

## The Politics of Performance

Theater Licensing and the Origins of  
Movie Censorship in New York

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**T**he movies were born in the city. While historians of early film have begun to pay more attention to special issues such as technology, patent wars, industrial practice, and the movies' aesthetic debt to earlier forms of cultural expression, there has been little analysis of the specifically urban world that made motion pictures the most popular form of commercial entertainment by World War I. The political, legal, and economic wrangles surrounding the nascent movie business in New York City established the template for the ownership and control of the mature industry, as well as the basic pattern for film censorship. In the first center of movie production and exhibition during the early part of the century, the especially knotty issues involving the licensing and censoring of movies—who could show them and what they could show—were fiercely contested. These battles over the regulation of representation need to be understood against the historical backdrop of urban cultural politics.

Movies reinforced and reconfigured a set of controversies that, since the mid-nineteenth century, had been fought out largely over the licensing and

regulation of theatrical space. These issues included the alleged dangers commercial entertainments posed to children, disputes over Sunday blue laws, the licensing authority of the police department, and the connections between plebeian culture and the underworld. The process that determined which entertainments were licensed and which were licentious had always been fundamentally political and volatile. The continual controversies over commercial enterprises loosely described as “theatrical” involved complicated relations among entrepreneurs, the licensing authority of the state, the police power, and neighborhood audiences.

By 1908 the movie business faced a crisis of exhibition: the older traditions of theater licensing proved inadequate for regulating the emergent new medium. Progressive reformers, movie exhibitors, and movie producers sought to split movies off from such live urban entertainments as vaudeville, burlesque, and concert saloons. Progressive social service agencies and activists embraced movies as an alternative to older entertainment traditions closely allied with machine politics and the urban vice economy. Movie entrepreneurs cultivated the new alliance with reformers as a way to shed the stigma of the street, attract a middle-class patronage, and increase their profits. For their part, reformers saw that alliance as a way to achieve what John Collier, the general secretary of the National Board of Censorship, called “the redemption of leisure.” New York’s movie wars—fought over theaters and screens, in the courts and the streets—illuminate a crucial transformation: the supplanting of locally based, municipally licensed cheap theater by the nationally organized, industrial oligopoly that came to dominate our popular culture.

The whole question of what, precisely, constituted a “theatrical performance” had remained ambiguous ever since the New York state legislature passed the first comprehensive licensing act in 1839. That act, a response to intense lobbying by the Society for the Reformation of Juvenile Delinquents (SRJD), had rested on the strongly held belief in a direct, causal relationship between the theater and delinquent or criminal behavior. It required any “theater, circus, or building, garden or grounds, for exhibiting theatrical or equestrian performances” in New York City to obtain a license from the mayor, with all collected fees to be forwarded to the SRJD. The law also set a penalty of \$500 for every violation, and it authorized the society, as an agent of the state, to sue and collect on those penalties. During the Civil War the city experienced a boom in “concert saloons,” and the explosive issue of separating prostitution and alcohol from entertainment spaces led the legislature in 1862 to pass a new act to “Regulate Places of Public Amusement.” Its key features banned

alcoholic beverages on the premises of performance and made illegal the employment of females to wait on spectators.<sup>1</sup>

Over the next four decades, two kinds of regulation coexisted in the highly profitable yet unstable world of New York popular amusements. One was an internal supervision within the entertainment business itself, led by the trade press and certain entrepreneurs who sought to expand their audience by distancing their attractions from associations with alcohol and prostitution. The most influential figure in this process was Tony Pastor, often called the father of American vaudeville. While Pastor gained his first notoriety during the concert-saloon boom of the early 1860s, he soon moved to create a "high class variety" by freeing the entertainment from its earlier associations. By 1881 he had become the leading variety-theater manager in the city and moved into his Fourteenth Street Theater, on the ground floor of the new Tammany Hall. Pastor embodied the urge toward respectability and wider commercial success, and his theater is rightly viewed as the prototype for the mainstream vaudeville that dominated the American popular stage from the 1880s until the rise of radio. He regulated his theater with an eye toward increasing profit, making special efforts to attract a female clientele.<sup>2</sup>

Yet there were hundreds of other entertainment entrepreneurs who did not follow this path, retaining their ties to the concert-saloon traditions and struggling to survive within the competitive world of New York amusements. An uneasy alliance of the police department, the mayor's office, private moral reform societies, and neighborhood groups kept up a continuous cultural surveillance of entertainment spaces that included dime museums, concert saloons, and vaudeville and burlesque houses. Obtaining and keeping a license from the mayor's office proved a key not only to staying in business, but also for moving into a more profitable realm in the continuum of amusement respectability. To thrive, an entrepreneur had to negotiate a treacherous terrain held by autocratic police captains, ever-vigilant moral reformers, outraged clerics, and organized neighborhood citizens. No one, finally, could say with any certainty what constituted a theater, or what the difference was between a theater and a concert hall. Indeed, many entrepreneurs sought both theater and concert licenses since the city charter authorized the police department to permit the sale of liquor in concert halls.

An 1875 "List of Theatres, Halls, Concert Rooms" counted fifty-seven licensed places for that year, a figure which remained basically constant for the next two decades. These were about evenly divided between places presenting straight drama, opera, music concerts, and circuses and the newer concert saloons and variety theaters. They were clustered mainly in three entertainment

districts: the Bowery and Lower East Side; 14th Street and Union Square; and "the Tenderloin," roughly from 23rd to 42nd Streets, between Sixth and Eighth Avenues. By this time several newer private groups, such as the Society for the Suppression of Vice, the Society for the Prevention of Cruelty to Children, and the Society for the Prevention of Crime, had joined the SRJD in making active interventions in the licensing process.<sup>3</sup>

Consider, for example, the Belvidere Variety Theatre at 23 Bowery, licensed by the city since at least 1875. Its owner, John Schroeder, probably opened it first as a saloon room, adding a small stage with rough scenery facing tables and chairs. Upon orders of the local police captain in early 1879, Schroeder erected a seven-foot-high wooden partition to separate the barroom from the stage area, thus technically complying with the law requiring separation of theatrical performance from the serving of alcohol. In April 1879 two agents for the recently formed Society for the Suppression of Vice (SSV), founded by Anthony Comstock, visited the Belvidere and filed depositions with the mayor's office, protesting a renewal of license. One described the scene as follows:

At the tables were seated about twelve girls and women with a number of men, engaged in drinking and conversation. . . . On entering the saloon deponent seated himself near the door and was soon approached by one of the women and asked what [he] would have to drink and if she could drink with him. Seating herself at the table the drinks, lager beer and lemonade, were brought by a waiter. While drinking the woman asked deponent to go with her to one of the rooms on the side of the stage. Deponent consented and going to the room was again asked to treat which he did. In the course of the conversation which followed the woman urged deponent to take her into one of the rooms up stairs, which was more private and had better accommodations, and where they could have a bottle of wine together and would only cost three dollars. Upon deponent's remarking that it cost pretty high and whether anything else was given for the money, the woman replied that they would have a good time, that she would give him a nice diddle, pulled up her dress, showed her leg above the knee, made use of every persuasion and said she would get one dollar of the money and the other two dollars would go to the proprietor—the whole of which offers the deponent declined.<sup>4</sup>

In response, Schroeder vigorously denied the "false, malicious, and untrue" statements in the SSV depositions, claiming that "such practices are not permitted on the premises." He defended the arrangements in his place, stressing the makeshift wall separating barroom from theater as "similar to the front partitions used at Miner's Theatre, Volks Garden, and theatres of like charac-

ter on the Bowery." He admitted that "the greater portion of the upper part of the building is let out weekly to male lodgers and the balance thereof to transient lodgers of the same sex." Schroeder also submitted a supporting petition from eight neighboring businessmen. These clothing merchants, hatters, and picture framers all affirmed that the Belvidere was not disorderly, "nor is it the source of disturbance or annoyance to us during the day or night or in our judgement the cause of annoyance or grievance to the travelling public."

Like so many other places on the Bowery, in Union Square, and in the Tenderloin, the Belvidere continued to operate for years, a protean urban space defined and redefined by various elements of the metropolis. It qualified as a legitimate entertainment enterprise as long as John Schroeder coughed up regular tribute to the local police captain. He maintained the Belvidere as a legal and moderately successful business, catering to local working people and tourists, and providing employment for musicians and other variety performers. At least some of the women found there earned money by hustling drinks from customers and splitting the money with Schroeder. Whether they received a wage is unclear. Some of them may have also engaged in casual prostitution with customers looking for that. But as both police and private investigators found, one had to agree to move through a series of coded encounters first: letting a woman sit with you, treating her, moving to a side room, treating again, allowing her onto your lap, moving upstairs to a private room. Even there, the real profit resulted from using sex to sell liquor rather than the reverse. For the Society for the Suppression of Vice, the Belvidere was a low "dive," frequented only by thieves and prostitutes. It was "disorderly" precisely because it blurred the boundaries between respectable and unrespectable social behavior.<sup>5</sup>

During its infancy, roughly from 1896 to 1906, the motion picture established itself largely within venues more respectable than the Belvidere. Movies became the single most popular act in American vaudeville, the latest in a long line of visual novelty acts—"living picture" tableaux, lantern slides, shadowgraphy—that could be fit neatly into an established format organized around discrete, unrelated "turns." Vaudeville managers aggressively promoted brief travelogues, "local actualities," news films, and the occasional comedy or drama to gain an edge over their competitors. Hundreds of vaudeville theaters across the country provided the most important market for the fledgling, mostly undercapitalized moviemakers.<sup>6</sup>

Beginning around 1905 the rapid growth of "nickelodeon" theaters, devoted exclusively to exhibiting motion pictures, created the industry's first great boom. As Charles Musser has argued, "It is not too much to say that

modern cinema began with the nickelodeons." These were usually penny arcades, empty storerooms, or tenement lofts converted into rude theaters devoted to continuous shows of motion pictures. Film historians have identified several factors that contributed to the "nickel madness," including the development of longer, more sophisticated "story films," a general expansion in popularly priced entertainment forms between 1905 and 1908, and the aggressive commercial exploitation of movies by urban immigrant exhibitors. Nickelodeons attracted a tremendous rush of entrepreneurial energy. In 1907, the not untypical Golden Rule Hall nickelodeon on the Lower East Side's Rivington Street reported a weekly take of \$1,800. Fixed expenses of about \$500 left the proprietor with a net weekly profit of \$1,300. In 1910, in Manhattan alone, weekly movie attendance reached approximately 900,000 at about four hundred theaters.<sup>7</sup>

The sudden explosion of storefront theaters in New York created a complex political and cultural crisis, making plain the deep contradictions surrounding the popularity and regulation of the movies. Subject to two very different licensing procedures, movies fell between the cracks of the ambiguous theater laws. Where motion pictures were coupled with vaudeville acts, exhibitors were required to take out a theater or concert license, issued by the police department, at an annual fee of \$500. Where entertainment consisted of motion pictures alone, with no stage performances, only a so-called common-show license, costing \$25 and granted by the mayor, was needed. In addition, the city's building code required that any space intended for public entertainment with audiences over three hundred had to comply with certain very specific and stringent regulations involving exits, fireproofing, size of stage, lighting, and so on. Not surprisingly, therefore, the large majority of early movie houses operated under common-show licenses and kept their capacities below three hundred. In 1910, as a systematic study done for the mayor's office revealed, about 450 movie houses operated under common show licenses, another 290 held theatrical or concert licenses, and around 600 had a seating capacity under three hundred.<sup>8</sup>

The strategy pursued by many of the ambitious, small-time, immigrant showmen, all trying to stake claims in the new amusement Klondike, seems clear: stay beneath the surveillance of the police and the reform agencies traditionally interested in regulating the city's theatrical world. They kept their shows small and short, with only a minimal investment in a hastily refurbished penny arcade or storefront. They could obtain a common-show license for as brief a period as three months and thought nothing of packing up and moving to another part of the city as soon as business went bad. By late 1906

several established theatrical managers had protested to the police department because they were compelled to live up to expensive licensing requirements, while the itinerant movie shows were not. At the same time, complaints from clergymen and moral reformers against movies began to mount, centering on four issues: the running of Sunday shows, the large numbers of children in the audience, the screening of immoral films, and the threat of fire. But while the tremendous popularity of the movies brought forth demands for stricter regulation, these calls extended to a whole range of plebeian entertainments.<sup>9</sup>

Police Commissioner Theodore Bingham attempted to bring some order to the situation by reasserting his department's authority over the realm of entertainment licensing. An arrogant, tactless former army officer and federal bureaucrat, with a violent temper, Bingham had been appointed to lead the police in 1906 by Mayor George B. McClellan, Jr. He had little knowledge of New York City, and his three-year reign as commissioner would be marked by constant bickering with the mayor and controversies occasioned by Bingham's anti-Semitic and nativist pronouncements on the causes of crime. In April 1907 Bingham ordered police captains to furnish a descriptive list of all places of amusement in their precincts, especially noting penny arcades and cheap theaters, and he promised to review every application for license renewal personally. This survey counted over four hundred "'penny arcades' and similar places where phonographs, moving pictures, and mechanical pianos furnish the entertainment." By July Bingham recommended that Mayor McClellan revoke the licenses held by scores of penny arcades, nickelodeons, and cheap vaudeville houses because they admitted children unaccompanied by parents, showed obscene pictures, or violated building and fire regulations.<sup>10</sup>

The Children's Aid Society, founded in 1853 by Charles Loring Brace, supported Bingham's efforts by charging that these places menaced the morals of children under sixteen. The society brought suits in 1907 against several movie exhibitors. After being raided by society agents, George E. Watson, proprietor of a nickel show on Third Avenue near 34th Street, was fined \$100 in special sessions on a charge of imperiling the morals of young boys by showing a Lubin film called *The Unwritten Law*, based on the sensational Stanford White-Harry Thaw murder case of the previous year. Judges viewing the film decided that two of its scenes, depicting the drugging of Evelyn Nesbit by Stanford White and the shooting of White on the roof garden, were unfit for children. In a similar case, William Short, who ran a movie house on West 116th Street, was arrested for exhibiting a film portraying the interior of a Chinese opium den. The police magistrate hearing this case remarked, "If any man should show that picture to my child I would kill him. The town is full

of these sort of places and they are doing incalculable harm. The police should close every one of them."<sup>11</sup>

The movie boom also galvanized a renewed campaign by elements of New York's Protestant clergy for stricter enforcement of the law banning Sunday stage performances. Since the early 1880s theatrical blue laws had been honored mostly in the breach, as vaudeville and burlesque houses routinely offered "sacred concerts" on Sundays, consisting only of singing and monologues, and supposedly free of all scene shifting, costumes, makeup, and acrobatic acts. Although these tamer Sunday performances had become a New York institution over the years, complaints about Sabbath-breaking occasionally brought a flurry of arrests and threats to revoke licenses, usually against the smaller and poorer theaters along the Bowery and around Union Square. In the fall of 1906 Rev. F. M. Foster, a Presbyterian minister, and Canon William S. Chase, a Brooklyn Episcopal minister, organized the Interdenominational Committee for the Suppression of Sunday Vaudeville. They wrote Mayor McClellan that "whatever requires a license on other days of the week is forbidden on the first day of the week" and warned him that "the public has a right to hold you responsible for the violation of the law."<sup>12</sup>

In typical language, Rev. Percy S. Grant of the Episcopal Church of the Ascension charged that those favoring Sunday shows were mostly "of a race who have no use for our Sunday, and I don't know that they have any use for their own." He denounced the spread of Sunday entertainments, especially those he saw developing "along the lines open to us by the poorer class of vaudeville and other shows. It would not only degrade our religious nature, but our minds." In December, responding to this campaign, police closed a number of Bowery and Harlem burlesque and vaudeville houses on Sunday, as well as a popularly priced Italian opera concert. Significantly, though, when the Interdenominational Committee, with the support of Bingham and the city's Corporation Counsel, made plans to bring a test case to court on the Sunday law, they chose not one of the lesser Bowery or Harlem theaters, but William Hammerstein's Victoria theater, a big-time vaudeville house at Broadway and 42nd Street, in the heart of the emerging Times Square theater district.<sup>13</sup>

Meanwhile, the movie exhibitors looked for ways to defend themselves legally and politically. In June 1907 a group of about sixty formed the Moving Picture Exhibitors Association (MPEA). These were mostly Jewish and Italian showmen holding common-show licenses and ready to exploit their close ties to the Tammany Hall machine. The MPEA succeeded in getting a New York Supreme Court justice to grant an injunction preventing the mayor and his Bureau of Licenses from revoking their licenses. Significantly, their counsel was

Florence Sullivan, who was not a lawyer, but a Tammany district leader on the Lower East Side and a cousin of Timothy D. "Big Tim" Sullivan, the most powerful Democratic politician in Manhattan. It is important to note, too, that the MPEA's first president, Nicola Seraphine, defended the movie business with domestic imagery that would echo throughout film history. "A great majority of the moving pictures," he told an interviewer, "retain something connected with the home. The human heart goes out to these pictures because they recall scenes that are dear to the poorest patron of these shows. . . . The moving picture exhibitions are rapidly multiplying and are so easy of access and reasonable in price of admission that they are really a part of the home life of Greater New York."<sup>14</sup>

Amidst all this contention a legal bombshell landed on December 3, 1907, shaking the foundations of New York show business. Ruling on the Sunday test case, Supreme Court Justice James A. O'Gorman revoked the license of the Victoria theater for violating an old 1860 state ban on Sabbath entertainment. Ignoring the enormous changes in the city's population and leisure patterns over the past five decades, O'Gorman asserted 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 good order of society the Legislature has authority to regulate its observance." Police Commissioner Bingham welcomed this clear, definite order. "Everything in the way of Sunday theater is to be closed," he announced. "That covers Carnegie Hall as well as the one and five cent vaudeville and moving picture shows." Few decisions in the history of New York courts touched so many people. The prohibition would affect twenty-seven vaudeville and burlesque theaters; numerous opera houses, symphonies, and other concert halls; and Sunday-night plays given in German, Yiddish, and French. The combined audience for these events ran to perhaps 150,000 on an average Sunday, and if the summer seaside resort shows were included, to over half a million.<sup>15</sup>

For two "blue Sundays" in a row the police enforced O'Gorman's ruling, creating an eerie stillness in the city's theaters, while large throngs moved through Broadway, the Bowery, Union Square, Times Square, and other main avenues in "crowds that reached almost election night proportions." A very vocal, large, and diverse opposition immediately put pressure on the Board of Aldermen to exercise its power to give the city its own Sunday amusement law. The city's press largely opposed the blue law, invoking cosmopolitan diversity as their own standard and class bias as that of their enemies. The *World* argued that with three-quarters of all New Yorkers of foreign parentage, "re-

peal or non-enforcement is its inevitable fate, hastened by every attempt to revive its outworn and outgrown severity. . . . The people's Sunday belongs to the people." A mass meeting of 2,500 members of the United German Societies, representing roughly 300,000 people, called for bringing the laws of the state "into harmony with the present conditions and wants of the people." Delegates to the city's Central Federated Union, representing 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." The Tammany-dominated Board of Aldermen responded to all this pressure by quickly passing an ambiguously worded ordinance relaxing the Sunday law. It allowed for "sacred or educational, vocal or instrumental concerts," provided that these 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>16</sup>

For the motion picture industry, the 1907 uproar over Sunday theater proved a turning point. Since movie exhibition was not part of the nineteenth-century entertainment equation, it had never been subject to blue laws. A revitalized Moving Picture Exhibitors Association took advantage of the legal chaos to mark out its own space, separate from the older theatrical interests, and to flex its growing political muscle. The MPEA was now led by William Fox, an intense, twenty-nine-year-old Hungarian Jewish immigrant who had invested the profits from his small cloth-inspecting company in the entertainment business. Fox had successfully converted several Brooklyn penny arcades and burlesque theaters into movie houses, and by 1907 he had opened a film distribution business and gained control of more theaters in Manhattan. He later emerged as the prototypical movie mogul, a pioneer, along with Adolph Zukor, in vertically integrating movie exhibition, distribution, and production. In his early New York days Fox was unique for his shrewd and effective use of Tammany Hall connections in building both his economic base and his influence with other movie men. His attorney and partner, and the new counsel for the MPEA, was Gustavus Rogers, a Jewish, City College-educated lawyer. Rogers had made himself useful to the Sullivan machine, and by 1903, at age twenty-seven, he had served as both legal counsel and corresponding secretary for Tammany Hall.<sup>17</sup>

The only theaters open in the city during the two December blue Sundays were nine Fox nickelodeons. Rogers had obtained a court injunction preventing police from closing them, successfully arguing that the phrase "or any other entertainment of the stage" (contained in the charter provision) did not



apply to moving picture shows "because they do not require the use of a stage as that word is understood." Newspapers noted that, amidst the Sunday amusement drought, Fox's Harlem Comedy Theatre did an enormous business, giving performances every fifteen minutes, all day, to three hundred eager patrons, each paying a nickel. Motion pictures were not mentioned in the new city ordinance, but the corporation counsel claimed they were illegal.<sup>18</sup>

Moving quickly to protect all 110 members of the MPEA, controlling some five hundred movie houses, Rogers argued that movies could not be prosecuted under the new city statute because it did not mention them; nor could an older state law forbidding Sunday "public sports, exercises, or shows" be invoked because movies were not presented out-of-doors. On December 28, 1907, he won a temporary blanket injunction, later upheld, from Supreme Court Justice Samuel Greenbaum, restraining police from harassing any Sunday movie shows. As the trade paper *Moving Picture World* noted, "Nearly all the promoters of moving picture entertainments availed themselves of the injunction privilege and their houses were packed. . . . The real sufferers were the vaudeville managers. They were forced to make up their bills of singing, talking and instrumental acts in which the performers wore street clothes. In most cases the attendance was light and it was a lucky house which did not lose a substantial sum."<sup>19</sup>

Motion picture exhibition, now on a more secure legal footing with the court victories of 1907, became an even more inviting business opportunity. Theater managers worried about the legal ambiguities surrounding Sunday performances began substituting movies for live acts. The economic downturn of 1907-8 also encouraged vaudeville and burlesque houses to convert to movies as their main attraction. In the summer of 1908, for example, William Fox startled the city's show business community by leasing two popular, centrally located theaters, the Dewey on 14th Street and the Gotham on 125th Street, and converting them to motion pictures. Since the 1890s these theaters had been controlled by Big Tim Sullivan, offering risqué vaudeville and burlesque shows that regularly attracted protests from Sullivan's political enemies. After Fox paid one year's rent of \$100,000, in advance, for the two theaters, he proceeded to make tremendous profits by offering a show with five reels of film, interspersed with several live vaudeville acts, all for ten cents.

The Dewey, with its fifty employees, red-uniformed ushers, and daily changes of films, was now, according to *Variety*, "the best run and most profitable moving picture place in New York." On Thanksgiving Day, 1908, the 1,200-seat Dewey sold 12,000 tickets, a record attendance for a movie theater. More vaudeville and burlesque theaters, many of them old bastions in the

city's entertainment districts, made the transition to movies at this time, including Tony Pastor's, the Unique, and the Union Square, all on 14th Street, and two big Keith and Proctor houses on 23rd and 125th Streets.<sup>20</sup> The policy of adding live variety acts to the show, pioneered by Fox and Marcus Loew, created what became known as "small-time vaudeville," an important transitional phase in movie exhibition. Combining the nickelodeon's cheap admission price and film program with the live acts and trappings of the more comfortable, middle-class vaudeville house, these theaters put many of the cramped, dingy storefront theaters out of business. The "small-time" format would prove ideal for the multireel "feature films," which began to appear after 1912, and they also provided the foundation for several of the largest movie house circuits, a crucial part of the vertical monopolies that later dominated Hollywood production.<sup>21</sup>

As the movie boom accelerated, the desire to inspect and regulate this new entertainment phenomenon intensified in several quarters. Two parallel investigations of New York's movie business, one public, one private, took place in early 1908, and together they set the agenda for movie regulation for the next decade. Mayor McClellan ordered the city police to visit and make a complete list of all the places with penny arcades or moving picture shows. Part of the impetus here came from a disastrous nickelodeon fire in Boyertown, Pennsylvania, which killed 169 people and drew cries for tighter safety codes. But the mayor also found himself inundated with complaints from clergy warning against the moral dangers posed by movies and, between the lines, afraid of the competition that this new entertainment posed.

"A number of us," wrote Rev. Michael J. Lavelle, vicar general of the Roman Catholic Archbishopric, "are very much worried by the moving picture shows, not only on Sunday but every day in the week. We are being constantly urged to do something to have them stopped. From the reports I get, brought by sensible men, in no way fanatic, they are bad and demoralizing to the youth in this city. In fact, it is commonly believed that they cannot be made to pay unless they introduce salacious pictures." Yet in summarizing the reports of investigators who toured 320 movie shows, Police Commissioner Bingham, certainly no friend of these shows or their managers, reported, "Some of the pictures bordered on the vulgar, but in no place were pictures found which could be termed lewd or salacious." The worst that could be observed were numerous pictures showing "railroad hold-ups, shootings of persons, duels, and pictures illustrating thefts, and the consequences thereof to the thieves themselves."<sup>22</sup>

On the other hand, for critics of movies, the pictures themselves were only

part of a troubling exhibition milieu associated with cheap commercial entertainment: big crowds of unsupervised children, darkened spaces, gaudy advertisements, the large immigrant presence both in the audience and in the ticket office, and the overall fact that movies inhabited the physical and psychic space of cheap commercial urban entertainment.<sup>23</sup> It was precisely this larger, disturbing context that gave focus to the influential report, *Cheap Amusement Shows in Manhattan*, produced jointly in early 1908 by two Progressive civic groups, the Women's Municipal League and the People's Institute. This sympathetic analysis stressed the sudden emergence of movies as the most popular yet least regulated of the city's commercial entertainments. Movies needed to be separated from desultory penny arcades, "as a rule the gathering place of idlers," whose slot machines showed pictures tending toward "the indecent or the violent." Compared to both penny arcades and cheap vaudeville and burlesque houses, movie audiences evinced order, enthusiasm, and "the leavening salt of family patronage."<sup>24</sup>

The author of this report was John Collier, a twenty-four-year-old social worker, who played a central role in movie censorship over the next decade. Born and raised in a wealthy Atlanta family, Collier had joined the staff at the People's Institute in 1907, bringing a passionate interest in the problem of commercialized leisure in the industrial age. In Collier's eyes, the movies offered an unprecedented opportunity for reformers. "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 theater of the people, and an instrument whose power can only be realized when social workers begin to use it." Collier described the earliest movie shows as "often a carnival of vulgarity, suggestiveness and violence, the fit subject for police regulation." But over the last five years the moving picture already had "purified itself automatically, or has been purified by the demand of the public; it has become the resort of families and children." Movies were already the best form of cheap entertainment because they were "rarely, almost never, indecent." On the other hand, the fast-paced shows "over-excited" and fatigued children; sanitary and safety conditions were abysmal; and the often vulgar live vaudeville acts "put a common show into the rank of a theatre," according to Collier, who wanted them eliminated. He looked forward to the People's Institute establishing an as yet unspecified cooperative plan with the movie business, "giving endorsement to the best of the shows and receiving in return the right to regulate their programs."<sup>25</sup>

Collier's evaluation came at a critical moment in the evolution of both film

content and the movie business. The Progressive impulse to directly shape not only theater regulation but also what appeared on the screen reflected the desire to separate movie exhibition from its association with the city's plebeian theatrical world and to purge film narrative of its more sensational representations of urban life. For their subjects, early "story films" borrowed heavily from all sorts of entertainment sources, including melodrama, vaudeville and burlesque sketches, cartoons, comics, and news stories. A substantial body of popular films had drawn from and extended the commercial exploitation of urban sensationalism. Analysis of the relatively small fraction of surviving films, and their attendant publicity, reveals at least four genres in this category that must have troubled Progressive reformers the most: erotic street scenes emphasizing public displays of sexuality, depictions of New York nightlife, "slumming" comedies, and films about urban crime. All of these movies centered on voyeuristic representations of the city's underside, offering cinematic versions of *Police Gazette* cartoons, popular stage acts, and news stories about urban low life.<sup>26</sup>

Films about the erotic possibilities and fantasies of city street life, from a male point of view, were common in the early years. For example, two typical early Edison films, *Soubrette's Troubles on a Fifth Avenue Stage* (1901) and *What Happened on Twenty-third Street* (1902), are about breezes exposing women's bodies. In the latter, a man and woman are shown walking along a busy city street, toward a stationary camera. The film ends after a gust of air from a sidewalk grate billows the woman's skirt, reveals her underclothes, and causes her to laugh as she and her companion continue walking. By the time this short movie, described by the Edison Catalog as "a winner and sure to please," was made, that situation—indeed, the 23rd Street grate in particular—had already been illustrated in the city's more sensational newspapers.<sup>27</sup>

In *It's a Shame to Take the Money* (Biograph, 1905), a bootblack and policeman collude. While the boy attends a well-dressed lady, a policeman leeringly watches over a wall as she hikes her dress for the shine. The boy refuses payment and gleefully shakes hands with the cop.<sup>28</sup> In *Street Car Chivalry* (Edison, 1903), men in a crowded street car fall all over each other to give a seat to a pretty young woman while ignoring a stout, older matron who climbs aboard. The camera opens on a couple necking passionately in *Central Park after Dark* (Biograph, 1903). When a cop walks by, shining a light in their face, they quickly rearrange their clothing and become more circumspect. One of the most popular films of the early period was *Personal* (Biograph, 1904), about a man who takes out a personal ad for a wife and gets surrounded by ten screaming women at Grant's Tomb, who then spend the rest of the movie frantically chasing him around the city.<sup>29</sup>

The physically expressive dancing and sexual styles of working-class youths had been filmed and marketed as exotic "actualities" since the 1890s in movies such as *Bowery Waltz* (Biograph, 1897), *The Bowery Kiss* (Edison, 1901), and *A "Tough" Dance* (Biograph, 1902). But a more sophisticated and narratively complex group of films portrayed the theaters, dance halls, and saloons of the Bowery and Tenderloin entertainment districts, often taking the viewer backstage in the course of their narratives. Many of these assumed viewer familiarity with contemporary news accounts and scandals about these places. Biograph advertised *A Night at the Haymarket* (1903) as a "very stunning picture tho' somewhat risqué," emphasizing that "the much talked of resort is reproduced exactly." If the narrative makes little logical sense, the successive scenes are meant to communicate "six lively hours at New York City's famous Tenderloin dance hall." These include the milling crowd on the sidewalk; the latest dances (including a boisterous can-can); a fight in the "wine room" that continues on the street; and, finally, a police raid in which everybody is led out, as the women hide their faces.<sup>30</sup> A comic version of an archetypal vision of the city forms the center of *How They Do Things on the Bowery* (Edison, 1902). A country rube carrying a cheap valise picks up a kerchief dropped by a woman walking the opposite way. She takes him into a nearby saloon, immediately lights a cigarette, orders drinks, and drugs him as he pays the waiter. As he falls unconscious she robs him and leaves, and the last scene shows him thrown out into the street by the waiter.<sup>31</sup> *The Gerry Society's Mistake* (Biograph, 1903) burlesques the Society for the Prevention of Cruelty to Children, much in the news for its raids on theaters. Four young actresses are shown undressing backstage when a severe-looking man and a policeman enter, shoving papers in front of the youngest woman. She produces a wedding ring from a costume trunk, presumably proving that she is not underage. The women plead with the policeman, finally removing all their jewelry and giving it to him, as they laughingly push the SPCC agent out the door.<sup>32</sup>

A cognate genre, the slumming comedy, gained wide popularity, combining scenes of famous New York sights with a burlesque of the tourists who hired native "guides" to New York low life. In *Lifting the Lid* (Biograph, 1905), the action begins with a group of respectable out-of-towners who travel from their midtown hotel in a large touring car advertising "Chinatown Trips." They visit a low Bowery dive and a Chinese restaurant, sample opium in a den filled with white women and Chinese men, and get drunk at a boisterous concert saloon, where they get thrown out for joining the dancers on stage. The last shot shows them returning safely to their hotel, an appropriate ending for a movie marketed by the studio as "somewhat spicy, but unobjectionable in every way."

A more sardonic version of this subject, *The Deceived Slumming Party* (Biograph, 1908), reveals the fraud behind expeditions that played upon the desire "to investigate the mysteries of that famous section of our great metropolis—the Bowery." A plainclothes cop, in cahoots with the guide and some "Chinese" friends, blackmails the tourists by threatening to arrest them after a fake suicide in a phony opium den; the Chinese restaurant serves ground-up cats and dogs; a dandy has his pocket picked during a sham murder in a saloon.<sup>33</sup>

*The Great Train Robbery* (Edison, 1903), the first movie blockbuster, had shown how to exploit stories about crime in a "western" setting. The first film treatments of the urban underworld generally evinced a world-weary, knowing cynicism about the hypocrisy of criminal justice in the city—or else they played it strictly for laughs. In *The Kleptomaniac* (Edison, 1905), a fashionable woman caught stealing in a large department store is let go by a judge, while a poor woman who robs a local grocery to feed her daughter gets no mercy. In *A Raid on a Cock Fight* (Biograph, 1906), the arresting officer pockets all the betting money. *Monday Morning in a Coney Island Police Court* (Biograph, 1908) offers a pure burlesque: the sleeping cops have to be roused by a cleaning woman; the two lawyers are baggy-pants clowns; the judge uses an oversize gavel to beat everyone on the head; and two prize-fighters bring an end to the proceedings by knocking everyone out. *The Black Hand* (Biograph, 1906), based on the actual kidnapping and rescue of a girl in Little Italy, advanced crime movies toward a more convincing social realism, anticipating films like D. W. Griffith's *The Musketeers of Pig Alley* (Biograph, 1912) and the gangster cycle of the early sound era. Still, the reality of the outside street scenes is in jarring contrast to the very contrived stage sets, which, in most of these early films, resemble a cheap stage production.

Despite continuing objections to films such as these, at the end of 1908 the ultimate questions of licensing and censorship—of the political and cultural control of the movies—remained unanswered by the courts. On Christmas Eve 1908 Mayor McClellan, acting from a complex set of motives, unilaterally revoked the common-show licenses of over five hundred New York movie houses. This bold stroke was partly a response to a steady stream of protests against movies that flowed into the mayor's office. But it was also part of a broader political strategy to expand the mayor's power and assert his independence from the Tammany machine. This unprecedented wielding of municipal authority also had enormous consequences, some unintended, for the movie industry.

The patrician, Princeton-educated son of the Civil War general, McClellan began his political career as a protégé of Tammany Hall boss Richard Croker, who aggressively cultivated wealthy "respectables" for the Democratic ma-



chine. He was made president of the Board of Aldermen at age twenty-seven in 1892 and then served five terms in the U.S. Congress. Elected mayor in 1903 with Tammany support, McClellan split with the machine after his reelection in 1905, engaging in a bitter public feud with Tammany boss Charles F. Murphy over mayoral patronage. McClellan manifested his independence by appointing many non-Tammanyites to administrative posts and actively rooting out some of the traditional pockets of graft and corruption in city government. One of these was the Bureau of Licenses, where applicants for common-show licenses were routinely expected to pay hundreds of dollars above the regular twenty-five-dollar fee to the bureau's administrators or the policemen who performed the street-level inspections. In November 1908 McClellan forced Bureau Chief John P. Corrigan and several subordinates to resign after investigators discovered a consistent and deep pattern of extortion and bribery in the granting of common-show licenses for movie houses.<sup>34</sup>

Meanwhile, various religious leaders, most of them Protestant veterans of the war against Sunday vaudeville, stepped up their campaign against the movies. In petitions, letters, and public meetings, as well as private conferences with the mayor, they denounced not only Sunday shows, but also the content of many films and their accompanying "demoralization" of children. McClellan lent a sympathetic ear to these objections, but perhaps for selfish motives. According to his personal secretary, the mayor did not really care to close movie shows on Sunday. But he had ambitions to become the president of Princeton College, and "in order to do so, seeks to obtain the good graces of the Church people in New York City." After personally inspecting about thirty movie houses in December, during which he was appalled by the firetrap conditions in many of them, McClellan convened a meeting aimed at sorting out the issues of Sunday shows, censorship, and public safety.<sup>35</sup>

On December 23, at City Hall, the mayor heard the key arguments of the major players at a raucous, crowded, five-hour public hearing. The antimovie clerics hammered away at what they insisted was the corruption and contamination of youth. "Is a man at liberty to make money from the morals of people?" demanded Rev. F. M. Foster. "Is he to profit from the corruption of the minds of children? The man who profits from such things is doomed to double damnation. To show indecent pictures is a violation of the statutes and the removal of such shows from the city is clearly justifiable." In this respect, it is important to note how defenders of movies described them as "family amusement" and "family theater." Progressives such as Charles Sprague Smith, director of the People's Institute, and R. S. Symonds, supervisor of the Juvenile League, harshly denounced the clergy and other movie opponents. "Years ago,"

argued Symonds, "the man was in the rum shop on a Sunday night. Where do you find him now? Side by side with his children witnessing a moving picture show."

Gustavus Rogers, who by this time represented two hundred exhibitors with a collective investment of between three and four million dollars, offered the broadest and most sophisticated defense of movies. He presented petitions with tens of thousands of signatures, collected at movie houses, calling for the continuance of Sunday shows and "heartily in favor of our children visiting the said exhibitions." He invoked recent court rulings holding that Sunday shows were not in violation of the law. Significantly, Rogers addressed the issue of "indecent pictures" by describing municipal censorship in Chicago, where all films were first screened at police headquarters and approved or disapproved for showing in that city. "If this is a practical suggestion or solution we are willing to accede to it." He emphasized the need to protect the vast majority of exhibitors, "who have lived up to the statute law and the moral law. . . . There should be legislation of some kind so that there would be supervision and management exercised over these places. I take it this cannot be accomplished by wholesale revocations. I take it it cannot be accomplished by your Honor saying, 'I won't grant any more licenses.'"<sup>36</sup>

McClellan made his move the next day. Expressing his "firm conviction that I am averting a public calamity," McClellan revoked and annulled the license of every moving picture show in the city, some 550 in all. He directed the new chief of the Bureau of Licenses to personally inspect every movie house in the city before a new license could be granted. Although most of his statement addressed fire and safety issues, the mayor's conclusion specifically invoked the complaints voiced by New York's antimovie forces:

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>37</sup>

In the wake of McClellan's order, the older, highly politicized, and unstable process of theater licensing began to give way to an industry-dominated procedure of censorship. In March 1909 the beleaguered Moving Picture

Exhibitors Association asked the People's Institute to organize a Board of Censorship to pass on all films shown in New York City. The institute's recent success with a voluntary censorship of live theater in New York may have influenced the MPEA's choice. Founded in 1897, the institute had attracted large numbers of working people and immigrants to the public lectures, adult-education classes, and cultural programs it sponsored at Cooper Union. Since 1907 its Dramatic Department had regularly reviewed current plays and reported on their suitability for various audiences. "An indispensable condition for acceptance," *The Theatre* magazine noted, "was that the play should possess educational and artistic features and be without moral blemish." In 1907 sixty thousand people had attended plays at reduced rates through institute-sponsored tickets, and this economic boon was not lost on theater managers. "If a play is accepted by the Institute the manager knows that he can count on selling several thousand tickets to school teachers, labor unionists, etc. The fact that managers have begun to submit manuscripts of plays to the Institute for its approval before making the production is significant enough."<sup>38</sup>

At first the new Board of Censorship claimed only a narrow mission: "to eliminate obscene pictures and pictures of crime-for-crime's sake from the New York moving picture show." The MPEA, which funded the administrative costs, required exhibitors to abide by the censorship or face expulsion. The People's Institute organized a governing board that included representatives from a variety of civic, educational, and religious organizations. The Executive Committee on Censorship, chaired by John Collier, performed the actual reviewing of movies, either passing a film, suggesting changes, or condemning a movie entirely. At its first meeting on March 25, 1909, the Committee on Censorship spent six hours inspecting some eighteen thousand feet of film, of which it condemned only four hundred feet. But from the beginning, the board looked to expand its influence nationally by convincing film producers to support the exhibitors' initiative. The board stressed that its censorship would be liberal and that only a small proportion of pictures were objectionable. "But it is the *occasional* offensive 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 in 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."<sup>39</sup>

The key producer group was the recently formed Motion Picture Patents Company, a patent pooling and licensing organization made up of the ten major film manufacturers. The new board quickly convinced the Patents Company of the advantages to be gained by an industrywide, voluntary censorship. In May 1909 Frank L. Dyer, president of the Patents Company, wrote John

Collier, "Your proposition of a single National Censorship Board strikes me as being the only solution of the problem, admitting there must be a censorship, which I think everyone having the best interests of the business at heart must admit." In June the People's Institute announced it was establishing the National Board of Censorship of Motion Pictures (NBC), funded by exhibitors and manufacturers. Within a year most independent producers, rivals to the Patents Company group, had also joined the voluntary censorship. By 1914 the NBC claimed to be reviewing 95 percent of the total film output in the United States. Mayors, police chiefs, civic groups, and local censoring committees from all over the country subscribed to the board's weekly bulletin.<sup>40</sup>

As Nancy J. Rosenbloom has shown, the "effort at accommodation between the moving picture trade and reformers had a national impact and led to the establishment of a formal relationship that remained in effect throughout the progressive era." The governing board formally elected the volunteer Censorship Committee, a revolving group of lawyers, doctors, clergymen, and women activists that viewed films submitted every week by producers. Most objections centered around excesses in scenes dealing with overt sexuality, prostitution, drug use, and the too-explicit depiction of murder and robbery. The board presumed a very simple psychology at the core of the moviegoer's experience: "Every person in an audience has paid admission and for that reason gives his attention willingly. . . . Therefore he gives it his confidence and opens the window of his mind. And what the movie says sinks in." For their part, movie producers encouraged the NBC to go beyond simply stopping the obviously immoral film. "Our Licensees," the Patents Company wrote in 1911, "recommend that your basis of criticism be extended so as to condemn pictures that are unusually vulgar and offensive to good taste, and in the opinion of your committee, generally detrimental to motion picture interests, although such pictures may not be indecent, immoral, nor injurious to public morals."<sup>41</sup>

While the movie men looked to rationalize their business with the impri-matur of cultural respectability, the reformers saw an opportunity to uplift the cultural life of the audience. "The moving picture," John Collier noted in 1909, "is a deliberate and serious form of the theatre." But unlike live theater, movies "are produced in a wholesale manner." Only a national censorship, he argued, could curb "sensationalism" and bring "an improvement in tone and a heightening of artistic qualities in American made pictures." The NBC also encouraged creation of local boards to deal with the censorship of vaudeville and the physical conditions of theaters. Collier envisioned a local auxiliary in every community, which might eventually "become a committee for the regulation of amusements in general."<sup>42</sup>

In New York City the effort to codify and reform city ordinances regulating

movie exhibition bogged down over the question of municipal censorship. The issue made for strange political bedfellows. Advocates of legal censorship included a group of prominent New York civic organizations, among them two of the original members of the NBC governing board, the Women's Municipal League, and the Children's Aid Society. Both withdrew from the NBC in 1911, charging that the board's work failed to protect children. The Society for the Prevention of Crime and the Society for the Prevention of Cruelty to Children echoed their nineteenth-century criticisms of plebeian live theater. They called for laws requiring segregation of the sexes in movie theaters, keeping the lights on at all times, and banning the admission of unaccompanied minors. The problem, they argued, was not with the movies: "The evil lies in the conditions under which so many are given—the dark room, filled with adults and children, absolutely without supervision, affording no protection against the evil-minded and depraved men who frequent such places."<sup>43</sup>

Influential Protestant clerics, defensively reasserting their waning cultural authority in the cosmopolitan city, also endorsed a municipal censorship. Tammanyites on the Board of Aldermen, looking to build their patronage base, put forth plans for legal censorship to be conducted by the Police Department or the Board of Education. Yet other machine politicians, particularly those with personal interests in movie exhibition, opposed any municipal censorship and defended a liberal policy of theater regulation favored by the majority of their Catholic and Jewish constituency. In December 1912 Mayor William J. Gaynor, a long-time supporter of motion pictures, vetoed a comprehensive movie reform bill passed by the Board of Aldermen because it contained a Tammany-sponsored amendment for a movie censorship run by the Board of Education. Gaynor made a ringing First Amendment argument against those who would "have the pictures examined in advance, and allowed or prohibited. That is what they are still doing in Russia with pictures and with reading matter generally. Do they really want us to recur to that system?"<sup>44</sup>

In the end, public outcry over a series of disastrous movie house fires broke the political stalemate. New York finally got its comprehensive movie regulation in July 1913. But the new law focused exclusively on improving movie exhibition and contained no provision for censorship. It set tougher safety, ventilation, and construction standards for movie houses and centralized authority over them in the Bureau of Licenses. It prohibited vaudeville in the roughly 450 storefront theaters holding only a common-show license (\$50); but it also raised the seating limits on these from three hundred to six hundred. To keep live entertainment, movie exhibitors would have to comply with the stricter requirements of regular theater laws and obtain an annual theatrical license

costing \$500. Reformers hailed the new law for elevating both the physical and moral conditions of moviegoers. The exclusion of live performance was crucial because of "the tendency of vaudeville to become degraded, and the increased difficulty of regulating the general physical and moral conduct of the show if vaudeville is allowed."<sup>45</sup>

As Hollywood replaced New York as the hub of the film industry, the National Board of Censorship began to lose its influence. And the board encountered continued resistance from those who viewed its efforts as inadequate. Between 1909 and 1915 the NBC fought a losing battle against the establishment of legal censorship arrangements in numerous states and municipalities. Its change of name in 1915 to the National Board of Review made sense for an organization increasingly devoted to opposing campaigns for legal censorship. But the National Board established the basic terms of a voluntary movie censorship that would be codified by the Motion Picture Producers and Distributors Association and its leader, Will Hays.<sup>46</sup> The politics of performance had shifted its locus from theater licensing to movie censorship. That censorship took the regulation of representation in modern mass culture off the street, away from the police power, and out of urban politics. The site of regulation shifted from negotiations among local interests over performance space to a Hollywood-centered brokering of what was permissible on American screens. The game would now be played on a field and under rules largely defined by the movie industry itself, mediated by national interest groups working within the studio system.

## NOTES

Thanks to Francis G. Couvares, Gary Kulik, and the *American Quarterly* referees for the critical comments and suggestions made on earlier drafts of this article.

1. A copy of the 1839 law can be found in *Act of Incorporation and Laws relative to the Managers of the Society for the Reformation of Juvenile Delinquents* (New York, 1855). The 1862 law, slightly amended in 1872, 1882, and 1887, is reprinted in *Society for the Reformation of Juvenile Delinquents, Act of Incorporation, Statutes, and Decisions relative to the House of Refuge* (New York, 1874). On the history of the SRJD, see Robert S. Pickett, *House of Refuge: Origins of Juvenile Reform in New York State, 1815–1857* (Syracuse, 1969), 58–134; and Raymond A. Mohl, *Poverty in New York, 1783–1825* (New York, 1971), 241–58. Neither of these works, however, deals extensively with the theatrical connection. For a longer discussion on the SRJD and the concert-saloon boom, see Daniel Czitrom, "Mysteries of the City: Theatre Licensing, Popular Entertainment, and the Underworld in Nineteenth Century New York" (paper deliv-

ered at the Modes of Inquiry for American City History Conference, Chicago Historical Society, October 1990), 4–8.

2. On Pastor, see Robert W. Snyder, *The Voice of the City: Vaudeville and Popular Culture in New York* (New York, 1989), 13–25; and Myron Matlan, "Tony the Trouper: Pastor's Early Years," *Theatre Annual* 24 (1968): 70–90.

3. The 1875 list is in the Mayor's Papers prior to 1898, Municipal Archives and Research Center, New York (hereafter cited as MP), 81-WWH-25. An 1887 list (MP, 87-HAS-37) included forty-nine places; an 1897 list (MP, 90-SWL-46) had fifty-eight.

4. Deposition of William Waite, April 2, 1879, MP, 83-CE-26.

5. Deposition of John Schroeder and supporting petition, April 2, 1879; George Walling to Board of Police, May 1, 1879; and William Murray to George W. Walling, November 18, 1879 (all in MP, 83-CE-26). Peter Bailey's view of the malleable nature of "respectable" behavior in English music halls is relevant here: "It may be more fruitful if for the moment we disregard respectability as the manifestation of a generalised social code or ideology, and consider its incidence in the more limited and situational sense as the performance of a particular role." See his important study, *Leisure and Class in Victorian England: Rational Recreation and the Contest for Control, 1830–1885* (London, 1978), 177. On the relationship between "treating" and sexuality, see the insightful discussion in Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia, 1986), 51–55, 108–14. On the dynamics of casual prostitution see Christine Stansell, *City of Women: Sex and Class in New York, 1789–1860* (New York, 1986), 76–89.

6. For the best overview of the interaction between vaudeville and early film, see Robert C. Allen, "The Movies in Vaudeville: Historical Context of the Movies as Popular Entertainment," in *The American Film Industry*, rev. ed., ed. Tino Balio (Madison, Wis., 1986), 57–82; and *Vaudeville and Film, 1895–1915: A Study in Media Interaction* (New York, 1980).

7. Charles Musser, *The Emergence of Cinema: The American Screen to 1907* (New York, 1990), 417. Figures on Golden Rule Hall from *Variety*, December 14, 1907, 12. On the development of the nickelodeon, see Eileen Bowser, *The Transformation of Cinema, 1907–1915* (New York, 1990), 1–20; Russell Merritt, "Nickelodeon Theaters, 1905–1914: Building an Audience for the Movies," in *The American Film Industry*, rev. ed., ed. Tino Balio (Madison, Wis. 1985), 83–102; Daniel J. Czitrom, *Media and the American Mind: From Morse to McLuhan* (Chapel Hill, 1982), 40–54; Robert C. Allen, "Motion Picture Exhibition in Manhattan, 1906–1912: Beyond the Nickelodeon," in *Film before Griffith*, ed. John L. Fell (Berkeley, 1983), 162–75; and Robert Sklar, *Movie-Made America* (New York, 1975), 14–40.

8. Raymond Fosdick, commissioner of accounts, "Report on Moving Picture Shows in the City of New York," March 22, 1911, MP, GWJ-22.

9. See *New York Tribune*, December 1, 3, 7, 1906; *New York Times*, November 19, 1906, and January 29, 1907; and *Moving Picture World*, March 30, 1907, 56–57.

10. "Trade Notes," *Moving Picture World*, June 8, 1907, 214. See also "Trade Notes," May 4, 1907, 137, and July 20, 1907, 312. On Bingham, see Harold C. Syrett, ed., *The Gentleman and the Tiger: The Autobiography of George B. McClellan, Jr.* (Philadelphia, 1956); and Theodore A. Bingham, "Foreign Criminals in New York," *North American Review* 188 (September 1908): 383–94, and "How to Give New York

the Best Police Force in the World," *North American Review* 187 (May 1908): 702–11.

11. "Trade Notes," *Moving Picture World*, May 11, 1907, 153, and December 14, 1907, 663. On *The Unwritten Law*, see Jay Leyda and Charles Musser, eds., *Before Hollywood: Turn-of-the-Century Film from American Archives* (New York, 1986), 132.

12. Letter to McClellan quoted in *New York Tribune*, December 1, 1906.

13. Grant quoted in *New York Tribune*, December 7, 1906. Canon Chase argued, "The open saloon is not so dangerous to our young people, for its evils are understood, as is the apparently clean and innocent Sunday show which drives out of their minds all the holy thoughts which have sanctified the day and made it a day different from all other days and a blessing to the whole community" ("The Matter of Sunday Shows," *Moving Picture World*, October 26, 1907, 539. See also *New York Dramatic Mirror*, December 14, 1907; and *New York Times*, October 27, 1907). Several of the Children's Aid Society suits also cited illegal Sunday shows. A state statute of 1860 was quite specific, prohibiting on Sundays "any interlude, tragedy, comedy, opera, ballet, play, farce, negro minstrelsy, negro or other dancing, or any other entertainment of the stage, or any parts therein, or any equestrian, circus, or dramatic performance, or any performance of jugglers, acrobats, or rope dancing" (quoted in Consolidation Act, 1882, chap. 2007, and later incorporated into sec. 1481 of the City Charter).

14. Seraphine quoted in "Association Notes," *Moving Picture World*, June 29, 1907, 270; *New York Tribune*, 14 June 1907. On Florence Sullivan and his role in the Sullivan machine, as well as the Sullivan machine's deep involvement in the early film business, see Daniel Czitrom, "Underworlds and Underdogs: Big Tim Sullivan and Metropolitan Politics in New York, 1889–1913," *Journal of American History* 78 (September 1991): 536–58.

15. *New York Times*, December 4, 1907; *New York World*, Dec. 4, 8, 1907.

16. *New York Evening Journal*, December 8, 1907; *New York World*, December 8, 1907; *New York Tribune*, December 9, 1907. On the so-called Doull ordinance, see *New York Times*, December 18, 19, 20, 1907; and *New York World*, December 18, 19, 1907.

17. For background on William Fox, see Neal Gabler, *An Empire of Their Own: How the Jews Invented Hollywood* (New York, 1988), 64–72; and the less reliable Glendon Allvine, *The Greatest Fox of Them All* (New York, 1967), 37–52. On Gustavus Rogers, see *Tammany Times*, February 3, 1902, and December 26, 1903; and *New York Times*, March 20, 1944. See also Czitrom, "Underworlds and Underdogs." Another close associate of Fox was Winfield R. Sheehan, who in 1912 left his job as secretary to New York Police Commissioner Rhineland Waldo and went on to become a key executive at Fox Film Corporation in Hollywood.

18. *New York Times*, December 7, 1907; *New York Tribune*, December 9, 1907.

19. "Sunday in New York," *Moving Picture World*, January 4, 1908, 7. See also "Trade Notes," *Moving Picture World*, December 28, 1908, 703–4. In an appellate court decision upholding Greenbaum's decision, Justice William Gaynor, soon to be New York's mayor, wrote, "the composite Christian mind" of the State nowhere gave evidence of a demand for a "still" Sabbath" (*New York Times*, August 1, 1908).

20. "Dewey Theater," *Variety*, December 19, 1908, 13; "Kraus' New York Houses Desert Western Wheel," *Variety*, July 11, 1908, 7; "Trade Notes," *Moving Picture World*, February 1, 1908, 76, May 9, 1908, 4, and June 20, 1908, 527.



21. See Allen, *Vaudeville and Film*, 310–34, for a good summary of the importance of “small time.” For an illustration of the workings of two such theaters, see Charles F. Morris, “A Pair of New York’s Picture Theaters,” *Nickelodeon*, March 15, 1910, 141–42.

22. Lavelle quoted in Theodore Bingham to George B. McClellan, Jr., June 25, 1908, MP, MGB-52.

23. For an analysis that sees the conflict over exhibition practices as “testifying to the potential of the cinema as an alternative public sphere,” see Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, Mass., 1991), 90–125.

24. [John Collier], “Cheap Amusement Shows in Manhattan: Preliminary Report of Investigation,” January 31, 1908, in Subjects Papers, Records of the National Board of Review of Motion Pictures, Rare Books and Manuscripts Division, New York Public Library (hereafter cited as NBR Papers), 2, 3.

25. Ibid. See also John Collier, “Cheap Amusements,” *Survey* 20 (April 11, 1908): 75–76, and “Woman’s League Investigates,” *Moving Picture World*, February 22, 1908, 137; and *New York Tribune*, February 10, 1908. For background on Collier, who went on to become the controversial architect of Indian policy during the New Deal, see his memoir, *From Every Zenith* (Denver, 1963); and Kenneth R. Philp, *John Collier’s Crusade for Indian Reform, 1920–1954* (Tucson, 1977), 4–19.

26. All the films discussed in this section were viewed at the Paper Print Collection, Library of Congress. For background on the sources of early story film form and content, see Tom Gunning, “The Non-Continuous Style of Early Film,” and John Hagan, “Erotic Tendencies in Film, 1900–1906,” both in *Cinema 1900/1906: An Analytical Study*, comp. Roger Holman (Brussels, 1982), 219–29, 231–38; John L. Fell, “Motive, Mischief, and Melodrama: The State of Film Narrative in 1907,” in Fell, *Film before Griffith*, 272–83; John L. Fell, “Dissolves by Gaslight: Antecedents to the Motion Picture in Nineteenth-Century Melodrama,” *Film Quarterly* 23 (spring 1970): 22–34; and Jeanne Thomas Allen, “Copyright and Early Theater, Vaudeville, and Film Competition,” in Fell, *Film before Griffith*, 176–87.

27. See, for example, “The Open Grating,” in *Tenderloin*, November 19, 1898; and “Playful Pranks of March Breezes,” the *Police Gazette*, reprinted in Edward Van Every, ed., *Sins of New York* (New York, 1930), 130; *Edison Films*, September 1902, 36. For a feminist reading of *What Happened on Twenty-third Street* (“a story whose punchline is the sight of the female body caught unaware”), see Judith Mayne, “Uncovering the Female Body,” in Leyda and Musser, *Before Hollywood*, 63–67.

28. For a variant on this theme from the 1880s, see “Golly, Missey, Biz is Gettin’ Good,” *Police Gazette*, in Van Every, *Sins of New York*, 292.

29. Two virtual duplicates of this film were also produced in 1904: *How a French Nobleman Got a Wife through the New York Herald Personal Column* (Edison) and *Meet Me at the Fountain* (Lubin).

30. For the advertising of this film, which remained popular for several years, see *Biograph Bulletin* 9 (August 29, 1903) and 55 (November 27, 1905). These are reprinted in Kemp R. Niver, comp., *Biograph Bulletins, 1896–1908* (Los Angeles, 1971).

31. A very similar story was told in *The Tenderloin at Night* (Edison, 1899).

32. For similar burlesques of clerical and police authority, but with less logical

narrative lines, see, for example, *In a Raines Law Hotel* (Biograph, 1905) and *Soubrettes in a Bachelor’s Flat* (Biograph, 1903).

33. *Biograph Bulletin* 55 (November 27, 1905) and 157 (July 31, 1908). See also, for example, *Rube Brown in Town* (Biograph, 1907) and *The Heatben Chinese and the Sunday School Teachers* (Biograph, 1904).

34. On the Bureau of Licenses scandal, see Office of the Commissioners of Accounts, “Charges of Incompetency and Misconduct,” November 4, 1908, MP, MGB-120, and Affidavit of Roger DiPasca, May 25, 1908, MP, MGB-41; *New York Times*, October 13, 1908; and *Motion Picture World*, October 10, 1908. For background on McClellan’s career and his split with Tammany, see Syrett, *Gentleman*, 9–39, 199–243; and Theodore J. Lowi, *At the Pleasure of the Mayor: Patronage and Power in New York City, 1898–1958* (Glencoe, Ill., 1964), 88–92.

35. The connection between McClellan’s Princeton aspirations and his policy toward movies is related by Frank Moss in the Executive Committee Minutes, May 17, 1909, Society for the Prevention of Crime Papers, Columbia University. On the anti-movie activities of the Interdenominational Committee for the Suppression of Sunday Vaudeville, see *New York Times*, December 1, 3, 21, 1908.

36. Foster quoted in *New York Times*, December 24, 1908; all other quotes from Transcript of Hearing in Mayor’s Office (fragment), December 23, 1908, MP, MGB-51.

37. *New York Times*, December 25, 1908.

38. Francis Oppenheimer, “New York City’s Censorship of Plays,” *The Theatre* 8 (May 1908): 135. The printed evaluation forms filled out by institute theater censors closely resembled those later used for movies. On the MPEA request of the People’s Institute, see John Collier to Gustavus Rogers, March 1, 1909, Subjects Papers, NBR Papers.

39. Circular letter, John Collier to Manufacturers of Motion Pictures, March 15, 1909, Document File, Motion Pictures, Edison Archives, Edison Historic National Site, West Orange, N.J. (hereafter cited as Edison Archives). On the first day of the Board of Censorship, see *New York World*, March 26, 1909; and *New York Times*, March 26, 1909.

40. Frank L. Dyer to John Collier, May 7, 1909, Edison Archives. See also “Passed by the National Board of Censorship,” *Review of Reviews* 50 (December 1914): 730–31; and John Collier, “Censorship and the National Board,” *Survey* 35 (October 2, 1915): 9, 73. On the Motion Picture Patents Company, see Robert Jack Anderson, “The Motion Picture Patents Company” (Ph.D. diss., University of Wisconsin, 1983); and Ralph Cassady, Jr., “Monopoly in Motion Picture Production and Distribution: 1908–1915,” *Southern California Law Review* 32 (summer 1959): 325–90.

41. Nancy J. Rosenbloom, “Between Reform and Regulation: The Struggle over Film Censorship in Progressive America, 1909–1922,” *Film History* 1 (1987): 308; *The Standards of the National Board of Censorship* (New York, 1914), 3, 5; Motion Picture Patents Company (H. N. M.) to National Board of Censorship, November 16, 1911, box 6, Correspondence with Film Companies, NBR Papers. Rosenbloom offers the best account of the NBC, with especially good material on its relationship to Progressive politics. See also 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 (fall 1984): 2–6; and Robert J. Fisher, “Film

Censorship and Progressive Reform: The National Board of Censorship of Motion Pictures, 1909–1922," *Journal of Popular Film* 4 (1975): 143–56. On the day-to-day work of the NBC, see Charles W. Tevis, "Censoring the Five Cent Drama, *World Today* 19 (October 1910): 1132–39; and National Board of Censorship Reports, 1909–11, in Document File, Edison Archives.

42. John Collier to Robert B. Adams, May 6, 1909, Document File, Edison Archives.

43. Thomas D. Walsh, superintendent of the Society for the Prevention of Cruelty to Children, quoted in *New York Times*, August 2, 1911. See also *New York Times*, March 14, 16, 1911, and March 30, 1913. Between 1909 and 1913 the SPCC prosecuted 114 people in the courts for alleged crimes against children in movie houses.

44. Gaynor quoted in *New York Times*, January 1, 1913. On the political battle over reforming the city's movie theater regulations, see *New York Times*, August 2, 1911; November 8, 29, 1911; and December 17, 18, 31, 1912. See also W. Stephen Bush, "Mayor Gaynor on Censorship," *Moving Picture World*, January 11, 1913, 134–36; and Rosenbloom, "Between Reform and Regulation," 313–14.

45. National Board of Censorship, *Suggestions for a Model Ordinance for Regulating Motion Picture Theatres* (New York, 1915), 6. See also Sonya Levien, "New York's Motion Picture Law," *American City* 9 (October 1913): 319–21; and John Collier, "Movies' and the Law," *Survey* 27 (January 20, 1912): 1628–29. For an account of a nickelodeon fire on Houston Street that killed two and injured twenty, see *New York Times*, February 3, 1913. The new law's provisions were first laid out in Fosdick, "Report on Moving Picture Shows."

46. Rosenbloom, "Between Reform and Regulation," 315–22, documents the NBC's fight against legal censorship and the decline of its influence. On the NBR's persistent but losing effort to maintain its influence within the Hollywood film community, see the correspondence of W. D. McGuire, executive secretary of the National Board of Review, 1916–1923, in Correspondence with Film Companies, boxes 6, 7, NBR Papers.

## Passions and the Passion Play

Theater, Film, and Religion in America,  
1880–1900

CHARLES MUSSER

In September 1880 theatrical impresario Henry E. Abbey announced plans to produce a passion play at Booth's Theater in New York City. Abbey soon faced organized protests by outraged clergy, opposition from influential members of the theatrical community itself, and a threat by city officials to close down his playhouse. On Saturday, November 27, after more than two months of controversy and less than two weeks before its scheduled premiere, Abbey canceled the production.<sup>1</sup> Yet scarcely a few days after this reputed sacrilege was to have opened, lecturer John L. Stoddard gave a lantern-slide exhibition entitled *Oberammergau's Passion Play*, including fifty slides of the famed passion play, which had been produced in Bavaria that summer. Clergy attended in substantial numbers, and the evening's program, repeated often in other cities, helped to make Stoddard the foremost travel lecturer of his day. This paradoxical juxtaposition was only one of several twists in the history of the passion play as presented in the United States between approximately 1880 and 1900. The very intensity with which Protestant clergy and established arbiters of American culture favored