeing to avoid specific material deemed offensive, including: "exaggerated sex plays, white slavery and commercialized vice, themes that make virtue odious and vice attractive, themes that tend to weaken the authority of the law, stories that might offend any person's religious beliefs, and stories and themes which may instruct the morally feeble in methods of committing crime or by cumulative processes emphasize crime and the commission of crime."<sup>97</sup> Both NAMPI and the mainstream industry it supported sought in particu-

lar to link immoral pictures to producers outside of the mainstream, a strategy that Brady had used in his testimony before the Chicago Motion Picture Commission when he told the commission that “indecent and immoral pictures” were produced by a few “black sheep” in the industry.<sup>98</sup> The validation of “harmless entertainment” became the central strategy in the film industry’s self-regulation.

Linking mainstream cinema to the provision of harmless, sugar-coated, culturally affirmative entertainment, the mainstream industry contrasted this formation of cinema with alternatives that were loosely labeled “propaganda” or “exploitation” and in doing so pushed those practices and conceptions of cinema to the margins of a mainstream industry unified by its conception of the social function of cinema. The mainstream industry effectively accepted and internalized the conception of the social function of cinema, articulated as a consequence of the debates about the effects of cinema on populations and governance in the prewar period. Rhetoric abounded about the function of entertainment and the industry, including an intensification of the validation of entertainment and its cultural function. Entertainment “is something more than mere amusement,” Frederick Palmer wrote in *Technique of the Photoplay* in 1924. “It is an indispensable institution of modern civilization and it has its place in the scheme of things just as the church, the university, the clinic and civil government have.”<sup>99</sup>

One of the other consequences of the acceptance of the delimited public role for mainstream cinema was the impetus this gave to the consolidation of alternative formations of cinema, be they categorized as propaganda, as what Eric Schaefer terms “exploitation cinema,” or, indeed, I would argue, as documentary and the avant-garde.<sup>100</sup> In a curious development the consolidation of the mainstream opened up a space for alternatives at the same time that space was carefully delimited and policed. The critical distinction set in place here between entertainment and various alternatives, increasingly played out as a distinction between theatrical and nontheatrical cinema, was predicated on diverging conceptions of the function of cinema. In effect, this metageneric categorization—one of the most important in film history—was critical to the establishment of the terrain of classical Hollywood cinema and its alternatives. These distinctions and definitions were crucial to the establishment of the discursive formation of mainstream cinema and its alternatives.

Later debates about the regulation of cinema were framed by the decisions made in the preclassical period. By 1915 the constitutional framework for censorship was set in place, and from then on the mainstream industry pursued the strategy of accepting cinema’s role as provider of entertainment,

by and large dropping the strategy of arguing for its social relevance. Industry entrepreneurs acknowledged the need for self-regulation and accepted the conceptual framework for this. What was left was to work out the institutional arrangements for self-regulation, a process of trial and error, but one that was increasingly successful for the industry after the decline of NAMPI following the establishment of a state censor board in New York in 1921 and the formation of the Motion Picture Producers and Distributors of America (MPPDA) in 1922 under the leadership of the politically well-connected Will Hays. No further measures of state censorship were enacted after 1922. The formation of the well-known Production Code in 1930 stands in this sense as a coda to the working out of institutional arrangements. Even though debates about the regulation of cinema continued to be prominent features of discourse about cinema throughout the 1920s, then, this was not a fundamental debate about the nature of cinema and regulation but a more circumspect debate about the *implementation* of self-regulation and of a definition of the social function of cinema complexly worked out in the earlier period.

Indeed, the preamble to the Production Code described motion pictures “primarily as entertainment without any explicit purpose of teaching or propaganda” in a way directly in line with the logic of earlier debates and legal decisions.<sup>101</sup> Hays would routinely deny that Hollywood had anything to do with politics. “In a period in which propaganda has largely reduced the artistic and entertainment validity of the screen in many countries,” he declared in 1938, “it is pleasant to report that American motion pictures continue to be free from any but the highest possible entertainment purpose. The industry has resisted and must continue to resist the lure of propaganda in that sinister sense persistently urged upon it by extremist groups. . . . Entertainment is the commodity for which the public pays at the box-office. Propaganda disguised as entertainment would be neither honest salesmanship nor honest showmanship.”<sup>102</sup> Guarding against a broadly defined “political” content, the Hays Office continually policed the borders between Hollywood and the geopolitical sphere in what was effectively a continuation of the normative framework set in place for cinema by 1915 traced out in this study: a policing of the social functioning of cinema as a consequence of debates about populations and governance and the delineation of mainstream cinema as fictional entertainment. Entertainment should be kept clear from political utterance, the MPPDA contended, and the studios agreed; and this sense of the function of cinema governed the operation of the code and mainstream cinema throughout the classical period of Hollywood’s history. “Keep the picture out of politics,” as *Moving Picture World* had urged as

early as 1913 and NAMPI had reiterated in 1917, and, it seemed, politics will keep out of pictures.<sup>103</sup>

Lest we imagine too tidy a conclusion to these complex debates about the definition and regulation of cinema, though, the continuing debates about cinema through the 1920s and 1930s and into the present day show that the questions about the effects of cinema on populations and social order are never resolved simply. The regulation of cinema was and is a constant struggle, a continuous enactment of the forces that had been carefully balanced in the preclassical period but that could return to the surface in some form. Even so, the periodic contestations over cinema subsequent to 1915 in the main took (and take) place on the grounds of a by and large accepted definition of the function of mainstream cinema. Other functions were assigned to the margins of that, and although the potential different uses of moving pictures were still debated in film criticism of the late 1910s and the 1920s—and are still debated within film studies—it was and is a rather marginal debate, no doubt having considerable effect on the shaping of film studies yet having little effect on the shaping of mainstream cinema. Later regulatory debates were more clearly about representation and economics, not about the fundamental shape and function of cinema, for these were established in the preclassical period in a way that was in fact critical to the emergence of classical Hollywood cinema.



# Notes

## ABBREVIATIONS

<i>CT</i>	<i>Chicago Tribune</i>
<i>FI</i>	<i>Film Index</i>
<i>HW</i>	<i>Harper's Weekly</i>
IRAD	Illinois Regional Archives Depository, Ronald Williams Library, Northeastern Illinois University
<i>MPN</i>	<i>Motion Picture News</i>
<i>MPW</i>	<i>Moving Picture World</i>
NBR	National Board of Review of Motion Pictures Collection, Rare Books and Manuscripts Division, New York Public Library
<i>NYC</i>	<i>New York Clipper</i>
<i>NYDM</i>	<i>New York Dramatic Mirror</i>
<i>NYEJ</i>	<i>New York Evening Journal</i>
<i>NYEW</i>	<i>New York Evening World</i>
<i>NYH</i>	<i>New York Herald</i>
<i>NYS</i>	<i>New York Sun</i>
<i>NYT</i>	<i>New York Times</i>
<i>NYTrib.</i>	<i>New York Tribune</i>
<i>NYW</i>	<i>New York World</i>
OHC	Ohio Historical Center
<i>VFI</i>	<i>Views and Film Index</i>

## INTRODUCTION

1. *Nickelodeon*, 15 October 1910, 226, 218. See also *MPW*, 23 July 1910, 194; and *MPW*, 6 August 1910, 292.

2. On the emergence of the term *spectator* in relation to film audiences circa 1910 see Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991), 84–85.

3. *Nickelodeon*, 15 October 1910, 226; *MPW*, 15 October 1910, 858.

4. *Nickelodeon*, 15 October 1910, 226. The term *pellicle*, which literally means a thin coating placed on something else (thus similar to *film*), surfaced a couple of months before the Essanay competition in a fascinating article in the *Nickelodeon* entitled “The Moving Picture Babel.” The article contrasted the universality of the silent screen—which could be “understood by people separated by both race and language”—with the need to develop a universal language that would describe motion pictures and motion picture equipment. “The poverty of exact terms is apparent,” the journal noted, for the “purchasers of ‘films’—here is a special example—employ without distinction the most varied expressions. They demand ‘Have you pellicles for sale?’ or ‘strips of pictures’ or ‘reels’ or ‘tableau ribbons,’ etc.” The writer went on to call for a commission to be appointed to look “towards the fixing of a precise vocabulary for motography,” anticipating the Essanay competition’s small-scale contribution to this (*Nickelodeon*, 15 March 1910, 160). For this writer, and for others within the industry, the fixing of vocabulary was no doubt linked to the necessity of commercial standardization, although there may well have been another motive in these attempts at standardization. Indeed, *Nickelodeon’s* invocation of the Tower of Babel, alongside the Essanay judges’ disdain for “abstruse” terms, might well indicate how this invention of language was connected with an attempt to fashion an American vernacular for a film industry not at this moment exclusively associated with America. On the broader links between nationalism and language, paying particular attention to the metaphor of Babel, see Jacques Derrida, “Des Tours de Babel,” in *Difference in Translation*, ed. Joseph F. Graham (Ithaca, N.Y.: Cornell University Press, 1985); and on the wider efforts to “make cinema American” within the discursive fields of imperialism and nationalism see Richard Abel, *The Red Rooster Scare: Making Cinema American, 1900–1910* (Berkeley: University of California Press, 1999).

5. *MPW*, 15 October 1910, 858. On the emergence and proliferation of nickelodeons see Charles Musser, *The Emergence of Cinema: The American Screen to 1907* (Berkeley: University of California Press, 1990), 417–90. “It is not too much to say,” Musser asserts, “that modern cinema began with the nickelodeons” (417). Like Musser, in what follows I alter period discourse for the sake of clarity, using the word *cinema* to refer principally to moving pictures exhibited in nickelodeons from 1905 onward and to encompass industry policy, the films themselves, the exhibition context, and the forms of social interaction taking place in that context.

6. *MPW*, 6 August 1910, 292. On the more general efforts of the film in-

dustry to align itself with “high culture,” drawing on the work of Pierre Bourdieu, see William Uricchio and Roberta E. Pearson, *Reframing Culture: The Case of the Vitagraph Quality Films* (Princeton, N.J.: Princeton University Press, 1993).

7. *Nickelodeon*, 15 October 1910, 226. The comparison of movies with opera is intriguing. Lawrence Levine has shown how opera in the United States was initially an art form that was simultaneously popular and elite but that this bridging of classes underwent significant changes in the late nineteenth and early twentieth centuries. Increasingly, opera was performed in isolation from other forms to an audience that was far more homogenous than those that had gathered to watch opera in an earlier period (this development was reinforced by linguistic factors, as opera given in English translation remained part of popular culture, but opera performed in the original language came to be associated with high art). By the turn of the century, then, opera was no longer part of the eclectic blend of culture that had characterized the United States, was differentiated from “mere” entertainment, and was positioned as a sacred source of cultural enlightenment. This was part of a wider process that Levine terms “sacralization,” the creation of a hierarchical distinction between “Art” and “mere” entertainment. See Lawrence W. Levine, *Highbrow/Lowbrow: The Emergence of Cultural Hierarchy in America* (Cambridge, Mass.: Harvard University Press, 1988), esp. 85–104. The association of photoplays with opera would seem to be an attempt to position “cinema” or the “photoplay” within the broader framework of sacralization; yet the result, as traced out in this study, would be somewhat different, with mainstream cinema eventually differentiated from “Art,” and from the realm of the “political,” and validated precisely as “mere entertainment.”

8. Griffith was reported to have said to the actress: “She was working in the universal language that had been predicted in the Bible, which was to make all men brothers because they would understand each other. This could end wars and bring about the millennium” (Lillian Gish, *Dorothy and Lillian Gish* [New York: Scribner, 1973], 60, cited in Hansen, *Babel and Babylon*, 77).

9. In the same year as the Essanay competition, *New York Dramatic Mirror* columnist Frank Woods noted that *motion pictures* had begun to replace *moving pictures* as films improved; accordingly, he changed the name of his weekly column from “Moving Picture Notes” to “Motion Picture Notes.” See *NYDM*, 2 April 1910, 16. On the choice between *pictures* and *films* see *MPN*, 22 November 1913, 35.

10. *MPW*, 1 October 1910, 742. Late in 1913 two exhibitors wrote to their local paper complaining about the use of the word *movies* and explicitly invoking *photoplay* as an alternative: “It is unpardonable slang, emanating from the gutter, and its use is deplored by everyone who wishes to see the photoplay occupy the dignified position which it deserves” (*MPW*, 29 November 1913, 999). Likewise, an editorial in 1913 in *Motography* chided people for using the term *movies*, noting: “We substitute the term ‘moving pictures’ for the objectionable ‘movies’” (*Motography*, 1 February 1913, 67).

11. *Views and Film Index* had earlier asked: “Why so many ‘Vaudettes,’ ‘Nickolets,’ ‘Dimes,’ and ‘Nickelodeons’? Why not ‘Empire,’ ‘Majestic,’ ‘Grand,’ ‘Washington,’ etc.?” (*VFI*, 22 February 1908, 11).

12. Raymond Williams, *Keywords* (London: Fontana Press, 1983). Joan Shelley Rubin has suggested that the popularity of dictionaries “designed to defend refined speech from the incursions of informality and slang” from the mid-nineteenth century onward reflected a growing preoccupation with “taste” and “culture” among a middle class busy defining its difference from those above and below. Joan Shelley Rubin, *The Making of Middlebrow Culture* (Chapel Hill: University of North Carolina Press, 1992), 5.

13. François Ewald, “Norms, Discipline, and the Law,” in *Law and the Order of Culture*, ed. Robert Post (Berkeley: University of California Press, 1991), 150. See also J. L. Austin, *How to Do Things with Words* (Oxford: Oxford University Press, 1961); and John Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge, U.K.: Cambridge University Press, 1969).

14. *MPW*, 6 August 1910, 292 (my emphasis).

15. *Nickelodeon*, 10 October 1910, 218 (my emphasis).

16. Even though *documentary* was not a term used in relation to cinema until the mid-1920s, the link between film and “teaching” and “evidence”—the semantic bases of “documentary”—was widely discussed in relation to cinema in the preclassical period. See Charles Musser, “Documentary,” in *The Oxford History of World Cinema*, ed. Geoffrey Nowell-Smith (Oxford: Oxford University Press, 1996). On mechanization and realist cultural practices around the turn of the century see Miles Orvell, *The Real Thing: Imitation and Authenticity in American Culture, 1880–1940* (Chapel Hill: University of North Carolina Press, 1989).

17. *Nickelodeon*, 10 October 1910, 218.

18. It was, for example, often used in conjunction with advice on how to write for the screen, linking this to the cultural capital of writing for the theater. Epes Winthrop Sargent’s well-known “Technique of Photoplay” was serialized in *Moving Picture World* in 1911, reprinted as a book in 1912, and reprinted again, substantially revised, in 1913. Other well-known examples include J. Berg Esenwein and Arthur Leeds, *Writing the Photoplay* (Springfield, Mass: Home Correspondence School, 1913); C. G. Winkopp, *How to Write a Photoplay* (New York: C. G. Winkopp, 1915); Harold Weston, *The Art of Photo-Play Writing* (London: McBridge, Nast, 1916); and William Lord Wright, *Photoplay Writing* (New York: Falk, 1922). Frederick Palmer made explicit the connection between the “photoplay” and the stage: “From the close relationship of the motion picture to the stage has come the term *photoplay* and *photodrama*” (Palmer, *Technique of the Photoplay* [Hollywood, Calif.: Palmer Institute of Authorship, 1924], 29). Other uses of the word suggested cinema’s newfound cultural status. Harvard psychologist Hugo Munsterberg, for example, called his groundbreaking 1916 theoretical account of cinema *The Photoplay: A Psychological Study* (New York: D. Appleton, 1916). Likewise, the fan magazine *Photoplay* emerged in the late 1910s, targeting knowledgeable, middle-class filmgoers. See

Kathryn H. Fuller, *At the Picture Show: Small-Town Audiences and the Creation of Movie Fan Culture* (Washington, D.C.: Smithsonian Institution Press, 1996), 150–68. Later, Adolph Zukor told an audience at a lecture at Harvard: “We took the motion picture when it was hardly more than a toy and we made out of it a new kind of dramatic entertainment, a photoplay” (Adolph Zukor, “Origin and Growth of the Industry,” in *The Story of Films: As Told by the Leaders of the Industry to the Students of the Graduate School of Business Administration . . . Harvard University*, ed. Joseph P. Kennedy (Chicago, Ill.: A. W. Shaw, 1927), 76.

19. *Nickelodeon*, 25 March 1911, 321 (my emphasis). In fact, Thomas Edison had considered the word *motograph* in the 1880s for what he eventually called the “kinetograph” and “kinetoscope.” See the account in Musser, *Emergence of Cinema*, 62–63.

20. *Cinematograph* is effectively the same as *kinetograph*, which maintains the original Greek *k* that is uncommon in French, and can thus be translated as “motion writing.” On the association of *cinematograph* with Pathé see Richard Abel, “‘Pathé Goes to Town’: French Films Create a Market for the Nickelodeon,” *Cinema Journal* 35, no. 1 (fall 1995): 15.

21. The first reference to “cinema” in the *Oxford English Dictionary* dates from 1899, but the next recorded references are from 1909 and 1910. Both make explicit reference to the process of abbreviation: “There were not many better cinematographs, for a woman to look at, than the *cinema*—that was the form in which she used the word”; and “Cinematograph—which has just been cut down in a glaring advertisement to ‘cinema’” (*Oxford English Dictionary*, 2d ed. [Oxford: Clarendon Press, 1989], 220–21).

22. Michel Foucault, “Nietzsche, Genealogy, History,” in *The Foucault Reader*, ed. Paul Rabinow (London: Penguin, 1991), 78.

23. Historians of early cinema have argued that the period poised between the end of an earlier “cinema of attractions” or “exhibitor-led” industry (from around 1907) and the establishment of “classical Hollywood cinema” (from around 1915 to 1917) is best labeled “transitional,” and this has become a crucial part of the historiographical scaffolding of American cinema. A particular configuration of visual grammar and narrative discourse was established in the period, complemented by a number of new institutions, including the emergence of feature films, the star system, picture palaces, and new studios and systems of distribution. See David Bordwell, Janet Staiger, and Kristin Thompson, *The Classical Hollywood Cinema: Film Style and Mode of Production to 1960* (London: Routledge, 1985), 85–231; Tom Gunning, *D. W. Griffith and the Origins of American Narrative Film: The Early Years at Biograph* (Urbana: University of Illinois Press, 1991); Eileen Bowser, *The Transformation of Cinema, 1907–1915* (New York: Charles Scribner’s Sons, 1990); Roberta Pearson, “Transitional Cinema,” in *The Oxford History of World Cinema*, ed. Geoffrey Nowell-Smith (Oxford: Oxford University Press, 1996), 23–42; Charlie Keil, *Early American Cinema in Transition: Story, Style, and Filmmaking, 1907–1913* (Madison: University of Wisconsin Press, 2001); and Charlie Keil and Shelley Stamp, eds.,

*American Cinema in Transition* (Berkeley: University of California Press, 2004).

24. John Collier, "Cheap Amusements," *Charities and the Commons* 20 (April 1908): 74; J. E. Wallace Wallin, "The Moving Picture in Relation to Education, Health, Delinquency, and Crime," *Pedagogical Seminary* 17, no. 2 (June 1910): 141, 136.

25. Collier, "Cheap Amusements," 75.

26. See Janet Staiger, *Bad Women: Regulating Sexuality in Early American Cinema* (Minneapolis: University of Minnesota Press, 1995), esp. 55–115; Tom Gunning, "From the Opium Den to the Theatre of Morality: Moral Discourse and Film Process in Early American Cinema," *Art and Text* 30 (1988) (repr. in *Silent Cinema Reader*, ed. Lee Grieveson and Peter Krämer [London: Routledge, 2004]); and Tom Gunning, *D. W. Griffith*, esp. 151–87.

27. Charles Taylor, "Modern Social Imaginaries," *Public Culture* 14, no. 1 (2002): 114.

28. *Mutual Film Corporation v. Industrial Commission of Ohio et al.*, 236 U.S. (1915), 560.

29. The literature on classical cinema is considerable. André Bazin is responsible for the original theoretical conception of Hollywood cinema as "classical." See, e.g., "The Evolution of the Language of Cinema," in *What Is Cinema?* trans. Hugh Gray (Berkeley: University of California Press, 1967), 28–33. Later, the sense of Hollywood as a classical cinema was important to film theory. See, e.g., Stephen Heath, "Narrative Space"; Laura Mulvey, "Visual Pleasure and Narrative Cinema"; and David Bordwell, "Classical Narration: The Hollywood Example," collected in *Narrative, Apparatus, Ideology*, ed. Philip Rosen (New York: Columbia University Press, 1986). On classical cinema as a historical/industrial product see, Bordwell, Staiger, and Thompson, *Classical Hollywood Cinema*.

30. Richard Maltby's important work has suggested that a focus on stylistic norms in accounts of classical cinema can lead to the marginalization of the broader regulatory and commercial imperatives at work in the Hollywood system. See Richard Maltby, *Hollywood Cinema: An Introduction* (Oxford: Blackwell, 1995), esp. 6–9, 18–58, 361–411; for Maltby's account of the norms of mainstream cinema see his *Harmless Entertainment: Hollywood and the Ideology of Consensus* (Metuchen, N.J.: Scarecrow Press, 1983). Exemplary recent work in the cultural history of early cinema includes Lauren Rabinovitz, *For the Love of Pleasure: Women, Movies, and Culture in Turn-of-the-Century Chicago* (New Brunswick, N.J.: Rutgers University Press, 1998); Shelley Stamp, *Movie-Struck Girls: Women and Motion Picture Culture after the Nickelodeon* (Princeton, N.J.: Princeton University Press, 2000); Ben Singer, *Melodrama and Modernity: Early Sensational Cinema and Its Contexts* (New York: Columbia University Press, 2001); Alison Griffiths, *Wondrous Difference: Cinema, Anthropology, and Turn-of-the-Century Visual Culture* (New York: Columbia University Press, 2002); and Constance Balides, *Making Dust in the Archives: Feminist Archaeologies of Vice, Thrift, and Management in U.S. Silent Cinema* (Minneapolis: University of Minnesota Press, forthcoming).

31. On the interdependency between film form and style and the mode of exhibition and production see Charles Musser, "The Nickelodeon Era Begins: Establishing the Framework for Hollywood's Mode of Representation," in *Early Cinema: Space, Frame, Narrative*, ed. Thomas Elsaesser, with Adam Barker (London: British Film Institute, 1990); and Musser, *Emergence of Cinema*.

32. On this sense of the productivity of power in shaping discourse see, e.g., Michel Foucault, "Truth and Power," in *Power/Knowledge: Selected Interviews and Other writings, 1972–1977* (New York: Pantheon, 1980), 109–33; and Judith Butler, "Ruled Out: Vocabularies of the Censor," in *Censorship and Silencing: Practices of Cultural Regulation*, ed. Robert Post (Los Angeles, Calif.: Getty Research Institute, 1998), 247–59.

33. Uricchio and Pearson, *Reframing Culture*, 41–64.

34. Michel Foucault, "Questions of Method," in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (London: Harvester Wheatsheaf, 1991), 75. See also Annette Kuhn's important work on early British censorship, *Cinema, Censorship, and Sexuality, 1909–1925* (London: Routledge, 1988). "Regulation," Kuhn suggests, "may be understood not so much as an imposition of rules upon some preconstituted entity, but as an ongoing and always provisional process of constituting objects from and for its own practices" (7).

#### CHAPTER 1. POLICING CINEMA

1. *CT*, 3 May 1907, 2; *CT*, 15 April 1907, 1.
2. *CT*, 15 April 1907, 1.
3. *Ibid.* On the *Tribune's* readership see Lloyd Wendt, *Chicago Tribune: The Rise of a Great Newspaper* (Chicago: Rand McNally, 1979), esp. 373–96.
4. *CT*, 15 April 1907, 1, 4; *CT*, 13 April 1907, 3.
5. *CT*, 14 April 1907, sec. I, 5.
6. *Ibid.*
7. Jane Addams, *The Spirit of Youth and the City Streets* (New York: Macmillan, 1909), 86; J. E. Wallace Wallin, "The Moving Picture in Relation to Education, Health, Delinquency and Crime," *Pedagogical Seminary* 17, no. 2 (June 1910): 141. I examine this early social science work on cinema in more detail in chapter 2 and, more substantively, in Lee Grieveson, "Investigating Cinema: Social Science and the Formation of Film Studies," in *Inventing Film Studies*, ed. Lee Grieveson and Haidee Wasson (Durham, N.C.: Duke University Press, forthcoming).
8. William Healy, *The Individual Delinquent* (Boston: Little, Brown, 1915), 340; Rev. J. J. Phelan, *Motion Pictures as a Phase of Commercial Amusement in Toledo, Ohio* (Toledo: Little Book Press, 1919), 1.
9. *CT*, 15 April 1907, 1.
10. *Ibid.*
11. Allon White and Peter Stallybrass, *The Politics and Poetics of Transgression* (Ithaca, N.Y.: Cornell University Press, 1986), 98. White and Stally-

brass suggest that “phobic representations” function as a powerful symbolic nexus that distills a variety of social and sexual fears. I discuss the *Tribune’s* crusade in more detail in the following chapter.

12. Walter Rauschenbusch, *Christianity and the Social Crisis*, 1907, quoted in Paul Boyer, *Urban Masses and Moral Order in America, 1820–1920* (Cambridge, Mass.: Harvard University Press, 1978), 127; NYH, 24 December 1908, 7; *Report of the Vice Commission* (Louisville, Ky.: Smith and Dugan, 1915), 74. Other reports included The People’s Institute and Women’s Municipal League, “Cheap Amusement Shows in Manhattan: Preliminary Report of Investigation,” 31 January 1908, Box 170, National Board of Review of Motion Pictures Collection, Rare Books and Manuscripts Division, New York Public Library (hereafter NBR); Twentieth Century Club, “The Amusement Situation in the City of Boston,” (Boston: N.p., 1910), esp. 4–12; Michael M. Davis, *The Exploitation of Pleasure: A Study of Commercial Recreations in New York City* (New York: Russell Sage Foundation, 1911), esp. 20–29; Louise de Koven Bowen, *Five and Ten Cent Theaters* (Chicago: Juvenile Protective Association, 1911); Vice Commission of Chicago, *The Social Evil in Chicago; a Study of Existing Conditions* (Chicago: Gunthorp-Warren, 1911), 248–54; Rowland Haynes, *Recreation Survey, Milwaukee, Bulletin No. 17* (Milwaukee, Wis.: Milwaukee Bureau of Economy and Efficiency, 1911), esp. 7–10; Juvenile Protective Association, *Recreation Survey of Cincinnati* (Cincinnati, Ohio: Juvenile Protective Association, 1913), esp. 25–27; Robert O. Bartholomew, *Report of Censorship of Motion Pictures and of Investigation of Motion Picture Theatres of Cleveland* (Cleveland, Ohio: City Council, 1913); Phelan, *Motion Pictures*. For a survey of some of these reports see Alan Havig, “The Commercial Amusement Audience in Early 20th-Century American Cities,” *Journal of American Culture* 5, no. 1 (spring 1982). On social surveys in early-twentieth-century America more generally see David Ward, “Social Reform, Social Surveys, and the Discovery of the Modern City,” *Annals of the Association of American Geographers* 80, no. 4 (December 1990). On the development of an “avalanche of printed numbers” as a way of classifying and enumerating people see Ian Hacking, *The Taming of Chance* (Cambridge, U.K.: Cambridge University Press, 1990), 3.

13. A note about my use of *elite* here. Conventional usage of a notion of “elites” designates as elites all groups that wield power or possess high status. Elite groups play prominent roles in initiating or implementing policies that shape the exercise of authority and dominate structures of power, wealth, and social status in ways that are frequently legitimized by community traditions and religious beliefs. On elites see Frederic Cople Jaher, ed., *The Rich, the Well Born, and the Powerful: Elites and Upper Classes in History* (Urbana: University of Illinois Press, 1973), esp. 1–6; and Peter Dobkin Hall, *The Organization of American Culture, 1700–1900: Private Institutions, Elites, and the Origins of American Nationality* (New York: New York University Press, 1982). A more precise delineation of the constitution of elite groups is developed in the following pages although in general I use the term here to refer

to those largely Protestant, white, educated, professional middle-class groups who sought to defend their weakening cultural hegemony and who dominated the proliferation of reform movements and the expansion of governmental activism in the turn-of-the-century period. It is worth remembering, though, that elites were not monolithic. Rather, they were frequently internally divided and manifested shifting alliances, depending on the issues involved. Enclaves existed within elite groups. Middle-class women, for example, implemented policies that often differed sharply from the ideals of groups of middle-class men. Shifting configurations of elite response need, then, to be mapped out precisely.

14. On the emergence and development of mass culture in the United States in the mid-to-late nineteenth century see Richard Ohmann, *Selling Culture: Magazines, Markets, and Class at the Turn of the Century* (London: Verso, 1996), esp. 11–30. On reform and state concerns see Michael Denning, *Mechanic Accents: Dime Novels and Working-Class Culture in America* (London: Verso, 1987); Paul Boyer, *Purity in Print: The Vice-Society Movement and Book Censorship in America* (New York: Scribner, 1968), esp. 1–51; Alison M. Parker, *Purifying America: Women, Cultural Reform, and Pro-Censorship Activism, 1873–1933* (Urbana: University of Illinois Press, 1997), esp. 75–110; Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York: Basic Books, 1978), 50–57, 91–105; and Rochelle Gurstein, *The Repeal of Reticence: A History of America's Cultural and Legal Struggles over Free Speech, Obscenity, Sexual Liberation, and Modern Art* (New York: Hill and Wang, 1996), esp. 32–60.

15. Robert C. Allen, *Vaudeville and Film, 1895–1915: A Study in Media Interaction* (New York: Arno Press, 1980), 23–32; M. Alison Kibler, *Rank Ladies: Gender and Cultural Hierarchy in American Vaudeville* (Chapel Hill: University of North Carolina Press, 1999), esp. 1–22; Robert C. Allen, *Horrible Prettiness: Burlesque and American Culture* (Chapel Hill: University of North Carolina Press, 1991), esp. 107–56; Charles Musser, “Passions and the Passion Play: Theater, Film, and Religion in America, 1880–1900,” in *Movie Censorship and American Culture*, ed. Frances Couvares (Washington, D.C.: Smithsonian Institution Press, 1996), 43–72; Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia, Pa.: Temple University Press, 1986), esp. 88–114; Elisabeth Perry, “‘The General Motherhood of the Commonwealth’: Dance Hall Reform in the Progressive Era,” *American Quarterly* 37, no. 5 (1985): 719–33; Elliot Gorn, *The Manly Art: Bare-Knuckle Prize Fighting in America* (Ithaca, N.Y.: Cornell University Press, 1986); Terence J. Munby, *Censorship: Government and Obscenity* (Baltimore, Md.: Helicon Press, 1963), 75–76; P. R. Macmillan, *Censorship and Public Morality* (Aldershot: Gower Publishing, 1983), 363–64; James Paul and Murray Schwartz, *Federal Censorship: Obscenity in the Mail* (New York: Free Press, 1961); David J. Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868–1900* (Westport, Conn.: Greenwood Press, 1973), 73–190; Jay A. Gertzman, *Bookleggers and Smuthounds: The Trade in Erotica, 1920–1940* (Philadelphia: University of

Pennsylvania Press, 1999), esp. 179–218; and Gurstein, *Repeal of Reticence*, 179–212.

16. See Charles Musser, *The Emergence of Cinema: The American Screen to 1907* (Berkeley: University of California Press, 1990), 417–48. No consensus exists about the actual composition of cinema audiences at nickelodeons, but recent work has tended to confirm long-held beliefs that the principal audiences in urban locations were lower-middle-class, lower-class, and immigrant populations. See also Ben Singer, “Manhattan Nickelodeons: New Data on Audiences and Exhibitors,” *Cinema Journal* 34, no. 3 (spring 1995): 5–35; and, for a discussion of debates about early audiences, Lee Grieveson, “Audiences: Issues and Debates,” in *Encyclopedia of Early Cinema*, ed. Richard Abel (London: Routledge, 2004). It was certainly the case that period discourse focused on these audience groups, and this is significant in and of itself because such a discursive construction of the audience had considerable impact on the regulatory response to cinema, on the formation of regulatory institutions, and thus on the shaping of cinema. Accordingly, in what follows I focus on the discursive construction of audiences.

17. Bowen, *Five and Ten Cent Theaters*, n.p.

18. Robert H. Wiebe, *The Search for Order, 1877–1920* (New York: Hill and Wang, 1967); Boyer, *Urban Masses*; and Morton Keller, *Regulating a New Society: Public Policy and Social Change in America, 1900–1933* (Cambridge, Mass.: Harvard University Press, 1994).

19. Bishop Greer, *NYT*, 24 December 1908, 4; Addams, *Spirit of Youth*, 94.

20. *CT*, 10 April 1907, 10; Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children* (Princeton, N.J.: Princeton University Press, 1994), esp. 22–55.

21. James Mark Baldwin, *Mental Development in the Child* (New York: Macmillan, 1895), 345; on the widespread debates about socialization, see Dorothy Ross, *The Origins of American Social Science* (Cambridge, U.K.: Cambridge University Press, 1991), 219–256.

22. Hamilton Cravens, “Child-Saving in the Age of Professionalism, 1915–1930,” in *American Childhood: A Research Guide and Historical Handbook*, ed. Joseph M. Hawes and N. Ray Hiner (Westport, Conn.: Greenwood Press, 1985), esp. 415–24.

23. Anthony M. Platt, *The Child Savers: The Invention of Delinquency* (Chicago, Ill.: University of Chicago Press, 1969); Steven L. Schlossman, *Love and the American Delinquent: The Theory and Practice of “Progressive” Juvenile Justice* (Chicago, Ill.: University of Chicago Press, 1977); Elizabeth J. Clapp, *Mothers of All Children: Women Reformers and the Rise of Juvenile Courts in Progressive Era America* (University Park: Pennsylvania State University Press, 1998); Eric C. Schneider, *In the Web of Class: Delinquents and Reformers in Boston, 1810s–1930s* (New York: New York University Press, 1992); Daniel J. Walkowitz, *Working with Class: Social Workers and the Politics of Middle-Class Identity* (Chapel Hill: University of North Carolina Press, 1999), esp. 27–56. The emergence of the category of the “juvenile delinquent” can be seen as part of a

process of what Ian Hacking terms more generally “making up people,” whereby “categories of people come into existence at the same time as kinds of people come into being to fit those categories” (Ian Hacking, “Five Parables,” in *Philosophy in History: Essays on the Historiography of Philosophy*, ed. Richard Rorty, J. B. Schneewind, and Quentin Skinner [Cambridge, U.K.: Cambridge University Press, 1984], 122).

24. J. D. Scouller, quoted in Platt, *Child Savers*, 32.

25. William Douglas Morrison, quoted in Platt, *Child Savers*, 37.

26. *The Social Evil in Chicago*, 248.

27. CT, 10 April 1907, 8; Wallin, “Moving Picture,” 139. On the formation of public schools, and their role as what the National Education Association described as the “salvation of the American republic,” see Marvin Lazerson *Origins of the Urban School: Public Education in Massachusetts, 1870–1915* (Cambridge, Mass.: Harvard University Press, 1971), esp. 202–41; Joel Spring, *Education and the Rise of the Corporate State* (Boston, Mass.: Beacon Press, 1972); Paul C. Violas, *The Training of the Urban Working Class: A History of Twentieth Century American Education* (Chicago, Ill.: Rand McNally, 1978); Steven Mintz, *Moralists and Modernizers* (Baltimore, Md.: Johns Hopkins University Press, 1995), 106–14; and, on the more general links between education and governance, Ian Hunter, *Culture and Governance: The Emergence of Literary Education* (London: Macmillan, 1988).

28. Bowen, *Five and Ten Cent Theaters*; Healy, *Individual Delinquent*, 308.

29. Wallin, “Moving Picture,” 142.

30. Bruno Ramirez, *When Workers Fight: The Politics of Industrial Relations in the Progressive Era, 1898–1916* (Westport, Conn.: Greenwood Press, 1978); David Montgomery, *Workers’ Control in America: Studies in the History of Work, Technology, and Labour Struggles* (Cambridge, U.K.: Cambridge University Press, 1979); Jürgen Kocka, *White-Collar Workers in America, 1890–1940: A Socio-Political History in International Perspective* (London: Sage, 1980), esp. 11–16; Christopher L. Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880–1960* (Cambridge, U.K.: Cambridge University Press, 1985); David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925* (Cambridge, U.K.: Cambridge University Press, 1987); Stuart Blumin, *The Emergence of the Middle Class: Social Experience in the American City, 1760–1900* (Cambridge, U.K.: Cambridge University Press, 1989), esp. 288–90; Morton Keller, *Regulating a New Economy: Public Policy and Economic Change in America, 1900–1933* (Cambridge, Mass.: Harvard University Press, 1990), 115–47.

31. On concerns that nickelodeons might function as an oppositional public sphere see Roy Rosenzweig, *Eight Hours for What We Will: Work and Leisure in an Industrial City, 1870–1920* (Cambridge, U.K.: Cambridge University Press, 1983), esp. 198–208; and Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991), esp.

90–126. Legislation against Sunday opening was particularly crucial here, for it was directed at the one day of the week that working-class groups had away from work. I discuss this further in chapter 3.

32. *VFI*, 6 October 1906, 3–4; *MPW*, 1 June 1907, 202; Barton W. Currie, “The Nickel Madness,” *HW*, 24 August 1907; Bowen, *Five and Ten Cent Theaters*; Davis, *Exploitation of Pleasure*, 21–28; *Social Evil in Chicago*, 247–48; Richard Abel, *The Red Rooster Scare: Making Cinema American, 1900–1910* (Berkeley: University of California Press, 1999), esp. 87–101, 118–39.

33. Edward Ross, “The Causes of Race Superiority,” *Annals of the American Academy of Political and Social Science* 18 (1901): 85–88; John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925*, 2d ed. (New Brunswick, N.J.: Rutgers University Press, 1988); Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880–1917* (Chicago, Ill.: University of Chicago Press, 1995); and Mathew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass.: Harvard University Press, 1998).

34. See Peiss, *Cheap Amusements*, 139–62; Hansen, *Babel and Babylon*, 114–25; Lauren Rabinovitz, *For the Love of Pleasure: Women, Movies, and Culture in Turn-of-the-Century Chicago* (New Brunswick, N.J.: Rutgers University Press, 1998), 68–102; Shelley Stamp, *Movie-Struck Girls: Women and Motion Picture Culture after the Nickelodeon* (Princeton, N.J.: Princeton University Press, 2000), esp. 10–40.

35. A sense of the sexual dangers for women of public space informed disciplinary narratives embedded in the reporting of a number of sexual scandals, in reform-led investigations of young working women’s sexual and leisure practices, and in the moral panic about “white slavery,” the forced abduction of women into prostitution, that ran most noticeably between 1907 and 1914. See Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago, Ill.: University of Chicago Press, 1992); David J. Langum, *Crossing over the Line: Legislating Morality and the Mann Act* (Chicago, Ill.: University of Chicago Press, 1995), esp. 15–47; Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore, Md.: Johns Hopkins University Press, 1982). I discuss sexual scandals and the white slavery scare in more detail in chapters 2, 4, and 5.

36. Dr. Anna Howard Shaw, quoted in *MPW*, 12 March 1910, 370–71; *Social Evil in Chicago*, 247–48.

37. Stamp, *Movie-Struck Girls*, 99; on girls and delinquency see, e.g., *Social Evil in Chicago*, 174–75; Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885–1920* (Chapel Hill: University of North Carolina Press, 1995); and Ruth M. Alexander, *The “Girl Problem”: Female Sexual Delinquency in New York, 1900–1930* (Ithaca, N.Y.: Cornell University Press, 1995).

38. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage, 1979); Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (London: Penguin, 1990); Fou-

cault, "Omnes et Singulatim: Towards a Critique of 'Political Reason,'" in *The Tanner Lectures on Human Values II*, ed. Sterling McMurrin (Salt Lake City: University of Utah Press, 1981); Foucault, "The Political Technology of Individuals," in *Technologies of the Self: A Seminar with Michel Foucault*, ed. Luther H. Martin, Huck Gutman, and Patrick H. Hutton (London: Tavistock, 1988); Foucault, "Governmentality," in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (London: Harvester Wheatsheaf, 1991).

39. Michel Foucault, "Is It Useless to Revolt?" *Philosophy and Social Criticism* 8 (1981): 7.

40. William Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996); Christopher L. Tomlins, *Law, Labor, and Ideology in the Early American Republic* (Cambridge, U.K.: Cambridge University Press, 1993), esp. 47–58 (this quote, 47).

41. MPW, 27 December 1913, 1527; *Mutual Film Co. v. Industrial Commission of Ohio et al.*, 215 *Federal Reporter*, September–October 1914, 141; *Buffalo Branch, Mutual Film Corporation v. Breitinger*, 250 Pa., 231–32.

42. David J. Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Boston: Little, Brown, 1980); Andrew J. Polsky, *The Rise of the Therapeutic State* (Princeton, N.J.: Princeton University Press, 1991); Alexander W. Pisciotta, *Benevolent Repression: Social Control and the American Reformatory-Prison Movement* (New York: New York University Press, 1994); M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* (Cambridge, Mass.: Harvard University Press, 1983); Gary Gerstle, "Liberty, Coercion, and the Making of Americans," *Journal of American History* 84, no. 2 (September 1997); and Timothy J. Gilfoyle, *City of Eros: New York City, Prostitution, and the Commercialization of Sex, 1790–1920* (New York: Knopf, 1992).

43. Jacques Donzelot, *The Policing of Families*, trans. Robert Hurley (New York: Pantheon, 1979); Giovanna Procacci, "Social Economy and the Government of Poverty," in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (London: Harvester Wheatsheaf, 1991); Jacques Donzelot, "The Mobilization of Society," in *ibid.*; Walkowitz, *Working with Class*.

44. "To a degree unprecedented in the nineteenth century," observes Richard McCormick, "public officials became widely involved in monitoring and regulating how people lived and worked" (Richard L. McCormick, *The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era* [Oxford: Oxford University Press, 1986], 281). The literature on progressivism is extensive. See, e.g., Boyer, *Urban Masses*; Wiebe, *Search for Order*; Keller, *Regulating a New Economy*; Keller, *Regulating a New Society*; Arthur S. Link and Richard L. McCormick, *Progressivism* (Arlington Heights, Ill.: Harlan Davidson, 1983).

45. Gwendolyn Mink, "The Lady and the Tramp: Gender, Race, and the Ori-

gins of the American Welfare State," in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990); Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass.: Harvard Belknap Press, 1992); Alisa Klaus, *Every Child a Lion: The Origins of Maternal and Infant Health Policy in the United States and France, 1890–1920* (Ithaca, N.Y.: Cornell University Press, 1993); Sydney L. Harring, *Policing a Class Society: The Experience of American Cities, 1865–1915* (New Brunswick, N.J.: Rutgers University Press, 1983); Robert M. Fogelson, *Big-City Police* (Cambridge, Mass.: Harvard University Press, 1977); Fred J. Cook, *The FBI Nobody Knows* (New York: Macmillan, 1964); Jack S. Blocker Jr., *American Temperance Movements: Cycles of Reform* (Boston: Twayne, 1989), esp. 61–129; Rosenzweig, *Eight Hours*, 93–126.

46. Foucault, *History of Sexuality*, 139.

47. The notion that the birth rates of nonwhite and non-Anglo-Saxon groups were substantially higher than those of the "white race"—who were thus committing "race suicide" by not procreating enough—was first articulated by sociologist Edward Ross and enthusiastically adopted by Theodore Roosevelt. On this and eugenics more generally see Higham, *Strangers in the Land*, 131–93; Mark H. Haller, *Eugenics: Hereditarian Attitudes in American Thought* (New Brunswick, N.J.: Rutgers University Press, 1963), esp. 95–110; and Bederman, *Manliness and Civilization*, 196–206.

48. Procacci, "Social Economy," 158.

49. Anthony Comstock, "Crime Breeders," *Union Signal*, 12 November 1891, 6, quoted in Parker, *Purifying America*, 39. Pivar describes Anthony Comstock as a "moral policeman" in *Purity Crusade*, 5.

50. Edward Ross's conception of "social control" informed a series of articles he wrote for the newly formed *American Journal of Sociology* in the 1890s, and these were collected together as the book *Social Control: A Survey of the Foundations of Order* (New York: Macmillan, 1901). Ross's work was premised on the idea that there was a fundamental conflict between individual and social interests and that to maintain itself, society had to modify individual feelings, ideas, and behaviors to conform to social interests. Historian Dorothy Ross notes that the concept was "adopted most enthusiastically by the most activist reformers," so much so that "the language of 'control,' with or without the 'social' prefix, became pervasive in American social science" (Ross, *The Origins of American Social Science*, 236).

51. Joel Prentiss Bishop, *Commentaries on the Criminal Law*, 4th ed., 2 vols. (Boston: Little, Brown, 1868), quoted in Novak, *People's Welfare*, 150.

52. Representative Cox, *Congressional Record*, 12 January 1910, 548.

53. Francis Ludlow Holt, *The Law of Libel* (London: J. Butterworth, 1816), quoted in Helen Lefkowitz Horowitz, "Victoria Woodhull, Anthony Comstock, and Conflict over Sex in the United States in the 1870s," *Journal of American History* 87, no. 2 (September 2000): 421. Legal definitions of *obscenity* are discussed in Lynn Hunt, ed., *The Invention of Pornography: Obscenity and the*

*Origins of Modernity* (New York: Zone Books, 1993), 9–45; and Ian Hunter, David Saunders, and Dugald Williamson, *On Pornography: Literature, Sexuality, and Obscenity Law* (New York: St. Martin's, 1993), esp. 57–91, 198–228.

54. The first obscenity case to reach the United States Supreme Court was *Rosen v. United States* in 1896, which adopted the “Hicklin standard” as the Court’s principal definition of obscenity. *Rosen v. United States*, 161 U.S. 29 (1896). Later in the same year the Supreme Court offered further clarification of the term *obscenity* by reversing the conviction of a newspaperman in Kansas who had used the mails to distribute a newspaper that contained a personal attack on another citizen. Conceding this might be libelous, the Court reversed the conviction of the defendant for mailing obscenity because “coarse and vulgar language” was not in itself obscene. Language in itself could not be obscene, the Court held, unless it was that “form of immorality with relation to sexual impurity” (*Swearingen v. United States*, 161 U.S. 446 [1896]). Previously, blasphemy could, for example, have been considered obscene. For discussion of these early obscenity cases see Richard Hixson, *Pornography and the Justices: The Supreme Court and the Intractable Obscenity Problem* (Carbondale: Southern Illinois University Press, 1996), 7–11.

55. The act banned five types of materials from the mails: (1) “an obscene, lewd, lascivious book, pamphlet, paper, print, or other publication of an indecent character”; (2) information and devices relating to birth control; (3) things “intended or adapted for immoral use or nature”; (4) any information regarding how to obtain or make the materials mentioned above; and (5) envelopes and postcards with “indecent or scurrilous epithets.” See Comstock Act of 3 March 1873, Stat. at L., 598.

56. The “police power” assigned to states in the Constitution, defined as the right (and duty) of the states to protect the health, morals, and safety of their citizens, was implemented with special vigor when public health and morals appeared to be at stake. See Morton Keller, *Affairs of State: Public Life in Late-Nineteenth-Century America* (Cambridge, Mass.: Harvard University Press, 1977), 409–38.

57. Hunter, Saunders, and Williamson, *On Pornography*, 88.

58. *Journal of the House of Representatives of the Commonwealth of Pennsylvania*, Part 4 (1911), 3905–6; *Statutes at Large of the U.S.A.*, 380 (March 1913–March 1915), 151.

59. Pierre Bourdieu, *Distinction: A Social Critique of the Judgment of Taste* (Cambridge, Mass.: Harvard University Press, 1984).

60. Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790–1865* (Cambridge, U.K.: Cambridge University Press, 1981); Blumin, *Emergence of the Middle Class*.

61. On the connections among discourses about morality, nationalism, and race see George Mosse, *Nationalism and Sexuality: Middle-Class Morality and Sexual Norms in Modern Europe* (Madison: University of Wisconsin Press, 1985); and David Theo Goldberg, *Racist Culture* (London: Blackwell, 1993).

62. Ohmann, *Selling Culture*, 163.

63. See *ibid.*, 160–72.

64. See Ryan, *Cradle of the Middle Class*, esp. 145–246; Blumin, *Emergence of the Middle Class*, esp. 179–91; Boyer, *Urban Masses*, 59–61; Peggy Pascoe, *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874–1939* (Oxford: Oxford University Press, 1990), esp. 32–69.

65. Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” *Hastings Law Journal* 38 (1987): 839. For work within the tradition of critical legal studies that outlines the way legal regulation is embedded in broad projects of economic, social, and moral regulation, and that has influenced this study, see, in particular, Alan Hunt, *Explorations in Law and Society: Toward a Constitutive Theory of Law* (London: Routledge, 1993); and Alan Hunt and Gary Wickham, *Foucault and Law: Towards a Sociology of Law as Governance* (London: Pluto Press, 1994).

66. See Daniel Czitrom, “The Politics of Performance: Theater Licensing and the Origins of Movie Censorship in New York,” in *Movie Censorship and American Culture*, ed. Frances Couvares (Washington, D.C.: Smithsonian Institution Press, 1996). On the rare police prosecution of individual films before 1907 see Richard Randall, *Censorship of the Movies: The Social and Political Control of a Mass Medium* (Madison: University of Wisconsin Press, 1968), 11; Edward De Grazia and Roger K. Newman, *Banned Films: Movies, Censors, and the First Amendment* (New York: Bowker, 1982), 9–10.

67. No doubt this shift was not a dramatic one, and the regulation of cinema as part of public space was important throughout the teens and, indeed, beyond. William Uricchio and Roberta Pearson’s important work on the battle over New York City’s nickelodeons suggests this, for they argue that the regulation of space and building codes merely moved underground and has consequently been ignored by cinema historians. Uricchio and Pearson point to the 1913 statute in New York City that focused exclusively on building-code regulations, suggesting this in fact demonstrates a shift away from the moral concerns of the clergy toward a more rational discourse associated with Progressive reformers. William Uricchio and Roberta E. Pearson, “Constructing the Mass Audience: Competing Discourses of Morality and Rationalization during the Nickelodeon Period,” *Iris*, no. 17 (autumn 1994). Similarly, J. A. Lindstrom’s recent work has suggested that zoning regulations were much more important to the regulation of early cinema than scholars have hitherto allowed. See Lindstrom, “‘Getting a Hold Deeper in the Life of the City’: Chicago Nickelodeons, 1905–1914” (Ph.D. diss., Northwestern University, 1998). Even so, I believe the principal shift in regulatory authority was away from exhibition space and toward film texts and that this shift was closely tied to concerns about morality and public order. Notions of morality were not solely associated with the Protestant clergy, as Uricchio and Pearson suggest, but were more central to conceptions of public order throughout the period. Indeed, at the same time the 1913 New York City statute was enacted, the state of Ohio set up a censor board to police “immoral and obscene” films, and in New York there was fierce controversy over a number of “white slave” films

that ultimately led to a mixing of licensing and regulatory authority (an issue I discuss further in chapter 5).

68. Lucius H. Cannon, *Motion Pictures; Laws, Ordinances, and Regulations on Censorship, Minors, and Other Related Subjects* (St. Louis, Mo.: St. Louis Public Library, 1920).

69. *Proceedings of the City Council of the City of Chicago* (4 November 1907); *Block v. City of Chicago*, 87 N.E. 1011, 239 Ill. 251 (1909).

70. For example, the chief censor in Detroit instructed: “Never show strikers rioting, destroying property, or committing depredation or violence” (Royal A. Baker, cited in Kevin Brownlow, *Behind the Mask of Innocence* [New York: Knopf, 1990], 160). The broader concern about political filmmaking is discussed by Steven Ross in *Working-Class Hollywood: Silent Film and the Shaping of Class in America* (Princeton, N.J.: Princeton University Press, 1998), esp. 27–33, 106–11.

71. *Pennsylvania State Reports* 250, May Term, 1915 (Philadelphia, Pa.: Geo. T. Bisel, 1915), 230–31; Pennsylvania Statute, 15 May 1915, quoted in the appeal of Equitable Motion Picture Corporation, in the Court of Common Pleas for the County of Philadelphia, December Term, 1915, Box 1026, Pennsylvania State Archives; House Bill No. 322, 80th General Assembly, Ohio, 1913, in *General Assembly: Legislative Service Commission, Bills and Acts, 1835–1996*, Box 3552, Ohio Historical Center.

72. Box 1026, Pennsylvania State Archives.

73. “Examination—Censor of Moving Pictures, Branch III, Class O, Grade 3, June 28, 1920,” in *Motion Picture Censors and Reviewers Manual*, comp. Frederick Rex (undated). The manual is available in the Municipal Reference Section of the Chicago Public Library.

74. Boyer, *Urban Masses*, 190; Joseph R. Gusfield, *Symbolic Crusade: Status Politics and the American Temperance Movement* (Urbana: University of Illinois Press, 1963), 140; William Uricchio and Roberta E. Pearson, *Reframing Culture: The Case of the Vitagraph Quality Films* (Princeton, N.J.: Princeton University Press, 1993), esp. 24–33.

75. Uricchio and Pearson, *Reframing Culture*, esp. 33–40.

76. Wallin, “Moving Picture,” 132.

77. Robert Bruce Fisher, “The People’s Institute of New York City, 1897–1934: Culture, Progressive Democracy, and the People” (Ph.D. diss., New York University, 1974).

78. John Collier, “Cheap Amusements,” *Charities and the Commons* 20 (April 1908): 75.

79. Uricchio and Pearson, *Reframing Culture*, 35–40; on the People’s Institute and the formation of the National Board of Censorship see also Charles Matthew Feldman, *The National Board of Censorship (Review) of Motion Pictures, 1909–1922* (New York: Arno Press, 1980), 20–33; Nancy J. Rosenbloom, “In Defense of the Moving Pictures: The People’s Institute, the National Board of Censorship, and the Problem of Leisure in Urban America,” *American Studies* 33, no. 2 (fall 1992); and see below, chap. 3.

80. *Nickelodeon*, 1 August 1910, 66.

81. The National Board of Censorship conducted a questionnaire in 1912 to ascertain whether saloons were closing down because of nickelodeons. See details in Box 147, NBR. Evidently the board remained interested in this question, for in 1916 a letter from the board was sent out to police chiefs, stating, "We are making an inquiry concerning the reduction in the number of saloon licenses reported in several states and are particularly interested in the truth of the assertion that saloons are lessening in number because of the motion picture" (Letter from the National Board of Censorship, 25 May 1916, Box 23, NBR). Likewise, the board undertook an investigation in 1919 to try to prove that motion pictures did not cause delinquency. See the results of the questionnaire to probation officers in Box 23, NBR.

82. André Gaudreault, "The Infringement of Copyright Laws and Its Effects (1900–1906)," in *Early Cinema: Space, Frame, Narrative*, ed. Thomas Elsaesser, with Adam Barker (London: British Film Institute, 1990), 114. The National Board of Censorship produced accounts of its standards for representation from 1909 onward. For a detailed account of the board's philosophy and practices see John Collier, "Censorship in Action," *Survey*, 7 August 1915, 423–27; and John Collier, "Censorship and the National Board," *Survey*, 2 October 1915, 9–14.

83. Uricchio and Pearson, *Reframing Culture*, 34.

84. Boyer, *Urban Masses*, 190.

85. Like my use of the notion of elites, the phrase "the film industry" operates here as an umbrella term that covers a variety of different industrial practices and responses to regulatory forces. A more detailed account of these differences emerges in the chapters that follow.

86. Mike Budd, "The National Board of Review and the Early Art Cinema in New York: *The Cabinet of Dr. Caligari* as Affirmative Culture," *Cinema Journal* 26, no. 1 (fall 1986): 5.

87. See, e.g., J. Berg Esenwein and Arthur Leeds, *Writing the Photoplay* (Springfield, Mass: Home Correspondence School, 1913); C. G. Winkopp, *How to Write a Photoplay* (New York: C. G. Winkopp, 1915); Harold Weston, *The Art of Photo-Play Writing* (London: McBridge, Nast, 1916); and, on the importance of screenplay manuals to the formation of a classical style, David Bordwell, Janet Staiger, and Kristin Thompson, *The Classical Hollywood Cinema: Film Style and Mode of Production to 1960* (London: Routledge, 1985), esp. 194–96.

88. See Tom Gunning, "From the Opium Den to the Theatre of Morality: Moral Discourse and Film Process in Early American Cinema," *Art and Text* 30 (1988), repr. in *Silent Cinema Reader*, ed. Lee Grieveson and Peter Kramer (London: Routledge, 2004); Tom Gunning, *D. W. Griffith and the Origins of American Narrative Film: The Early Years at Biograph* (Urbana: University of Illinois Press, 1991).

89. Gunning, *D. W. Griffith*, 89.

90. See Lary May, *Screening Out the Past: The Birth of Mass Culture and the Motion Picture Industry*, 2d ed. (Chicago, Ill.: University of Chicago Press,

1982); Uricchio and Pearson, *Reframing Culture*; Eileen Bowser, *The Transformation of Cinema, 1907–1915* (Berkeley: University of California Press, 1990), esp. 121–36; Uricchio and Pearson, “Constructing the Mass Audience”; Douglas Gomery, *Shared Pleasures: A History of Movie Presentation in the United States* (Madison: University of Wisconsin Press, 1992), esp. 34–56; Charlotte Herzog, “The Movie Palace and the Theatrical Sources of Its Architectural Style,” *Cinema Journal* 20, no. 2 (1981): 15–37.

91. Richard Butsch, “Bowery B’hoys and Matinee Ladies: The Re-gendering of Nineteenth-Century American Theater Audiences,” *American Quarterly* 46, no. 3 (September 1994): 375.

92. “[T]he American middle class,” Mary Ryan observes, “molded its distinctive identity around domestic values and family practices” (Ryan, *Cradle of the Middle Class*, 15).

93. Ann Douglas, *The Feminization of American Culture* (New York: Knopf, 1977); John Kasson, *Rudeness and Civility: Manners in Nineteenth-Century Urban America* (New York: Hill and Wang, 1990); Jennifer Scanlon, *Inarticulate Longings: The “Ladies’ Home Journal,” Gender, and the Promises of Consumer Culture* (New York: Routledge, 1995); Robyn Muncy, *Creating a Female Dominion in American Reform, 1890–1935* (Oxford: Oxford University Press, 1991).

94. Bruce McConachie, “Pacifying American Theatrical Audiences,” in *For Fun and Profit: The Transformation of Leisure into Consumption*, ed. Richard Butsch (Philadelphia, Pa.: Temple University Press, 1990); Bruce McConachie, *Melodramatic Formations: American Theatre and Society, 1820–1870* (Iowa City: University of Iowa Press, 1992); Butsch, “Bowery B’hoys”; Richard Butsch, *The Making of American Audiences: From Stage to Television, 1750–1990* (Cambridge, U.K.: Cambridge University Press, 2000), 66–80; Kibler, *Rank Ladies*, 1–22; Allen, *Horrible Prettiness*, 61–73.

95. See *The Culture of Consumption: Critical Essays in American History, 1880–1980*, ed. Richard Wrightman Fox and T. J. Jackson Lears (New York: Pantheon, 1983); William Leach, “Transformations in a Culture of Consumption: Women and Department Stores, 1890–1925,” *Journal of American History* 71 (1984); *Consuming Visions: Accumulation and Display of Goods in America, 1880–1920*, ed. Simon J. Bronner (New York: Norton, 1989); and Ohmann, *Selling Culture*.

96. See Barbara Leslie Epstein, *The Politics of Domesticity: Women, Evangelism, and Temperance in the Nineteenth Century* (Middletown, Conn.: Wesleyan University Press, 1981); Paula Baker, “The Domestication of Politics: Women and American Political Society, 1780–1920,” *American Historical Review* 89, no. 3 (June 1984); Molly Ladd-Taylor, *Mother-Work: Women, Child Welfare, and the State, 1890–1930* (Urbana: University of Illinois Press, 1994); Skocpol, *Protecting Soldiers and Mothers*.

97. Rheta Childe Dorr, *What Eight Million Women Want* (Boston: Small, Maynard, 1910), 13.

98. See, e.g., *MPW*, 7 August 1909, 191; *MPW*, 5 March 1910, 331; *Nick-*

elodeon, 15 November 1910, 278; Epes Winthrop Sargent, *Motion Picture Theatre Advertising* (New York: Chalmers, 1915), 24–25; *Nickelodeon*, June 1909, 167; and below, chap. 3. On the broader transformation from the rowdy space of nickelodeons to standards of decorum see Rosenzweig, *Eight Hours*, esp. 204–15; and Hansen, *Babel and Babylon*, esp. 76–89.

99. See Kay Sloan, *The Loud Silents: Origins of the Social Problem Film* (Urbana: University of Illinois Press, 1988), 99–123; Stamp, *Movie-Struck Girls*, 156–68.

100. Lauren Rabinovitz, “Temptations of Pleasure: Nickelodeons, Amusement Parks, and the Sights of Female Sexuality,” *Camera Obscura* 23 (1991); Rabinovitz, *For the Love of Pleasure*, esp. 116–21; Hansen, *Babel and Babylon*, 114–25.

101. Stamp, *Movie-Struck Girls*, esp. 24–101.

102. Alongside the important work of Hansen, Rabinovitz, and Stamp see Judith Mayne, *Private Novels, Public Films* (Athens: University of Georgia Press, 1988); Constance Balides, “Scenarios of Exposure in the Practice of Everyday Life: Women in the Cinema of Attractions,” *Screen* 34, no. 1 (spring 1993); and Staiger, *Bad Women*.

103. Thomas Edison, quoted in *Nickelodeon*, 1 August 1910, 65.

104. On this sense of the function of education see Lawrence A. Cremin, *The Transformation of the School* (New York: Random House, 1964); Lazerson, *Origins of the Urban School*, esp. 202–41; David Nasaw, *Schooled to Order: A Social History of Public Schooling in the United States* (New York: Oxford University Press, 1979); Hunter, *Culture as Governance*; Ohmann, *Selling Culture*, 160–61. Louis Althusser suggested that schools replaced the church as the dominant ideological state apparatus during the nineteenth century. See Louis Althusser, “Ideology and Ideological State Apparatuses,” in his *Lenin and Philosophy and Other Essays*, trans. Ben Brewster (London: New Life Books, 1971).

105. Bill Nichols, *Representing Reality: Issues and Concepts in Documentary* (Bloomington: Indiana University Press, 1991), 3; Charles Musser, “Documentary,” in *The Oxford History of World Cinema*, ed. Geoffrey Nowell-Smith (Oxford: Oxford University Press, 1996); Charles Musser with Carol Nelson, *High-Class Moving Pictures: Lyman H. Howe and the Forgotten Era of Traveling Exhibition, 1880–1920* (Princeton, N.J.: Princeton University Press, 1991).

106. See Ralph F. Bogardus, “Urban Cultural Institutions,” in *The Encyclopedia of American Social History*, ed. Elliot Gorn (New York: Charles Scribner’s Sons, 1993); Neil Harris, *Cultural Excursions: Marketing Appetites and Cultural Tastes in Modern America* (Chicago, Ill.: University of Chicago Press, 1990); Joan Shelley Rubin, *The Making of Middlebrow Culture* (Chapel Hill: University of North Carolina Press, 1992).

107. *Nickelodeon*, 1 November 1910, 245.

108. George Kleine, one of the judges of the Essanay competition, began distributing educational films in late 1909. *MPW*, 6 November 1909, 641.

109. *Moving Picture World* began a weekly column entitled “Education, Sci-

ence and Art and the Moving Picture” in March 1910. Likewise, *Motography* began a column entitled “Current Education Releases” in late 1912, taking the opportunity to offer its definition of “educational” films: “By educational we mean those subjects, aside from the better class of dramatic action, which tend to instruct the observer and convey to him a further knowledge of the commoner sciences—geography, history, scenery, foreign customs—in short, almost anything but dramas and comedies” (*Motography*, 5 October 1912, 231).

110. *Nickelodeon*, 10 October 1910, 218.

111. *NYT*, 11 December 1907, 1.

112. A role as “visual newspaper” was crucial to the early success of moving pictures. See Allen, *Vaudeville and Film*, 181–211; and Musser, *Emergence of Cinema*, 225–61. Even so, this role for cinema was waning by 1904, when fiction films began to be sold in greater numbers than “actuality” films—brief scenes of real life—partly because they were easier to plan but also because of the commercial demand for fiction film. Indeed, Musser suggests the popularity of fiction films underpinned the development of nickelodeons from 1905 onward. The production of fiction films overtook that of actuality films by 1907, and this contributed significantly to the shift toward a centralization of control of the film industry in production practices. Actualities did remain a significant component of film programs up until at least 1908, though, and longer than that, it seems, in nonurban locations. From its earliest successes to some point during the nickelodeon boom, Philip Rosen observes, “filmic textuality made the vision of actuality per se one of its primary selling points” (Philip Rosen, *Change Mummified: Cinema, Historicity, Theory* [Minneapolis: University of Minnesota Press, 2001], 165). See Charles Musser, “Another Look at the Chaser Theory,” *Studies in Visual Communication* 10, no. 4 (1984): 40; Charles Musser, *Before the Nickelodeon: Edwin S. Porter and the Edison Manufacturing Company* (Berkeley: University of California Press, 1991), 235–90, revised in *Silent Cinema Reader*, ed. Lee Grieveson and Peter Kramer (London: Routledge, 2004); Musser, *Emergence of Cinema*, 337–70, 449–90; *MPW*, 9 July 1910, 77–78; Kathryn H. Fuller, *At the Picture Show: Small-Town Audiences and the Creation of Movie Fan Culture* (Washington, D.C.: Smithsonian Institution Press, 1996), 78.

113. See, e.g., *MPW*, 27 April 1912, 305–6, discussing *The Cry of the Children* (Thanouser, 1912); Kay Sloan, *The Loud Silents*, esp. 36–52; and Brownlow *Behind the Mask of Innocence*.

114. *Nickelodeon*, 21 January 1911, 69.

115. Alison Griffiths, “‘To the World the World We Show’: Early Travelogues as Filmed Ethnography,” *Film History* 11 (1999): 299; Terry Eagleton, “The Subject of Literature,” *Cultural Critique*, no. 2 (1985/6): 96–97.

116. *Mutual Film Corp. v. Industrial Commission of Ohio*, 236 U.S., 230 (1915), 559, 560.

117. Frederick Howe, quoted in Kay Sloan, “A Cinema in Search of Itself: Ideology of the Social Problem Film during the Silent Era,” *Cineaste* 14, no. 1 (1985): 34.

118. National Board of Censorship, "Statement on Sex Photoplays," undated (probably 1914), Box 171, NBR.

119. Esenwein and Leeds, *Writing the Photoplay*, 243–44.

120. See Ruth Vasey, *The World According to Hollywood, 1918–1939* (Madison: University of Wisconsin Press, 1997), esp. 194–231 (this quote, 226).

121. Father Daniel Lord, "Suggested Code to Govern the Production of Motion Pictures, First Section, General Principles," in "Documents on the Genesis of the Production Code," ed. Richard Maltby, *Quarterly Review of Film and Video* 15, no. 4 (1995): 41. Likewise, Irvin Thalberg's initial draft of the Code stated: "We have constantly to keep in mind that the sole purpose of the commercial motion picture is to entertain. It cannot be considered as education or as a sermon or even indirectly as an essentially moral or immoral force." Irvin Thalberg, "General Principles to Govern the Preparation of a Revised Code of Ethics for Talking Pictures," *ibid.*, 35. On the establishment of the Production Code, see Maltby, "Genesis of the Production Code," *ibid.*

122. Peter Kramer, "The Double Standard of Classical Hollywood Cinema" (paper delivered at Society for Cinema Studies Annual Conference, Bozeman, Montana, 1988); on the emergence of newsreels from 1911 onward see Bowser, *Transformation of Cinema*, 185; on the film bill in the classical era see Eric Smoodin, *Animating Culture: Hollywood Cartoons from the Sound Era* (New Brunswick, N.J.: Rutgers University Press, 1993), 44–70.

123. Eric Schaefer, *Bold! Daring! Shocking! True! A History of Exploitation Films, 1919–1959* (Durham, N.C.: Duke University Press, 1999), esp. 34–38.

124. On the establishment of a documentary genre in the 1920s and 1930s, paying close attention to its connections with the modernist avant-garde, see Bill Nichols, "Documentary Film and the Modernist Avant-Garde," *Critical Inquiry* 27 (summer 2001); Charles Wolfe, "Straight Shots and Crooked Plots: Social Documentary and the Avant-Garde in the 1930s," in *Lovers of Cinema: The First American Film Avant-Garde, 1919–1945*, ed. Jan-Christopher Horak (Madison: University of Wisconsin Press, 1995); and William Uricchio, "The City Viewed: The Films of Leyda, Browning, and Weinberg," in *ibid.*

125. Christian Metz, *Film Language: A Semiotics of the Cinema*, trans. Michael Taylor (Oxford: Oxford University Press, 1974), 94.

126. Richard Maltby, *Hollywood Cinema: An Introduction* (Oxford: Blackwell, 1995), 368; Musser, *Emergence of Cinema*, 15.

## CHAPTER 2. SCANDALOUS CINEMA, 1906–1907

1. *MPW*, 27 April 1907, 119.

2. *Ibid.*

3. *MPW*, 20 April 1907, 102; Roy Rosenzweig, *Eight Hours for What We Will: Workers and Leisure in an Industrial City, 1870–1920* (Cambridge, U.K.: Cambridge University Press, 1983), 205; *MPW*, 27 April 1907, 121.

4. *MPW*, 11 May 1907, 153; *MPW*, 25 May 1907, 179.

5. See William Novak, *The People's Welfare: Law and Regulation in Nine-*

*teenth-Century America* (Chapel Hill: University of North Carolina Press, 1996); Sydney L. Harring, *Policing a Class Society: The Experience of American Cities, 1865–1915* (New Brunswick, N.J.: Rutgers University Press, 1983).

6. *CT*, 15 April 1907, 1.

7. *MPW*, 25 May 1907, 179.

8. Charles Musser, *The Emergence of Cinema: The American Screen to 1907* (Berkeley: University of California Press, 1990), 479.

9. *NYEJ*, 29 June 1906, 2. On the functioning of the sensational tabloid press see Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York: Basic Books, 1978), esp. 91–105; Gunter Barth, *City People: The Rise of Modern City Culture in Nineteenth-Century America* (Oxford: Oxford University Press, 1980), 58–109; Rochelle Gurstein *The Repeal of Reticence: A History of America's Cultural and Legal Struggles over Free Speech, Obscenity, Sexual Liberation, and Modern Art* (New York: Hill and Wang, 1996), 32–60. On the broader intensification of discourses on sexuality in the period see John D'Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America* (New York: Harper and Row, 1988), esp. 171–201; and Sharon R. Ullman, *Sex Seen: The Emergence of Modern Sexuality in America* (Berkeley: University of California Press, 1997).

10. Victor Turner, "Social Dramas and Stories about Them," *Critical Inquiry* 7 (autumn 1980); James Lull and Stephen Hinerman, "The Search for Scandal," in *Media Scandals: Morality and Desire in the Popular Culture Marketplace*, ed. James Lull and Stephen Hinerman (London: Polity Press, 1997).

11. Newspaper proprietors in Louisville, Kentucky, were indicted under local obscenity legislation when they published some of the testimony about the sexual behavior of the protagonists at the trial. *Commonwealth v. Herald Publishing Co.*, 128 Ky, 429–35. I discuss this case further below.

12. *CT*, 13 April 1907, 3; *NYC*, 30 March 1907, 166.

13. Michel Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (1978; repr., London: Penguin, 1990), 46. A note on my use of *scandal* and *moral panic* here: although scandals can be seen as mediating between the specific and the general and to be serial in nature, they take the form of a singular event. "Moral panics," on the other hand, tend to be ongoing, to be a series of events that challenge prevailing configurations of morality and that work to further disseminate "respectable" subject positions and ideals of good citizenship. See the pioneering studies of Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (London: MacGibbon and Kee, 1972); and Stuart Hall, Tony Jefferson, John Clarke, and Brian Roberts, eds., *Policing the Crisis: "Mugging," the State, and Law and Order* (London: Macmillan, 1978). Simon Watney has further suggested that "moral panics do not speak to a 'silent majority' which is simply out there waiting to listen. Rather, they provide the raw materials, in the form of words and images, of those moral constituencies with which individual subjects are encouraged to identify their deepest interests and their very core of being" (Simon Watney, *Policing Desire: Pornography, AIDS, and the Media* [London: Methuen, 1987], 121).

14. *NYEJ*, 29 June 1906, 2; *NYW*, 12 February 1907, 8.

15. John B. Thompson, "Scandal and Social Theory," in *Media Scandals: Morality and Desire in the Popular Culture Marketplace*, ed. James Lull and Stephen Hinerman (London: Polity Press, 1997), 60; Michel Foucault, *History of Sexuality*, 24.

16. Richard Hofstadter, *The Age of Reform: From Bryant to F.D.R.*, quoted in Robert Westbrook, "Lewis Hine and the Ethics of Progressive Camerawork," *Tikkun* 2 (April/May 1987): 24. Hofstadter is referring to the more general culture of "Progressive" investigations of urban conditions.

17. White was described by the *New York Tribune* as "the most conspicuous American architect of his day" (*NYTrib.*, 1 July 1906, 6). The *New York World* reproduced drawings of White's most well-known buildings, including the Washington Memorial Arch, the Boston Public Library, the Library of New York University, and the Pennsylvania Railroad Station. See *NYW*, 28 June 1906, 2; see also C. H. Reilly, *McKim, Mead, and White* (London: Ernest Ben, 1924).

18. *NYT*, 26 June 1906, 1. In truth it was unclear whether Thaw had said "wife" or "life." The policeman who had approached Thaw had asked him if he was responsible for the shooting and reported that Thaw had said "yes" and then "added that the man had ruined his life—or wife—I could not distinctly make out" (*NYT*, 26 June 1906, 3). Ignoring this uncertainty, the press quickly settled on "wife" and constructed the event as a sexual scandal.

19. For subsequent accounts of the two trials see F. A. Mackenzie, *The Trial of Harry Thaw* (London: Geoffrey Bles, 1924); Rupert Furneaux, *Courtroom U.S.A. 1* (London: Penguin, 1962), 67–122; and Gerald Langford, *The Murder of Stanford White* (London: Victor Gollancz, 1963). Press interest was at its most intense up until the ending of the first trial, although interest in the scandal periodically revived, most notably with Thaw's escape from Matteawan in 1913, his subsequent reincarceration, and his eventual release in 1917. For general details on the scandal see also Jay Robert Nash, *Murder among the Mighty: Celebrity Slayings That Shocked America* (New York: Delacorte, 1983), 20–40; and Michael Mooney, *Evelyn Nesbit and Stanford White: Love and Death in the Gilded Age* (New York: William Morrow, 1976).

20. *NYT*, quoted in Gerald Langford, *Murder of Stanford White*, 62. Harry Thaw's obituary in the *New York Herald Tribune* in 1947 also suggested the scandal was shaped into melodrama: "In the eleven years between 1906 and 1917 the reading public of America was furnished with a fantastic running melodrama so strange and so varied that even the most imaginative creator of fiction could hardly have conceived the events that unfolded" (*Herald Tribune*, 24 February 1947, 14).

21. Hayden White, *The Content of the Form: Narrative Discourse and Historical Representation* (Baltimore, Md.: Johns Hopkins University Press, 1987). White writes that "any given set of real events can be emplotted in a number of ways, can bear the weight of being told as any number of different kinds of stories. Since no given set or sequence of real events is intrinsically tragic, comic, farcical, and so on, but can be constructed as such only by the imposition of the

structure of a given story type on the events, it is the choice of the story types and imposition upon the events that endows them with meaning" (44).

22. Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (New Haven, Conn.: Yale University Press, 1976), 28, 20.

23. Lois W. Banner, *American Beauty* (Chicago, Ill.: University of Chicago Press, 1983), 184; Lewis A. Erenberg, *Steppin' Out: New York Nightlife and the Transformation of American Culture, 1890–1930* (Chicago, Ill.: University of Chicago Press, 1981), 60–61. On the broader parameters of the emergence of a heterosocial leisure world figured through amusement parks, dance halls, department stores, and the cinema see Erenberg, *Steppin' Out*; Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia, Pa.: Temple University Press, 1986), esp. 6–33; and Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991), esp. 90–125. Such amusement sites created a heterosocial environment that provided young women with access to a wide range of evening pleasures, differing considerably from the homosocial leisure spaces characteristic of the nineteenth century (for example, burlesque, concert saloons, saloons).

24. *HW*, 14 July 1906, 978; *HW*, 21 July 1906, 1015.

25. *NYT*, 19 June 1906, 1–2; *NYT*, 4 July 1906, 1; *NYW*, 26 June 1906, 1; *NYW*, 27 June 1906, 2. The statue of a naked Diana was initially widely seen as problematic, with one reporter writing of it in 1891: "The Square is now thronged with clubmen armed with field glasses. No such figure has ever before been publicly exhibited in the United States" (quoted in Langford, *Murder of Stanford White*, 13). Later the original statue was taken down and was to be placed at the Women's Pavilion at the Columbian Exposition in Chicago until the Women's Christian Temperance Union demanded it be clothed. See Suzannah Lessard, *The Architect of Desire: Beauty and Danger in the Stanford White Family* (London: Wiedenfeld and Nicolson, 1997), 12.

26. Kevin White, *The First Sexual Revolution: The Emergence of Male Heterosexuality in Modern America* (New York: New York University Press, 1993), 3; Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880–1917* (Chicago, Ill.: University of Chicago Press), 17. In his classic description of a transformation of a culture of "character" to one of "personality," cultural historian Warren Susman quotes Ralph Waldo Emerson's famous definition of character as "moral order through the medium of individual nature" (Warren Susman, "'Personality' and the Making of Twentieth-Century Culture," in *New Directions in American Intellectual History*, ed. John Higham and Paul K. Conkin (Baltimore, Md.: Johns Hopkins University Press, 1979), 214.

27. *HW*, 21 July 1906, 1012.

28. Rev. Samuel C. Deans, quoted in *NYT*, 2 July 1906, 3. The concept of degeneracy was invoked here and there at the margins of the discourse on the scandal, symbolizing as it did the self-indulgence, excess, and individualism associ-

ated for many with democratization, urbanization, and mass culture. For a survey of materials on degeneration see Daniel Pick, *Faces of Degeneration: A European Disorder, 1848–1918* (Cambridge, U.K.: Cambridge University Press, 1988).

29. *The Social Evil in Syracuse*, 1913, cited in D’Emilio and Freedman, *Intimate Matters*, 189. The scandal can be situated, then, in the context of discourses about the emergence of a “culture of consumption” that substituted an endlessly deferred desire for traditional moral and religious kinds of self-control. See T. J. Jackson Lears, *No Place of Grace: Antimodernism and the Transformation of American Culture, 1880–1920* (New York: Pantheon, 1981); and Daniel Horowitz, *The Morality of Spending: Attitudes Toward the Consumer Society in America, 1875–1940* (Baltimore, Md.: Johns Hopkins University Press, 1985).

30. The tabloid *New York World* made much of Nesbit’s testimony at the trial that she had swung up and down on the velvet swing and that she had posed for White in exotic clothes (headlines included “Her Confession to Thaw of Swinging in White’s Studio” and “Posed for White in Studio Dressed in Japanese Kimono”). See *NYW*, 8 February 1907, 3. The paper had earlier reproduced drawings of the inside of the apartment (*NYW*, 27 June 1906, 2). White’s kimonos were frequently singled out for comment, connecting his alleged “perversity” with an exotic sexuality and thus with a discourse of “orientalism.”

31. *NYW*, 1 July 1906, 3.

32. *Ibid.*

33. *NYW*, 27 June 1906, 3.

34. *NYW*, 8 July 1906, 2.

35. Press accounts of the trial focused insistently on Nesbit’s age. The *New York World*, for example, described her as “this woman-child” and the *New York Times* similarly described her as “the schoolgirlish wife,” further noting that at the trial she was “dressed as a schoolgirl might have been dressed by her mother” (*NYW*, 8 February 1907, 2; *NYT*, 9 March 1907, 1; *NYT*, 8 February 1907, 2). Susan Gillman observes that Nesbit’s “appearance was interpreted by some as having been deliberately shaped to evoke what became the most often-used adjective in the newspapers: childlike” (Susan Gillman, “‘Dementia Americana’: Mark Twain, ‘Wapping Alice,’ and the Harry K. Thaw Trial,” *Critical Inquiry* 14 [winter 1988]: 309).

36. Delphin Delmas, quoted in *NYT*, 9 April 1907, 2.

37. Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children* (Princeton, N.J.: Princeton University Press, 1994).

38. *Ibid.*, esp. 22–112. On emergent discourses about child abuse see also Barbara J. Nelson, *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems* (Chicago, Ill.: University of Chicago Press, 1984); and Linda Gordon, “Family Violence, Feminism, and Social Control,” in *Women, the State, and Welfare*, ed. Linda Gordon (Madison: University of Wisconsin Press, 1990).

39. Historian David Pivar describes Anthony Comstock as a “moral policeman” in *Purity Crusade: Sexual Morality and Social Control, 1868–1900*

(London: Greenwood Press, 1973), 5. Comstock had initiated the 1873 federal antiobscenity act that forbade the transportation of “obscene” material in the mails. In 1905 his Society for the Suppression of Vice had also successfully closed George Bernard Shaw’s *Mrs. Warren’s Profession* after a single performance. For details on Comstock and the reform context within which he worked see Nicola Beisel, *Imperiled Innocents: Anthony Comstock and Family Reproduction in Victorian America* (Princeton, N.J.: Princeton University Press, 1997).

40. See the details in *NYT*, 28 July 1906, 2.

41. Comstock, quoted in *NYT*, 28 July 1906, 2. In his largely incomprehensible autobiography Harry Thaw too would suggest that “White’s destruction was caused by the ruination of the child” and that when he died, “he was in [the] very act of awaiting another victim that very night” (Harry K. Thaw, *The Traitor: Being the Untampered with, Unrevised Accounts of the Trial and All That Led to It* [Philadelphia, Pa.: Dorrance, 1924], 12).

42. Delmas, quoted in *NYT*, 10 April 1907, 1.

43. On this tradition see Robert M. Ireland, “The Libertine Must Die: Sexual Dishonor and the Unwritten Law in the Nineteenth-Century United States,” *Journal of Social History* 23 (fall 1989). Ireland notes that the classic method of defending the killers of “libertines” was to plead temporary insanity, which would allow proof of the sexual aspects of the case and permit defense counsel to argue the unwritten law. From around 1870 onward, though, defenses based on the so-called unwritten law became less successful and as a result less frequent. See also Hendrik Hartog, “Lawyering, Husbands’ Rights, and ‘the Unwritten Law’ in Nineteenth-Century America,” *Journal of American History* 84, no. 1 (June 1997). Hartog examines a series of trials where this plea was invoked between 1859 and 1870, arguing that they are useful sources for social, cultural, and political history, visible sites at which the changing understandings of gender, marriage, honor, law, and violence were played out. Invoking the defense in 1907 is indicative of how the rhetoric surrounding the trial was frequently mixed with nostalgia for a time of seemingly more fixed gender roles.

44. See the details in Langford, *Murder of Stanford White*, 45.

45. *NYT*, 14 July 1906, 3.

46. *NYW*, 27 June 1906, 4. At the first trial, in early 1907, details emerged of an affidavit that Nesbit had signed sometime in 1903 before she married Harry Thaw (but after the two had taken a trip together to Europe). District Attorney William Travers Jerome read this out: “After breakfast Thaw said he wished to tell me something and asked me to step into my bedroom. I entered the room, when Thaw, without any provocation, grasped me by the throat, and tore the bath-robe from my body. . . . He then, without any provocation, and without the slightest reason, began to inflict on me several severe and violent blows with the cowhide whip. So brutally did he assault me that my skin was cut and bruised” (Jerome, quoted in Furneaux, *Courtroom U.S.A.* 1, 89). In her second autobiography, published in 1934, Nesbit would link these events to Thaw’s cocaine consumption. See Evelyn Nesbit Thaw, *Prodigal Days: The Untold Story* (New York: Julian Messner, 1934), 110. Further details of Thaw’s “perversity”

emerged at his second trial in early 1908. See here the details in Langford, *Murder of Stanford White*, 228–32; and Furneaux, *Courtroom U.S.A. 1*, 104–11. After being committed to Matteawan insane asylum Thaw made several applications for release, and at one of the hearings a brothel keeper in New York City testified that Thaw had hired rooms and advertised for young girls between fifteen and sixteen to train for the stage and that, after hearing screams, she had entered the room to find a young girl, only partially dressed, covered in weals from Thaw's whips. See the details in Furneaux, *Courtroom U.S.A. 1*, 113. In this way the scandal, the trials, and the aftermath became a site for the public discussion of "immoral" and "perverse" sexual practices in the period.

47. William Travers Jerome, quoted in *NYT*, 8 April 1907, 2.

48. *NYW*, 26 June 1906, 2; *NYW*, 8 July 1906, 2. Thaw was the heir to millions made by his father from coal mine leases and from the Pennsylvania Railroad.

49. *CT*, 13 April 1907, 3. A consensus gradually emerged that Thaw was suffering from "hereditary insanity." In a strange twist, dementia Americana—the belief in the sanctity of the domestic—was brought back to the domestic, a dementia of the domestic. This was the grounds on which he was committed to Matteawan insane asylum in 1908.

50. Foucault, *History of Sexuality*, 37.

51. Arnold I. Davidson, "Sex and the Emergence of Sexuality," *Critical Inquiry* 14 (autumn 1987): 41.

52. Ben Singer, *Melodrama and Modernity: Early Sensational Cinema and Its Contexts* (New York: Columbia University Press, 2001), 132. See also Thomas Elsaesser, "Tales of Sound and Fury: Observations on the Family Melodrama," in *Home Is Where the Heart Is: Studies in Melodrama and the Woman's Film*, ed. Christine Gledhill (London: British Film Institute, 1987); and Brooks, *The Melodramatic Imagination*. Like the structure and function of scandals more generally, melodrama frequently works to personalize broader moral questions and to mediate between the specific and the general.

53. White, *First Sexual Revolution*, 61. Lois Banner suggests "the Gibson girl" was an intermediate figure between Victorian ideals and the emergence of the "flapper" in the late teens. See Banner, *American Beauty*, 154–74.

54. *NYT*, 9 April 1907, 2.

55. See also, e.g., *NYH*, 26 June 1906, 2; *NYW*, 26 June 1906, 2; *NYH*, 28 June 1906, 5.

56. Delmas, quoted in *NYT*, 9 April 1907, 1.

57. *NYW*, 13 July 1906, 14; juror quoted in *NYT*, 14 April 1907, 7. Nesbit would herself characterize it thus in her autobiographies, presenting her story very much as a movement away from a domestic sphere exemplified for her by her mother. In her first autobiography she notes that after she started working, "I had found a little world outside my own; already I found myself looking back upon the life domestic with the interests and curiosity which the mountaineer reserves for the plains she has quitted" (Evelyn Nesbit Thaw, *The Story of My Life* [London: John Long, 1914], 25). In her second autobiography, after writing

of her acceptance of Thaw's marriage proposal, she writes: "Never again the thrill and excitement of an opening night, the hard but congenial work, the smell of grease paints, the sense of freedom and self reliance of the self supported" (Nesbit, *Prodigal Days*, 153). It is important to note that my account here centers on the discursive positioning of Nesbit and does not take into account Nesbit's own actions. She has a productivity herself in relation to these debates about women, the domestic sphere, and the heterosocial sphere and is an example of one way in which a woman negotiated the contradictions of this cultural moment.

58. See details in Furneaux, *Courtroom U.S.A.* 1, 88.

59. William Travers Jerome, quoted in *NYT*, 11 April 1907, 2.

60. *Daily Telegraph*, quoted in the *CT*, 13 April 1907, 2.

61. Banner, *American Beauty*, 184. For details on the *Florodora* chorus in which Nesbit performed see Banner, *American Beauty*, 181–82; for details on the emergence of the Ziegfeld Follies in 1907, and the discourses surrounding them, see Linda Mizejewski, *Ziegfeld Girl: Image and Icon in Culture and Cinema* (Durham, N.C.: Duke University Press, 1999). Later Jane Addams recalled how she had seen young working girls in the streetcars leaning over newspapers and expressing to each other their admiration for Nesbit's clothes, her beauty, and her "sorrowful expression." See Jane Addams, *Twenty Years at Hull House* (New York: Macmillan, 1910), 433.

62. On the broader shifts in working-class and middle-class conceptions of femininity see Peiss, *Cheap Amusements*, esp. 56–114; and Paula S. Fass, *The Damned and the Beautiful: American Youth in the 1920s* (Oxford: Oxford University Press, 1977).

63. E. L. Doctorow, *Ragtime* (New York: Random House, 1975); Joanne Meyerowitz, "Sexual Geography and Gender Economy: The Furnished Room Districts of Chicago, 1890–1930," *Gender and History* 2 (autumn 1990): 288. On Nesbit's controversial vaudeville tour in 1913 see M. Alison Kibler, *Rank Ladies: Gender and Cultural Hierarchy in American Vaudeville* (Chapel Hill: University of North Carolina Press, 1999), 208–9. Nesbit appeared in ten films: *The Threads of Destiny* (Lubin, 1914), *Redemption* (Triumph, 1917), *Her Mistake* (Triumph, 1918), *The Woman Who Gave* (Fox, 1918), *I Want to Forget* (Fox, 1918), *Thou Shalt Not* (Fox, 1919), *A Fallen Idol* (Fox, 1919), *My Little Sister* (Fox, 1919), *Woman, Woman* (Fox, 1919), and *The Hidden Woman* (Schenck, 1922). Some of these films clearly reflected on Nesbit's experiences. *Woman, Woman* has Nesbit marrying a young engineer who falls ill, and she earns the money to try to cure him by becoming the mistress of a millionaire (this seems to have some resemblance to the later *Blonde Venus* [Paramount, 1932]). In *My Little Sister* Nesbit plays one of two country girls trapped in a brothel patronized by the wealthy. This links with the white slavery scare, discussed further here in chapters 4 and 5, suggesting something of the links between constructions of Nesbit and the white slavery moral panic that emerged most forcefully in the United States in 1907. Her stardom was evidently very much linked to her preexisting celebrity; she would be marginalized by the film industry in the early 1920s, in the midst of a series of "star scandals" and the

development of “morality clauses” in star contracts. She made her last film in 1922. For a discussion of the figure of Nesbit, mainly in relation to a later film made of the scandal, *The Girl in the Red Velvet Swing* (Fox, 1955), see Stephanie Savage, “Evelyn Nesbit and the Film(ed) Histories of the Thaw-White Scandal,” *Film History* 8, no. 2 (1996).

64. NYW, 12 February 1907, 8; *Commonwealth v. Herald Publishing Co.*, 128 Ky, 429.

65. *Commonwealth v. Herald Publishing Co.*, 128 Ky, 426. The significant precedent quoted here was *Swearingen v. U.S.* 161 U.S. 446 (1896), where obscenity was defined in the Supreme Court as that which was linked to sexuality. See details in the previous chapter.

66. *Commonwealth v. Herald Publishing Co.*, 128 Ky, 434–35.

67. Musser, *Emergence of Cinema*, esp. 240–49.

68. Advertisement for *The Millionaire’s Revenge*, in the file on the play at the Billy Rose Theatre Collection, New York Public Library. No details remain as to where this advertisement came from. It also stated: “The most realistic scenes ever enacted on the American stage, without doubt produced on a scale of liberality never before attempted in the world of melodrama.”

69. Robert Furneaux suggests this in *Courtroom U.S.A.* 1, 70, as does Gerald Langford in *Murder of Stanford White*, 49–50, and Michael Mooney in *Love and Death*, 64. No reference is given in any of the three accounts. In a memorandum written in 1978, at the time when the Museum of Modern Art (MOMA) acquired a copy of the film *The Unwritten Law*, Eileen Bowser asked: “could it be that Thaw’s mother, a millionairess prepared to spend a fortune to rescue her troublesome son, backed the making of this film to aid in his defense?” See the file on *The Unwritten Law* at MOMA.

70. NYW, 20 September 1906, 7; Langford, *Murder of Stanford White*, 50.

71. *Boston Globe*, 16 October 1906, n.p. My thanks to David Mayer for his generosity in kindly tracking a number of reviews of the play down for me.

72. Unidentified Boston paper, 16 October 1906, n.p. On the topical nature of sensational melodrama see Tom Gunning, “The Horror of Opacity: The Melodrama of Sensation in the Plays of Andre de Lorde,” in *Melodrama: Stage, Picture, Screen*, ed. Jacky Brattan, Jim Cook, and Christine Gledhill (London: British Film Institute, 1994); on the structure of sensational melodrama see A. Nicholas Vardac, *Stage to Screen: Theatrical Origins of Early Film: David Garrick to D. W. Griffith* (Cambridge, Mass.: Harvard University Press, 1949); and Singer, *Melodrama and Modernity*, esp. 189–262.

73. Unidentified Boston paper, 16 October 1906, n.p.; *Daily Mail*, 20 May 1907, n.p.

74. Indeed, in one review of the play there is a brief mention of a “little dancing turn” that may describe a rather curious scene in the film, where Emiline Hudspeth Daw is being taught to dance in preparation for her role as a chorus girl. Lasting longer than its significance to the narrative, the scene may perhaps be directly taken from the play. Even if there was no direct link, this would seem to suggest that the play’s inclusion of several different kinds of attractions was

carried over into the film. The review is of a performance of the play at the West End Theatre, 7th Ave. at 124th St., New York.

75. Rick Altman, "Dickens, Griffith, and Film Theory Today," in *Classical Hollywood Narrative: The Paradigm Wars*, ed. Jane Gaines (Durham, N.C.: Duke University Press, 1992); Linda Williams, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O. J. Simpson* (Princeton, N.J.: Princeton University Press, 2001); Singer, *Melodrama and Modernity*, esp. 131–48.

76. Musser, *Emergence of Cinema*, esp. 240–49; Andrea Stulman Dennett and Nina Warnke, "Disaster Spectacles at the Turn of the Century," *Film History* 4 (1990).

77. See, in particular, David Levy, "Reconstituted Newsreels, Re-enactments, and the American Narrative Film," in *Cinema 1900/1906: An Analytical Study*, ed. Roger Holman (Brussels: FIAF, 1982); Charlie Keil, "Steel Engines and Card-board Rockets: The Status of Fiction and Nonfiction in Early Cinema," *Persistence of Vision*, no. 9 (1991); Dan Streible, "Fake Fight Films," in *Cinema at the Turn of the Century*, ed. Claire Dupré la Tour, André Gaudreault, and Roberta Pearson (Lausanne: Editions Payot, 1999).

78. *Variety*, 30 March 1906, n.p. (my emphasis).

79. Fred J. Balshofer and Arthur Miller, *One Reel a Week* (Berkeley: University of California Press, 1967), 8. Lubin's productions more generally frequently skirted the borders of moral propriety, representing more sex, sensationalism, and violence than the films of other production companies. Charles Musser links this to the audience address of Lubin's pictures, which "were designed to appeal to immigrant, working class, and lower middle class audiences." Lubin's films undercut moral norms and often displayed a "deep-seated skepticism about the existing social order." Musser, *Emergence of Cinema*, 396. For more general details on Lubin see Linda Kowald, "Siegmond Lubin, the Forgotten Filmmaker," *Pennsylvania Heritage* 12 (winter 1986); Joseph P. Eckhardt and Linda Kowald, *Peddler of Dreams: Siegmund Lubin and the Creation of the Motion Picture Industry, 1890–1916* (Philadelphia, Pa.: National Museum of American Jewish History, 1984); Joseph P. Eckhardt, *The King of the Movies: Film Pioneer Siegmund Lubin* (Madison, N.J.: Fairleigh Dickinson University Press, 1997); and Musser, *Emergence of Cinema*, 234–36, 329–33, 393–98.

80. NYC, 2 March 1907, 68.

81. From records that remain it appears that there were only two films made of the scandal prior to *The Unwritten Law*. Neither of these represented the whole scandal, and they were probably meant almost exclusively for mutoscopes. *The Thaw-White Tragedy* (American Mutoscope and Biograph, 1906) was made quickly after the shooting and was a short reenactment of the actual murder. It seems likely that this was the film that "great hordes of women . . . fought for a glimpse" of in a Luna Park arcade in Coney Island in July 1906 (see *VFI*, 28 July 1906, 6). *In the Tombs* (American Mutoscope and Biograph, 1906) was made in late 1906 and is a brief drama based on Nesbit visiting Thaw in the prison named "The Tombs." The version I saw is at the Library of Congress, and in it Thaw is shown in jail being visited by a woman I take to represent his mother.

After she leaves, an actress representing Nesbit enters, and Thaw asks a guard to be let out of the cell. The guard refuses but relents when Thaw offers him money, and Thaw and Nesbit kiss, with the guard looking around anxiously.

82. Tom Gunning, "Non-Continuity, Continuity, Discontinuity: A Theory of Genres in Early Films," in *Early Cinema: Space, Frame, Narrative*, ed. Thomas Elsaesser, with Adam Barker (London: British Film Institute, 1990), 91.

83. This appears to follow quite closely Nesbit's testimony at the trial, where she said:

Mr. White asked me to come to see the back room and we went through some curtains. It was a bedroom. I sat down at a table on which was a bottle of champagne. Mr. White picked up the bottle and poured a glassful of champagne. I paid no attention to him because I was looking at the picture on the mantel. . . . Then he came to me and said I was not drinking my champagne and I said "I don't much care for it," that it tasted bitter. And he insisted I drink this glass of champagne, which I did, and I don't know whether it was a minute or two after, but a pounding began in my ear, a thumping and pounding, then the whole room seemed to go round, and everything got very black. . . . And then, when I woke up, all my clothes had been pulled off me . . . and Mr. White was there, and he got up and put on one of those kimonos. There were kimonos lying on a chair. And then I moved up and pulled some of the covers up and over and sat up, and there were mirrors all around the bed. (Nesbit, quoted in *NYW*, 8 February 1907, 2)

84. *CT*, 13 April 1907, 3; see, e.g., *MPW*, 20 April 1907, 102.

85. See Gunning, "Non-Continuity, Continuity, Discontinuity." In the narrative of continuity the disruption of the cut is naturalized by continuity within the story.

86. For an account of the broader parameters of this development see David Bordwell, Janet Staiger, and Kristin Thompson, *The Classical Hollywood Cinema: Film Style and Mode of Production to 1960* (London: Routledge, 1985), 157–230.

87. Judge Fitzgerald, quoted in *NYW*, 8 February 1907, 2.

88. Jerome, quoted in *NYW*, 8 February 1907, 3.

89. Here I draw on Murray Smith's work on emotional engagement at the cinema. For Smith "allegiance" describes the spectator's evaluation of certain characters as representing a morally desirable (or at least preferable) set of traits in relation to other characters within the fiction. On the basis of this evaluation, Smith suggests, the spectator adopts an attitude of sympathy (or alternatively antipathy) toward the character and responds emotionally in an apposite way to the situation in which the character is placed. See Murray Smith, *Engaging Characters: Fiction, Emotion, and the Cinema* (Oxford: Oxford University Press, 1995), esp. 186–227.

90. Charles Musser, "The Nickelodeon Era Begins," in *Early Cinema: Space,*

*Frame, Narrative*, ed. Thomas Elsaesser, with Adam Barker (London: British Film Institute, 1990), 257; Noel Burch, "Primitivism and the Avant-Gardes: A Dialectical Approach," in *Narrative, Apparatus, Ideology*, ed. Philip Rosen (New York: Columbia University Press, 1986), 488.

91. Philip Rosen, "Disjunction and Ideology in a Pre-classical Film: *A Policeman's Tour of the World*," *Wide Angle* 12, no. 3 (1990): 21; Musser, "Another Look at the Chaser Theory," *Studies in Visual Communication* 10, no. 4 (1984); Musser, *Emergence of Cinema*, esp. 337–69.

92. Philip Rosen, *Change Mummified: Cinema, Historicity, Theory* (Minneapolis: University of Minnesota Press, 2001), 166.

93. See, for example, the accounts of the functioning of the Production Code in Lea Jacobs, *The Wages of Sin: Censorship and the Fallen Woman Film, 1928–1942* (Madison: University of Wisconsin Press, 1991); and Richard Maltby, "The Production Code and the Hays Office," in *Grand Design: Hollywood as a Modern Business Enterprise, 1930–1939*, by Tino Balio (New York: Scribner, 1993).

94. Foucault, *History of Sexuality*, 49.

95. *MPW*, 25 May 1907, 180.

96. See Charles Musser, *Before the Nickelodeon: Edwin S. Porter and the Edison Manufacturing Company* (Berkeley: University of California Press, 1991), 427–32; and Richard Abel, "Look There! It's an 'American Subject'!" in *La Nascita dei Generi Cinematografici*, ed. Leonardo Quaresima, Alessandra Raengo, Laura Vichi (Udine: Forum, 1999), 381.

97. *MPW*, 16 March 1907, 24.

98. *NYC*, 30 March 1907, 166. Likewise, *Moving Picture World* noted that the film was pulling in more spectators than the Passion Play. See *MPW*, 13 July 1907, 295.

99. *MPW*, 20 April 1907, 102; Roy Rosenzweig, *Eight Hours*, 205.

100. *MPW*, 11 May 1907, 153; *MPW*, 25 May 1907, 179.

101. *CT*, 3 May 1907, 2.

102. *CT*, 10 April 1907, 8.

103. *CT*, 13 April 1907, 3.

104. *Ibid.* A sense of cinema's "invasion" of residence districts informed zoning regulation in Chicago and elsewhere. See J. A. Lindstrom, "'Getting a Hold Deeper in the Life of the City': Chicago Nickelodeons, 1905–1914" (Ph.D. diss., Northwestern University, 1998).

105. *CT*, 13 April 1907, 3.

106. Dr. Anna Howard Shaw, cited in *MPW*, 12 March 1910, 370–71; *CT*, 14 April 1907, sec. I, 5; *The Social Evil in Chicago* (Chicago, Ill.: Chicago Vice Commission, 1911), 248–54. See also Lauren Rabinovitz's insightful discussion of anxieties about women and youth culture in *For the Love of Pleasure: Women, Movies, and Culture in Turn-of-the-Century Chicago* (New Brunswick, N.J.: Rutgers University Press, 1998), 105–36.

107. Jeffrey Weeks, *Sexuality and Its Discontents: Meanings, Myths, and Modern Sexualities* (London: Routledge and Kegan Paul, 1985), 45.

108. Nickelodeons emerged earlier in urban, industrial cities of the Midwest like Pittsburgh and Chicago, principally because of the different structures of the entertainment industry in those cities. Traditional entertainment forms—vaudeville and other types of theaters—were less open to the incorporation of motion pictures than they were in, for example, New York City; consequently, alternative exhibition practices encouraged the early appearance of nickel theaters. See Musser, *Emergence of Cinema*, 418. In Chicago, for example, the first nickel theater opened in mid-1905; there were a handful in operation by early 1906, and by 1907 it was estimated that there were 158 nickel theaters in the city, visited by some one hundred thousand people a day. See MPW, 29 June 1907, 263; Musser, *Emergence of Cinema*, 422–24, 428; and Lindstrom, “Getting a Hold,” esp. 148–271.

109. *VFI*, 22 September 1906, 3.

110. City Club of Chicago Statement of Purpose, quoted in Maureen A. Flanagan, “Gender and Urban Political Reform: The City Club and the Woman’s City Club of Chicago in the Progressive Era,” *American Historical Review* 95, no. 4 (October 1990): 1032. Flanagan also provides details of the membership of the City Club.

111. Richard Ohmann, *Selling Culture: Magazines, Markets, and Class at the Turn of the Century* (London: Verso, 1996), 155–56.

112. MPW, 29 June 1907, 263.

113. Sherman C. Kingsley, “The Penny Arcade and the Cheap Theater,” *Charities and the Commons* 18 (June 1907). Sherman Kingsley was head of Chicago’s Relief and Aid Society. See details in Kathleen D. McCarthy, *Noblesse Oblige: Charity and Cultural Philanthropy in Chicago, 1849–1929* (Chicago, Ill.: University of Chicago Press, 1982), 120–21.

114. Kingsley, “Penny Arcade,” 295.

115. *Ibid.*, 297; Sherman Kingsley, “Improper Recreation,” *Playground* 8 (March 1915): 424–27, cited in Kenneth L. Kusmer, “The Functions of Organized Charity in the Progressive Era: Chicago as a Case Study,” *Journal of American History* 60, no. 3 (December 1973): 663 (my emphasis).

116. Roy Rosenzweig, *Eight Hours*, 143–44. See also the discussion in Paul Boyer, *Urban Masses and Moral Order in America, 1820–1920* (Cambridge, Mass.: Harvard University Press, 1978), 240–45. The Playground Association was founded in 1906, and its first annual convention took place in Chicago in 1907.

117. Anthony M. Platt, *The Child Savers: The Invention of Delinquency* (Chicago, Ill.: University of Chicago Press, 1969); Ian Hacking, “The Making and Molding of Child Abuse,” *Critical Inquiry* 17 (winter 1991): 265–66. For details on other contemporaneous reports see Alan Havig, “The Commercial Amusement Audience in Early 20th-Century American Cities,” *Journal of American Culture* (spring 1982); and David Nasaw, “Children and Commercial Culture: Moving Pictures in the Early Twentieth Century,” in *Small Worlds: Children and Adolescents in America, 1850–1950*, ed. Elliot West and Paula Petrik (Kansas: University Press of Kansas, 1992).

118. Louise de Koven Bowen, *Five and Ten Cent Theaters* (Chicago, Ill.: Juvenile Protective Association, 1911).

119. Hippolyte Bernheim, *Suggestion*, 1884, quoted in Theodore R. Sarbin, "Attempts to Understand Hypnotic Phenomena," in *Psychology in the Making: Histories of Selected Research Problems*, ed. Leo Postman (New York: Knopf, 1964), 765.

120. Gabriel Tarde, *Les Lois de l'imitation* (Paris: Feix Alcan, 1890), quoted in Robert E. Park and Ernest W. Burgess, *Introduction to the Science of Sociology* (1921; repr., Chicago, Ill.: University of Chicago Press, 1969), 423. *Les Lois de l'imitation* was translated by Elsie Clews Parson and published as *The Laws of Imitation* (New York: Holt) in 1903.

121. Gustave Le Bon, *The Crowd* (London: T. Fisher Unwin, 1896), 65.

122. Edward Ross, *Social Control: A Survey of the Foundation of Order* (1901; repr., Cleveland, Ohio: Case Western Reserve University Press, 1969); Edward Ross, *Social Psychology: An Outline and Source Book* (New York: Macmillan, 1908). For an insightful discussion of this work see Dorothy Ross, *The Origins of American Social Science* (Cambridge, U.K.: Cambridge University Press, 1991), 229–40.

123. Ross, *Social Psychology*, 13–16. On how a notion of "civilization" was entwined with a discourse of race see Gail Bederman, *Manliness and Civilization*, 45–76, 170–216.

124. Ross, *Social Psychology*, 13.

125. William Healy, *The Individual Delinquent* (Boston: Little, Brown, 1915), 307.

126. *MPW*, 29 June 1907, 263.

127. *NYDM*, 14 May 1910, 5.

128. Healy, *Individual Delinquent*, 307.

129. Hugo Munsterberg, *The Film: A Psychological Study* (1916; repr., New York: Dover, 1970), 213.

130. *CT*, 10 April 1907, 10.

131. *CT*, 15 April 1907, 1.

132. Harring, *Policing a Class Society*, 228–33; George Kibbe Turner, "The City of Chicago: A Study of the Great Immoralities," *McClure's*, April 1907, 580.

133. The *New York Times* had pointed out as early as February 1907 that "Harry K. Thaw has become a rival of the many heroes of 5 and 10 cent fiction" (*NYT*, 7 February 1907, 3). *The Unwritten Law* was particularly bad, it seems, because it represented both criminal and sexually immoral events.

134. *CT*, 14 April 1907, sec. I, 5. The boy, the *Tribune* sorrowfully noted, was "not a product of poverty row, but came of a good family, and had gone wrong through looking too long on the scenes of evil depicted in the Halstead Street theatres." Nickel theaters, in the hands of "foreigners" as numerous commentators noted, could even manufacture criminals from "good" families.

135. *Ibid.*

136. *Ibid.*

137. Ibid.

138. The meeting took place on 2 May 1907. See the account of the meeting in *CT*, 3 May 1907, 3; *MPW*, 11 May 1907, 147; and Kingsley, “Penny Arcade,” 297.

139. Jane Addams, quoted in *CT*, 3 May 1907, 3.

140. Boyer, *Urban Masses*, 190.

141. Robyn Muncy suggests that the success of the settlement movement at the turn of the century represented “the middle class female quest for a new place in American life” (Robyn Muncy, *Creating a Female Dominion in American Reform, 1890–1935* [New York: Oxford University Press, 1991], 11). I examine the impact of middle-class women reformers on the reformation of cinema in the following chapter.

142. Addams, *Twenty Years at Hull House*, 172.

143. Like Hull House, the University Settlement Society of New York set up a moving picture show in 1907. Although the society succeeded in attracting more children to the settlement, settlement workers noted that “indoctrination of the children with Settlement ideals was a more difficult task.” Even so, with perseverance, and a mixture of “amusing stories, songs and recitations and little stories on the most elementary civics,” this indoctrination was realizable. “We found it possible,” the yearbook noted, “to impress the imaginations of the children with a picture of the neighborhood beautiful, and to interest them in accounts of how such a neighborhood is created, how it is maintained, and to teach them by simple illustrations what the little citizens *should and should not do* out of regard of the neighborhood” (*Yearbook of the University Settlement Society of New York* [1907] [emphasis in original]). My thanks to Judith Thissen for bringing this source to my attention.

144. *CT*, 16 June 1907, 3.

145. See Charles Musser with Carol Nelson, *High-Class Moving Pictures: Lyman H. Howe and the Forgotten Era of Traveling Exhibition, 1880–1920* (Princeton, N.J.: Princeton University Press, 1991).

146. *Hull House Yearbook* (1906–1907), 39, quoted in Lindstrom, “‘Getting a Hold,’” 110. Carl Laemmle supplied the films at no cost.

147. Addams, quoted by Carl Laemmle, *MPW*, 7 November 1908, 357. Likewise, Addams later commented favorably on “films depicting Bible stories and the Passion Play at Oberammergau,” which foreshadowed “the time when the moving film will be viewed as a mere mechanical device for the use of the church, the school and the library, as well as the theatre” (Addams, *The Spirit of Youth and the City Streets* [New York: Macmillan, 1909], 85).

148. Lyman Howe, *Cincinnati Commercial Tribune*, January 1907, quoted in Musser with Nelson, *High-Class Moving Pictures*, 174.

149. Rabinovitz, *For the Love of Pleasure*, 133.

150. Gertrude Britton, quoted in *MPW*, 29 June 1907, 262.

151. Musser with Nelson, *High-Class Moving Pictures*, 179–89.

152. Addams, *Twenty Years at Hull House*, 267.

153. Addams, *Spirit of Youth*, 86.

154. See Ross, *Origins of American Social Science*, 226–27; Lea Jacobs, “Reformers and Spectators: The Film Education Movement in the Thirties,” *Camera Obscura* 22 (January 1990): 34.

155. Herbert Blumer and Philip Hauser, *Movies, Delinquency, and Crime* (New York: Macmillan, 1933).

156. *MPW*, 29 June 1907, 262.

157. Lieutenant McDonald asserted that “[n]o pictures of the ‘Thaw-White’ case will be allowed in any of the theatres. Places which have been advertising them must remove them at once.” Police removed the film from one nickelodeon where “crowds of children were assembled” (*CT*, 6 May 1907, 3).

158. Superintendent Jenkins, quoted in *MPW*, 11 May 1907, 153. There is some confusion about titles here, with *Moving Picture World* referring to the film as *The Great Thaw Trial*. There is no evidence to suggest such a film existed, and it seems clear that the film in question was *The Unwritten Law*, the only film referred to in the trade press until this moment. The judge viewed “the films” and “decided that two of them, the one depicting the drugging of Evelyn Nesbit by White and that portraying what is called the shooting of White on the roof garden, were unfit for children to see.” In this period, with centralization of editorial control inside the production company still a new thing, “different films” meant “different scenes” and these “films” were thus two parts of *The Unwritten Law*. My thanks to Charles Musser for clarification here.

159. *MPW*, 25 May 1907, 179.

160. *Cleveland Plains-Dealer*, repr. in *MPW*, 11 January 1908, 23 (my emphasis).

161. *MPW*, 28 August 1909, 283 (my emphasis).

162. *VFL*, 18 January 1908, 3 (my emphasis).

163. For an account of the regulation of the safety and hygiene of nickel theaters see William Uricchio and Roberta Pearson, “Constructing the Audience: Competing Discourses of Morality and Rationalization during the Nickelodeon Period,” *Iris*, no. 17 (autumn 1994); and Daniel Czitrom, “The Politics of Performance: Theatre Licensing and the Origins of Movie Censorship in New York,” *American Quarterly* 44, no. 4 (December 1992).

164. Assistant Corporation Counsel Edwin H. Cassels to Alderman Joseph Z. Uhler, memorandum, 24 June 1907, 3, quoted in Lindstrom, “‘Getting a Hold,’” 32. Uhler’s ordinance was proposed on 4 June 1907. The corporation counsel and his assistants were the city’s in-house lawyers and worked to ascertain whether ordinances would be legal and constitutional. My thanks to Julie Lindstrom for clarification here. Other cities were also considering similar measures. On a proposed ordinance in Butte, Montana, see *MPW*, 7 September 1907, 422; for Detroit see *MPW*, 21 September 1907, 454; for Cleveland see *MPW*, 7 December 1907, 645; *MPW*, 14 December 1907, 665; *VFL*, 14 December 1907, 3.

165. Lindstrom’s account shows that Cassels was referring here principally to the Cities, Villages, and Towns Act of 1872, which delineated the powers of city governments and officials. In this act the city council was provided with the powers “[t]o license, tax, regulate, suppress and prohibit hawkers, peddlers, pawn-

brokers, keepers of ordinaries, theatricals and other exhibitions, shows, and amusements, and to revoke such license at pleasure" (Illinois, *Revised Statutes, Annotated* (1908), sec. 1, 318, quoted in Lindstrom, "'Getting a Hold,'" 28). Cassels also referred to an order passed by the city council in February 1906 to prevent the exhibition of "crime films." Similar concerns were expressed in the bill to those expressed later by the *Tribune* and other reform groups:

WHEREAS, there have recently been established in the City of Chicago many places known as "Moving Picture Theatres," in some of which scenes of crime, methods of criminals, improper pictures and scenes suggestive of crime and evil are depicted, all of which tend to appeal to the weak or vicious minded; and WHEREAS, many of these places where such pictures are exhibited are frequented by young boys, criminally inclined persons, or those who are easily influenced by pictures of a suggestive nature, be it Ordered, that the Chief of Police be and is hereby instructed to use the police powers of the city and at once prohibit the exhibition of all pictures depicting crime. (*Journal of the Proceedings of the City Council of Chicago*, 5 February 1906, 2507, quoted in Lindstrom, "'Getting a Hold,'" 32)

Lindstrom suggests that the vagueness of the ordinance, the lack of participation by the corporation counsel, and the strategy of simply handing the problem over to the police department all suggest that the ordinance was effectively a cosmetic measure. Indeed, there is no specific mention of the law among reformers or in the papers until May 1907.

166. Assistant Corporation Counsel Edwin H. Cassels to Alderman Joseph Z. Uhler, memorandum, 24 June 1907, 85, quoted in Lindstrom, "'Getting a Hold,'" 37 (my emphasis).

167. *Proceedings of the City Council of the City of Chicago*, 4 November 1907, 3052.

168. Raymond Fosdick, *American Police Systems* (New York: Century, 1920), quoted in Robert M. Fogelson, *Big-City Police* (Cambridge, Mass.: Harvard University Press, 1977), 108.

169. Fogelson, *Big-City Police*, 88.

170. Harring, *Policing a Class Society*, 29. See also Eric H. Monkkonen, *Police in Urban America, 1860–1920* (Cambridge, U.K.: Cambridge University Press, 1981).

171. *Block v. City of Chicago*, 87 N.E. 1011, 239 Ill. 251 (1909), 1011.

172. *Ibid.*, 1013.

173. Justice Cartwright made reference to the problems of literally policing moving picture exhibition: "in the case of moving pictures, rented and passed from one exhibitor to another about the city and constantly changing [inspection] would require the constant attendance of a great force of policemen at the various exhibitions in the 200 places mentioned in the bill" (*ibid.*).

174. *Block v. City of Chicago*, 87 N.E. 1011, 239 Ill. 251 (1909), 1015.

175. *Ibid*, 1013.

176. The board became a model for other cities. See *MPW*, 21 September 1907, 454; and *MPW*, 14 December 1907, 665; “City of Detroit (Mich.), Chapter 91—Compiled Ordinances. Inspection of Penny Exhibitions, Etc.,” 27 April 1909, State Censorship File, Academy of Motion Picture Arts and Sciences, Margaret Herrick Library, Los Angeles. On the legal significance of the board for later municipal and state boards see Edward de Grazia and Roger K. Newman, *Banned Films: Movies, Censors, and the First Amendment* (New York: Bowker, 1982), 8–10, 177–80.

177. *Block v. City of Chicago*, 87 N.E. 1011, 239 Ill. 251 (1909), 1016.

178. Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” *Hastings Law Journal* 38 (1987): 839.

179. Alan Hunt, *Governance of the Consuming Passions: A History of Sumptuary Law* (London: Macmillan, 1996), 403.

180. See Kathleen D. McCarthy, “Nickel Vice and Virtue: Movie Censorship in Chicago, 1907–1915,” *Journal of Popular Film* 5, no. 1 (1976): 44–46; and De Grazia and Newman, *Banned Films*, 9.

### CHAPTER 3. REFORMING CINEMA, 1907–1909

1. Mayor George B. McClellan, quoted in *NYT*, 24 December 1908, 4.

2. *NYH*, 24 December 1908, 7.

3. Rev. Dr. J. M. Foster, Interdenominational Committee for the Suppression of Sunday Vaudeville, *NYT*, 24 December 1908, 4; Bishop Greer, *NYT*, 24 December 1908, 4; Rev. Fellow Jenkins, Society for the Prevention of Cruelty to Children, *NYTrib.*, 24 December 1908, 4. Films depicting “kissing” and “love-making,” prizefights, burglaries, and gambling were singled out for criticism. See *NYTrib.*, 24 December 1908, 4; *NYH*, 24 December 1908, 7; *NYW*, 24 December 1908, 10.

4. Attorney Gustavus Rogers, acting for the film exhibitors at the hearing, referred to the police board in Chicago and said, “If this is a practical suggestion or solution we are willing to accede to it” (Hearing Transcript [fragment], Mayor McClellan Papers, Box 45, “Mayor’s Office Bureau of Licenses,” no. 474, Municipal Archives, Department of Records and Information Services, City of New York [only the response of the defenders of the film industry remains]). See also *NYT*, 24 December 1908, 4; *NYH*, 24 December 1908, 7. Exhibitors were always more willing to accede to various forms of censorship, and in particular local censorship, than production companies were because the production company bore the brunt of altering film prints to correspond to different local standards. Even so, Rogers’s suggestion is indicative of just how concerned film industry entrepreneurs were at this moment.

5. *NYH*, 24 December 1908, 7; Professor Charles Sprague Smith, People’s Institute, *FI*, 2 January 1909, 5; Gustavus Rogers, Hearing Transcript, Mayor McClellan Papers, 130; Ex-Assemblyman Cyrus W. Gale, Hearing Transcript, Mayor McClellan Papers, 140.

6. Gustavus Rogers, Hearing Transcript, Mayor McClellan Papers, 130–31; *NYT*, 24 December 1908, 4. Said Rogers: “I want to dwell upon the fact that the man who frequent [*sic*] these saloons is now to be found giving his children innocent amusement” (Hearing Transcript, Mayor McClellan Papers, 132).

7. R. S. Symonds, Supervisor of the Juvenile League, Hearing Transcript, Mayor McClellan Papers, 162. The *New York Times* noted that the show owners claimed that “working men patronized them, while a few years ago they patronized the saloons” (*NYT*, 24 December 1908, 3).

8. Mayor McClellan, quoted in *NYT*, 25 December 1908, 1. McClellan’s decision to close the nickelodeons on Christmas Eve was seemingly in part an anti-Semitic act, for it highlighted the fact that those most affected by the shutdown, Jewish nickelodeon operators, would not themselves be celebrating Christmas.

9. See *NYTrib.*, 26 December 1908, 1, 3; *NYH*, 27 December 1908, 5; *NYH*, 30 December 1908, 3.

10. *MPW*, 9 January 1909, 32.

11. See below for further discussion of the formation of the board; see also Garth Jowett, *Film: The Democratic Art* (Boston: Little, Brown, 1976), 111–13; Charles Matthew Feldman, *The National Board of Censorship (Review) of Motion Pictures, 1909–1922* (New York: Arno Press, 1977), 2–33; Lary May, *Screening Out the Past: The Birth of Mass Culture and the Motion Picture Industry* (Chicago, Ill.: University of Chicago Press, 1980), 43–45; Daniel Czitrom, “The Redemption of Leisure: The National Board of Censorship and the Rise of Motion Pictures in New York City, 1900–1920,” *Studies in Visual Communication* 10, no. 4 (1984); Nancy J. Rosenbloom, “Between Reform and Regulation: The Struggle over Film Censorship in Progressive America, 1909–1922,” *Film History* 1, no. 4 (1987); Nancy J. Rosenbloom, “Progressive Reform, Censorship, and the Motion Picture Industry, 1909–1917,” in *Popular Culture and Political Change in Modern America*, ed. Larry Bennett and Ronald Edsforth (Buffalo: State University of New York Press, 1991); Tom Gunning, *D. W. Griffith and the Origins of American Narrative Film* (Urbana: University of Illinois Press, 1991), 151–56; and Nancy J. Rosenbloom, “In Defense of the Moving Pictures: The People’s Institute, the National Board of Censorship, and the Problem of Leisure in Urban America,” *American Studies* 33, no. 2 (fall 1992).

12. See *NYW*, 26 March 1909, 18; *MPW*, 27 March 1909, 365; *MPW*, 10 April 1909, 435.

13. *NYH*, 26 March 1909, 4.

14. Unidentified newspaper article, Box 116, Clippings File 1909–1919, National Board of Review of Motion Pictures Collection, Rare Books and Manuscripts Division, New York Public Library (hereafter NBR) (my emphasis).

15. *Ibid.* (my emphasis).

16. See, e.g., Richard Wrightman Fox and T. J. Jackson Lears eds., *The Culture of Consumption: Critical Essays in American History, 1880–1980* (New York: Pantheon, 1983); and William Leach, *Land of Desire: Merchants, Power, and the Rise of a New American Culture* (New York: Pantheon, 1993).

17. Historians have suggested that “maternalist” rhetoric was predicated on

a sense of moral authority accorded middle-class women as part of the formation and self-definition of the middle class. Such women used the moral authority of motherhood to articulate a wide range of reform projects, framing their activism generally as a social expression of their mothering role. "Motherhood was a central organizing principle of Progressive era politics," historian Molly Ladd-Taylor asserts, "inextricably tied to state-building and public policy" (Molly Ladd-Taylor, *Mother-Work: Women, Child Welfare, and the State, 1890–1930* [Urbana: University of Illinois Press, 1994], 43). See also Robyn Muncy, *Creating a Female Dominion in American Reform, 1890–1935* (Oxford: Oxford University Press, 1991); and Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass.: Harvard Belknap Press, 1992). A proliferation of women's clubs from the late nineteenth century on supplemented female-led social policy, frequently connected to community improvement, recreational reform, the quality of schools, and so on. Women's clubs were linked, Richard Ohmann suggests, to the formation and self-definition of the middle class in the period. See Richard Ohmann, *Selling Culture: Magazines, Markets, and Class at the Turn of the Century* (London: Verso, 1996), 156–57.

18. See William Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), 152; David Montgomery, *Citizen Worker: The Experience of Workers in the United States with Democracy and the Free Market during the Nineteenth Century* (Cambridge, U.K.: Cambridge University Press, 1993), 68–69.

19. Morton Keller, *Regulating a New Society: Public Policy and Social Change in America, 1900–1930* (Cambridge, Mass.: Harvard University Press, 1994), 111–12; T. J. Jackson Lears, *No Place of Grace: Antimodernism and the Transformation of American Culture* (New York: Pantheon, 1981).

20. Rev. John Wesley Hill, *NYT*, 28 December 1908, quoted in William Uricchio and Roberta E. Pearson, *Reframing Culture: The Case of the Vitagraph Quality Films* (Princeton, N.J.: Princeton University Press, 1993), 31; Thomas Laquer, *Religion and Respectability: Sunday Schools and Working Class Culture, 1780–1850* (New Haven, Conn.: Yale University Press, 1976), esp. 227–39. Religious concerns about popular culture were expressed in the main by Baptist and Methodist groups and by a broad range of evangelical Americans. See Charles Musser, "Passions and the Passion Play: Theater, Film, and Religion in America, 1880–1900," in *Movie Censorship and American Culture*, ed. Francis Couvares (Washington, D.C.: Smithsonian Institution Press, 1996).

21. Sunday shows were very popular and accounted for a reasonably large percentage of the weekly box office, and many nickelodeons and vaudeville theaters would have had difficulty showing a profit without the aid of Sunday concerts. See Gregory Waller, *Main Street Amusements: Movies and Commercial Entertainment in a Southern City, 1896–1930* (Washington, D.C.: Smithsonian Institution Press, 1995), 192; and Charles Musser with Carol Nelson, *High-Class Moving Pictures: Lyman H. Howe and the Forgotten Era of Traveling Exhibition* (Princeton, N.J.: Princeton University Press, 1991), 192.

22. Waller, *Main Street Amusements*, 127; Joseph Gusfield, *Symbolic Crusade: Status Politics and the American Temperance Movement* (Urbana: University of Illinois Press, 1963); Paul Boyer, *Urban Masses and Moral Order in America, 1820–1920* (Cambridge, Mass.: Harvard University Press, 1978), 191–202; Roy Rosenzweig, *Eight Hours for What We Will: Workers and Leisure in an Industrial City, 1870–1920* (Cambridge, U.K.: Cambridge University Press, 1983), 93–126; Francis Couvares, *The Remaking of Pittsburgh: Class and Culture in an Industrializing City, 1877–1919* (Albany: State University of New York Press, 1984), 33–34.

23. The committee sent a letter to Mayor George McClellan in late 1906 calling for the renewed policing of an 1860 state ban on Sabbath entertainments, which, their letter noted, “among other things, forbids tragedy, comedy, opera, farce, or any part or parts therein; and any dramatic performance of exercise or any other entertainment of the stage” on the Sabbath (*NYTrib.*, 1 December 1906, 7). On the struggle over blue laws in the 1860s and 1870s see Montgomery, *Citizen Worker*, 69.

24. Canon William Chase, *NYT*, 14 October 1907, 2; Rev. Wilber Crafts, *Lexington Herald*, 12 March 1915, 1, quoted in Waller, *Main Street Amusements*, 135.

25. Canon Chase had written, “The open saloon is not so dangerous to our young people as is the apparently clean and innocent Sunday show, for its evils are understood. The Sunday show drives out of the mind all holy thoughts which have sanctified the day” (*NYT*, 14 October 1907, 2).

26. *NYT*, 3 January 1908, 3.

27. Rev. A. B. Churchman to Mayor George McClellan Jr., 3 March 1909, quoted in Uricchio and Pearson, *Reframing Culture*, 32.

28. Rev. Churchman’s letter suggested that one particularly problematic nickelodeon was located “on the very block where several Black Hand outrages have occurred. The houses are crowded with Italians. Groups of men are almost always to be found upon the sidewalks, and anything like a show which would encourage further loitering would be a menace” (*ibid.*).

29. *NYDM*, 14 December 1907, 2. Hammerstein’s theater, a big-time vaudeville house in the heart of the emerging Times Square theater district, was chosen as a test case by the Interdenominational Committee with the support of police commissioner Theodore Bingham and the city’s corporation counsel. The case was sent to former justice Abraham R. Lawrence, who submitted a report that “drew the line between what he considered lawful and unlawful” and suggested that a small number of the acts on the two Sundays considered were beyond the pale. However, State Supreme Court justice James O’Gorman disagreed with the report, suggesting that Lawrence “erred in classing any of the acts given on the two Sundays as coming within the law, and ruled that every one of the acts constituted a clear violation, sufficient to justify the revocation of the license, and the arrest and punishment of the proprietor and performer.” See the details in the *NYDM*, 14 December 1907, 2.

30. Justice O’Gorman, *NYT*, 4 December 1907, 1.

31. *NYW*, 4 December 1907, 1; *NYT*, 6 December 1907, 8; *NYH*, 6 December 1907, 5.

32. Professor Felix Adler of the Ethical Social League argued that the “motive of Sunday legislation in this State, as elsewhere, is not worthy. It is mainly expressive of traditional views and attempts to impose ideas of a part of the community upon the rest of the public. It is at bottom religious legislation. Therefore, it is not in keeping with the true spirit of our government” (*MPW*, 21 December 1907, 684). Likewise, Professor Ernst Richard, of the Department of History at Columbia University, said, “We who have been on the other side of the ocean know the disastrous result of mixing up religion with the affairs of public lives. If the Church tries to do it here it violates the New York Constitution” (*NYW*, 9 December 1907, 2). At the same time, delegates to the city’s Central Federated Union, representing some 250,000 members of organized labor, attacked the ruling for creating “a class distinction by permitting a certain few to follow their particular pursuit of happiness while denying the same rights to a large majority” (*NYTrib.*, 9 December 1907, 2). The city’s press also largely opposed the blue law, which was seen as anachronistic in the face of the diversity of the city’s population.

33. *NYW*, 4 December 1907, 2.

34. Ted D. Marks, quoted in *NYDM*, 14 December 1907, 2; Father Curry, quoted in *VFI*, 14 December 1907, 3.

35. William Hammerstein, *NYW*, 4 December 1907, 2. The Interdenominational Committee disagreed, believing “that the opening of the theatres on Sunday increased the patronage of the saloons” (*NYT*, 5 December 1907, 16).

36. *NYW*, 8 December 1907, sec. E, 7.

37. *NYDM*, 14 December 1907, 2; *NYH*, 7 December 1907, 8; *NYT*, 9 December 1907, 2.

38. See details in *NYT*, 10 December 1907, 1; *NYT*, 11 December 1907, 7; *NYT*, 14 December 1907, 1–2; *NYH*, 11 December 1907, 1, 5.

39. *NYT*, 11 December 1907, 1.

40. Canon Chase, *MPW*, 28 December 1907, 704. Its safe passage probably had much to do with the complexity of New York City politics, for many close to the Tammany-dominated Board of Aldermen had much to lose from O’Gorman’s enforcement of blue laws (Tammany was the Democratic Party’s political machine in the city). In particular, Board of Aldermen leader “Little Tim” Sullivan and his cousin political leader “Big Tim” Sullivan were co-owners of various vaudeville houses in the city and were in the process of allying with prominent film exhibitor William Fox. The *New York Times* noted that “‘Big Tim’ Sullivan owns many theatrical interests which are affected by the so-called ‘blue law,’” before cryptically commenting, “‘Little Tim’ Sullivan is at least reputed to be able to do a thing or two with the Board of Aldermen” (*NYT*, 9 December 1907, 2). On the Sullivans and New York City politics see Daniel Czitrom, “Underworlds and Underdogs: Big Tim Sullivan and Metropolitan Politics in New York, 1889–1913,” *Journal of American History* 78 (September 1991): 551–52.

41. *NYW*, 23 December 1907, 14.
42. *NYT*, 22 December 1907, 2.
43. Felix Adler, quoted in *MPW*, 21 December 1907, 684.
44. *NYW*, 5 December 1907, 2.
45. Corporation Counsel Pendleton, *NYT*, 10 December 1907, 1.
46. *NYT*, 11 December 1907, 1.
47. *NYW*, 23 December 1907, 14.
48. *NYT*, 22 December 1907, 2.
49. *MPW*, 28 December 1907, 699.
50. *NYT*, 22 December 1907, 2; *NYW*, 23 December 1907, 14. On the Vitagraph biblical films see Uricchio and Pearson, *Reframing Culture*, 160–94. On similar attempts to represent cinema as capable of inspiring religious sentiment see Peter Krämer, “Screen Sermons: The Uses of Religion in Early Cinema after 1907,” in *An Invention of the Devil? Religion and Early Cinema*, ed. Roland Cosandey, André Gaudreault, and Tom Gunning (Lausanne: Editions Payot, 1992).

51. Specific attention was paid to the case of David Robinson, the manager of the Colonial Theatre. This case was “watched by all the other theatrical managers of the city,” *Moving Picture World* noted, “for upon its disposition depends a decision as to the exact character of the shows they may give on Sunday and stay within the provisions of the Doull ordinance” (*MPW*, 28 December 1907, 703). Police raided the Colonial while a travel lecture on Panama was taking place, using stereopticon slides. Police captain Farrel informed Robinson that no pictures could be shown as a result of the Doull ordinance. *Moving Picture World* was confused: “Are illuminated views produced by stereopticon slides moving pictures?” Further, “if such views are moving pictures are they forbidden by the Penal Code when accompanying a lecture, sacred or educational?” (*MPW*, 4 January 1908, 7). Counsel for Robinson claimed that they were not forbidden, but counsel for Farrel “contended that an exhibition of pictures . . . was distinctly forbidden by the penal code” (*MPW*, 4 January 1908, 7). Similarly, at the Majestic Theatre a man was arrested for giving a moving picture show alongside an educational lecture. Justice Carr was quoted by *Moving Picture World* as suggesting that “there was no more reason for making such an arrest than for arresting a clergyman whom he had heard give a lecture on the Holy Land, illustrated he says, in the same manner as the theatre, though the possibilities are that the clergyman’s illustrations were by the stereopticon and not by moving pictures” (*MPW*, 11 January 1908, 23). The suggestion that moving pictures could be seen as similar to the stereopticon was useful for *Moving Picture World* and other entrepreneurs, for the stereopticon had a long history of association with educational lectures for middle-class audiences. It seems likely that this is why entrepreneurs suggested the Colonial would be a useful test case.

52. *MPW*, 4 January 1908, 4. Rogers was attorney for William Fox and was close to the Sullivan machine, having served as both legal counsel and corresponding secretary for Tammany Hall. See details in Daniel Czitrom, “The Pol-

itics of Performance: From Theater Licensing to Movie Censorship in Turn-of-the-Century New York," in *Movie Censorship and American Culture*, ed. Francis Couvares (Washington, D.C.: Smithsonian Institution Press, 1995), 25; and Czitrom, "Underworlds and Underdogs," 552.

53. State Supreme Court justice Greenbaum issued an unusual writ known as a "Bill of Peace," which stopped police interference in every exhibition of moving pictures in the city "whether it is sacred or educational, so long as it is moral" (*MPW*, 4 January 1908, 7).

54. John Collier, "Cheap Amusements," *Charities and the Commons* 20 (April 1908): 74; People's Institute and Women's Municipal League, "Cheap Amusement Shows in Manhattan: Preliminary Report of Investigation," 31 January 1908, 4, Box 170, NBR.

55. "Report of the Executive Committee of the Department of Drama and Music," 27 January 1908, Charles Sprague Smith Papers, quoted in Uricchio and Pearson, *Reframing Culture*, 38.

56. *MPW*, 7 March 1908, 181.

57. *NYTrib.*, 10 February 1908, 4.

58. *MPW*, 25 January 1908, 58.

59. *MPW*, 4 July 1908, 7; *MPW*, 7 November 1908, 355.

60. Jane Addams, *MPW*, 5 December 1908, 451.

61. See, e.g., *Nickelodeon*, January 1909, 16; and *MPW*, 8 January 1910, 16; *MPW*, 5 March 1910, 339; *MPW*, 24 June 1911, 1428.

62. *MPW*, 16 May 1908, 433.

63. *MPW*, 4 July 1908, 6. See also the discussion of the Sunday closing issue in Gustavus A. Rogers, "The Law of the Motion Picture Industry" (lecture delivered at the College of the City of New York, 28 November 1916), 44–55, Box 170, NBR.

64. *NYH*, 24 December 1908, 7; *NYT*, 24 December 1908, 4; *NYH*, 24 December 1908, 7. At the hearings Gustavus Rogers, lawyer for the film interests, laid out in detail the legal situation regarding Sunday shows. See Hearing Transcript, Mayor McClellan Papers, 109–13.

65. *NYW*, 4 December 1907, 2; *NYDM*, 14 December 1907, 2; *VFI*, 14 December 1907, 3.

66. *MPW*, 4 July 1908, 7.

67. *VFI*, 2 November 1907, 3.

68. Collier, "Cheap Amusements," 74.

69. *MPW*, 9 October 1909, 487.

70. Simon Patten, quoted in Lewis E. Palmer, "The World in Motion," *Survey*, 5 June 1909, 357.

71. "A Newsboy's Point of View," in Herbert A. Jump, *The Religious Possibilities of the Motion Picture* (New Britain, Conn.: n.p., c. 1910), quoted in Daniel Czitrom, *Media and the American Mind: From Morse to McLuhan* (Chapel Hill: University of North Carolina Press, 1982), 50.

72. Frederick C. Howe, "What to Do with the Motion-Picture Show: Shall It Be Censored?" *Outlook*, 20 June 1914, 413.

73. William Fox, *New York Evening World*, 30 November 1912, quoted in Neal Gabler, *An Empire of Their Own: How the Jews Invented Hollywood* (New York: Doubleday, 1988), 66. Said M. A. Neff, first head of the Exhibitor's League, "[Movie] houses are emptying the saloons, clearing the street corners, gathering together family parties, and preaching greater sermons than the pulpits of our land" (quoted in *Moving Picture News*, 29 June 1912, 6).

74. Orrin Cocks, "A Saloon Substitute and Drink Preventive: The Moving Picture Show," *Pacific Christian Advocate*, 17 January 1915, n.p.

75. The board conducted a questionnaire in 1912 to ascertain whether saloons were closing down because of nickelodeons. See details in Box 147, NBR. MPN commented that the results showed that the "advancement of Cinematography is the downfall of the saloon" (MPN, 28 September 1912, 7–8). Evidently the board remained interested in this question, for in 1916 a letter from the board was sent out to police chiefs, stating, "We are making an inquiry concerning the reduction in the number of saloon licenses reported in several states and are particularly interested in the truth of the assertion that saloons are lessening in number because of the motion picture" (Letter from the National Board of Censorship, 25 May 1916, Box 23, NBR).

76. In particular, one might see this rhetoric as marking out a space for mainstream cinema distinct from "stag" cinema, directed at all male audiences in various locations (saloons, brothels), and mutating later into what Eric Schaefer terms "exploitation cinema" or, indeed, into pornography. No consensus exists on when the first pornographic films were made and shown. Al Di Lauro and Gerald Rabkin suggest that by 1904 production and a market for films of "fully detailed sexual activity" existed, as does Joseph W. Slade. Extant films, as Linda Williams shows, date from around 1910, although dating these films is often difficult. In any case an earlier "cinema of attractions," in Tom Gunning's influential formulation, had frequently focused on the female body in various states of undress as its principal "attraction." Sensational films such as *The Unwritten Law* were also widespread on the eve of the nickelodeon boom. Industry rhetoric, however, was marking out a space for mainstream cinema distinct from these traditions. See Eric Schaefer, *Bold! Daring! Shocking! True! A History of Exploitation Films, 1919–1959* (Durham, N.C.: Duke University Press, 1999); Al Di Lauro and Gerald Rabkin, *Dirty Movies: An Illustrated History of the Stag Film, 1915–1970* (New York: Chelsea House, 1976), 46; Joseph W. Slade, "Violence in the Hard-Core Pornographic Film: A Historical Survey," *Journal of Communication* 34, no. 3 (summer 1984); Linda Williams, *Hard Core: Power, Pleasure, and the "Frenzy of the Visible"* (Berkeley: University of California Press, 1989), 58–92; Tom Gunning, "The Cinema of Attractions: Early Film, Its Spectator, and the Avant-Garde," *Wide Angle* 8, nos. 3/4 (1986); Constance Balides, "Scenarios of Exposure in the Practice of Everyday Life: Women in the Cinema of Attractions," *Screen* 34, no. 1 (spring 1993).

77. Vachel Lindsay, *The Art of the Motion Picture* (1915; repr., New York: Liveright, 1970), 235.

78. Parker R. Zellars, "The Cradle of Variety: The Concert Saloon," *Educa-*

*tional Theatre Journal* 20 (December 1968); Robert Allen, *Vaudeville and Film: A Study of Media Interaction* (New York: Arno Press, 1980), 23–32; David Nasaw, *Going Out: The Rise and Fall of Public Amusements* (Cambridge, Mass.: Harvard University Press, 1999), 13–14; M. Alison Kibler, *Rank Ladies: Gender and Cultural Hierarchy in American Vaudeville* (Chapel Hill: University of North Carolina Press, 1999), 1–22; Richard Butsch, *The Making of American Audiences: From Stage to Television, 1750–1990* (Cambridge, U.K.: Cambridge University Press, 2000), 95–107.

79. Richard Butsch, “Bowery B’hoys and Matinee Ladies: The Re-gendering of Nineteenth-Century American Theater Audiences,” *American Quarterly* 46, no. 3 (September 1994): 375; Bruce McConachie, “Pacifying American Theatrical Audiences,” in *For Fun and Profit: The Transformation of Leisure into Consumption*, ed. Richard Butsch (Philadelphia, Pa.: Temple University Press, 1990); Bruce McConachie, *Melodramatic Formations: American Theatre and Society, 1820–1870* (Iowa City: University of Iowa Press, 1992); Kathryn J. Oberdeck, “Contested Cultures of American Refinement: Theatrical Manager Sylvester Poli, His Audiences, and the Vaudeville Industry, 1890–1920,” *Radical History Review* 66 (fall 1996); and Butsch, *Making of American Audiences*, 66–80.

80. Robert W. Snyder, *Voice of the City: Vaudeville and Popular Culture in New York* (New York: Oxford University Press, 1989), esp. 17–19; McConachie, “Pacifying American Theatrical Audiences”; Nasaw, *Going Out*, 25–27; Butsch, *Making of American Audiences*, 66–80.

81. Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790–1865* (Cambridge, U.K.: Cambridge University Press, 1981), 15; Butsch, *Making of American Audiences*, 66–68.

82. Stuart M. Blumin writes that “we may say that middle-class formation was a phenomenon that went beyond the realignment of work, workplace relations, incomes, and opportunities. Events on the other side of the retail sales counter, and in the ‘separate sphere’ of domestic womanhood, were influential, perhaps even crucial, in generating new social identities. To this extent, middle-class formation was woman’s work” (Stuart M. Blumin, *The Emergence of the Middle Class: Social Experience in the American City, 1760–1900* [Cambridge, U.K.: Cambridge University Press, 1989], 191).

83. Ann Douglas, *The Feminization of American Culture* (New York: Knopf, 1977); Peggy Pascoe, *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874–1939* (Oxford: Oxford University Press, 1990), esp. 32–69.

84. Helen Damon-Moore, *Magazines for the Millions: Gender and Commerce in the “Ladies’ Home Journal” and the “Saturday Evening Post,” 1880–1910* (Albany: State University of New York Press, 1994); Jennifer Scanlon, *Inarticulate Longings: The “Ladies’ Home Journal,” Gender, and the Promises of Consumer Culture* (New York: Routledge, 1995); Richard Ohmann, *Selling Culture*, esp. 221–23; John Kasson, *Rudeness and Civility: Manners in Nineteenth-Century Urban America* (New York: Hill and Wang, 1990).

85. Moving pictures had, after all, initially principally been shown in vaudeville theaters in the United States. Also, by 1909 a form of motion picture exhibition that became known as “small-time vaudeville” emerged, a combination of movies and vaudeville acts in more or less equal proportions offered in large capacity theaters, many of which were ornately furnished and decorated in the styles of high-class vaudeville theaters and heralded as further evidence of the newfound respectability of cinema. Small-time vaudeville was effectively the halfway house between the nickelodeon and the movie palace. Particularly noteworthy was William Fox’s leasing of the Dewey Theatre, near Union Square in New York City, in late 1908. Fox used twelve uniformed ushers, partly as a signifier of respectability. See Allen, *Vaudeville and Film*, 230–34. Small-time vaudeville owners and managers frequently called their establishments “family theaters,” emphasizing their respectability and links to the home. See Nasaw, *Going Out*, 30–31.

86. Blumin, *Emergence of the Middle Class*, esp. 288–90; Jürgen Kocka, *White-Collar Workers in America, 1890–1940: A Social-Political History in International Perspective* (London: Sage, 1980), esp. 11–16. Kocka and Blumin suggest that the paradoxical social position of the expanding lower middle class of white-collar or clerical workers made the boundaries between a working class and a new, increasingly influential, middle class of “professionals” unstable.

87. Barbara Leslie Epstein, *The Politics of Domesticity: Women, Evangelism, and Temperance in the Nineteenth Century* (Middletown, Conn.: Wesleyan University Press, 1981). See also Paula Baker, “The Domestication of Politics: Women and American Political Society, 1780–1920,” *American Historical Review* 89, no. 3 (1984); Pascoe, *Relations of Rescue*; Ladd-Taylor, *Mother-Work*; Skocpol, *Protecting Soldiers and Mothers*; Muncy, *Creating a Female Dominion*; and Janet Zollinger Giele, *Two Paths to Women’s Equality: Temperance, Suffrage, and the Origins of Modern Feminism* (London: Twayne, 1995), esp. 63–111. Scholars have gone back and forth on whether this was “progressive” or not. Epstein, for example, argues that an organization like the Women’s Christian Temperance Union was protofeminist in its concerns. Likewise, Baker sees the women-led campaign for temperance as an important moment in the politicization of women and shows how it was linked also to the campaign for suffrage. Other scholars point to the implication of this rhetoric in patriarchal discourse, suggesting that it could be controlled by conservative interests whose goals were antithetical to the values and ideals of feminism. See, e.g., Judith Walkowitz, “Male Vice and Feminist Virtue: Feminism and the Politics of Prostitution,” *History Workshop Journal* (1979). Here perhaps Philip Gould’s observation that the “feminization” of culture was facilitated by women who were both stewards of this and prisoners of it is the clearest formulation of the complexity of the situation. See Philip Gould, “Revisiting the ‘Feminization’ of American Culture,” *Differences* 11, no. 3 (1999), 1. I am indebted to Connie Balides for this reference and for discussion here.

88. See, e.g., Allan M. Brandt, *No Magic Bullet: A Social History of Venereal Disease in the United States Since 1880* (Oxford: Oxford University Press,

1985); Ruth Bordin, *Women and Temperance: The Quest for Power and Liberty, 1873–1900* (Philadelphia, Pa.: Temple University Press, 1981); and Linda Gordon, ed., *Women, the State, and Welfare* (Madison: University of Wisconsin Press, 1990).

89. Epstein, *Politics of Domesticity*; Norman H. Clark, *Deliver Us from Evil: An Interpretation of American Prohibition* (New York: Norton, 1976), 13.

90. Margaret Marsh, "Suburban Men and Masculine Domesticity, 1870–1915," *American Quarterly* 40, no. 2 (June 1988). Marsh suggests that this male domesticity gained force at the turn of the century also in response to men's diminishing power in public life, linked by Marsh to the increase of bureaucracies and to a palpable sense of anonymity in the urban world. Interestingly, a sentimental vision of childhood was at the core of this male domesticity. We saw in the previous chapter how this vision motivated many of the concerns about cinema.

91. Alison M. Parker, *Purifying America: Women, Cultural Reform, and Pro-Censorship Activism, 1873–1933* (Urbana: University of Illinois Press, 1997), esp. 5–74, 111–57; Mariana Valverde, *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885–1933* (London: Routledge, 1988), esp. 58–61. "Schools of Crime" was the title of a 1906 article in the WCTU's journal, *Union Signal*. It probably marks one of the first uses of this conception of cinema and would go on to be used by the *Chicago Tribune* in early 1907 and widely thereafter as a way to contrast cinema with schooling. See *Union Signal*, 18 October 1906, 8, cited in Parker, *Purifying America*, 258n14; *CT*, 10 April 1907, 8. The WCTU produced films espousing the temperance cause in the teens, yet after the passage of the Eighteenth Amendment, banning the sale of alcohol, in 1919 they would increasingly turn their attention to achieving federal regulation of cinema. See Parker, *Purifying America*, 134–57.

92. Andrea Friedman, *Prurient Interests: Gender, Democracy, and Obscenity in New York City, 1909–1945* (New York: Columbia University Press, 2000), 126–27; Epstein, *Politics of Domesticity*.

93. Roland Marchand, *Advertising the American Dream: Making Way for Modernity, 1920–1940* (Berkeley: University of California Press, 1985), 66; William Leach, "Transformations in a Culture of Consumption: Women and Department Stores, 1890–1925," *Journal of American History* 17 no. 2 (September 1984); and Susan Porter Benson, *Counter Cultures: Saleswomen, Managers, and Customers in American Department Stores, 1890–1940* (Urbana: University of Illinois Press, 1986). Newspapers and magazines were also increasingly directed at women readers. See Gunter Barth, *City People: The Rise of Modern City Culture in Nineteenth-Century America* (New York: Oxford University Press, 1980), esp. 80–83. Helen Damon-Moore shows how the *Saturday Evening Post* was taken over by the Curtis Publishing empire in 1897. Although designed initially to appeal to a male audience, the magazine became popular and profitable only after it was reworked to appeal to a family audience. See Damon-Moore, *Magazines for the Millions*, 145–54. Likewise, Ben Singer suggests that columns from the 1890s on devoted to the brave or unconventional ex-

plots of adventurous women and “plucky girl reporter” features reflected the importance of women readers to newspapers. See Ben Singer, “Female Power in the Serial-Queen Melodrama: The Etiology of an Anomaly,” *Camera Obscura* 22 (January 1990): 110.

94. *VFL*, 11 May 1907, 3.

95. *MPW*, 13 April 1907, 89; *Nickelodeon*, February 1909, 34.

96. For a review of recreation surveys in the 1910s see Alan Havig, “The Commercial Amusement Audience in Early Twentieth Century American Cities,” *Journal of American Culture* 5, no. 1 (1982). Richard Koszarski has suggested that the percentage of men in motion picture audiences began to decline in the 1910s, whereas the number of women rose from 60 percent in 1920 to 83 percent in 1927. See Richard Koszarski, *An Evening’s Entertainment: The Age of the Silent Feature Picture, 1915–1928* (New York: Scribner’s, 1990), 30.

97. *Universal Weekly*, 6 September 1913, cited in Stamp, *Movie-Struck Girls*, 12.

98. See Kathryn H. Fuller, *At the Picture Show: Small-Town Audiences and the Creation of Movie Fan Culture* (Washington, D.C.: Smithsonian Institution Press, 1996), esp. 133–68; Gaylyn Studlar, “The Perils of Pleasure? Fan Magazine Discourse as Women’s Commodified Culture in the 1920s,” *Wide Angle* 13, no. 1 (January 1991); and Gaylyn Studlar, “‘Out-Salomeing Salome’: Dance, the New Woman, and Fan Magazine Orientalism,” in *Visions of the East: Orientalism in Film*, ed. Matthew Bernstein and Gaylyn Studlar (New Brunswick, N.J.: Rutgers University Press, 1997).

99. *Motography*, 8 August 1914, 197.

100. On this unease, see Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991); Janet Staiger, *Bad Women: Regulating Sexuality in Early American Cinema* (Minneapolis: University of Minnesota Press, 1995); Lauren Rabinovitz, *For the Love of Pleasure: Women, Movies, and Culture in Turn-of-the-Century Chicago* (New Brunswick, N.J.: Rutgers University Press, 1998); Stamp, *Movie-Struck Girls*.

101. Clippings Book, Providence, R.I., Nickel Theatre and Bijou Theater, 1906, vol. 1, cited in Nasaw, *Going Out*, 163; press release from Worcester Nickel Theatre, cited in Rosenzweig, *Eight Hours*, 198; *Des Moines Register and Leader*, 23 July 1907, cited in Richard Abel, *The Red Rooster Scare: Making Cinema American, 1900–1910* (Berkeley: University of California Press, 1999), 67.

102. Eugene Cline, cited in Abel, *Red Rooster Scare*, 67.

103. *Nickelodeon*, March 1909, 66.

104. See Eileen Bowser, *The Transformation of Cinema, 1907–1915* (Berkeley: University of California Press, 1990), 45–46.

105. On the lighting of the moral darkness of cities see Chris Otter, “Making Liberalism Durable: Vision and Civility in the Late Victorian City,” *Social History* 27, no. 1 (January 2002).

106. See, e.g., *MPW*, 7 August 1909, 191; *MPW*, 5 March 1910, 331; *Nickelodeon*, 15 November 1910, 278; Epes Winthrop Sargent, *Motion Picture The-*

*atre Advertising* (New York: Chalmers Publishing, 1915), 24–25. On the relationship between movie theater design and department store interiors see Charlotte Herzog, “The Movie Palace and the Theatrical Sources of Its Architectural Style,” *Cinema Journal* 20, no. 2 (1981); and Charlotte Herzog, “The Archaeology of Cinema Architecture: The Origins of the Movie Theater,” *Quarterly Review of Film Studies* 9, no. 1 (winter 1984). On the design of department stores see Porter Benson, *Counter Cultures*, 75–101.

107. See Sargent, *Picture Theatre Advertising*, 217–24; *Nickelodeon*, June 1909, 167; *Lewiston Evening Journal*, 14 January 1907, 2, cited in Musser, *Emergence of Cinema*, 432. On the broader transformation from the rowdy space of nickelodeons to standards of decorum see Rosenzweig, *Eight Hours*, esp. 204–15; and Hansen, *Babel and Babylon*, esp. 76–89. Numerous developments in the teens and beyond can be situated in this context, including the serial queen cycle, the growth of fan magazines directed principally at female readers, the emergence of powerful stars such as Mary Pickford, the increasing presence of women as scriptwriters from 1913 onward, tie-in promotions directed principally at women, and the discourses surrounding film stars proliferating from the late teens that were often overtly addressed to women audiences. See Ben Singer, “Female Power”; Nan Enstad, *Ladies of Labor, Girls of Adventure: Working Women, Popular Culture, and Labor Politics at the Turn of the Twentieth Century* (New York: Columbia University Press, 1999), 161–200; Moya Luckett, “Advertising and Femininity: The Case of *Our Mutual Girl*,” *Screen* 40, no. 4 (winter 1999); Shelley Stamp, *Movie-Struck Girls*, 102–53; Kathryn Fuller, *At the Picture Show*, 133–49; Gaylyn Studlar, “Perils of Pleasure?”; Anne Morey, “‘Would You Be Ashamed to Let Them See What You Have Written?’: The Gendering of Photoplaywrights, 1913–1923,” *Tulsa Studies in Women’s Literature* 17, no. 1 (1998); Jeanne Thomas Allen, “The Film Viewer as Consumer,” *Quarterly Review of Film Studies* 5, no. 4 (1980); Gaylyn Studlar, *This Mad Masquerade: Stardom and Masculinity in the Jazz Age* (New York: Columbia University Press, 1996); Miriam Hansen, “Pleasure, Ambivalence, Identification: Valentino and Female Spectatorship,” *Cinema Journal* 25, no. 4 (summer 1986); Melvyn Stokes, “Female Audiences of the 1920s and Early 1930s,” in *Identifying Hollywood’s Audiences: Cultural Identity and the Movies*, ed. Melvyn Stokes and Richard Maltby (London: British Film Institute, 1999).

108. See, e.g., Mary Carbine, “‘The Finest Outside the Loop’: Motion Picture Exhibition in Chicago’s Black Metropolis, 1905–1928,” *Camera Obscura* 23 (1990).

109. Blumin, *Emergence of the Middle Class*, 238. For some of the most recent debates about the location of nickelodeons and their audiences see, e.g., Ben Singer, “Manhattan Nickelodeons: New Data on Audiences and Exhibitors,” *Cinema Journal* 35, no. 3 (spring 1996); Sumiko Higashi, “Dialogue: Manhattan’s Nickelodeons,” *ibid*; Robert C. Allen, “Manhattan Myopia: or, Oh! Iowa!” *ibid*; Ben Singer, “New York, Just Like I Pictured It . . .,” *ibid*; Judith Thissen, “Oy, Myopia! A Reaction from Judith Thissen on the Singer-Allen Controversy,” *Cinema Journal* 36, no. 4 (summer 1997); William Uricchio and Rob-

erta E. Pearson, "Dialogue: Manhattan's Nickelodeons New York! New York!" *ibid*; Ben Singer, "Manhattan Melodrama—A Response from Ben Singer," *ibid*. See also Lee Grieveson, "Audiences: Issues and Debates," in *The Encyclopedia of Early Cinema*, ed. Richard Abel (London: Routledge, 2004).

110. *VFI*, 11 May 1907, 3.

111. *Nickelodeon*, February 1909, 34. Evidence did not necessarily support this claim, as we saw in the previous chapter; commentators frequently drew attention to the number of women who wanted to see *The Unwritten Law*. *Views and Film Index* (28 July 1906, 6) had described how "great hordes of women . . . fought for a glimpse" of a short reenactment of Thaw's murder of White in Coney Island. Likewise, *Moving Picture World* (27 April 1907, 119) reported that the Grand Opera House in Superior Wisconsin was "packed with an audience two-thirds women" to see *The Unwritten Law*; and the *Chicago Tribune* (13 April 1907, 3) reported that schoolgirls and young working women were fascinated with the film and stayed to watch it over and over again. Shelley Stamp has pointed to a discrepancy between the idealization of the respectability of women and their interest in stories with subject matter like sexuality, action-adventure stories, and feminist agitation. Stamp, *Movie-Struck Girls*, esp. 41–177.

112. See Friedman, *Prurient Interests*, 129.

113. The common show license was for merry-go-rounds and other cheap amusements, including theaters that limited their programs to motion pictures, songs, and "recitation not rendered on stage." It cost \$25 a year and was controlled by the mayor's office. See *Variety*, 2 January 1909, 10. Where motion pictures were coupled with vaudeville acts, exhibitors were required to take out a theater or concert license, issued by the police department, for an annual fee of \$500.

114. Mayor McClellan, *NYT*, 25 December 1908, 1.

115. *Ibid*.

116. *NYW*, 27 December 1908, 1; *MPW*, 2 January 1909, 32.

117. *NYTrib.*, 27 December 1908, 1; *NYH*, 27 December 1908, 1.

118. *NYTrib.*, 27 December 1908, 1

119. *Ibid*.

120. *FI*, 2 January 1909, 5. Exhibitors evidently knew what scholars working on defining documentary have also more recently shown: that the definition of the function of textuality is predicated on interpretative frames and structures of reception. See, in particular, Noël Carroll, "From Real to Reel: Entangled in the Nonfiction Film," *Philosophic Exchange* 14 (1983); and Dirk Eitzen, "When Is a Documentary? Documentary as a Mode of Reception," *Cinema Journal* 35, no. 1 (1995).

121. *NYT*, 28 December 1908, 1. Lecturers commenting on films grew out of the tradition of the magic lantern lecturer and were endowed then with didactic connotations that buttressed claims for the educational potential of cinema. Trade journals recommended them at this moment but ultimately sug-

gested that they detracted from the creation of an illusory diegesis. See Gunning, *D. W. Griffith and the Origins of American Narrative Film*, 91–94.

122. *NYT*, 28 December 1908, 1. Said manager was quoted in the *NYTrib.*: “The fact of the matter is that ‘Ted’ Faust is in reality lame, and limps off weekdays as well as Sundays” (*NYTrib.*, 28 December 1908, 2).

123. *NYH*, 28 December 1908, 3.

124. *Report of the National Board of Censorship of Motion Pictures* (New York, 1911), 3, quoted in Feldman, *National Board of Censorship*, 23. Exhibitors approached the People’s Institute in late February 1909.

125. The Motion Picture Patents Company was incorporated on 9 September 1908, and was officially launched on 18 December 1908, just six days before the McClellan hearings. Various manufacturers agreed to transfer their patents to a holding company, which then licensed them to manufacture films under the patents it now held. This effectively ended competition among these producers and allowed the company to organize and regulate almost all the areas of the motion picture industry. See Robert Anderson, “The Motion Picture Patents Company: A Revaluation,” in *The American Film Industry*, ed. Tino Balio (Madison: University of Wisconsin Press, 1985), 142.

126. In July 1908, during the early stages of the negotiations that would lead to the establishment of the Patents Company, Jeremiah J. Kennedy had started to wonder how the “whole mess [of the intensified regulatory concerns about cinema] might turn out working for us.” Similarly, two days before the public announcement of the formation of the company, George Kleine, one of its architects, suggested to Edison’s general counsel Frank L. Dyer that there might be a need for a strong public relations campaign to deflect “the first wild yell of protest against the octopus” and to “impress the public with the growing dignity of the moving pictures.” Jeremiah J. Kennedy, cited in May, *Screening Out the Past*, 63; George Kleine to Frank L. Dyer, 16 December 1908, cited in Anderson, “Motion Picture Patents Company,” 142.

127. Gunning, *D. W. Griffith*, 145.

128. *Ibid.*, 147; Gertrude Jobs, *Motion Picture Empire* (Hamden, Conn.: Archon Books, 1966), 54–55, cited in Richard Maltby, “The Social Evil, the Moral Order, and the Melodramatic Imagination, 1890–1915” (paper presented at the “Melodrama: Stage, Picture, Screen,” conference, London, 1992), 20. A shorter version of this terrific paper has been published in the proceedings of the conference, *Melodrama: Stage, Picture, Screen*, ed. Jacky Brattan, Jim Cook, and Christine Gledhill (London: British Film Institute, 1994). I am indebted to Richard for providing me with the longer version.

129. *NYT*, 24 February 1909, 6.

130. *People’s Institute Bulletin*, 23 December 1908, 5, cited in May, *Screening Out the Past*, 274. Slightly later, secretary of the People’s Institute and chief architect of the Board of Censorship, John Collier, suggested that exhibitors suffered because of the system of film production and distribution. See *MPW*, 6 March 1909, 265.

131. People's Institute and Women's Municipal League, "Cheap Amusement Shows in Manhattan"; Charles Sprague Smith had suggested that other conditions in the city "foster a good deal more rottenness than moving picture shows." This drew sustained applause from the film interests at the hearing, prompting the mayor to order them to be quiet. See *FI*, 2 January 1909, 5.

132. See, e.g., Charles Sprague Smith, "Saloon Substitutes in New York and Elsewhere," *Federation*, March 1903. On the wider articulation of a notion of "counterattractions" in the period see Uricchio and Pearson, *Reframing Culture*, 35–40.

133. See details in Francis Oppenheimer, "New York City's Censorship of Plays," *Theatre* 8 (May 1908); *NYDM*, 2 May 1908, 191.

134. The secretary of the institute, John Collier, described the institute as "an organization supported by voluntary contributions doing educational work, civic educational work, among the immigrants of the Lower East Side and wage earners generally" (John Collier, *United States v. Motion Pictures Patents Company*, 225 F. 800 [E. D. Pa., 1915], 2894–95), cited in Gunning, *D. W. Griffith*, 155. On the People's Institute see also Robert Bruce Fisher, "The People's Institute of New York City, 1897–1934: Culture, Progressive Democracy, and the People" (Ph.D. diss., New York University, 1974).

135. Collier, "Cheap Amusements," 74–75.

136. The proposal set up a governing board, which, along with the People's Institute, the Public Education Association, and the League for Political Education, included the Federation of Churches, the Ethical-Social League, and the Association of Neighborhood Workers. See *MPW*, 6 March 1909, 265. An executive committee was set up also, including Collier, representatives from AMPENY, and representatives from the public schools. See Feldman, *National Board of Censorship*, 27. Significantly, *Moving Picture World* complained about the inclusion of the Federation of Churches. "We think the churches are best left out of the council of censorship," they editorialized. "Broad minded clerics are numerous, it is true, but bigotry and intolerance are powerful harms, as the recent crisis in the moving picture field amply shows" (*MPW*, 13 February 1909, 165). The trade press and film entrepreneurs sought in the establishment of the board a way past religious authority.

137. *MPW*, 16 October 1909, 524.

138. *MPW*, 20 March 1909, 335. Initially it seemed that the People's Institute and the Patents Company would run two censor boards side by side. See *MPW*, 20 March 1909, 325. References to this idea quickly disappear, and it seems either not to have happened or to have ended very quickly. See Bowser, *Transformation of Cinema*, 49–50.

139. Feldman, *National Board of Censorship*, 27. Said Collier, "[I]t is the occasional picture which falls into the hands of the police, arouses the protest of vigilance societies, is advertised in the newspapers, and brings the whole moving picture business into disrepute. This picture must be caught up before it is shown on the public screen. The way to get this result is to inspect the pictures before they leave the hands of the manufacturers" (John Collier to Manufac-

turners of Motion Pictures, circular, 15 March 1909, Document File, Motion Pictures, Edison Archives), cited in Czitrom, "Politics of Performance," 34. It is worth noting that this shift had considerable effects on the role of the board, which could now do more than approve or condemn a complete motion picture and could become involved in extensive negotiations with production companies about the alteration of films. Further, its access to films before distribution meant that the board's influence extended beyond New York City to the rest of the nation.

140. *Nickelodeon*, April 1909, 92.

141. Announcement to Exhibitors from Motion Pictures Patents Company, 1 February 1909, cited in Nancy Rosenbloom, "Progressive Reform," 46. On this role of the Patents Company see also Gunning, *D. W. Griffith*, 146–47; and Abel, *Red Rooster Scare*, 87–94.

142. Richard Abel, "The Perils of Pathé, or the Americanization of Early American Cinema," in *Cinema and the Invention of Modern Life*, ed. Leo Charney and Vanessa R. Schwartz (Berkeley: University of California Press, 1995), 200.

143. *MPW*, 2 January 1909, 32.

144. John Collier to Manufacturers of Motion Pictures, circular, 15 March 1909, cited in Czitrom, "Politics of Performance," 34.

145. John Collier, *MPW*, 12 June 1909, 797. See also *MPW*, 24 April 1909, 508.

146. "The Standards of the National Board of Censorship of Motion Pictures" (New York, no date, probably 1911), 3. The board produced a special bulletin in 1917 declaring, "In view of the growing sentiment throughout the country opposing the theme of drunkenness in slapstick comedies, the Board is placed in a position where it must take action. . . . THE BOARD WILL NOT PASS 'DRUNK' COMEDIES" (Special Bulletin, February 1917, Box 23, NBR).

147. Collier, quoted in *MPW*, 12 June 1909, 797; Lewis E. Palmer, "The World in Motion," *Survey*, 5 June 1909, 363.

148. *MPW*, 23 October 1909, 524–25.

149. See details in the "Policy and Standards of the National Board of Censorship of Motion Pictures," National Board of Censorship of Motion Pictures (1915); Robert Fisher, "Film Censorship and Progressive Reform: The National Board of Censorship of Motion Pictures, 1909–1922," *Journal of Popular Film* 4, no. 2 (1975): 154n8. Lary May notes a slightly different number, suggesting that the actual viewing of films was undertaken by 113 female volunteers and that "women were the moral guardians who enforced" censorship rules. See May, *Screening Out the Past*, 54–55.

150. *Nickelodeon*, 1 August 1910, 66.

151. *MPW*, 16 October 1909, 524.

152. *Ibid.*

153. *MPW*, 22 May 1909, 674.

154. *FI*, 5 March 1910, 1; *MPW*, 12 March 1910, 375–76.

155. The exceptions were *The Life of Moses* (Vitagraph, 1909), and *Pippa Passes* (Biograph, 1909), a dramatization of a Browning poem. Significantly, the

latter included a brief temperance lesson invented for the film, showing a worker neglecting his family for evenings at the saloon until hearing Pippa's song, after which he reforms and returns home.

156. National Board of Censorship, *Suggestions for a Model Motion Picture Ordinance for Regulating Motion Picture Theaters* (New York, no date, probably 1912), 3.

157. Frederick Howe, typescript, 1914, Box 29, NBR.

158. *MPW*, 30 September, 1916, 2088. See also the material collected in Box 96, NBR; *A Plan for Motion Picture Study Clubs*, Box 97, NBR.

159. Feldman, *National Board of Censorship*, 116–17; Parker, *Purifying America*, 258n12.

160. *MPW*, 6 November 1909, 641. Kleine later claimed he established the catalog "for the general good of the business and of the public." Kleine to Captain Farrell, House of Representatives, Springfield, Ill., 19 May 1915, in William Selig Collection, Academy of Motion Picture Arts and Sciences, Margaret Herrick Library, Los Angeles.

161. Thomas Edison, cited in *Nickelodeon*, 1 August 1910, 64. Edison expanded on this in an interview in *MPW*, 22 July 1911, 104–5. No doubt this was in part rhetorical, but it is possible that Edison had one eye on the market for film hardware. Given his principal interest in selling projecting machines, Edison's interests in promoting the educational potential of cinema and its use in schools and churches may have been in part commercially motivated. His development of a nontheatrical projector was critical here. On this see William L. Jamison, "Edison Tried It, Too," *Educational Screen* (January 1943): esp. 17–18. Edison was also concerned about the reform attacks on cinema because of their potential negative effect on other arms of Edison's business. See Charles Musser, *Before the Nickelodeon: Edwin S. Porter and the Edison Manufacturing Company* (Berkeley: University of California Press, 1990), 428.

162. *Nickelodeon*, 15 September 1910, 152. For other suggestions that moving pictures would play a direct pedagogical role, and for the establishment of municipal nickelodeons, see, e.g., *Nickelodeon*, April 1909, 96; *Nickelodeon*, 1 February 1910, 111; *Nickelodeon*, 15 March 1910, 164. *Moving Picture News* also ran a long campaign championing the use of "cinematography as an educational agent." See, e.g., *Moving Picture News*, 9 November 1912, 7; *MPN*, 19 October 1912; 7; *MPN*, 26 October 1912, 7.

163. *MPW*, 12 March 1910, 375; *Motography*, October 1911, 156–57; Catalog, General Film Company, no date (probably 1912), Box 34, NBR.

164. Lucy France Pierce, *World Today* (October 1908): 1052 (my emphasis).

165. *MPW*, 29 June 1907, 262.

166. Constance D. Leupp, "The Motion Picture as a Social Worker," *Survey*, 27 August 1910, 740.

167. *Nickelodeon*, 1 November 1910, 246; *Motography*, October 1911, 156. *Nickelodeon* changed its name to *Motography* in April 1911. See also *Nickelodeon*, 18 February 1911, 185–87; *Nickelodeon*, 18 March 1911, 300; *Motography*, October 1911, 156–57.

168. *Motography*, September 1911, 105–6. Listing some of the responses received by the *Baltimore News*, the journal concluded: “Some day there will appear an exhibitor with nerve enough to revolutionize the whole present scheme of showing motion pictures. That is all it takes—nerves and a little capital and a knowledge of human nature. Then the travel pictures and the scenics will return to their own and the public will get what it really wants” (ibid.). Slightly earlier, *Moving Picture World* had likewise asked exhibitors to give their opinions on educational subjects and had printed responses calling for increased production. See *MPW*, 12 March 1910, 371.

169. *Nickelodeon*, 15 April 1910, 196.

170. Parker, *Purifying America*, 195–208.

171. Ian Hunter, *Culture and Governance: The Emergence of Literary Education* (London: Macmillan, 1988).

172. *Nickelodeon*, 21 January 1911, 69.

173. Ibid.

174. Frank Rahill, *The World of Melodrama* (University Park: Pennsylvania State University Press, 1967), 242; Butsch, *Making of American Audiences*, 71–76; McConachie, *Melodramatic Formations*, esp. 163–79.

175. McConachie, *Melodramatic Formations*, 178.

176. There were films with drunkenness and temperance as themes prior to 1908, such as *The Drunken Acrobat* (Biograph, 1896), *Carrie Nation Smashing a Saloon* (Biograph, 1901), *Drunkard and Statue* (Pathé, 1904), *The Moon Lover* (Pathé, 1906), but these were principally comic. The transformation of the theme of drunkenness from comedy to melodrama speaks to a larger transformation from a risqué and potentially immoral cinema to a cinema closely tied to moral discourse. The troublesome nature of comic themes of drunkenness was made explicit by the National Board of Censorship later, which wrote to producers in 1914: “During the past year the National Board believes that the motion picture art has advanced to a point where the use of drunkenness as a comedy basis is unnecessary for the development of a comedy picture” (Board to Producers, 29 April 1914, Box 23, NBR).

177. *Ten Nights in a Barroom* and *What Drink Did* were both based on the novel *Ten Nights in a Barroom*, written by Timothy Shay Arthur and first published in 1854. The novel was perhaps best known by the time of the production of the films through a dramatization, first produced in 1890. See Scott Simon, “*What Drink Did*,” in *The Griffith Project*, ed. Paolo Cherchi Usai (London: British Film Institute, 1999), 2:126. *L’Assommoir* was adapted for the stage in the United States by Charles Reade in 1879 and entitled *Drink*. It ran for more than five hundred performances and was periodically revived thereafter, including a version in 1903. See Rahill, *World of Melodrama*, 243; and Diane Smith and Robert Singer, “A Drunkard’s Representation: The Appropriation of Naturalism in D. W. Griffith’s Biograph Films,” *Griffithiana* 65 (1999): 103–9. Temperance novels that were turned into plays and then films exemplify Rick Altman’s suggestion that early film is linked less to the tradition of the nineteenth century novel and more to the melodramatic tradition of popu-

lar stage shows. See Rick Altman, "Dickens, Griffith, and Film Theory Today," in *Classical Hollywood Narrative: The Paradigm Wars*, ed. Jane Gaines (Durham, N.C.: Duke University Press, 1992).

178. MPW, 24 December 1910, 1476; Biograph bulletin for the film *Effecting a Cure*, in *Biograph Bulletins, 1908–1912*, ed. Eileen Bowser (New York: Farrar, Straus and Giroux, 1973), 252.

179. MPW, 29 May 1909, 703; Biograph bulletin for the film *A Drunkard's Reformation*, in *Biograph Bulletins, 1908–1912*, ed. Eileen Bowser (New York: Farrar, Straus and Giroux, 1973), 77; MPW, 31 July 1909, 165; Selig Flyer, *The Drunkard's Fate*, in *The Loud Silents: Origins of the Social Problem Film*, by Kay Sloan (Urbana: University of Illinois Press, 1988), 97; *Variety*, 9 October 1909, n.p.

180. See details in Parker, *Purifying America*, 212.

181. MPW, 11 January 1908, 28.

182. See Gunning, *D. W. Griffith*, 141–42.

183. Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (New Haven, Conn.: Yale University Press, 1976), 29.

184. Bowser, *Biograph Bulletins*, 95.

185. MPW, 5 June 1909, 753.

186. I have come across just one film in which the drunkard was a woman. *Converted*, distributed by Kleine Optical Company, was released in January 1909. The film was reviewed in MPW, 9 January 1909, 43; and MPW, 13 March 1909, 302.

187. See the reviews in MPW, 20 February 1909, 212; and MPW, 6 March 1909, 268.

188. MPW, 20 February 1909, 203.

189. Bowser, *Biograph Bulletins*, 133.

190. See Gillian Brown, "Child's Play," *Differences* 11, no. 3 (1999).

191. Bowser, *Biograph Bulletins*, 77.

192. Untitled, unpaginated, newspaper article, Box 116, NBR.

193. Scott Simmon, *The Films of D. W. Griffith* (Cambridge, U.K.: Cambridge University Press, 1993), 40; Brooks, *Melodramatic Imagination*, 29.

194. Gunning, *D. W. Griffith*, 162–71; Roberta Pearson, *Eloquent Gestures: The Transformation of Performance Style in the Griffith Biograph Films* (Berkeley: University of California Press, 1992), 140–43. See also the discussion of the film by Eileen Bowser and David Mayer in *The Griffith Project*, ed. Paolo Cherchi Usai (London: British Film Institute, 1999), 2:57–60.

195. Tom Gunning, "From the Opium Den to the Theatre of Morality: Moral Discourse and the Film Process in Early American Cinema," *Art and Text* 30 (September–November 1988): 37.

196. Bowser, *Biograph Bulletins*, 77; untitled, unpaginated, newspaper article, Box 116, NBR.

197. David J. Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868–1900* (London: Greenwood Press, 1973); John D'Emilio and Estelle B.

Freedman, *Intimate Matters: A History of Sexuality in America* (New York: Harper and Row, 1988), esp. 203–15.

198. This intertitle is not present in extant versions of the film in the United States but is present in the print at the National Film and Television Archive, London. Ben Brewster has proposed that the intertitles in the print in London appear to be original—containing “Americanisms” like “candy”—which suggests that Biograph either shipped prints to the British market with titles in, or titles made in Britain were shot from the original title cards. See Ben Brewster, “*The Drive for a Life*,” in *The Griffith Project*, ed. Paolo Cherchi Usai (London: British Film Institute, 1999), 2:93–95.

199. See, e.g., *The Widow* (Biograph, 1903), which shows a widow crying over her deceased husband until she receives “a caller, a young man,” producing a “change of emotions” the bulletin describes as “exceedingly effective” (Kemp R. Niver, *Biograph Bulletins* [Los Angeles: Locare Research Group, 1971], 104). In *You Will Send Me to Bed, Eh?* (Biograph, 1905) a young boy is taken to bed because his mother, a widow, is expecting a call from a suitor. The boy sneaks in and pulls off his mother’s wig as the suitor is proposing. *The Boy under the Table* (Biograph, 1905) tells a similar tale and *Mother’s Angel Child* (Biograph, 1905) is again similar, although here the child is a daughter, and the film ends with the suitor leaving the house in disgust. A series of chase films starting from around 1904, including *Personal* (Biograph, 1904) and *How a French Nobleman Got a Wife through the “NYH” Personal Columns* (Edison, 1904), also frequently represented a threatening mob of women, sometimes chasing a man with a view to forcing him into marriage. Taken together, these cycles register concerns about female sexuality “out of bounds.” For further discussion see Balides, “Scenarios of Exposure”; and Staiger, *Bad Women*.

200. There is some ambiguity here between the bulletin accompanying the film and the film itself. The bulletin states that Lebrun “had mistaken his platonic attentions for love” (Bowser, *Biograph Bulletins*, 83). Yet this is clearly contradicted by the film in a number of ways. The intertitle opening the film describes Walker’s relationship with Lebrun as part of an “unworthy past.” Later Walker returns some letters (by convention love letters) to Lebrun. This reading makes Lebrun’s subsequent actions understandable. A review by Frank Woods at the time read the film in this way, describing Lebrun as “the young woman with whom he [Walker] has been living,” and so, more recently, does Ben Brewster. See Frank Woods, *NYDM*, 1 May 1909, 42; Ben Brewster, “A Scene at the Movies,” in *Early Cinema: Space, Frame, Narrative*, ed. Thomas Elsaesser (London: British Film Institute, 1990), 322; and Brewster, “*Drive for a Life*,” 94. In this way the bulletin accompanying the film acts as a sort of alibi for the exchange men or exhibitors, enabling them to deny that the film was in any way immoral. This is an early formulation of what Ruth Vasey, writing about a later period of film regulation, calls “the principle of deniability,” whereby films are produced with purposeful ambiguity to deflect regulatory concern. See Ruth Vasey, *The World According to Hollywood, 1918–1939* (Madison: University of Wisconsin Press, 1997), 107.

201. See Daniel Bernardi, "The Voice of Whiteness: D. W. Griffith's Biograph Films (1908–1913)," in *The Birth of Whiteness: Race and the Emergence of U.S. Cinema*, ed. Daniel Bernardi (New Brunswick, N.J.: Rutgers University Press, 1996); Richard Dyer, "The Color of Virtue: Lillian Gish, Whiteness, and Femininity," in *Women and Film: A Sight and Sound Reader*, ed. Pam Cook and Philip Dodd (Philadelphia, Pa.: Temple University Press, 1993); Susan Courtney, "Hollywood's Fantasy of Miscegenation" (Ph.D. diss., University of California at Berkeley, 1997).

202. Staiger, *Bad Women*.

203. See, e.g., *The Zulu's Heart* (Biograph, 1908), *A Temporary Truce* (Biograph, 1908), *The Fatal Hour* (Biograph, 1908), *The Girls and Daddy* (Biograph, 1909), *Leather Stockings* (Biograph, 1909), *The Lonely Villa* (Biograph, 1909), *Heart of an Outlaw* (Biograph, 1909), *A Mohawk's Way* (Biograph, 1910), *The Thread of Destiny* (Biograph, 1910).

204. See Bordwell, Staiger, and Thompson, *Classical Hollywood Cinema*, 177–81.

205. Pivar, *Social Purity*; D'Emilio and Freedman, *Intimate Matters*, 203–15; Valverde, *Light, Soap, and Water*, 59–60.

206. See Brandt, *No Magic Bullet*.

207. Prince Morrow, *Social Diseases and Marriage* (New York: Macmillan, 1904), 340. Morrow founded the Society for Sanitary and Moral Prophylaxis in 1905.

208. Morrow, *Social Diseases and Marriage*, 14; Morrow, "Blindness of the Newborn," *Transactions of the American Society for Sanitary and Moral Prophylaxis* (1908; cited in Brandt, *No Magic Bullet*, 14).

209. Brandt, *No Magic Bullet*, 9.

210. Morrow, *Social Diseases and Marriage*, 78.

211. Morrow, "A Plea for the Organization of a Society of Sexuality and Moral Prophylaxis," *Transactions of the American Society of Sanitary and Moral Prophylaxis* (1906; cited in D'Emilio and Freedman, *Intimate Matters*, 206).

212. Michel Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (1976; repr., London: Penguin, 1990), esp. 135–59.

213. See Mark H. Haller, *Eugenics: Hereditarian Attitudes in American Thought* (New Brunswick, N.J.: Rutgers University Press, 1963). Recent scholarship has traced the connections between early feminist discourses and eugenist rhetoric. Angelique Richardson, for example, has shown how a number of women novelists utilized eugenic ideas about racial purity in arguing for the vital role of women in regenerating the white race of Western civilization. See Angelique Richardson, "Biology and Feminism," *Critical Quarterly* 42 (2000); Angelique Richardson, *Science, Fiction, and Feminism: Love and Eugenics among the Late Victorians* (Oxford: Oxford University Press, 2003).

214. A significant difference between this film and the temperance dramas is in the representation of the figure of Lebrun, though, for in the temperance dramas women were suffering victims, but in *The Drive for a Life* it is Lebrun

herself who threatens domestic harmony. Clearly, the idealization of domesticity and accompanying sense of sexual morality could and frequently did function to demonize women who, for whatever reason, lived outside that configuration. Evelyn Nesbit is also a prominent example of that.

215. See Hunter, *Culture and Governance*, 152; Terry Eagleton, "The Subject of Literature," *Cultural Critique* 2 (1985/1986): 96.

216. Vasey, *World According to Hollywood*, 107.

217. Bordwell, Staiger, Thompson, *Classical Hollywood Cinema*, 157–73; Gunning, "The Cinema of Attractions"; Gunning, *D. W. Griffith*.

218. Gunning, *D. W. Griffith*, 89; Gunning, "From the Opium Den," 31.

219. Nick Browne, "Griffith's Family Discourse: Griffith and Freud," in *Home Is Where the Heart Is: Studies in Melodrama and the Woman's Film*, ed. Christine Gledhill (London: British Film Institute, 1987), 224.

220. Brooks, *Melodramatic Imagination*; Linda Williams, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O. J. Simpson* (Princeton, N.J.: Princeton University Press, 2001), esp. 23–26. Williams suggests that the shift from what Gunning terms a "cinema of attractions" to the "narrator system" is a consequence "of the modernization of theatrical melodramatic effects into cinema" (319n32).

221. See, in particular, Christine Gledhill, ed., *Home Is Where the Heart Is: Studies in Melodrama and the Woman's Film* (London: British Film Institute, 1987); Mary Ann Doane, *The Desire to Desire: The Woman's Film of the 1940s* (Bloomington: Indiana University Press, 1988); and E. Ann Kaplan, *Motherhood and Representation: The Mother in Popular Culture and Melodrama* (London: Routledge, 1992).

222. Margaret Marsh, *Suburban Lives* (New Brunswick, N.J.: Rutgers University Press, 1990), xiii.

223. See Kathleen Anne McHugh, *American Domesticity: From How-to Manual to Hollywood Melodrama* (New York: Oxford University Press, 1999).

224. See Stamp, *Movie-Struck Girls*.

225. Lauren Rabinovitz, "Temptations of Pleasure: Nickelodeons, Amusement Parks and the Sights of Female Sexuality," *Camera Obscura* 23 (1991): 85; Rabinovitz, *For the Love of Pleasure*.

226. Douglas, *Feminization of American Culture*; Andreas Huyssen, *After the Great Divide: Modernism, Mass Culture, Postmodernism* (Bloomington: Indiana University Press, 1986), esp. 44–64; Friedman, *Prurient Interests*, 155–82.

#### CHAPTER 4. FILM FIGHTS, 1910–1912

1. *Nickelodeon*, 7 January 1911, 12.

2. *Ibid.*

3. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983), 26. In a short but influential essay entitled "Of Other Spaces" Michel Foucault defines *heterotopia* as "a kind of effectively enacted utopia in which the real sites, all the other real sites

that can be found within the culture, are simultaneously represented, contested, and inverted." Examples include prisons, cemeteries, fairgrounds, cinemas, and boats, the latter described as "a floating piece of space, a place without a place" (Michel Foucault, "Of Other Spaces," *Diacritics* 16, no. 1 [spring 1986]: 23, 27). On the extension of polity control over public spaces in the United States during the nineteenth century see William Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), 115–48.

4. Johnson fought Burns in Australia on 26 December 1908, two days after Mayor McClellan had ordered the closing of all nickelodeons in New York City. Some testimony at the McClellan meeting had, in fact, focused on the immorality of "pictures showing prize fights" (*NYT*, 24 December 1908, 4). The American premiere of the film of the fight took place on 21 March 1909 in Chicago, just two days after the announcement that the Patents Company would cooperate with the New York Board of Censorship and five days before the board met for the first time. See *CT*, 22 March 1909, 14. It premiered in New York City three weeks later. See *NYT*, 13 April 1909, 11.

5. Women's Christian Temperance Union, cited in Alison M. Parker, "Moth-ering the Movies: Women Reformers and Popular Culture," in *Movie Censorship and American Culture*, ed. Francis Couvares (Washington, D.C.: Smithsonian Institution Press, 1996), 81 (my emphasis).

6. *Moving Picture News*, 30 September 1911, 6. Earlier the *Moving Picture World* had stated that the regulatory concern about the fight films had left "the Moving Picture with another black eye to heal" (*MPW*, 1 October 1910, 742).

7. *MPW*, 23 July 1910, 190.

8. In the minutes of the meeting of the National Board of Censorship on 15 April 1909, the following is recorded: "The chairman further reported that the Burns-Johnson prize fight had been passed without condemnation but without recommendation" (Box 120, National Board of Review of Motion Pictures Collections, Rare Books and Manuscripts Division, New York Public Library [hereafter NBR]).

9. John Collier, cited in Charles V. Trevis, "Censoring the Five-Cent Drama," *World Today*, October 1910; repr. in *The Movies in Our Midst: Documents in the Cultural History of Film in America*, ed. Gerald Mast (Chicago, Ill.: University of Chicago Press, 1982), 70.

10. Article 1, Section 8 of the Constitution delegates to Congress the authority to regulate interstate commerce.

11. Historians have suggested that the years of the late nineteenth and early twentieth centuries marked a steady retreat from Reconstruction's promise of racial equality. In particular, the Supreme Court's 1896 decision in *Plessy v. Ferguson* upheld the principle of segregation and ushered in a new era of Jim Crow policies and a coercive social control of black populations. See, e.g., C. Vann Woodward, *The Strange Career of Jim Crow*, 3d rev. ed. (Oxford: Oxford University Press, 1974); John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925*, 2d ed. (New Brunswick, N.J.: Rutgers University Press, 1988);

Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880–1917* (Chicago, Ill.: University of Chicago Press, 1995). The boxing ring was also frequently segregated, with many white fighters refusing to fight black boxers, often because black boxers were seen as inferior fighters. See Nat Fleischer, *Black Dynamite: The Story of the Negro in the Prize Ring from 1782 to 1938* (New York: C. J. O'Brien, 1939). Jeffries had never fought a black boxer before.

12. See, e.g., *Current Literature* (July 1910): 57–58. On the broader configuration of scientific racism see, e.g., Daniel J. Kevles, *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (Berkeley: University of California Press, 1985).

13. Representative Seaborn Rodenberry, quoted in Finis Farr, *Black Champion: The Life and Times of Jack Johnson* (London: Macmillan, 1964), 164. On the controversy over Johnson see Farr, *Black Champion*; William H. Wiggins, "Jack Johnson as Bad Nigger: The Folklore of His Life," *Black Scholar* (January 1971); Al-tony Gilmore, *Bad Nigger! The Life and Times of Jack Johnson* (Port Washington, N.Y.: Kennikat Press, 1975); Randy Roberts, *Papa Jack: Jack Johnson and the Era of White Hopes* (London: Robson Books, 1986); Lerone Bennett Jr., "Jack Johnson and the Great White Hope," *Ebony*, April 1994; Bederman, *Manliness and Civilization*, 1–10.

14. *Police Gazette*, cited in Gilmore, *Bad Nigger*, 98.

15. Jim Jeffries, cited in Farr, *Black Champion*, 107.

16. Jack London, cited in Roberts, *Papa Jack*, 68.

17. Jeffries, cited in *Literary Digest*, 16 July 1910, 85.

18. Al Jolson, *Variety*, 9 July 1910, 4. Michael Rogin has suggested that Jolson's later racial masquerade in *The Jazz Singer* (Fox, 1927) worked toward effecting an assimilation of Jews to a white American national identity at the expense of silencing black Americans. Michael Rogin, "Blackface, White Noise: The Jewish Jazz Singer Finds His Voice," *Critical Inquiry* 18, no. 3 (spring 1992).

19. On the broader cultural figuration of white masculinity, and attendant anxieties, see John F. Kasson, *Houdini, Tarzan, and the Perfect Man: The White Male Body and the Challenge of Modernity in America* (New York: Hill and Wang, 2001).

20. *NYT*, 6 July 1910, 1; *NYT*, 7 July 1910, 1; *NYTrib.*, 5 July 1910, 1. For an account of the reception of the film see Dan Streible, "Race and the Reception of Jack Johnson Fight Films," in *The Birth of Whiteness: Race and the Emergence of U.S. Cinema*, ed. Daniel Bernardi (New Brunswick, N.J.: Rutgers University Press, 1996), esp. 180–92.

21. John Bodnar has shown that since the end of the Civil War "public memory" (i.e., commemorative and patriotic activity) had become increasingly nationalized. Bodnar argues also that this became ever more linked to strategies of representation, with cultural production becoming central to the promotion of loyalty to the nation. Fourth of July celebrations, and other festivals, were thus conceived as demonstrating the unity of the nation rather than the development of competing local interests. John Bodnar, *Remaking America: Public*

*Memory, Commemoration, and Patriotism in the Twentieth Century* (Princeton, N.J.: Princeton University Press, 1992). For an analysis of how African Americans challenged this discourse of nationalism around the date of the Fourth of July see Genevieve Fabre, "African-American Commemorative Celebrations in the Nineteenth-Century," in *History and Memory in African-American Culture*, ed. Genevieve Fabre and Robert O'Meally (Oxford: Oxford University Press, 1994).

22. Rev. M. P. Boynton, cited in Roberts, *Papa Jack*, 96.

23. *MPW*, 18 June 1910, 1039. J. Stuart Blackton of Vitagraph took charge of the filming of the fight, which marked something of a contrast with Vitagraph's well-publicized output of "quality films." Essanay and Selig cameras were also among the twelve that filmed the fight. See details in *NYT*, 3 December 1909, 9; *MPW*, 9 July 1910, 80–81; *Variety*, 23 July 1910, 6.

24. *Variety*, 23 July 1910, 6. On states' rights distribution more generally see Eileen Bowser, *The Transformation of Cinema, 1907–1915* (Berkeley: University of California Press, 1990), 193–94; and Michael Quinn, "Distribution, the Transient Audience, and the Transition to the Feature Film," *Cinema Journal* 40, no. 2 (winter 2001): esp. 47–51. Starting from around 1912/1913 onward, states' rights distribution was gradually curtailed because it worked against the efforts of industry entrepreneurs to create an efficient, oligopolistic, and controlled industry. Set up in its place were a number of national feature film distribution alliances, including Warner's, Paramount, World, and Fox's Box Office. See Janet Staiger, "Combination and Litigation: Structures of US Film Distribution, 1896–1917," in *Early Cinema: Space, Frame, Narrative*, ed. Thomas Elsaesser, with Adam Barker (London: British Film Institute, 1990), esp. 198–99. I discuss the emergence of the multireel feature film in the following chapter. "Exploitation" films continued to be distributed on a states' rights basis in the teens and beyond. See Eric Schaefer, "Resisting Refinement: The Exploitation Film and Self-Censorship," *Film History* 6, no. 3 (1994): 295.

25. Entrepreneurs agreed "not to exhibit the films promiscuously in family theatres" and suggested they would deal only with "stag houses." J. Stuart Blackton said he did "not want them displayed before [gender] mixed audiences in the vaudeville houses. The shows will be stag." See *MPW*, 16 July 1910, 191; *Nickelodeon*, 1 August 1910, 80; *NYTrib.*, 11 July 1910, 3. Here the mainstream film industry aligned itself momentarily with a sporting male culture. The failure of this, alongside the controversy generated by the films, would further suggest the necessity for an alignment with a "feminized" respectable culture.

26. United Society for Christian Endeavor (USCE), quoted in Gilmore, *Bad Nigger*, 76. USCE was an interdenominational Protestant youth organization. There were, it seems, some historical precedents for a bill that banned images that might incite racial panic. In 1906 the Kentucky State Legislature passed a law making it illegal to present "any play that is based upon antagonism between master and slave, or that excites racial prejudice." The law was aimed at preventing productions of *Uncle Tom's Cabin*, particularly, it seems, versions of the play that were overtly critical of the institution of slavery (the law was

most likely aimed at the abolitionist Aiken-Howard version of the play). For details see Linda Williams, "Versions of Uncle Tom: Race and Gender in American Melodrama," in *New Scholarship from BFI Research*, ed. Colin MacCabe and Duncan Petrie (London: British Film Institute, 1996), 123; and Gregory A. Waller, *Main Street Amusements: Movies and Commercial Entertainment in a Southern City, 1896–1930* (Washington, D.C.: Smithsonian Institution Press, 1995), 45. It is worth noting, in passing, that the boxer John L. Sullivan played the part of Simon Legree in *Uncle Tom's Cabin* in one touring company. In this version Sullivan, who had always refused to fight black boxers, brutally knocked out a number of slaves and beat Uncle Tom at length. See Williams, "Versions of Uncle Tom," 123. *Puck* carried a cartoon on its cover before Johnson's fight with Jeffries entitled "*Uncle Tom's Cabin*—as it will have to be played if Johnson wins" and showing Johnson as Uncle Tom standing over a knocked out Legree. See *Puck*, 22 June 1910.

27. *NYTrib.*, 7 July 1910, 1; *NYTrib.*, 11 July 1910, 4.

28. Todd Boyd, "Put Some Brothers on the Wall! Rap, Rock, and the Visual Empowerment of African American Culture," in *Shared Differences: Multi-cultural Media and Practical Pedagogy*, ed. Diane Carson and Lester Friedman (Urbana.: University of Illinois Press, 1995), cited in Jane M. Gaines, *Fire and Desire: Mixed-Race Movies in the Silent Era* (Chicago, Ill.: University of Chicago Press, 2001), 257.

29. Mrs. James Crawford, cited in Gilmore, *Bad Nigger*, 81. Women's clubs like the Women's Christian Temperance Union were particularly vociferous in their attacks on the films, which for them represented a brutal contravention of gendered and classed standards of respectability.

30. Miriam Hansen has identified the cartoon as being drawn by H. F. Hoffman, an exhibitor with "strong views on the need to recuperate 'the most desirable class'" of audiences. See Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991), 311. This would suggest that the "reason" the cartoon speaks of is the need to keep theaters segregated to maintain respectability. Segregation was widely practiced in movie theaters, which often reserved balconies accessible by separate entrances for black audiences. See Mary Carbine, "'The Finest Outside the Loop': Motion Picture Exhibition in Chicago's Black Metropolis, 1905–1928," *Camera Obscura* 23 (May 1990); and Gregory A. Waller, "Another Audience: Black Moviegoing, 1907–1916," *Cinema Journal* 31, no. 2 (1992). The cartoon is certainly ambiguous, though, and might be read as an acknowledgment by *Moving Picture World* of the racist nature of the efforts to ban the film.

31. Cardinal Gibbons, quoted in Allen Sinclair Will, *Life of Cardinal Gibbons* (New York: E. P. Dutton, 1922), 802, cited in Dan Streible, "A History of the Boxing Film, 1894–1915: Social Control and Social Reform in the Progressive Era," *Film History* 3, no. 3 (1989): 245.

32. See the details in Gilmore, *Bad Nigger*, 75–90.

33. *Nickelodeon*, 1 August 1910, 48. Prizefighting was banned in Illinois, as

it was in most states. The police had initially passed the film, but pressure groups intensified their campaign, and the police board reversed itself on 25 July, issuing the ban on all prizefight films. Essanay's George Spoor and exhibitor Aaron Jones (one of the "photoplay" judges) challenged this in court, but the city rationalized its ban as consistent with the 1907 ordinance and won the case. No doubt this decision was buttressed also by the Illinois Supreme Court decision of 1909 upholding the 1907 ordinance (see details on this in chapter 2). See *Nickelodeon*, 1 August 1910, 48. See also Streible's account of the situation in Chicago in "A History of the Prizefight Film, 1894–1915" (Ph.D. diss., University of Texas, 1994), 362–63. A version of this study is forthcoming as *Fight Pictures: A History of Boxing and Early Cinema* (Washington, D.C.: Smithsonian Institution Press). My thanks to Dan for sharing his research with me.

34. Mayor of Atlanta quoted in John Dittmer, *Black Georgia in the Progressive Era, 1900–1920* (Urbana: University of Illinois Press, 1977), 72.

35. Etienne Balibar, "Racism and Nationalism," in *Race, Nation, Class: Ambiguous Identities*, ed. Etienne Balibar and Immanuel Wallerstein (London: Verso, 1986), 49.

36. See Streible, "Race and the Reception," 186–90. In New York City, for example, *Johnson-Jeffries Fight* was shown in Harlem at the Crescent Theatre, the Alhambra Theatre, and, later, outdoors at Olympic Field. Earlier, Johnson had obtained a copy of his 1909 fight against Stanley Ketchel and had passed it on to his friend Robert T. Motts, who ran the black-owned and operated Pekin Theatre in Chicago (see *ibid.*, 179). On the emerging black theater circuit see Carbine, "Finest Outside the Loop"; Waller, "Another Audience"; and Alison Griffiths and James Latham, "Film and Ethnic Identity in Harlem, 1896–1915," in *American Movie Audiences: From the Turn of the Century to the Early Sound Era*, ed. Melvyn Stokes and Richard Maltby (London: British Film Institute, 1999).

37. *Chicago Defender*, 4 September 1915, 1, cited in Streible, "Race and the Reception," 193.

38. See Roberts, *Papa Jack*, 118–19, 125–26.

39. Streible, "History of the Prizefight Film," 393–94.

40. *Congressional Record* (29 May–31 July 1912), 7408, 7501, 7887, 7890, 8234–35, 8550–51, 9304–9, 9447, 9554, 9585, 9988.

41. Seaborn Rodenberry, *Congressional Record* (19 July 1912), 9305.

42. *Ibid.*

43. Thetus Sims, *Congressional Record* (19 July 1912), 8551.

44. See Terence J. Munby, *Censorship, Government, and Obscenity* (Baltimore, Md.: Helicon Press, 1963), 75–76.

45. On the so-called Comstock Postal Act see chap. 1, note 55.

46. See Nicola Beisel, *Imperiled Innocents: Anthony Comstock and Family Reproduction in Victorian America* (Princeton, N.J.: Princeton University Press, 1997). Comstock had also investigated the actions of Stanford White, prompted in part by Harry Thaw (see chap. 2).

47. See accounts of this broader configuration in Wolfgang Schivelbusch, *The*

*Railway Journey: Trains and Travel in the Nineteenth Century* (New York: Urizen Books, 1979), esp. 180–88; and Stephen Kern, *The Culture of Space and Time, 1880–1918* (Cambridge, Mass.: Harvard University Press, 1983). See also Tom Gunning, "Tracing the Individual Body: Photography, Detectives, and Early Cinema," in *Cinema and the Invention of Modern Life*, ed. Leo Charney and Vanessa R. Schwartz (Berkeley: University of California Press, 1995). In his fascinating account of photography, criminology, and early cinema Gunning suggests that what was at stake in some of the debates about new communications technologies was a response to the circulation of signs and bodies increasingly visible in modern spaces and that this response led ultimately to new regimes of bodily discipline and regulation.

48. *Congressional Record* (31 July 1912), 9988.

49. Gilmore, *Bad Nigger*, 90.

50. See Nancy Bentley, "White Slaves: The Mulatto Hero in Antebellum Fiction," in *Subjects and Citizens*, ed. Michael Moon and Cathy N. Davidson (Durham, N.C.: Duke University Press, 1995), 196. Johnson's fights were usually stopped before the white boxer was knocked out. In Australia in late 1908 the police stopped the cameras filming the contest before stopping the fight. Likewise, the 1910 fight against Jeffries was stopped after Jeffries had been knocked down. An image from a previous fight showing Johnson standing over the unconscious white boxer Stanley Ketchel was seen by many as a threatening sign of black power.

51. Linda Williams has argued that *Uncle Tom's Cabin* initiated a representation of black male victim-heroes that was answered by a reassertion of the representation of black male victimizers, most notably in *The Birth of a Nation*. See Linda Williams, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O. J. Simpson* (Princeton, N.J.: Princeton University Press, 2001), 45–135. Johnson was certainly represented as a figure like Gus from *The Birth of a Nation*, but he himself played to the role, embodying what Jonathan Dollimore has more generally termed a "transgressive reinscription." See Jonathan Dollimore, *Sexual Dissidence: Augustine to Wilde, Freud to Foucault* (Oxford: Clarendon Press, 1991), 33–34. For an insightful analysis of the 1903 filming of *Uncle Tom's Cabin* and the broader inscription of the discourses and practices of imperialism see Kristen Whissel, "Uncle Tom, Goldilocks, and the Rough Riders: Early Cinema's Encounter with Empire," *Screen* 40, no. 4 (winter 1999).

52. Eric Lott, "White like Me: Racial Cross-Dressing and the Construction of American Whiteness," in *Cultures of United States Imperialism*, ed. Amy Kaplan and Donald E. Pease (Durham, N.C.: Duke University Press, 1993), 491.

53. James Snead, *White Screens, Black Images: Hollywood from the Dark Side* (London: Routledge, 1994), 6.

54. On Micheaux see the material collected in Box 66a, Illinois Regional Archives Depository, Ronald Williams Library, Northeastern Illinois University. See also Charlene Regester, "Lynched, Assaulted, and Intimidated: Oscar Micheaux's Most Controversial Films," *Popular Culture Review* 5, no. 1 (Feb-

ruary 1994); Charlene Regester, "Oscar Micheaux on the Cutting Edge: Films Rejected by the New York State Motion Picture Commission," *Studies in Popular Culture* (spring 1995); and Charlene Regester, "Black Films, White Censors: Oscar Micheaux Confronts Censorship in New York, Virginia, and Chicago," in *Movie Censorship and American Culture*, ed. Francis Couvares (Washington, D.C.: Smithsonian Institution Press, 1996). On censorship and racism more generally see Cindy Patton, "White Racism/Black Signs: Censorship and Images of Race Relations," *Journal of Communication* 45, no. 2 (1995).

55. Streible, "Race and the Reception," 181.

56. House Committee on Interstate and Foreign Commerce, cited in *MPW*, 29 June 1912, 1206.

57. "Amusement" was distinct from "commerce," as a case brought later against the National League of Baseball proved. The league was charged with conspiring to monopolize baseball and thus violating the terms of the Sherman Anti-Trust Act, which forbade companies from combining forces to restrain trade (see below for further details on this act). However, the Supreme Court ruled that the league did not come within the scope of the act because its primary purpose was the provision of a local exhibition. The interstate transportation of players and supplies was incidental to the principal purpose of providing local entertainment and "amusement." "Amusements" were not then articles of "commerce." See details in John H. Ferguson and Dean E. McHenry, *The American Federal Government* (London: McGraw-Hill, 1947), 361. Similar arguments would be made for cinema but were never upheld, clearly because of the broader concerns about the effects of films on audiences.

58. *Nickelodeon*, 1 August 1910, 48.

59. *MPW*, 29 June 1912, 1206. Earlier the journal had suggested that because the "moving picture is an agency for spreading and increasing human knowledge," it should be enfranchised like the press. See *MPW*, 12 August 1911, 355. Rhetoric about the educational potential of cinema was evidently critical to this line of defense.

60. *MPW*, 10 August 1912, 520.

61. William J. Gaynor to the Board of Aldermen, New York City, 27 December 1912, cited in *MPW*, 11 January 1913, 135; and *MPW*, 12 July 1913, 182–83. The National Board of Censorship published the speech in pamphlet form. See Box 143, NBR. Gaynor had earlier refused to ban pictures of the Johnson-Jeffries fight in New York City.

62. *MPW*, 10 August 1912, 520.

63. Frederick Howe, cited in W. P. Lawson, "The Movies: Their Importance and Supervision," a series of articles appearing originally in *Harper's Weekly* and reprinted by the National Board of Censorship, February 1915, 19.

64. Lawson, "The Movies," 19.

65. *MPW*, 18 September 1915, 1969. It is worth noting that these attempts to stop what Burleson termed the "traffic in films of obviously indecent character" via an extension of section 211 of the United States Penal Code, which banned from the mail publications containing "obscene, lewd, lascivious, filthy

or indecent matter,” culminated in the 1920 revision of this section to include moving pictures with other immoral matter passing through the mail or in interstate commerce. In this case the revision was not opposed by the film industry but had, in fact, been proposed by the National Association of the Motion Picture Industry (NAMPI), a self-regulatory mechanism of the film industry, to forestall the possibility of a more stringent federal censorship. Legislation that in 1912 had seemed to be extremely pernicious was more easily accepted by the film industry later, when the definition of cinema as “commerce” and as simply “entertainment” was more firmly in place. I discuss this further in my conclusion. It is no surprise, then, that the successor to NAMPI in 1922, the Motion Picture Producers and Distributors of America (MPPDA), turned to a former *postmaster general*, Will Hays, to clean up the public image of cinema and assuage mounting governmental concern.

66. For example, Ellis Paxson Oberholtzer, long-term member of the Pennsylvania State Board of Censors, suggested that the “precedent” for federal censorship of cinema “may be found in the law of Congress of July 31, 1912, prohibiting interstate commerce in pictures dealing with prize-fights” (Ellis Paxson Oberholtzer, *The Morals of the Movie* [Philadelphia: Penn Publishing, 1922], 188).

67. George Kibbe Turner, “The City of Chicago: A Study of the Great Immoralities,” *McClure’s*, April 1907; George Kibbe Turner, “The Daughters of the Poor,” *McClure’s*, November 1909. See, e.g., Ernest Bell, *Fighting the Traffic in Young Girls; or, War on the White Slave Trade* (Chicago, Ill.: L. S. Ball, 1910); Reginald Wright Kauffman, *The House of Bondage* (New York: Grosset and Dunlap, 1910); Vice Commission of Chicago, *The Social Evil in Chicago; a Study of Existing Conditions* (Chicago, Ill.: Gunthorp-Warren, 1911); Edward O. Janney, *The White Slave Traffic in America* (New York: National Vigilance Committee, 1912). For subsequent accounts of the white slavery scare see Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980); Francesco Cordasco and Thomas Monroe Pitkin, *The White Slave Trade and the Immigrants: A Chapter in American Social History* (Detroit, Mich.: Blaine-Ethridge Books, 1981); Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore, Md.: Johns Hopkins University Press, 1982); Frederick K. Grittner, *White Slavery: Myth, Ideology, and American Law* (New York: Garland, 1990); Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago, Ill.: University of Chicago Press, 1992).

68. Evelyn Nesbit would go on to star in at least one feature film clearly referencing the white slavery scare, *My Little Sister* (Fox, 1919). She played one of two country girls trapped in a brothel patronized by the wealthy.

69. See, e.g., Clifford G. Roe, *Panders and Their White Slaves* (New York: Fleming H. Revel, 1910); Bell, *Fighting the Traffic*; George J. Kneeland, *Commercialized Prostitution in New York City* (New York: Century, 1913). Linked to concerns about women, public space, sexuality, ethnicity, and race, the white slavery scare was, Alain Corbin observes, at “the crossroads of all the obses-

sions of the period" (Alain Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850*, trans. Alan Sheridan [Cambridge Mass.: Harvard University Press, 1990], 275).

70. Jean Turner Zimmerman, *America's Black Traffic in White Girls*, 1912, cited in Connolly, *Response to Prostitution*, 118.

71. Higham, *Strangers in the Land*, 158–93; George Mosse, *Nationalism and Sexuality: Middle-Class Morality and Sexual Norms in Modern Europe* (Madison: University of Wisconsin Press, 1985); Andrew Parker, Mary Russo, Doris Sommer and Patricia Yaeger, eds., *Nationalisms and Sexualities* (London: Routledge, 1992); David Theo Goldberg, *Racist Culture* (London: Blackwell, 1993). Goldberg suggests that concepts of race have delimited structures of moral evaluation, informing conceptions of the "moral subject."

72. A copy of this treaty was reproduced in Edward Seligman, ed., *The Social Evil, with Special Reference to Conditions Existing in New York City* (New York: G. P. Putnam's Sons, 1912), 202–3; and more recently in Cordasco and Pitkin, *White Slave Trade*, 85–86.

73. Don Whitehead, *The FBI Story: A Report to the People* (New York: Random House, 1956), 20–21; Fred J. Cook, *The FBI Nobody Knows* (New York: Macmillan, 1964), 49–70.

74. David J. Langum, *Crossing over the Line: Legislating Morality and the Mann Act* (Chicago, Ill.: University of Chicago Press, 1994), 49. Historian Mark Haller suggests more generally that "perhaps the most important impact of the campaign against vice was the impetus it gave to the gradual professionalization of the American urban police" (Mark Haller, "Theories of Criminal Violence and Their Impact on the Criminal Justice System," in *Crimes of Violence: A Staff Report Submitted to the National Commission on the Causes and Prevention of Violence*, ed. Donald J. Mulvihill and Melvin M. Tumin, with Lynn A. Curtis (Washington, D.C.: United States Government Printing Office, 1969), 13:14.

75. Higham, *Stranger in the Land*, esp. 150–75.

76. Quoted in Cordasco and Pitkin, *White Slave Trade*, 80. Cordasco and Pitkin include a copy of the complete report.

77. Edward Ross, quoted in Dorothy Ross, *The Origins of American Social Science* (Cambridge, U.K.: Cambridge University press, 1991), 233.

78. Theodore Roosevelt, *An Autobiography* (New York: Macmillan, 1913), 216.

79. See the account in Grittner, *White Slavery*, 83–105; White Slave Traffic (Mann) Act, 395, *The Statutes at Large of the United States* (March 1909–March 1911), 825–27.

80. James Mann was working closely with Edwin W. Sims, a crusading United States attorney from Chicago who had widely proclaimed the existence of a white slave traffic "operated by a syndicate which has its ramifications from the Atlantic seaboard to the Pacific ocean" (Edwin W. Sims, "The White Slave Trade of Today," in Ernest A. Bell, *Fighting the Traffic in Young Girls*, 56). See

Langum, *Crossing over the Line*, 39–40, for an account of the effect of Sims’s rhetoric on Mann.

81. Grittner, *White Slavery*, 95.
82. Langum, *Crossing over the Line*, 46.
83. *Congressional Record* (12 January 1910), 545, 546, 550.
84. *Congressional Record* (12 January 1910), 548. Representative Cox of Indiana also asserted that white slavery was “a species of slavery a thousand times worse and more degrading in its consequences and effects upon humanity than any species of human slavery that ever existed in this country” (*ibid.*, 547).
85. *Ibid.*, 548.
86. J. Edgar Hoover, quoted in Cook, *The FBI Nobody Knows*, 58. On the growth of the bureau as a consequence of the Mann Act see also Sanford J. Ungar, *FBI* (Boston: Little, Brown, 1975), 41.
87. See details in Langum, *Crossing over the Line*, 62–63.
88. *NYTrib.*, quoted in *Literary Digest*, 8 March 1913, 510, cited in Langum, *Crossing over the Line*, 62; *Survey* (March 1913), 799.
89. Sure enough, Representative Thetus Sims supported the Mann Act in the House debate. He agreed that there was a “regular system, a chain of criminal traffickers,” and said that whenever he thought “of a beautiful girl taken from one state to another . . . and drugged, debauched, and ruined . . . [sold] to any brute who will pay the price, I cannot bring myself to vote against this bill” (Sims, quoted in Langum, *Crossing over the Line*, 44). Likewise, Mann supported the Sims Act. See *Congressional Record* (19 July 1912), 9305.
90. See the account of the House debates in Grittner, *White Slavery*, 92–96.
91. See Woodward, *Strange Career of Jim Crow*.
92. Robyn Wiegman, “Feminism, ‘The Boyz,’ and Other Matters Regarding the Male,” in *Screening the Male: Exploring Masculinities in Hollywood Cinema*, ed. Steven Cohan and Ina Rae Hark (London: Routledge, 1993), 174.
93. *Beaumont Journal*, quoted in Roberts, *Papa Jack*, 146; *Fort Worth Citizen Star*, quoted in Gilmore, *Bad Nigger*, 96.
94. Roberts, *Papa Jack*, 138–54.
95. A memorandum from the Bureau of Investigation, dated 21 October 1912 and titled “In re. Jack Johnson—Probable Violation White Slave Traffic Act,” is available on microfilm in the Schomburg Center for Research in Black Culture, New York City. The memo calls for a quick investigation of the initial case and references other women whom Johnson might have “procured.” My thanks to the center for access to this document.
96. See Langum, *Crossing over the Line*, 48–76, for an account of the debates about the parameters of the act.
97. Roberts, *Papa Jack*, 146–48.
98. See *ibid.*, 150–54.
99. Judge George Carpenter, quoted in *NYT*, 5 June 1913, 1. Judge Carpenter’s logic is an example of how the concept of “the dangerous individual” in law demands that the judicial system focus on the criminal’s potential danger

to the social body instead of the particular crime. For an account of the broader parameters of this logic see Michel Foucault, "The Dangerous Individual," in *Michel Foucault: Politics, Philosophy, Culture*, ed. Lawrence D. Kritzman (New York: Routledge, 1988).

100. Robyn Wiegman, *American Anatomies: Theorizing Race and Gender* (Durham, N.C.: Duke University Press, 1995), 13.

101. Jack Johnson, *Jack Johnson in the Ring and Out* (Chicago, Ill.: National Sports Publishing, 1927), 60–61.

102. Ibid. See also Roberts, *Papa Jack*, 180.

103. Charles DeWoody, quoted in Roberts, *Papa Jack*, 166.

104. *New York Call*, 30 June 1913, 6, quoted in Roberts, *Papa Jack*, 184.

105. Johnson appeared in *Madison Square Garden* (Paramount, 1932). For brief details see the documentary *Jack Johnson, the Big Fights* (Big Fights, 1970).

106. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage, 1979), 198; Foucault, "Dangerous Individual."

107. Such a perspective on racism emerges in Foucault's first volume of *The History of Sexuality* and is carried on in lectures at the Collège de France from 1976 through 1979. In this work he suggests that "biopolitics" is a form of power directed at both individual bodies and collective masses, a dual focus that is central to modern governance. See Michel Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (1978; repr., London: Penguin, 1990), 135–59; Michel Foucault, "Omnes et Singulatim: Towards a Critique of 'Political Reason,'" in *The Tanner Lectures on Human Values II*, ed. Sterling McMurrin (Salt Lake City: University of Utah Press, 1981); Michel Foucault, "The Subject and Power," in *Michel Foucault: Beyond Structuralism and Hermeneutics*, by Hubert L. Dreyfus and Paul Rabinow (London: Harvester Wheatsheaf, 1982). Laura Ann Stoler discusses and extends this work on race and governance in *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham, N.C.: Duke University Press, 1995). See also Etienne Balibar's work on race and nationalism, esp. "Racism and Nationalism," and "Foucault and Marx: The Question of Nominalism," in *Michel Foucault, Philosopher*, ed. Timothy J. Armstrong (London: Harvester Wheatsheaf, 1992).

108. Michel Foucault, "Governmentality," in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (London: Harvester Wheatsheaf, 1991), 102.

109. Sander Gilman, "Black Bodies, White Bodies: Toward an Iconography of Female Sexuality in Late-Nineteenth-Century Art, Medicine, and Literature," *Critical Inquiry* 12 (autumn 1985); Peggy Pascoe, "Miscegenation Law, Court Cases, and Ideologies of 'Race' in Twentieth-Century America," *Journal of American History* 83, no. 1 (June 1996). It is worth noting that miscegenation would consistently be banned from the screen by censorship dictates. In the 1927 list of subjects to be avoided or carefully treated formulated by the Motion Picture Producers and Distributors of America, miscegenation and white slavery were listed as subjects to be avoided.

110. Seaborn Rodenberry, *CT*, 12 December 1912, 9.
111. See Charles Musser, *The Emergence of Cinema: The American Screen to 1907* (Berkeley: University of California Press, 1990), 200; Hansen, *Babel and Babylon*, 1; Streible, "History of the Prizefight Film," 420.
112. Quoted in Lerone Bennett Jr., "Jack Johnson," 92.
113. Stuart Hall, "New Ethnicities," in "Race," *Culture, and Difference*, ed. James Donald and Ali Rattansi (London: Sage, 1992).
114. *Chicago Post*, 6 April 1915, 1; *Variety*, 9 April 1915, 4.
115. W. Stephen Bush, quoted in *MPW*, 15 May 1915, 1049.
116. *Weber v. Freed*, 224 *Federal Reporter* (September 1915), 355–58; *Weber v. Freed* 239 U.S. 325. In a similar case the Kalisthenic Exhibition Company attempted to import the film into Portland, arguing that because the company intended to show the film "before clubs, societies, associations, and athletic clubs," the Sims Act was not operative. Judge Hale dismissed the suit, asserting that even so, the exhibition was a public one. *Kalisthenic Exhibition Co. v. Emmons* 225 *Federal Reporter* (October–November 1915), 902–5.
117. Charles Towne, quoted in *MPW*, 15 May 1915, 1049. Towne cited the example of baseball players and football players to the judge but was interrupted when the judge pointed out examples of how Congress could regulate interstate commerce. See note 57 of this chapter for an account of how baseball was defined as "local entertainment."
118. *Weber v. Freed*, 224 *Federal Reporter*, 358. See also the details in Edward De Grazia and Roger K. Newman, *Banned Films: Movies, Censors, and the First Amendment* (New York: Bowker, 1982), 185–86.
119. *Weber v. Freed* 239 U.S. 325.
120. *Motography*, 29 April 1916, 983; *MPW*, 16 September 1916, 1808; *NYT*, 6 April 1916, 7; Terry Ramsaye, *A Million and One Nights: A History of the Motion Picture* (London: Cass, 1926), 695.
121. *NYT*, 10 April 1916, 12.
122. *NYT*, 6 April 1916, 7.
123. *Pantomimic Corp v. Malone et al.*, 238 *Federal Reporter* (March 1917), 135–38.
124. *MPW*, 16 September 1916, 1808; see also *NYT*, 2 September 1916, 16; *Pantomimic Corp v. Malone et al.*, 238 *Federal Reporter* (March 1917), 137.
125. Paul Virilio, "The Overexposed City," *Zone* 1, no. 2 (1987), quoted in David Morley and Kevin Robins, "Space of Identity: Communications Technologies and the Reconfiguration of Europe," *Screen* 30, no. 4 (autumn 1989): 23.
126. Foucault, *Discipline and Punish*, 219.
127. Specifically, the government charged that the Patents Company had garnered 70 to 80 percent of the film business, that the licensing procedures for moving picture theaters determined which theaters could be open, and that the distribution arm of the company had acquired a distribution monopoly that had prevented all but a small amount of import competition. See details in Staiger, "Combination and Litigation," 199–202.
128. Richard Maltby's work on a later period of censorship has shown how

the industry embraced censorship measures as a way to ward off measures of economic control, displacing disputes from the economic base to the ideological superstructure of movie content. See esp. Richard Maltby, ed., “Documents on the Genesis of the Production Code,” *Quarterly Review of Film and Video* 15, no. 4 (1995). See also Jon Lewis, *Hollywood v. Hard Core: How the Struggle over Censorship Saved the Modern Film Industry* (New York: New York University Press, 2000), esp. 6–10.

129. Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890–1916: The Market, the Law, and Politics* (Cambridge, U.K.: Cambridge University Press, 1988); Morton Keller, *Regulating a New Economy: Public Policy and Economic Change in America, 1900–1933* (Cambridge, Mass.: Harvard University Press, 1990)

130. A copy of the Sherman Anti-Trust Act is reprinted in Leon Fink, ed., *Major Problems in the Gilded Age and the Progressive Era* (Lexington, Mass.: Heath, 1993), 46–47. Along with the 1887 Interstate Commerce Act, the Sherman Anti-Trust Act was a prototype for the structure of supervision of the industrial sphere that came into being in the twentieth century. See Morton Keller, *Affairs of State: Public Life in Late-Nineteenth-Century America* (Cambridge, Mass.: Harvard University Press, 1977), 409–38, and on the Sherman Act in particular, 436–37.

131. Lawyers R. O. Moon and Charles F. Kingsley, quoted in *MPW*, 26 December 1914, 1817, 1816.

132. Kingsley, *MPW*, 26 December 1914, 1816.

133. *United States v. Motion Picture Patents Co. et al.*, 225 *Federal Reporter* (October–November 1915), 800–811; *MPW*, 16 October 1915, 413–16.

134. *MPW*, 16 October 1915, 414; *United States v. Motion Picture Patents Co. et al.*, 225 *Federal Reporter* (October–November 1915), 803.

135. *United States v. Kennerley*, 209 *Federal Reporter* (January–February 1914), 119–21.

136. See Keller, *Affairs of State*, 409–38.

137. *Journal of the House of Representatives of the Commonwealth of Pennsylvania*, Part 4 (1911), 3905–6; *Journal of the Senate of the Commonwealth of Pennsylvania*, Part 4 (1911), 3078; *Philadelphia Inquirer*, 20 June 1911, 2; *Smull’s Legislative Handbook and Manual of the State of Pennsylvania* (Harrisburg: W. S. Ray, 1914), 66. See also the files of the board kept at the Pennsylvania State Archives in Harrisburg, Pennsylvania (hereafter PSA). No appropriation of money was made when the bill was passed in 1911, hence the delay. Even after the money was made available in late 1913, producers and exhibitors lobbied and successfully delayed the establishment of the office until mid-1914 and then quickly forced a test case that was passed in favor of the censors. See *MPN*, 6 June 1914, 23; *MPW*, 3 January 1914, 25–27; *MPN*, 9 May 1914, 21–24; *MPN*, 16 May 1914, 21–22. A new and more enforceable code was duly passed in June 1915, nullifying the earlier code. I discuss this further in chapter 6. It is worth noting also that an important act in 1913, the Webb-Kenyon

Act, had further clarified the relationship between state and federal government, confirming the principle of “divestment,” whereby the federal government would divest its powers to regulate commerce to the states where particular states sought to prohibit certain goods. See John H. Ferguson and Dean E. McHenry, *The American Federal Government* (London: McGraw-Hill, 1947), 139–40. This was not always the case. In 1890 the Supreme Court had denied the power of a state to prohibit the shipment of liquor into its territory on the grounds that this was an unfair burden on interstate commerce. Republicans in Congress responded with the Wilson Act, which affirmed the rights of the states to control the flow of goods within their borders; but in 1905 the Supreme Court, sensitive to impediments to a national economy, said that states could not forbid liquor consignments from being paid for on delivery because that would invalidate contracts made between the seller and the buyer. This stimulated a mail order liquor business, and Congress responded in 1913 with the Webb-Kenyon Act, which prohibited the interstate shipment of liquor when it violated the law of the receiving state. The constitutionality of this act was upheld in 1917. For details see Morton Keller, *Regulating a New Society: Public Policy and Social Change in America, 1900–1933* (Cambridge, Mass.: Harvard University Press, 1994), 136. Debates about the proper relation of state and federal power, and ensuing legal decisions, were enmeshed, then, with the regulatory concerns around liquor discussed in the previous chapter.

138. Pennsylvania State Board of Censors, Rules and Standards passed 19 June 1911, Pennsylvania Session Laws for 1911, 1067–9, PSA, Box 3.

139. *Journal of the House of Representatives of the Commonwealth of Pennsylvania*, Part 4 (1911), 3905–6; *Journal of the Senate of the Commonwealth of Pennsylvania*, Part 4 (1911), 3078; *Philadelphia Inquirer*, 20 June 1911, 2; *Smull’s Legislative Handbook*, 66.

140. *Journal of the Senate of the Commonwealth of Pennsylvania*, Part 1 (1916), 73. For subsequent accounts of the function of the Pennsylvania board see Oberholtzer, *Morals of the Movie*; and Michael G. Aronson, “‘All Love Making Scenes Must be Normal’: Pennsylvania Movie Censorship in the Progressive Era,” in *Turning the Century: Essays in Media and Cultural Studies*, ed. Carol A. Stabile (Boulder, Colo.: Westview Press, 1998); and Richard Carl Saylor, “The Pennsylvania State Board of Censors (Motion Pictures)” (master’s thesis, Pennsylvania State University at Harrisburg, 1999).

141. House Bill No. 322, 80th General Assembly, Ohio, *General Assembly: Legislative Service Commission, Bills, and Acts, 1835–1996*, Box 3552, Ohio Historical Center (hereafter OHC); *Journal of the House of Representatives of Ohio* (Columbus, Ohio: F. J. Heer, 1913), 854. On the formation and subsequent function of the Ohio Censorship Board see Ivan Brychta, “The Ohio Film Censorship Law,” *Ohio State Law Journal* 13, no. 2 (spring 1952).

142. Senate Bill No. 367, *Kansas Senate Journal* (1913), 136; Maryland: Laws, 1916, c. 209, 411–16.

143. See details in MPW, 18 November 1911, 543; NYT, 8 November 1911,

8; Box 47 NBR; and Charles Matthew Feldman, *The National Board of Censorship (Review) of Motion Pictures, 1909–1922* (New York: Arno Press, 1977), 51–55.

144. Mrs. Gilbert Montague, quoted in the *NYT*, 8 November 1911, 8. Montague's husband appeared for the Women's Municipal League at a public discussion of a New York moving pictures ordinance in late 1911 and made a lengthy appeal for official censorship. As it stood, the ordinance included a subsection that stipulated that children under sixteen could not attend unless accompanied by an adult and that moving picture theaters should have in attendance "a duly licensed matron" who was of "good moral character" to enforce this. *MPW*, 18 November 1911, 543–45.

145. *NYT*, 8 November 1911, 8.

146. Walter Storey, *NYT*, 20 July 1910, 16. Storey said the board was censoring 90 percent of all moving pictures.

147. John Collier, *NYTrib.*, 6 August 1910, 4.

148. *Statutes at Large of the U.S.A.*, 380 (March 1913–March 1915), 151; Gustavus A. Rogers, "The Law of the Motion Picture Industry" (lecture delivered at the College of the City of New York, 28 November 1916), 44, in Box 145, NBR; and Richard S. Randall, *Censorship of the Movies: The Social and Political Control of a Mass Medium* (Madison: University of Wisconsin Press, 1968), 13.

149. See, e.g., Mosse, *Nationalism and Sexuality*; Eric Hobsbawm, *The Age of Empire, 1875–1914* (New York: Pantheon, 1987).

150. *NYTrib.*, 22 December 1913, 1.

## CHAPTER 5. JUDGING CINEMA, 1913–1914

1. *NYS*, 21 December 1913, 1; *NYW*, 21 December 1913, 2; *NYDM*, 24 December 1913, 28. Section 1530 of the Penal Code of New York City forbade any act that offended "public decency." On the emergence of legal conceptions of obscenity at a local and state level see William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), esp. 149–89; and Marjorie Heins, *Not in Front of the Children: "Indecency," Censorship, and the Innocence of Youth* (New York: Hill and Wang, 2001), 24–25.

2. *NYTrib.*, 22 December 1913, 1, 4, cited also in Shelley Stamp, *Movie-Struck Girls: Women and Motion Picture Culture after the Nickelodeon* (Princeton, N.J. Princeton University Press, 2000), 57. See also *Variety*, 19 December 1913, 17; *NYW*, 22 December 1913, 3; *NYW*, 23 December 1913, 3; *NYH*, 22 December 1913, 5; *NYDM*, 24 December 1913, 27.

3. *NYS*, 20 December 1913, 1; *NYH*, 23 December 1913, 11; *NYS*, 21 December 1913, 1; *NYS*, 24 December 1913, 14; *NYW*, 21 December 1913, 2; *NYW*, 24 December 1913, 3; *NYDM*, 31 December 1913, 23; *MPW*, 10 January 1914, 156.

4. Justice Gavegon, quoted in *MPW*, 10 January 1914, 156. Justice Gavegon was evidently referring directly to the so-called Hicklin standard to define “obscenity” produced out of a British court case in 1868 and hinging on “whether the tendency of the matter charged as obscene is to deprave and corrupt the minds of those whose minds are open to such influences.” See details in Ian Hunter, David Saunders, and Dugald Williamson, *On Pornography: Literature, Sexuality, and Obscenity Law* (New York: St. Martin’s, 1993), 66–73. The first obscenity case to reach the United States Supreme Court was *Rosen v. United States* in 1896, which adopted the “Hicklin standard” as the Court’s principal definition of obscenity. *Rosen v. United States*, 161 U.S. 29 (1896).

5. *NYW*, 21 December 1913, 1; Justice Gavegon, quoted in *MPW*, 10 January 1914, 156 (my emphasis).

6. *NYW*, 6 March 1914, 7; *NYDM*, 11 March 1914, 31; *Variety*, 13 March 1914, 23. London’s lawyer defended the film in court by describing it as “a drama of real life” that sought to teach a “moral lesson” (*NYW*, 5 March 1914, 7).

7. *Traffic in Souls* opened on 24 November 1913 and *The Inside of the White Slave Traffic* on 8 December 1913. The white slave films, *Traffic in Souls* in particular, have been the subject of much scholarly work. See Robert Allen, “*Traffic in Souls*,” *Sight and Sound* 44, no. 1 (1975): 50–53; Kay Sloan, *The Loud Silents: Origins of the Social Problem Film* (Urbana: University of Illinois Press, 1988), 80–86; Kevin Brownlow, *Behind the Mask of Innocence* (New York: Knopf, 1990), 71–80; Ben Brewster, “*Traffic in Souls*: An Experiment in Feature Length Narrative Construction,” *Cinema Journal* 31, no. 1 (spring 1991), repr. in *Silent Cinema Reader*, ed. Lee Grieveson and Peter Krämer (London: Routledge, 2004); Richard Maltby, “The Social Evil, the Moral Order, and the Melodramatic Imagination, 1890–1915,” in *Melodrama: Stage, Picture, Screen*, ed. Jacky Brattan, Jim Cook, and Christine Gledhill (London: British Film Institute, 1994); Janet Staiger, *Bad Women: Regulating Sexuality in Early American Cinema* (Minneapolis: University of Minnesota Press, 1995), 116–46; Shelley Stamp Lindsey, “‘Oil upon the Flames of Vice’: The Battle over White Slave Films in New York City,” *Film History* 9, no. 4 (1997); Tom Gunning, “From the Kaleidoscope to the X-Ray: Urban Spectatorship, Poe, Benjamin, and *Traffic in Souls* (1913),” *Wide Angle* 19, no. 4 (October 1997); Shelley Stamp, “Moral Coercion, or the Board of Censorship Ponders the Vice Question,” in *Regulating Hollywood: Censorship and Control in the Studio Era*, ed. Mathew Bernstein (New Brunswick, N.J.: Rutgers University Press, 1999); Shelley Stamp, *Movie-Struck Girls*, 41–101; and Kristen Whissel, “Regulating Mobility: Technology, Modernity, and Feature-Length Narrativity in *Traffic in Souls*,” *Camera Obscura* 49 (2002).

8. *MPW*, 7 February 1914, 653.

9. *Variety*, 27 February 1914, 21; *MPW*, 7 February 1914, 684; *MPW*, 21 March 1914, 1503; National Board of Censorship, “Special Bulletin” (9 February 1914), Box 107, National Board of Review of Motion Pictures Collections, Rare Books and Manuscripts Division, New York Public Library (hereafter NBR).

10. NYDM, 31 December 1913, 23; W. Stephen Bush, MPW, 17 January 1914, 270.

11. NYDM, 31 December 1913, 23.

12. MPW, 22 November 1913, 849.

13. National Board of Censorship to members of Advisory Committee, 21 October 1913, Box 107, NBR.

14. David Levy, "Reconstituted Newsreels, Re-enactments and the American Narrative Film," in *Cinema 1900–1906: An Analytical Study*, ed. Roger Holman (Brussels: FIAF, 1982), 249.

15. Geraldine Ames, "Saving Immigrant Girls with 'Movies,'" *Motion Picture Story Magazine*, December 1914, 89. My thanks to Kevin Brownlow for kindly sharing this information with me.

16. Kevin Brownlow, *Behind the Mask of Innocence*, 79. Later mainstream narrative cinema consistently flattened out differences between studio and actuality filming so that stylistic distinctions were minimized. For an account of the formation of this development see Philip Rosen, "Disjunction and Ideology in a Pre-classical Film: *A Policeman's Tour of the World*," *Wide Angle* 12, no. 3 (1990).

17. Ames, "Saving Immigrant Girls," 92–93.

18. *Ibid.*, 92. On the broader sense of cinema's function as a universal language in the period see Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass.: Harvard University Press, 1991), esp. 76–80.

19. Judith Mayne, "Immigrants and Spectators," *Wide Angle* 5, no. 2 (1982): 118.

20. Undated and untitled newspaper article, Box 107, NBR. Universal produced a promotional pamphlet especially for the National Board of Censorship's test case screening of the film, and this quoted Mr. Orin C. Baker, the general secretary of the Travelers' Aid Society, on the white slave traffic. See Universal, "'Traffic in Souls,'" Box 107, NBR. The society had grown out of the American Railroad Literary Union and Pure Literature Bureau, set up in the late nineteenth century in response to growing concerns about the effect of the transportation revolution on social restraint and social control. See David J. Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868–1900* (Westport, Conn.: Greenwood Press, 1973), 173–74. Such an issue would, as the Jack Johnson case suggested, be central to the moral panic about white slavery.

21. See, e.g., *Nickelodeon*, April 1909, 130; *Picture Progress*, July 1915; MPW, 20 November 1926, 3; Arthur Edwin Krows, "Motion Pictures—Not for Theatres," *Educational Screen* 22 (January 1943): 16; and the material collected in Box 36, NBR, detailing the board's organization of special screenings on Ellis Island. In a letter to the board, the commissioner of Ellis Island thanked the board for this and pointed to the films' "beneficial effect upon the spirit of these people," further noting, "The immigrants enjoy the educational films . . . and relish the comedies." Frederick Wallis to the National Board of Review, 11 May 1921, Box 36, NBR.

22. Noël Carroll, "From Real to Reel: Entangled in the Nonfiction Film," *Philosophic Exchange*, no. 14 (1983).

23. *Toledo Blade*, 13 December 1913, n.p.; Universal, "'Traffic in Souls,'" Box 107, NBR; *Toledo Blade*, 13 December 1913, n.p.

24. George Kneeland, *Commercialized Prostitution in New York City* (New York: Bureau of Social Hygiene, 1913).

25. A notable precedent here was the production of *Damaged Goods* in early 1913, a play about venereal disease that was produced under the auspices of the Committee of the Sociological Fund at the Medical Review of Reviews and endorsed by many prominent social reformers in New York City. See details in *NYT*, 6 April 1913, sec. 5, 9. Frederick Robinson, president of the Sociological Fund, would later support *The Inside of the White Slave Traffic*. See below for details.

26. Universal, "'Traffic in Souls,'" Box 107, NBR; *Motography*, 29 November 1913, 34.

27. Universal, "'Traffic in Souls,'" Box 107, NBR.

28. *MPW*, 3 May 1913, 512. See also Brewster's account of the similarities between the two films. Brewster, "Traffic in Souls," 43.

29. See Ben Singer, "Female Power in the Serial-Queen Melodrama: The Etiology of an Anomaly," *Camera Obscura* 22 (January 1990); and Shelley Stamp, *Movie-Struck Girls*, 102–53. In his insightful analysis of the American film industry in 1913, Charles Musser has suggested that these serials stood as halfway houses between the one-reeler and the multireeler, a suggestion perhaps borne out by the connection between *Traffic in Souls* as one of the first commercially successful feature films—and the first one not based on a pre-existing novel or play—and the serials. See Charles Musser, "On 'Extras,' Mary Pickford, and the Red-Light Film: Filmmaking in the United States," *Griffithiana* 50 (1991): 169.

30. Brewster, "Traffic in Souls," 43.

31. Gérard Genette, *Figures III* (Paris: Seuil, 1972), 148; André Gaudreault, "Singular Narrative, Iterative Narrative: *Au Bagne* (Pathé, 1905)," *Persistence of Vision* 9 (1991).

32. The narration of the abductions is, in fact, a substitute for a true iterative approach, coming closer to what Genette terms a "paradigmatic use of singular narration" because it tells a story of one event that stands in for all the others. See Genette, *Figures III*, 148; Gaudreault, "Singular Narrative, Iterative Narrative," 70.

33. Lorna is not named in the film, though, and is referred to as a generic "Little Sister." Shelley Stamp suggests she is connected to the Swedish immigrants and rural migrants in the earlier section of the film, all of whom "typify aspects of modern femininity, rather than particular individuals." Lorna is named, however, in publicity surrounding the film, notably in some of the reviews and in an adaptation of the movie appearing in *Photoplay*, and she is named in the script outline for the film, credited to George Loane Tucker and Walter MacNamara. She is also individualized in the film in ways that the other vic-

tims are not, notably in the exposition. Stamp, *Movie-Struck Girls*, 220n176; *Motography*, 29 November 1913, 397–98; *Photoplay*, February 1914, 33–44; George Loane Tucker and Walter MacNamara, “Traffic in Souls or While New York Sleeps,” Box 107, NBR.

34. Stamp, *Movie-Struck Girls*, 76–77.

35. Tucker and MacNamara “Traffic in Souls,” n.p.

36. Staiger, *Bad Women*, 132.

37. Staiger describes Mary as a “new woman,” concentrating on her role in uncovering the vice ring and rescuing her sister, but Shelley Stamp disagrees, arguing that she is “associated above all with a respect for patriarchy and chaste adherence to the law” and that the film ultimately “reinforces outdated polarities between vice and virtue.” Mary combines agency, then, with an upholding of the sanctity of the domestic sphere, making her—it seems to me—a mirror image of the women social reformers important to the film industry’s strategies of gentrification. See Staiger, *Bad Women*, 138–41; and Stamp, *Movie-Struck Girls*, 77.

38. In some respects the film mirrors the broader configuration of discourse about white slavery here, for as Frederick Grittner has shown, this discourse shifted from a focus on the abduction of immigrant women to one on the abduction of native-born “American” women. In Grittner’s account the 1909 Immigration Commission Report initiated the critical shift here (this is the same report that became central to the passage of the 1910 Mann Act). See Frederick K. Grittner, *White Slavery: Myth, Ideology, and American Law* (New York: Garland, 1990), 82–92.

39. Charlie Keil, “Steel Engines and Cardboard Rockets: The Status of Fiction and Nonfiction in Early Cinema,” *Persistence of Vision* 9 (1991): 43.

40. John D. Rockefeller, quoted in Kneeland, *Commercialized Prostitution*, iv. These findings were publicized more widely in “Man’s Commerce in Women: Mr. Rockefeller’s Bureau of Social Hygiene Issues Its First Report,” *McClure’s*, August 1913, 185–89.

41. 1910 Grand Jury report, quoted in Francesco Cordasco and Thomas Monroe Pitkin, *The White Slave Trade: A Chapter in American Social History* (Detroit, Mich.: Blaine Ethridge, 1981), 34. See also “The Rockefeller Grand Jury Report: Showing the Conditions of the ‘White Slave’ Trade in New York City,” *McClure’s*, August 1910, 471–73.

42. Historians have suggested that the Progressive Era inaugurated a shift in the understanding of the causes of prostitution away from a Victorian understanding of prostitution as linked to individual female depravity to a greater awareness of the social and economic causes. See Roy Lubove, “The Progressive and the Prostitute,” *Historian* 24, no. 3 (1962); Robert E. Riegel, “Changing American Attitudes towards Prostitution,” *Journal of the History of Ideas* 29 (July–September 1968); Mark Thomas Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980).

43. Kneeland, *Commercialized Prostitution*, 27, 57.

44. Tucker and MacNamara "Traffic in Souls," n.p.
45. "The Policy and Standard of the National Board of Censorship of Motion Pictures, Reissued October 1, 1915," repr. in *Hearings before the Committee on Education, House of Representatives, 64, 1, on H.R. 456, a Bill to Create a New Division of the Bureau of Education, to Be Known as the Federal Motion Picture Commission, and Defining Its Powers and Duties* (Washington D.C.: Government Printing Office, 1916), 290.
46. Universal, "'Traffic in Souls,'" Box 107, NBR.
47. This epilogue is not in the extant print in the Library of Congress but is in the print at the National Film Archive and in the script outline, suggesting it was included in the original version of the film. See Tucker and MacNamara, "Traffic in Souls," n.p.
48. Tucker and MacNamara, "Traffic in Souls," n.p. Like with the representation of drunkenness, the shift from a representation of the police as inadequate, incompetent, and immoral in an earlier cinema of attractions to one in which police are efficient and upstanding testifies to the larger enmeshing of American cinema with moral discourse.
49. *MPW*, 22 November 1913, 849.
50. See also Tom Gunning's account in "From the Kaleidoscope," 52.
51. *Ibid.*, 36. Brewster's account shows that *Traffic in Souls* prefigured classical Hollywood narrative in a number of important ways, utilizing the resources of alternation developed in Griffith's Biograph shorts over the course of a feature-length narrative, setting out plot information early, motivating coincidences, and developing multiple plotlines and moving between them for the purpose of suspense and plot progression. Brewster, "Traffic in Souls."
52. Universal, "'Traffic in Souls,'" Box 107, NBR; Michel Foucault, "The Eye of Power," in *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, by Michel Foucault, ed. Colin Gordon (New York: Pantheon, 1980), 152; Franco Morretti, *Signs Taken for Wonders: Essays in the Sociology of Literary Forms* (London: Verso, 1983), 136. The subtitle of the film, at least according to the script outline and the poster was *While New York Sleeps*, a title that aptly catches the imperative to light up the moral darkness of the city. In the United States perhaps one of the most well-known examples of this aspiration toward a transparent society would be police photographer Jacob Riis's photographs of the underworld of New York City. See, in particular, Maren Stange, *Symbols of Ideal Life: Social Documentary Photography in America, 1890–1950* (Cambridge, U.K.: Cambridge University Press, 1992), esp. 1–46.
53. These definitions of documentary cinema come from Bill Nichols, *Representing Reality: Issues and Concepts in Documentary* (Bloomington: Indiana University Press, 1991), 42; Michael Renov, "Towards a Poetics of Documentary," in *Theorizing Documentary*, ed. Michael Renov (London: Routledge, 1993), 21.
54. *Variety*, 12 December 1913, 12; *Variety*, 26 December 1913, 13; *Motion Picture Notes*, 20 December 1913, 31; *MPW*, 10 January 1914, 155; *Variety*, 25 January 1914, 15.

55. NYDM, 24 September 1913, 31.
56. NYT, 17 December 1913, 4. After police raided the Park Theatre and London began supplementary screenings at the Bijou, the *New York World* reported that the lobby to the theater had placards bearing the endorsements of Inez Millholland Boissevain, Mrs. O. H. P. Belmont, and Carrie Chapman Catt. See NYW, 24 December 1913, 3.
57. Brownlow, *Behind the Mask of Innocence*, 80.
58. Eric Schaefer, *Bold! Daring! Shocking! True! A History of Exploitation Films, 1919–1959* (Durham, N.C.: Duke University Press, 1999), 79, 154–56.
59. Incomplete prints are available at the Library of Congress and at the Wisconsin Center for Film and Theater Research. In the version I viewed at the Library of Congress only two reels out of four remain, testament perhaps to the lasting material effects of censorship on the film.
60. Roger Odin, “A Semio-Pragmatic Approach to the Documentary Film,” in *The Film Spectator: From Sign to Mind*, ed. Warren Buckland (Amsterdam: Amsterdam University Press, 1995), 229.
61. NYDM, 24 September 1913, 31.
62. *Variety*, 12 December 1913, 12. *Variety*’s reviewer presciently noted that the “extremely theatric” *Traffic in Souls* was likely to bypass police action but that the “utmost fidelity” of *The Inside of the White Slave Traffic* would be problematic.
63. *Outlook*, 14 February 1914, 348; MPN, 20 December 1913, 31.
64. MPN, 20 December 1913, 31.
65. Stamp, *Movie-Struck Girls*, 85.
66. Emma Goldman, *The Traffic in Women* (1909; repr., Washington, N.J.: Times Change Press, 1970), 20.
67. Jane Addams, *A New Conscience and an Ancient Evil* (New York: Macmillan, 1912), 57.
68. Mariana Valverde, “The Love of Finery: Fashion and the Fallen Woman in Nineteenth-Century Social Discourse,” *Victorian Studies* 32, no. 2 (winter 1989): 213; Jacques Donzelot, “The Mobilization of Society,” in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (London: Harvester Wheatsheaf, 1991), 173. Kneeland’s report on commercialized prostitution in New York City, ostensibly the basis for the film, described a similar situation to the scene in the film, where a procuress “goes to a department store and selects a girl, from whom she makes her purchases” and where the “girl” was “flattered, or tempted by the prospects of fine clothes, leisure and opportunities for pleasure” and was thus recruited to prostitution. Kneeland, *Commercialized Prostitution*, 30.
69. See Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore, Md.: Johns Hopkins University Press, 1982), esp. 112–36; Barbara Meil Hobson, *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition* (New York: Basic Books, 1987), esp. 14–37.
70. Staiger, *Bad Women*, 145
71. Tom Gunning, “The Cinema of Attractions: Early Film, Its Spectator,

and the Avant-Garde," *Wide Angle* 8, nos. 3 and 4 (1986). On the creation of a genre of propaganda see Annette Kuhn, *Cinema, Censorship, and Sexuality, 1909–1925* (London: Routledge, 1988), esp. 45–50.

72. *NYS*, 21 December 1913, 1; *NYW*, 21 December 1913, 1; *NYW*, 23 December 1913, 3; *NYDM*, 24 December 1913, 27.

73. Daniel Carson Goodman, quoted in Paul Boyer, *Purity in Print: The Vice Society Movement and Book Censorship in America* (New York: Charles Scribner's Sons, 1968), 46.

74. *United States v. Kennerley*, 209 *Federal Reporter* (January-February 1914), 119–21.

75. *Ibid.*, 121. Hand's logic initiated the legal notion of "community standards" that would, as the previous chapter noted, also be used to buttress localized formations of censorship.

76. See Boyer, *Purity in Print*, 47–48. See also the discussion of the case in Rochelle Gurstein, *The Repeal of Reticence: A History of America's Cultural and Legal Struggles over Free Speech, Obscenity, Sexual Liberation, and Modern Art* (New York: Hill and Wang, 1996), 186–87. Jeremiah Jenks had headed a committee of the U.S. Immigration Commission in 1909, focusing on female immigrants and discussing the problem of white slavery. This immigration commission was, as the last chapter showed, central to the passage of the Mann Act in 1910. Interestingly, Norman Hapgood had offered to testify before Justice Gavegon about the merits of *The Inside of the White Slave Traffic* but was not called. See *NYW*, 17 January 1914, 14.

77. Goodman, quoted in Boyer, *Purity in Print*, 48.

78. On the status of the theater see Lawrence W. Levine, *Highbrow/Lowbrow: The Emergence of Cultural Hierarchy in America* (Cambridge, Mass.: Harvard University Press, 1988), esp. 45–81. As we saw in chapter 2, this cultural status was also linked to an appeal to women and to middle-class audiences. On theatrical censorship in the period see Abe Laufe, *The Wicked Stage: A History of Theater Censorship and Harassment in the United States* (New York: Frederick Ungar, 1978), 24–47; and Andrea Friedman, *Prurient Interests: Gender, Democracy, and Obscenity in New York City, 1909–1945* (New York: Columbia University Press, 2000), 100–102.

79. According to Terry Ramsaye, George Loane Tucker had stated he wanted to make a film about white slavery after seeing *The Lure* on Broadway. Terry Ramsaye, *A Million and One Nights: A History of the Motion Picture* (London: Frank Cass, 1926), 613. Indeed, the pamphlet Universal produced to defend the film suggested, "It is along the lines of the plays 'The Lure' and 'The Fight'" (Universal, "'Traffic in Souls,'" Box 107, NBR). Interestingly, prominent theatrical entrepreneurs the Shubert brothers had produced *The Lure* and also had a financial interest in the production and exhibition of *Traffic in Souls*, which opened at the Shubert-owned Weber's Theatre in New York City. See *NYDM*, 17 September 1913, 7; Brownlow, *Behind the Mask of Innocence*, 72.

80. Hugo Munsterberg, *NYT*, 14 September 1913, sec. 5, 4. See also the discussion about the plays in *NYT*, 5 September 1913, 9; *NYT*, 7 September 1913,

sec. 2, 3; *NYT*, 10 September 1913, 1; *NYT*, 18 September 1913, 10; *NYT*, 7 October 1913, 13; *Literary Digest*, 4 October 1913, 577–78. *The Lure* was made into a film in mid-1914; *The Fight* became a film in early 1915.

81. *NYT*, 12 September 1913, 11.

82. *NYDM*, 10 September 1913, 10. Bayard Veiller, writer of *The Fight*, suggested his play was controversial because it was critical of the police. See *NYT*, 21 September 1913, sec. 5, 4.

83. *NYT*, 12 September 1913, 11. Universal cannily included a copy of this letter in the pamphlet it produced to defend *Traffic in Souls*. Howe had written: "From a moral, psychological and political viewpoint, it seems to me, 'The Fight' is a three hours' sermon as well as a remarkable searchlight on the social basis of present day ethics." See Frederick Howe in Universal, "'Traffic in Souls,'" Box 107, NBR.

84. *NYT*, 5 September 1913, 9. See also details in Friedman, *Prurient Interests*, 157. Frederick Howe was married to Marie Jenney Howe, founder of the feminist group Heterodoxy. Friedman notes that some of the women who attended the play went on to form the Women's City Club two years later, from which they would carry on the fight against official censorship. Interestingly, the warrant taken out against Samuel London and the exhibition of *The Inside of the White Slave Traffic* was taken out by a prominent member of the Anti-Suffrage League, a fact commented on prominently in the *New York World*. See "Anti-Suffragist Got Warrants," *NYW*, 24 December 1913, 3. It may be argued that the ultimate marginalization of the overt public discussion of pressing questions about prostitution and sexuality effectively marginalized a progressive feminist stance on these questions.

85. *NYW*, 17 January 1914, 14.

86. *The People's Institute Annual Report*, quoted in Peter G. Buckley, "Boundaries of Respectability: Introductory Essay," in *Inventing Times Square: Commerce and Culture at the Crossroads of the World*, ed. William R. Taylor (Baltimore, Md.: Johns Hopkins University Press, 1996), 302.

87. See *NYT*, 15 March 1913, 13; *NYT*, 6 April 1913, sec. 5, 9; *Outlook*, 31 May 1913, 226.

88. *NYT*, 2 March 1913, sec. 3, 6.

89. Inez Millholland Boissevain, *NYT*, 4 February 1914, 8. The *New York Times* published Boissevain's letter but wrote an editorial under the title "An Unconvincing Argument," disagreeing with it, taking particular issue with the use of "Comstockery" as an insult.

90. *NYW*, 21 December 1913, 2.

91. *NYDM*, 31 December 1913, 23.

92. Universal, "'Traffic in Souls,'" Box 107, NBR, n.p. Literary classics were produced in increasing numbers from 1911 onward, when a number of films like *Dante's Inferno* (1911) and *Cleopatra* (1912) brought a new recognition to the claims of defenders of the film industry that cinema was a legitimate art form. Feature films with artistic reputations became increasingly plentiful in late 1913, when Famous Players Film Company began to release three features

per month; and the link between the theatrical and film worlds was further intensified in early 1914, when a number of film producers made agreements with theatrical entrepreneurs to film well-known plays. See Eileen Bowser, *The Transformation of Cinema, 1907–1915* (Berkeley: University of California Press, 1990), 191–215; Musser, “On ‘Extras,’” 151–53; and Roberta Pearson, “The Menace of the Movies: Theatre and Cinema in the Transitional Period,” in *American Cinema in Transition*, ed. Charlie Keil and Shelley Stamp (Berkeley: University of California Press, 2004).

93. *NYT*, repr. in *MPN*, 15 November 1913, 41.

94. *NYDM*, 17 December 1913, 30. The differential treatment of the novel of *The House of Bondage* and the film made of that novel is instructive here. Even though the novel was widely praised, and was hugely successful, the film was condemned by many, including staunch defender of cinema W. Stephen Bush, who, as we have seen, warned exhibitors showing the film to “disinfect and fumigate the projection booth” (Bush, *MPW*, 17 January 1914, 270). In the discussion of the film at the national board both Orrin Cocks and Miss Draper of the Censoring Committee said that this kind of material could be presented in a novel but not in a film. See “Discussion of ‘House of Bondage,’” Box 105, NBR.

95. National Board of Censorship to Members of the Advisory Committee, 21 October 1913, Box 107, NBR. Initially films were screened for the censoring committee and were passed on to the General Committee if they were seen to be particularly problematic. The General Committee selected review committee members. An Executive Committee, chosen from the General Committee, determined administrative conduct and made policy recommendations. The Advisory Committee was made up of prominent figures outside the board, including people like sociologist Franklin H. Giddings, photographer Jacob Riis, and philanthropist Andrew Carnegie.

96. Orrin Cocks, “Record of the Meeting Held at the Universal Film Company, 1600 Broadway, on October 27, 1913, at 2 O’clock, to View the Seven Reel Production, ‘Traffic in Souls,’” Box 107, NBR, 7; John Collier, *Motography*, 15 November 1913, 339.

97. Universal, “‘Traffic in Souls,’” Box 107, NBR. In a letter to a Mrs. John M. Glenn, John Collier notes that this pamphlet was produced especially for this meeting. See John Collier to Mrs. John M. Glenn, 22 October 1913, Box 107, NBR.

98. A revision of the state licensing code in New York in 1896—dubbed the Raines Law, after its sponsor—had outlawed Sunday liquor sales except when the beverage was served with a meal in a hotel. The revised law inadvertently made it advantageous for saloons to add bedrooms and transform themselves into “hotels.” Many of these were associated with prostitution and were subsequently targeted by the Committee of Fourteen, an antiprostitution commission.

99. “Record of the Meeting Held at the Universal Film Company.” Comments by Mr. Reynolds, assistant district attorney, 3; Mr. Hanmer, General Committee, 6; Miss Wilson, Censoring Committee, 4. Elsewhere, censors consistently expressed concerns about the negative portrayal of the police. *Forcing the Force*

(Eclectic, 1914) was, for example, banned in Chicago “because of its slur on the police force.” Likewise, *The Cooked Goose* (Thanhouser, 1914) was “rejected because of reflection on constitutional authority and degradation of police officers” (Box 72, Illinois Regional Archives Depository, Ronald Williams Library, Northeastern Illinois University [hereafter IRAD]). Indeed, a film called *Stacked Cards* (Kay-Bee, 1914) was banned in Ohio “on account of following features: scenes showing collusion between prostitutes, policemen and corrupt politicians” (Box 50, 736, Ohio Historical Center [hereafter OHC]).

100. “Record of the Meeting Held at the Universal Film Company.” Comments by Mackaye, 2; Whitin, 3; Mr. Sayre, assistant district attorney, 6; Reynolds, 3; Brown, 4–5; Mrs. Gans, General Committee, 7; Whitin, 3.

101. Nellie M. Smith, *Outlook*, 14 February 1914, 347.

102. Gertrude Howe Britton, president of the Juvenile Protective Association, quoted in *MPW*, 3 January 1914, 53. Frederick Robinson of the *Medical Review of Reviews* challenged this view by arranging another screening of the film, but aldermen still considered it too indecent to be shown, noting that even the police in New York had stopped it. A Mrs. Herman Landauer suggested that “certain unsophisticated women ought to see it,” but William L. Bodine, superintendent of compulsory education, argued, “Its lesson for men—especially to young men and boys—is bad, showing them how to become white slavers” (*MPW*, 10 January 1914, 155).

103. John D. Sumner to William D. McGuire, Executive Secretary of the National Board, 3 October 1916, Box 105, NBR.

104. Interestingly, a legal case in Waterbury, Connecticut, suggested something similar. Exhibitor James Sheehan was charged with showing an obscene and immoral picture, *Traffic in Souls*, in June 1914. Lawyers for Sheehan argued, though, that the film was based on the Rockefeller commission and that “newspapers and clergy have been decrying white slave conditions . . . and this picture was evidently made to aid them in their desire to stamp out this nefarious trade.” The case was dropped. “Local censorship was virtually given a ‘black eye’ here,” said the local *Motion Picture News* reporter. See *MPN*, 20 June 1914, 27.

105. “Record of the Meeting Held at the Universal Film Company.” Comments by Cocks, 6; Collier, 7; Howe, 8. Cocks was a Presbyterian minister and had been employed by the YMCA and the New York Federation of Churches before becoming advisory secretary of the national board.

106. *Ibid.*, 8–9.

107. *Ibid.*, 9.

108. John Collier, *Motography*, 15 November 1913, 339.

109. “Remarks made at the General Committee Meeting on Dec. 10th Regarding the Picture ‘The Inside of the White Slave Traffic,’” Box 121, NBR. Comments by Downer, 2; Cocks, 1; Tait, 1; Warbasse, 1. Like some of the respondents to *Traffic in Souls*, Mrs. Tait also called for the depiction of the “disagreeable life” of the girls. As it stands, Tait said, “the moral effect of the picture is lim-

ited" because the "picture does not show the girls as living a particularly disagreeable life" (ibid., 1).

110. "Minutes of the General Committee Meeting Held at the Office of the Moral Feature Film Company, 133 West 44th Street, at 4 O'clock on December 10, 1913," Box 121, NBR; Assistant Secretary of the National Board to Samuel London, 18 December 1913, Box 105, NBR.

111. Assistant Secretary to Samuel London, 18 December 1913, Box 105, NBR.

112. See Lea Jacobs, *The Wages of Sin: Censorship and the Fallen Woman Film, 1928–1942* (Madison: University of Wisconsin Press, 1991).

113. "Minutes of the General Committee Meeting Held at the Motion Picture Patents Company on Friday December 12, 1913, at 3.30 O'clock," Box 121, NBR. See also details in the memo "To the Members of the General Committee," 16 December 1913, Box 105, NBR.

114. The General Committee agreed to place the following statement in the board's weekly bulletin:

A film, "The Inside of the White Slave Traffic" has been circulated for a longer or shorter time in New York and other cities and has been shown before a number of agencies, like the Purity Federation. This film, after being publicly and commercially exhibited, has been presented to the National Board for action. The National Board has declined to act on the film or to approve or to suppress it in any way, on the ground that the real motive in submitting it to the Board was to get the advertising value of the board's endorsement. It would appear that the wisdom of a public exhibition of this film in various cities should be determined by local public opinion. ("Minutes of the General Committee Meeting Held at the Motion Picture Patents Company on Friday December 12, 1913," Box 121, NBR)

115. Samuel London to the National Board, 16 December 1913, Box 105, NBR.

116. "To the Members of the General Committee," 16 December 1913; "Voting Slip for General Committee Meeting on *The Inside of the White Slave Traffic*," undated, Box 105, NBR.

117. Assistant Secretary to Samuel London, 18 December 1913, Box 105, NBR.

118. "Minutes of the General Committee Meeting Held at the Park Theatre, Monday, December 22, 1913, at 11 O'clock," Box 105, NBR. On the same day the *New York World* noted that the previous afternoon a new fifth reel was shown in which "the cadet villain got his deserts," evidently added as a consequence of London's negotiations with the board. See *NYW*, 22 December 1913, 3. The new reel serves as a concrete example of the productivity of regulatory debates.

119. James Warbasse, *NYW*, 24 December 1913, 3. Warbasse had told the

*World* the day before that the screening was a mere formality. “The inspection today,” he said, “was made merely for the purpose of seeing whether the changes recommended had been made. Personally I believe the films will prove of moral value” (*NYW*, 23 December 1913, 3). He had suggested at the General Committee meeting on the tenth of December that the film would be improved if scenes of the downfall of the prostitute were added. Warbasse, “Remarks Made at the General Committee Meeting on Dec. 10th Regarding the Picture ‘The Inside of the White Slave Traffic,’” Box 121, NBR, 1.

120. Assistant Secretary to Moral Feature Film Company, 22 December 1913, Box 105, NBR. At the meeting on 22 December a committee of three was formed to “frame the objections of the National Board to this film,” made up of Cocks, Mrs. Price, and Mr. Wertheim. “Minutes of the General Committee Meeting Held at the Park Theatre, Monday, December 22, 1913,” Box 121, NBR.

121. Assistant Secretary to the Moral Feature Film Company, 22 December 1913; “Statement on Sex Photoplays,” undated, Box 171, NBR.

122. National Board of Censorship, “Special Bulletin,” 9 February 1914, Box 171, NBR. It seems likely that the Special Bulletin was written in part by Cocks, for the committee of three that had been designated to write to London after the rejection of *The Inside of the White Slave Traffic* had been directed to prepare “a longer statement to be submitted to the General Committee for adoption.” See “Minutes of the General Committee Meeting Held at the Park Theatre, Monday, December 22, 1913, at 11 O’clock,” Box 105, NBR.

123. Executive Secretary to Dr. Frederick Robinson, 17 February 1914, Box 105, NBR. London had written to Walter McGuire, the executive secretary of the board, on 9 February 1914, asking for the board to reconsider its earlier rejection. McGuire wrote back asking for clarification of what changes had been made. He then wrote to Robinson, president of the Sociological Fund at the *Medical Review of Reviews* and a defender of the film, on 17 February to reiterate that the film would not be passed.

124. Indeed, some within the board would later criticize the Special Bulletin. When considering the film *Fighting the White Slave Traffic* in 1928, a Dr. Shiels observed that the 1914 bulletin was ineffective. “It is useless to be ruled by a bulletin which, since it was first put into effect, has been violated and which is so old. . . . I think the bulletin is very stupidly expressed” (“Minutes of Special Executive Committee to Review ‘Fighting the White Slave Traffic,’” Box 104, NBR).

125. The *New York Dramatic Mirror*, for example, described the film as “a wholesome sermon in fiction form” (*NYDM*, 19 November 1913, 33). Likewise, *Moving Picture World* praised the “warnings” offered to young women and parents, and *Motography* asserted it offered “a lesson to young and old” (*MPW*, 22 November 1913, 849; *Motography*, 29 November 1913, 397). In this sense the films—*Traffic in Souls* at least—were initially seen as the fulfillment of what *Nickelodeon* had called “the uplift dramatic” genre, demonstrating the educative cultural function of cinema. See *Nickelodeon*, 21 January 1911, 69. Yet by early 1914 the trade press was taking “a decided stand against the exploitation

of a 'white slave hysteria' by means of the motion picture," so much so that *Variety* and *Moving Picture World* refused even to advertise the films, which were—*Variety* said—"injurious to the public at large and the moving picture trade as a whole." See *MPW*, 7 February 1914, 653; *Variety*, 27 February 1914, 21; *MPW*, 27 June 1914, 1779.

126. *NYDM*, 24 December 1913, 28. Likewise, a letter to the reform journal *Outlook* by a secretary of a Young Men's Christian Association in a small city in Iowa suggested the films would cause considerable problems in small towns, functioning not like a "weapon out of the arsenal of truth," as *Outlook* had previously suggested, but rather like "an arrow out of the camp of the enemy, leaving a rankling wound, slow to heal." See *Outlook*, 17 January 1914, 121; Mr. D. O. Hibbard, *Outlook*, 14 February 1914, 346. In this sense white slave films themselves became a symbolic target for the concerns that in part generated the white slave panic, certainly in the specific case of Jack Johnson: the new configuration of mobility and morality seemingly central to modernity.

127. See *Variety*, 6 February 1914, 22; *Variety*, 13 February 1914, 23; *Variety*, 20 February 1914, 25; and *Variety*, 27 February 1914, 22. In late December *Traffic in Souls* was banned in Chicago, but in July 1914 it was passed for adult audiences, with the proviso that the dance-hall scenes where Lorna was drugged be shortened. The permit was reissued in August, October, and December 1914. Box 101, IRAD. Evidence suggests that the films continued to circulate for a considerable period. In Ohio *Traffic in Souls* was censored but passed in April 1914, February 1915, and November 1916. Likewise, *The Inside of the White Slave Traffic* was censored but passed in April 1915 and June 1915. Inspected Film Cards, Box 50, 701 and Box 50, 687, Papers of the Ohio State Censorship Board, OHC.

128. "Standards of the Pennsylvania Board," in Ellis Paxson Oberholtzer, *The Morals of the Movie* (Philadelphia, Pa.: Penn Publishing, 1922), 212, 123.

129. Louis Reeves Harrison, *MPW*, 11 October 1913, 133; Harrison, *MPW*, 17 January 1914, 265.

130. Nellie M. Smith, *Outlook*, 14 February 1914, 347. She went on: "What class of men can afford to spend two hours of an afternoon at a moving-picture show? Surely not those whose minds are on business" (347).

131. "Questionnaire about White Slave Films," 1916, Box 147, NBR; Bulletin No. 5, "To Motion Picture Producers and Directors Having in Mind the Presentation of White Slave Films," Box 143, NBR; *MPW*, 30 September 1916, 2087; *MPW*, 23 December 1916, 1792.

132. *MPW*, 31 January 1914, 530. In a reference to either *The Inside of the White Slave Traffic* or *The House of Bondage*, *Moving Picture World* noted that the "worst of all these films was conceived and made by men who are entirely outside the real moving picture pale" (*MPW*, 7 February 1914, 653).

133. Some evidence suggests that the national board conceived of its own role as in some respects a gatekeeper to the mainstream. In a discussion of *The House of Bondage* Mr. Persons of the General Committee said that the board should disapprove of the picture, especially "in view of the fact that the picture

is produced by a feature company rather than by a company releasing through a regular agency," for the "Board should treat such companies in a different manner than it treated the regular companies" (Persons, "Discussion on the 'House of Bondage,'" Box 105, NBR, 1). It is possible that this sense affected the board's differential treatment of *Traffic in Souls* and *The Inside of the White Slave Traffic*.

134. John Collier to Orrin Cocks, 5 January 1914, Box 170, NBR. In a statement made around the same time of this letter and in a discussion of the white slave film *The House of Bondage*, Collier argued strongly that the board should lobby for the production of educational films in the face of the indifference of "the big, capitalistic, moneyed manufacturers who are opposed to making motion pictures an instrument of discussion." The board should, Collier asserted, take "the attitude that the motion picture is the vehicle for public discussion"; otherwise, "the motion picture must remain in the vaudeville class" (John Collier, "Discussion on the 'House of Bondage,'" Box 105 NBR, 2). For Collier and for others the pressing question around the turn of 1913/1914 was how the board could continually push for the educational or political use of cinema in an economic context that clearly marginalized that.

135. John Collier to Orrin Cocks, 5 January 1914, Box 170, NBR. Such a conception of the double role of the board was central to Collier's initial outline of the role of the board in early 1909. See John Collier, "The Censorship of Plays," *Philanthropist*, 22 January 1909, 27–28. For an excellent account of the difficulties facing the board in the teens see Francis Couvares, "The Good Censor: Race, Sex, and Censorship in the Early Cinema," *Yale Journal of Criticism* 7, no. 2 (1994).

136. *Moving Picture World*, 30 September 1916, 2088. See also the material collected in Box 97, NBR.

137. *Report of the National Board of Censorship of Motion Pictures* (New York, 1914), 2.

138. Frederick Howe, "What to Do with the Motion Picture: Shall It Be Censored?" *Outlook*, 26 June 1914, 412–16.

139. Orrin Cocks, "Applying Standards to Motion Picture Films," *Survey* 32 (27 June 1914): 338. Early in 1914 Collier also asserted the board was national in scope in an interview conducted with *Moving Picture World*, 3 January 1914, 25–26.

140. *Moving Picture News*, 14 June 1913, 7.

141. "License Bureau Form," 25 June 1914, Box 32, NBR.

142. See Friedman, *Prurient Interests*, 51.

143. "Extracts from Hearings before the Committee on Education, House of Representatives 63d Cong., 2d sess., on Bills to Establish a Federal Motion Picture Commission" (Washington, D.C.: Government Printing Office, 1914), 1; *MPW*, 11 April 1914, 199. Crafts wrote to the national board to try and persuade members to support the proposed federal board, claiming that "this standard will not be that of one city, where the standard of the theatres becomes the criterion for the censorship of films, but a federal board with representatives

from all over the land" (Crafts to National Board of Censorship, 21 May 1914, Box 25, NBR).

144. See "Extracts from Hearings before the Committee on Education," esp. 6–8; *MPW*, 9 May 1914, 793–94.

145. See "Extracts from Hearings before the Committee on Education," esp. 4–6.

146. *Ibid.*, 6.

147. Congressman Hughes, quoted in *MPW*, 9 May 1914, 794.

148. Crafts, quoted in "Extracts from Hearings before the Committee on Education," 8.

149. Rev. William Sheafe Chase, quoted in *ibid.*, 22.

150. Crafts, quoted in *ibid.*, 3–4.

151. See, e.g., *MPW*, 9 May 1914, 794; *MPW*, 15 August 1914, 970; *MPW*, 29 August 1914, 1224; *MPW*, 14 October 1914, 311; *MPW*, 31 October 1914; and the material collected in Box 25, NBR. Howe and Cocks spoke on behalf of the board at the hearings, opposing the proposed censorship bill, and Cocks's testimony was later published in pamphlet form by the board. In it the board called for the extension of the First Amendment guarantee of free speech to moving pictures. National Board of Censorship, *The Question of Motion Picture Censorship* (New York: National Board of Censorship, 1914). Following the hearings, the board mounted a well-organized campaign against the bill. See details in Box 25, NBR; and Charles Matthew Feldman, *The National Board of Censorship (Review) of Motion Pictures, 1909–1922* (New York: Arno Press, 1980), 75–82.

152. U.S. Congress, House, *Report of the Committee on Education*, 63d Cong., 2d sess., 1915, H. Rept. 1411, 1–2.

153. *NYT*, 10 September 1915, 11. Many members of the mainstream industry were present at the first meeting, including representatives from Mutual, Fox, Vitagraph, Lubin, Selig, and Essanay.

154. *MPW*, 31 May 1913, 895.

155. Musser, "On 'Extras,'" 149.

## CONCLUSION

1. Gregory A. Waller, *Main Street Amusements: Movies and Commercial Entertainment in a Southern City, 1896–1930* (Washington, D.C.: Smithsonian Institution Press, 1995), 158.

2. Thomas Cripps, *Slow Fade to Black: The Negro in American Film 1900–1942* (New York: Oxford University Press, 1977), 59–60.

3. *Fighting a Vicious Film: Protest against "The Birth of a Nation" (1915)*, repr. in *The Movies in Our Midst: Documents in the Cultural History of Film*, ed. Gerald Mast (Chicago, Ill.: University of Chicago Press, 1983), 129; *NYT*, 15 April 1915, 1; *NYT*, 18 April 1915, 15. Jane Gaines describes the egg-throwing as a "hermeneutic act." See Jane M. Gaines, *Fire and Desire: Mixed-Race Movies in the Silent Era* (Chicago, Ill.: University of Chicago Press, 2001), 220.

4. *Fighting a Vicious Film*; see also “NAACP v. ‘The Birth of a Nation’: The Story of a 50-Year Fight,” *Crisis* 72, no. 2 (February 1965); and Cripps, *Slow Fade to Black*, 41–69. The NAACP organized protests in Los Angeles, New York, Boston, San Francisco, Pittsburgh, Chicago, Oakland, Tacoma, Portland, and Atlantic City.

5. Nickieann Fleener-Marzec, *D. W. Griffith’s “The Birth of a Nation”: Controversy, Suppression, and the First Amendment as It Applies to Filmic Expression, 1915–1973* (New York: Arno Press, 1980), esp. 66–73, 94–99.

6. *Chicago Defender*, 22 May 1915, cited in Gaines, *Fire and Desire*, 233; Fleener-Marzec, *Griffith’s “The Birth of a Nation,”* 265–68; *Record of Proceedings of the Industrial Commission of Ohio, Department of Film Censorship*, 6 January 1916, General Correspondence 1916–1956, Box 50,736, Ohio Historical Center (hereafter OHC).

7. House Bill No. 322, 80th General Assembly, Ohio, 1913, in *General Assembly: Legislative Service Commission, Bills and Acts, 1835–1996*, Box 3552, OHC.

8. *Record of Proceedings of the Industrial Commission of Ohio, Department of Film Censorship*, 6 January 1916, General Correspondence 1916–1956, Box 50,736, OHC.

9. *Record of Proceedings of the Industrial Commission of Ohio, Department of Film Censorship*, 11 January 1916, General Correspondence 1916–1956, Box 50,736, OHC.

10. “Minutes of the General Committee Held at the Liberty Theatre,” 1 March 1915; “A Statement in Regard to the General Committee Meeting Held at the Liberty Theatre on March 1st”; “Minutes of the General Committee Meeting Held at the American Theatre Supply Co.,” 12 March 1915; “To the Members of the National Board of Censorship: *Birth of a Nation*,” 17 March 1915, 1; all in Controversial Film Files, National Board of Review of Motion Pictures Collection, Rare Books and Manuscripts Division, New York Public Library (hereafter NBR). The response of the board is discussed in “Films and Births and Censorship,” *Survey* 3 (April 1915): 4–5; and in Francis Couvares, “The Good Censor: Race, Sex, and Censorship in the Early Cinema,” *Yale Journal of Criticism* 7, no. 2 (1994).

11. Fleener-Marzec, *Griffith’s “The Birth of a Nation,”* 359.

12. Epoch reported to shareholders at the end of 1917 that cumulative receipts for the film amounted to \$4,839,748.41. Epoch’s returns from states’ rights distributors usually amounted to about 10 percent of the box office taken and, together with Epoch’s own road-show engagements, this indicates that the film made roughly \$60 million gross in the theaters. See Richard Schickel, *D. W. Griffith* (London: Pavilion, 1984), 281.

13. Michael Rogin, *Ronald Reagan, the Movie, and Other Episodes in Political Demonology* (Berkeley: University of California Press, 1987), 191. Leaders of the black community in Lexington, Ky., discovered this to their cost when they sought but failed to bar the film by pointing out that they had complied with the decision to ban the Johnson-Jeffries fight six years earlier and had also

refused to book Johnson as an attraction at the Colored A & M Fair despite his willingness to appear. Waller, *Main Street Amusements*, 154.

14. Cripps, *Slow Fade to Black*, 52; Schickel, *D. W. Griffith*, 270. Even though it is not certain Wilson ever said this, Griffith himself alluded to it in a pamphlet he published after the controversy over the film: "As one eminent divine has said to the masses, 'It teaches history by lightning'" (D. W. Griffith, *The Rise and Fall of Free Speech* [Los Angeles: published privately, 1916], n.p.).

15. Rev. Dr. Charles Parkhurst, review of *The Birth of a Nation*, numerous papers, n.d., repr. in *Focus on "The Birth of a Nation,"* ed. Fred Silva (Englewood Cliffs, N.J.: Prentice-Hall, 1971), 102–3.

16. Schickel, *D. W. Griffith*, 294. The film had been made to coincide with the fifty-year anniversary of the Civil War.

17. D. W. Griffith, "Five-Dollar 'Movies' Prophesied," *Editor*, 24 April 1915, repr. in *Focus on "The Birth of a Nation,"* ed. Fred Silva (Englewood Cliffs, N.J.: Prentice-Hall, 1971), 25. In another instance of this imagination of the future role for cinema Griffith said, "Cinematography has become an integral part of our social life. We are just beginning to discover its possibilities, and the time will come when the importance of the motion picture will not be expressed in terms of amusement but in units of constructive educational welfare accomplished by its means" (*New York Mail*, 13 March 1915, cited in Schickel, *D. W. Griffith*, 290). Later, Griffith, then head of an anticensorship committee set up by the film industry in 1917, would criticize censorship for its effects on holding back the artistic and political potential of cinema: "Here is something which would make our business childish, which would soon have us make pictures so innocuous that no one would go to see them. Every prejudice would have its innings, every political axe would be whetted to a razor edge upon our backs, every suggestion of the truth about the abuse of government and society would be weeded out by a power greater than the power of the sovereign people. It is to save society as well as ourselves from this blight that we are united in the campaign against censorship" (*MPW*, 27 January 1917, 336).

18. "The Great White Hope longed for in saloons across the county," Richard Maltby writes, "finally appeared in 1915: not Jess Willard, who defeated Johnson in Havana in July, but Henry B. Walthall, D. W. Griffith's Little Colonel" (Richard Maltby, "The Social Evil, the Moral Order, and the Melodramatic Imagination, 1890–1915," in *Melodrama: Stage, Picture, Screen*, ed. Jacky Brattan, Jim Cook, and Christine Gledhill [London: British Film Institute, 1994], 226).

19. Griffith, *Rise and Fall of Free Speech*, n.p.

20. Philip Rosen has summarized this trope of film history thus: "The classical cinema has a genius father (Griffith), a first-born (*Birth of a Nation*) and a magnificent freak (*Intolerance*)" (Philip Rosen, "Securing the Historical: Historiography and the Classical Cinema," in *Cinema Histories, Cinema Practices*, ed. Philip Rosen and Patricia Mellencamp [Frederick, Md.: University Publications of America, 1984], 22). The condemnation of women reformers in *Intolerance*, apocryphally said to be a reference to Jane Addams, joined with

the misogyny evident in linking censorship to the figure of Mrs. Grundy seen in figure 29.

21. Edward D. White, the chief justice of the Supreme Court, is reported by Thomas Dixon to have told Dixon he was a Klan member and to have asked him if the film told “the true story of that uprising of outraged manhood.” See Schickel, *D. W. Griffith*, 270. See also Thomas R. Cripps, “The Reaction of the Negro to the Motion Picture *Birth of a Nation*,” *Historian* 26 (1963), repr. in *Focus on “The Birth of a Nation,”* ed. Fred Silva (Englewood Cliffs, N.J.: Prentice-Hall, 1971), 114; and Melvyn Stokes, “Race, Nationality, and Citizenship: The Case of *The Birth of a Nation*,” in *Federalism, Citizenship, and Collective Identities in U.S. History*, ed. Cornelis A. Van Minnen and Sylvia L. Hilton (Amsterdam: VU University Press, 2000), 107.

22. See Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” *Hastings Law Journal* 38 (1987): 839.

23. *Mutual Film Corp. v. Industrial Commission of Ohio et al.*, 215 *Federal Reporter* (September–October 1914); *MPW*, 27 December 1913, 1526–27; *MPN*, 18 April 1914, 17–18.

24. *MPW*, 27 December 1913, 1527.

25. *Mutual Film Corporation v. City of Chicago*, 224 F. 101 (U.S.C.C.A. Ill. 1915); *Buffalo Branch, Mutual Film Corporation v. Breiting*, 250 Pa. 225 (1915); *Mutual Film Corp. of Missouri v. Hodges*, 236 U.S. 230 (1915); John Wertheimer, “Mutual Film Reviewed: The Movies, Censorship, and Free Speech in Progressive America,” *American Journal of Legal History* 37 (1993).

26. *Mutual Film Corp. v. Chicago* (1915) 139 C.C.A. 657, 224 Fed. 201; *Buffalo Branch, Mutual Film Corporation v. Breiting*, 250 Pa. 225 (1915); *MPN*, 18 April 1914, 17–18.

27. *Mutual Film Corp. v. Industrial Commission of Ohio et al.*, 215 *Federal Reporter* (September–October 1914), 141; *MPW*, 27 December 1913, 1527; *Buffalo Branch, Mutual Film Corporation v. Breiting*, 250 Pa. 231–32.

28. *Mutual Film Corp. v. Industrial Commission of Ohio*, 141; *MPN*, 18 April 1914, 20 (my emphasis).

29. *Mutual Film Corp. v. Industrial Commission of Ohio*, 142–43.

30. *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915), 236, 243. Lawyers did not argue for First Amendment guarantees but relied on the state constitution’s guarantees of free speech because it was not clear that the First Amendment was binding on the states.

31. *Ibid.*, 232.

32. It is a common error among scholars to assume that the Supreme Court decision in *Mutual v. Ohio* was actually based on *The Birth of a Nation*. See David Nasaw, *Going Out: The Rise and Fall of Public Amusements* (Cambridge, Mass.: Harvard University Press, 1993), 204; Richard Koszarski, *An Evening’s Entertainment: The Age of the Silent Feature Picture, 1915–1928* (Berkeley: University of California Press, 1990), 199; Francis Couvares, “The Good Censor,” 237. Legal challenges by Mutual preceded *The Birth of a Nation*, though, and the cases were not focused on particular films but on broader principles.

33. *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915), 251.
34. *Ibid.*, 242.
35. *Ibid.*
36. In *Pathé Exch. v. Cobb* (1922) 202 App. Div. 450, 195 N.Y. it was stated that a newsreel is not a part of the press of the country, within the meaning of the Federal Constitution.
37. *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915), 236.
38. *Ibid.*, 244.
39. Later, for example, the Supreme Court would observe that the line between the transmission of ideas and mere entertainment is too elusive for a court to draw, if, indeed, such a line can be drawn at all. See *Stanely v. Georgia* (1969) 394 US 557, 22 L Ed 2d 542, 89 S Ct 1243. Operation for private profit has never controlled the constitutional status of other media of expression. See "Motion Pictures and the First Amendment," *Yale Journal of Criticism* 60 (1951): 702–3.
40. *Central Law Journal*, for example, expressed amazement that anyone could think film the same as the press: "What a variety of questions are raised under the general clauses of our fundamental law by the ever-progressive invention of our people! But as startling a one in its novelty, as we have noted, is that whereby the claim is made for freedom of speech in the product of a mechanical device on a curtain in a motion picture theatre" (80 *Central Law Journal* 307 [23 April 1915]).
41. *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915), 244.
42. Bourdieu, "Force of Law," 839.
43. Garth S. Jowett, "A Capacity for Evil': The 1915 Supreme Court *Mutual* Decision," *Historical Journal of Film, Radio, and Television* 9, no. 1 (1989): 59; *Burstyn v. Wilson* 343 U.S. 459 (1952). For a discussion of this case see Garth Jowett, "A Significant Medium for the Communication of Ideas': The *Miracle* Decision and the Decline of Motion Picture Censorship, 1952–1968," in *Movie Censorship and American Culture*, ed. Francis Couvares (Washington, D.C.: Smithsonian Institution Press, 1996).
44. *Buffalo Branch, Mutual Film Corporation v. Breitingner*, 250 Pa. 225 (1915); 2H Shepard's U.S. Citations, 6th ed., case ed (1988), 293–94, cited in Wertheimer, "Mutual Film Reviewed," 177.
45. George Bell to W.M. Covill, 6 September 1916, Box 32, NBR; *NYT*, 12 September 1916, 9; *MPW*, 30 September 1916, 2087.
46. Bell to Covill, 6 September 1916.
47. *NYT*, 23 September 1916, 4.
48. *NYT*, 14 July 1917, 7; *MPW*, 19 May 1917, 1908.
49. *Message Photoplay Co. v Bell*, 167 N.Y.S. 129 (1917); *Message Photoplay Co. v Bell*, 167 N.Y.S. 124 (1917); *NYT*, 14 July 1917, 7. See also Cynthia Goldstein, "Early Film Censorship: Margaret Sanger, *Birth Control*, and the Law," in *Current Research in Audiences, Economics, and Law*, ed. Bruce Austin

(Norwood, N.J.: Ablex, 1988); and Shelley Stamp, "Taking Precautions, or Contraceptive Technology and Cinema's Regulatory Apparatus," in *A Feminist Reader in Early Cinema*, ed. Jennifer Bean and Diane Negra (Durham, N.C.: Duke University Press, 2002).

50. *U.S. House of Representatives, Committee on Education, Motion Picture Hearings, 1916* (New York: Arno Press, 1978), 8.

51. *Weber v. Freed* 239 U.S. 325.

52. *U.S. House of Representatives, Committee on Education, Motion Picture Hearings, 1916*, 10.

53. *NYT*, 4 October 1916, 1; *NYT*, 5 October 1916, 4; *MPW*, 21 October 1916, 371.

54. "Standards of the Pennsylvania Board," in *The Morals of the Movie*, by Ellis Paxson Oberholtzer (Philadelphia, Pa.: Penn Publishing, 1922), 212–15.

55. *64 American Law Review* 505.

56. See Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1979), 234.

57. *MPW*, 24 June 1916, 2210; *MPW*, 22 July 1916, 612. NAMPI replaced the short-lived Motion Picture Board of Trade when the board failed to mediate a dispute between its members and the Motion Picture Exhibitor's League of America.

58. *MPW*, 22 July 1916, 612.

59. *MPW*, 27 January 1917, 336; *MPW*, 24 March 1917, 1944.

60. *Variety*, 15 April 1921, 44.

61. *MPW*, 27 January 1917, 336.

62. See Charles Matthew Feldman, *The National Board of Censorship (Review) of Motion Pictures, 1909–1922* (New York: Arno Press, 1977), 139–40.

63. *MPW*, 23 December 1916, 1792.

64. See the material collected in Box 96, NBR.

65. See Mike Budd, "The National Board of Review and the Early Art Cinema in New York: *The Cabinet of Dr. Caligari* as Affirmative Culture," *Cinema Journal* 26, no. 1 (fall 1986).

66. *Wid's*, 31 May 1917, 349; *MPW*, 2 June 1917, 1458. Likewise, a survey of exhibitors by the national board showed that exhibitors tended to steer away from "sex pictures" and to demand, instead, films that were suitable for family audiences. See Box 145, NBR. See also Shelley Stamp's discussion of the industry's response to films representing issues of birth control in Stamp, "Taking Precautions."

67. To take just one example: *The Finger of Justice* (Paul Smith Pictures, 1918) was produced by a San Francisco minister to publicize his efforts to stamp out prostitution. The film was passed by the National Board of Censorship, in line with its policy of allowing films that were "strictly propaganda . . . produced obviously for social betterment," but drew criticism from other groups, including the licensing department in New York City. License Commissioner John Gilchrist, who had replaced Bell in early 1918, banned the film because

of fears about its effects on “youthful and impressionable minds,” and the decision was again upheld in court. Box 104, NBR; *NYT*, 3 July 1918, 11; *NYT*, 4 July 1918, 13.

68. Cited in Oberholtzer, *Morals of the Movie*, 151.

69. See Koszarski, *An Evening's Entertainment*, 69–77.

70. Ruth Vasey, *The World According to Hollywood, 1918–1939* (Madison: University of Wisconsin Press, 1997), esp. 13–62, 194–225.

71. Griffith, *Rise and Fall of Free Speech*, n.p.

72. See the account in Leslie Midkiff DeBauche, *Reel Patriotism: The Movies and World War I* (Madison: University of Wisconsin Press, 1997), 104–36; and Stephen Vaughn, *Holding Fast the Inner Lines: Democracy, Nationalism, and the Committee on Public Information* (Chapel Hill: University of North Carolina Press, 1980). Creel was a former journalist and police commissioner in Denver. He had also been a film scenario writer and had written a film called *Saved by the Juvenile Court* (1913)! See also Terry Ramsaye, *A Million and One Nights: A History of the Motion Picture* (London: Cass, 1926), 611; and Kevin Brownlow, *Behind the Mask of Innocence* (New York: Knopf, 1990), 171–72.

73. Woodrow Wilson, *Exhibitor's Trade Review*, July 1918, cited in DeBauche, *Reel Patriotism*, 109.

74. Nasaw, *Going Out*, 218; DeBauche, *Reel Patriotism*, 135.

75. U.S. Committee on Public Information, Division of Four Minute Men, “Bulletin No. 28, March 31, 1918,” cited in Nasaw, *Going Out*, 214.

76. Fleener-Marzec, Griffith's “*The Birth of a Nation*,” 265.

77. *Message Photoplay Co. v Bell*, 167 N.Y.S. 129 (1917).

78. *MPW*, 22 December 1917, 1786; *MPW*, 29 December 1917, 1947; *MPW*, 11 May 1918, 865; *MPW*, 25 May 1918, 1145; Richard Wood, ed., *Film and Propaganda in America: A Documentary History*, vol. 1, *World War I* (Westport, Conn.: Greenwood Press, 1990), 296; Nasaw, *Going Out*, 211. His sentence was commuted by President Woodrow Wilson after he had served two years in a federal penitentiary.

79. See Steven J. Ross, *Working-Class Hollywood: Silent Film and the Shaping of Class in America* (Princeton, N.J.: Princeton University Press, 1998), 124–25.

80. See Steven J. Ross, “Struggles for the Screen: Workers, Radicals, and the Political Uses of Silent Film,” *American Historical Review* 96, no. 2 (1991): 347–48. Ross's important work has shown how the film industry increasingly marginalized labor films and filmmaking, presenting a conservative stance on labor problems that was supported by the government.

81. *Variety*, 21 February 1919, 71; *MPW*, 24 May 1919, 1167; *Variety*, 18 July 1919, 46; Eric Schaefer, *Bold! Daring! Shocking! True! A History of Exploitation Films, 1919–1959* (Durham, N.C.: Duke University Press, 1999), 27–36.

82. *MPW*, 12 April, 1919, 276; *Exhibitor's Trade Review*, 14 June 1919, 104, cited in Schaefer, *Bold! Daring! Shocking! True!*, 29.

83. Stacie Colwell, "The End of the Road: Gender, the Dissemination of Knowledge, and the American Campaign against Venereal Disease during World War I," *Camera Obscura* 29 (May 1992): esp. 109–15.

84. See Karl S. Lashley and John B. Watson, *A Psychological Study of Motion Pictures in Relation to Venereal Disease Campaigns* (Washington, D.C.: United States Interdepartmental Social Hygiene Board, 1922), esp. 86–87.

85. Ruth A. Inglis, *Freedom of the Movies* (Chicago, Ill.: University of Chicago Press, 1947), esp. 62–73.

86. *Ibid.*, 69–70.

87. Richard deCordova, *Picture Personalities: The Emergence of the Star System in America* (Urbana: University of Illinois Press, 1990), 117–47; Mark Lynn Anderson, *Twilight of the Idols: Male Film Stars, Mass Culture, and the Human Sciences in 1920s America* (Berkeley: University of California Press, forthcoming).

88. Oberholtzer, *Morals of the Movie*, 58.

89. Raymond Dodge, "The Psychology of Propaganda," in *Introduction to the Science of Sociology*, by Robert E. Park and Ernest W. Burgess (1921; repr., Chicago, Ill.: University of Chicago Press, 1969), 837. On Creel's claims about the effects of propaganda activity see George Creel, *How We Advertised America: The First Telling of the Amazing Story of the Committee on Public Information That Carried the Gospel of Americanism to Every Corner of the Globe* (New York: Harper, 1920).

90. See, e.g., Walter Lippmann, *Liberty and the News* (New York: Harcourt, 1920); Walter Lippmann, *Public Opinion* (New York: Macmillan, 1922); and, for an account of Lippmann and other scholarship on public opinion in the 1920s, Hanno Hardt, *Critical Communication Studies: Communication, History, and Theory in America* (London: Routledge, 1992), esp. 65–67.

91. *Chicago Motion Picture Commission Report* (Chicago, 1920), 5–6.

92. *CT*, 19 July 1918, 6, cited in Raymond J. Haberski Jr., *It's Only a Movie! Films and Critics in American Culture* (Lexington: University Press of Kentucky, 2001), 38.

93. See "Statement of Prof. Ernest W. Burgess, University of Chicago," *Chicago Motion Picture Commission Report*, 131–40. Later in the 1920s the growing interest of social scientists in cinema would be solidified with the establishment of the well-known Payne Fund Studies. See Garth Jowett, Ian C. Jarvie, and Kathryn H. Fuller, *Children and the Movies: Media Influence and the Payne Fund Controversy* (Cambridge, U.K.: Cambridge University Press, 1996); and Mark Lynn Anderson, "Taking Liberties: The Payne Fund Studies and the Creation of the Media Expert," in *Inventing Film Studies*, ed. Lee Grieveson and Haidee Wasson (Durham, N.C.: Duke University Press, forthcoming).

94. *Chicago Motion Picture Commission Report*, 134.

95. *Ibid.*, 16.

96. *Ibid.*, 33.

97. *MPW*, 24 May 1919, 1167; *NYT*, 7 March 1921, 7.

98. *Chicago Motion Picture Commission Report*, 176.

99. Frederick Palmer, *Technique of the Photoplay* (Hollywood, Calif.: Palmer Institute of Authorship, 1924), 17. On the industrial validation of entertainment in the early 1920s see also Jared Gardner, "Covered Wagons and Decalogues: Paramount's Myth of Origins," *Yale Journal of Criticism* 13, no. 2 (2000).

100. Annette Kuhn, *Cinema, Censorship, and Sexuality, 1909–1925* (London: Routledge, 1988), esp. 45–48; Schaefer, *Bold! Daring! Shocking! True!*; on the emergence and connections between documentary and avant-garde practices and institutions see, e.g., Charles Wolfe, "Straight Shots and Crooked Plots: Social Documentary and the Avant-Garde in the 1930s," and William Uricchio, "The City Viewed: The Films of Leyda, Browning, and Weinberg," both in *Lovers of Cinema: The First American Film Avant-Garde, 1919–1945*, ed. Jan-Christopher Horak (Madison: University of Wisconsin Press, 1995); and Bill Nichols, "Documentary Film and the Modernist Avant-Garde," *Critical Inquiry* 27 (summer 2001).

101. "Code to Govern the Making of Talking, Synchronized, and Silent Motion Pictures," reproduced from a facsimile copy of the typescript signed by the board of directors of the MPPDA on March 31, 1930, in "Documents on the Genesis of the Production Code," ed. Richard Maltby, *Quarterly Review of Film and Video* 15, no. 4 (1995): 53. For the best accounts of the establishment and functioning of the Production Code see Maltby, "Genesis of the Production Code," *ibid.*; and Richard Maltby, "The Production Code and the Hays Office," in *Grand Design: Hollywood as a Modern Business Enterprise, 1930–1939*, by Tino Balio (New York: Charles Scribner's Sons, 1993).

102. Will Hays, cited in Richard Maltby, *Hollywood Cinema: An Introduction* (Oxford: Blackwell, 1995), 363.

103. *MPW*, 31 May 1913, 895; *MPW*, 24 March 1917, 1944.



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