

Brno Lecture 3

On May 7, 1931, about three weeks after *The Public Enemy* premiered in New York, a crowd of 15,000 New Yorkers watched the “Siege of West 90th Street” from behind police barricades, as Francis “Two Gun” Crowley, a 19-year-old bank-robber and double murderer, exchanged fire with the police until he was overcome by tear gas. During the gun battle, Crowley wrote a letter “to whom it may concern,” claiming that “the new sensation of the films” had inspired him to go around “bumping off cops.”ⁱ Crowley was electrocuted before he could discover that he had, in return, inspired Hollywood, but within a year of the event, newspaper reviews reported that many of the incidents in *Howard Hughes’ Scarface* were “based on actual happenings,” including “the St. Valentine’s Day massacre ... and the police bombardment of Francis ‘Two Gun’ Crowley’s stronghold.”ⁱⁱ

The month after Francis Crowley achieved his moment of fame as a “gangster,” Winslow Elliott, the twelve-year-old son of a banker in Montclair, New Jersey, was accidentally shot and killed by his sixteen-year-old playmate, William Harold Gamble, as Gamble acted out a scene from *The Secret Six*, MGM’s principal contribution to that season’s cycle of gangster films.ⁱⁱⁱ Elliott’s death escalated an already strident public discourse linking the public spectacle of crime to the type of movies “said to pervert the mind of youth.”^{iv} Among those demanding the suppression of these movies was an unexpected authority, Al Capone, who declared:

These gang pictures - that’s terrible kid stuff. Why, they ought to take them all and throw them into the lake. They’re doing nothing but harm to

the younger element of this country. I don't blame the censors for trying to bar them. ... these gang movies are making a lot of kids want to be tough guys and they don't serve any useful purpose.”^v

I want to talk this morning about two things.

One is what I have called “the fabrication of ‘Pre-Code Cinema’”; the other is the context for the reception of **the gangster movie cycle of 1930-31**. I have started with these two stories because I want to emphasise that no-one who saw *Public Enemy* at the time of its release saw it, as we do, in a cultural vacuum. These movies, and the experience of watching them, were embedded in within a culture, and they spoke to and responded to elements in that culture in ways in which it is now difficult for us to comprehend from this historical distance. That obvious fact may encourage us to over-emphasise their distinctiveness and difference – which is one of the things that I think happens in the mythology of “Pre-Code cinema.”

Most people know two things about the **Hays Code**, and they're both wrong. One is that it required married couples to sleep in twin beds, which had to be at least 27 inches apart. The other is that although the Code was written in 1930, it was not enforced until 1934, and that as a result, the **“pre-Code cinema”** of the early 1930s violated its rules with impunity in a series of “wildly unconventional films” that were “more unbridled, salacious, subversive, and just plain bizarre” than in any other period of Hollywood's history.^{vi}

The “Code to Govern the Making of Talking, Synchronized and Silent Motion Pictures” adopted by the Board of Directors of the Motion Picture Producers and Distributors of America, Inc. (MPPDA), in March 1930 contained a set of

“General Principles” and a list of “Particular Applications.” In the section on “Locations,” it observed, “The treatment of bedrooms must be governed by good taste and delicacy.” Such statements obviously themselves required interpretation, and much of the work of the Code’s administrators was a matter of negotiating the application of the Code’s generalised statements to particular instances. In developing the detailed operation of the Code, its administrators relied heavily on their knowledge of the practices of the various national, state and municipal censor boards that regulated two-thirds of Hollywood’s American market and almost every major foreign country. Hollywood’s married movie stars slept in single beds to meet a requirement of the British Board of Film Censors.

The Code is remembered with nostalgic contempt for the trivia of its requirements, and it has often been blamed for Hollywood’s lack of realism and political timidity. These charges both overestimate and underestimate its influence. The Code contributed significantly to Hollywood’s avoidance of contentious subject matter, but it did so as the instrument of an agreed industry-wide policy, not as the originating source of that policy. Within its own sphere of influence, however, the Code was a determining force on the construction of narrative and the delineation of character in every studio-produced film after 1931. Public arguments about the Code’s application – over Clark Gable’s last line in *Gone with the Wind*, for example – have themselves tended to be over trivia, and have supported claims that the Code was a trivialising document. The agreements that underlay the Code have received much less attention, but they amounted to a consensus between the industry’s corporations and legislative and civic authorities over what

constituted appropriate entertainment for the undifferentiated mass audience in America and, by default, the rest of the world.

Hollywood's "self-regulation" was not primarily about controlling the content of movies at the level of forbidden words or actions, or inhibiting the freedom of expression of individual producers. The cultural anxieties that brought the Code into being addressed more fundamental social issues than a few bawdy **Mae West jokes**, the length of a hemline, or the condoning of sin in an "unmoral" ending. Rather, they concerned the cultural function of entertainment, and the possession of cultural power. The Production Code was a sign of Classical Hollywood's cultural centrality, and its history is a history of the attempts by cultural élites to exercise a controlling surveillance over the mass culture of industrial capitalism.

There are really two versions of the "pre-Code cinema" myth. They tell the same story but interpret it very differently. One held sway for about as long as the Production Code itself did, from the mid-1930s until the late 1960s. Like the Code itself, this "official" history served the industry's interests. According to this version, Hollywood was established by immigrants untutored in the finer manners of corporate capitalism, who occasionally had to be reminded to their civic responsibilities. One such reminder occurred after a series of scandals among leading Hollywood personnel, and led to the establishment of **the MPPDA in 1922**, with Hays as its first president. **During the 1920s, Hays** worked with civic and religious groups to improve their opinion of the movies, a policy that culminated in the writing of the Production Code in 1930. But as every Hollywood melodrama requires, a misfortune – the Depression – intervened. Needing to maintain income in the face of declining audiences,

producers returned to their old sinful ways, exploiting their audiences' baser instincts with a flood of sexually suggestive and violent films. Without adequate powers to enforce the Code, the MPPDA was unable to prevent this, and the crisis was only averted by the **Catholic Church**, which established the Legion of Decency in April 1934 and threatened to boycott Hollywood. Almost immediately, the producers surrendered, agreeing to a strict enforcement of the Code under the administration of prominent Catholic layman Joseph Breen.

After the Code itself had been abandoned in 1968, a second version of this history came to predominate. The events in this second version were the same as in the official history, but their values were inverted, most evocatively in historian Robert Sklar's description of the early 1930s as Hollywood's "Golden Age of Turbulence." Instead of Hollywood the fallen woman being rescued from sin and federal censorship by virtuous hero Joe Breen riding at the head of the Legion of Decency, **Sklar argued that**

In the first half decade of the Great Depression, Hollywood's movie-makers perpetrated one of the most remarkable challenges to traditional values in the history of mass commercial entertainment. The movies called into question sexual propriety, social decorum and the institutions of law and order.¹

This is an extraordinary claim. Why would an industry that claimed to be the fourth largest capitalist enterprise in the United States, intricately linked to Wall St. finance capital, produce "one of the most remarkable challenges to

¹ Robert Sklar, *Movie-Made America: A Cultural History of American Movies* (New York: Random House, 1975,), p. 175.

traditional values in the history of mass commercial entertainment” at the very moment of perhaps the greatest social and political instability the U.S. had experienced? Such an improbable account of the industry’s activities can gain credence only because it provides a version of history that many of Hollywood’s critics are eager to accept. The idea of a “Pre-Code cinema” conforms to the need to situate Hollywood within a critical melodrama of daring creative heroes and reactionary villains, because the only version of Hollywood its critics can truly love is an “un-American” anti-Hollywood, populated by rebel creators challenging and subverting the industrial system.

Robert Sklar was writing in the early 1970s, when conventional wisdom suggested that few written records had escaped the studio shredder. Within a decade, however, film scholars gained access to several major archives containing a surfeit of documents detailing the bureaucratic operations of the Dream Factory. The Production Code Administration (PCA) Archive is one of the richest of these sources, describing the negotiations between PCA officials and the studios, movie by movie, script draft by script draft. In complete contradiction to the mythology of the Code not functioning during the early 1930s, its records reveal that this period actually saw by far the most interesting negotiations between the studios and the Code administrators over the nature of movie content, as the Code was implemented with increasing efficiency and strictness after 1930. Throughout the period, movie content was changed – sometimes fundamentally – to conform to the Code’s evolving case law.

A number of authoritative books – Lea Jacobs’ *The Wages of Sin*, Tino Balio’s *Grand Design: Hollywood as a Modern Business Enterprise*, Ruth Vasey’s

The World According to Hollywood – have established quite unequivocally that the old account must be discarded, since it is demonstrably incorrect to suggest that movies made between 1930 and 1934 were “uncensored.”² All the movies in this season were subject to detailed scrutiny by the Production Code officials, at both script stage and after they were completed. But the Frankenstein monster of Pre-Code cinema keeps rising from its grave, in a slew of books published in the last five years celebrating the “subversiveness” of “Forbidden Hollywood” – confidently asserting that the Production Code was not a determining factor on the narrative organisation of *Ex-Lady* or *Hold Your Man*. Individual recommendations might be disputed, often in hyperbolic language, but the Code’s role in the production process was not a matter of contention, and studio personnel did not resist its implementation. Instead, this period saw the more gradual, more complex and less melodramatic evolution of systems of convention in representation. And that, you might have thought, would have been that.

The myth of Pre-Code Cinema persists because it’s entertaining – which is to say that it has a commercial function in repackaging material from Hollywood’s past to suit present entertainment needs. In its new guise, “Pre-Code cinema” has been re-invented as a critics’ genre, much like “*film noir*” or “melodrama,” with no roots in industry practice. For this I blame Ted Turner. Over the last decade, the growth of satellite and cable television stations such as Turner Classic Movies has provided new outlets for the circulation of movies previously almost unseen since their initial release. The promiscuous

² Lea Jacobs, *The Wages of Sin: Censorship and the Fallen Woman Film, 1928–1942* (Madison: University of Wisconsin Press, 1991); Richard Maltby, “The Production Code and the Hays Office,” in Tino Balio, *Grand Design: Hollywood as a Modern Business Enterprise*,

scheduling policies of these stations encourage the construction of vague generic systems of classification, around which seasons can be thematically strung. Because the industry suppressed the circulation of many early 1930s movies after 1934 in conformity with the “official” history of the Code’s implementation, many movies from this period have only recently surfaced from obscurity. Sklar’s account of the Golden Age of Turbulence relied on an analysis of about 25 movies, or approximately one percent of Hollywood’s total output of feature pictures between 1930 and 1934. The critical canon of “pre-Code cinema” to be found in the schedules of American Movie Classics, the virtual pages of Reel.com and the plot synopses of several recent books is now perhaps ten times that size. Regardless of these movies’ cultural status at the time of their initial release, they continue to be critically configured as a “Forbidden Hollywood,” a subversive body of work that represents, as one book puts it, a “road not taken” by later Classical Hollywood.³

The early 1930s is, indeed, one of Hollywood’s Golden Ages of Turbulence, when a combination of economic conditions and technological developments destabilised the established patterns of audience preference, creating opportunities for greater experimentation and variation from Hollywood’s established norms. This variation, however, occurred within strict limits and existed, in large part, to test, negotiate and reconfigure the boundaries of Hollywood’s conventions. The two principal factors that brought this situation into being were the revolution in content, source material and mode of

1930–1939 (New York: Scribner’s, 1993), Ruth Vasey, *The World According to Hollywood, 1918–1939* (Exeter: University of Exeter Press, 1997).

³ *Forbidden Hollywood* was the title given to a series of Laserdisks featuring early 1930s Warner Bros. movies released by the Turner corporation in the late 1990s; Doherty, p.2.

production brought about by the adoption of sound technology after 1928, and the economic collapse of the leisure market after the 1929 Wall Street Crash.

In the late 1920s, as sound cinema spread out of the cities into neighbourhood and rural cinemas, sections of the American middle class grew increasingly vocal in their reaction against what they saw as the moral excesses of the post-war decade. The spread of sound seemed to confirm the widespread conviction that movies were a major source of influence on the behaviour, attitudes and morals of their audience, particularly the young and uneducated. The movies' relatively permissive representations of sex and violence became one of the sites at which an increasingly insecure Protestant provincial middle-class felt its cultural hegemony, its command of public life was threatened by the incursions of a modernist, metropolitan culture – a largely Jewish and Catholic culture – which the provincials regarded as alien. Throughout the 1920s Broadway had been castigated for its “realism” and “sophistication,” particularly in its representation of sexual mores and improprieties. With the coming of sound, and Hollywood's increasing adaptation of Broadway plays, provincial morality perceived that the threat had moved much closer to home. Broadway's dubious dialogue and 'sophisticated' plot material was now playing on Main Street for the children to see and hear.

The industry's financial crisis drove it to concentrate on making product for its most profitable market, the young urban audiences in the first-run theatres owned by the major companies. Complaints about the shortage of movies suitable for children or the over-production of “sophisticated” material unacceptable to small-town audiences were a form of market response to the

shortage of appropriate content for other sectors of the audience, but they were most often couched in moralistic terms, and attached to demands for federal censorship.

There is little evidence that there was any widespread concern *among moviegoers* about the moral quality of the entertainment they consumed in the early 1930s. There is, however, a good deal of evidence of concern about *moviegoing* in the period, although the groups and people most vociferously complaining about the moral viciousness of Hollywood were not themselves part of the audience. Contrary to the mythology of "Pre-Code cinema," the early 1930s was in fact a period of increasing moral conservatism in American culture, in which the movie industry, along with other institutions of representation, failed to keep pace with a growing demand for a "return to decency" in American life. The protests about movies by women's organizations and Parent-Teacher Associations was a moral panic expressing class and cultural anxieties at a time of social, economic and political uncertainty; movie content was the site of this moral panic, rather than the cause of it. As the movies had been a prominent success in the 20s, they were a prominent target of the general questioning of business morality that followed the Crash.

Faced with an alliance of small exhibitors, small-town Protestant conservatives and Progressive reformers wanting to extend Federal Regulation, and unable to recruit a sufficiently authoritative Protestant voice to endorse its program of self-regulation, the MPPDA turned to the Catholic Church as one of its oldest and most faithful friends. Throughout the 1920s, Catholic groups had co-operated enthusiastically with Hays, and they

remained aligned with the MPPDA in the late 1920s when Protestant and other civic groups began to demand federal regulation of the industry. In the absence of reliable support from Protestant bodies, The MPPDA began to offer the Catholic Church an opportunity to act as a moral and cultural broker between the city and provincial Protestant morality. Prominent Catholics were involved in writing and promoting the Code; Joe Breen began working for the MPPDA in 1930, and was effectively in charge of the Code's administration for at least a year before it was allegedly implemented in July 1934.

The Catholic Church seized the opportunity to "clean up" the movies as part of a wider project of cultural assertiveness, connected to their emergence into greater political prominence. Under the banner of "Catholic Action," the Legion of Decency became the largest Catholic Action organization and its greatest public relations achievement.

The real danger the industry faced in the early 1930s was from the passage of legislation outlawing block booking and imposing federal regulation of the industry's business practices. For all industry parties, the issues of monopoly control and trading practices were economically much more important than questions of censorship. But questions of censorship were of greater public interest and concern, and could, if necessary, be resolved at less risk to the majors' monopoly interests. The MPPDA's awareness of this encouraged it to displace the public debate from the economic base of distribution practices to the ideological superstructure of movie content. But since movie content itself was not the fundamental cause of the crisis, the crisis could not be resolved by changing content alone. Rather, the crisis in the public perception of the

industry had to be resolved through the industry's manipulations of its public relations.

The Legion of Decency campaign was neither a spontaneous expression of public opinion nor a conspiracy to establish Catholic control over the movies. The "organized industry" acquiesced in the limited Catholic attack on its morals in order to protect its more fundamental economic interests, while the Legion claimed the glory of reforming the movies for Catholic Action.

There was no fundamental shift of Code policy in July 1934. The apparent changes brought about by the negotiations with the Legion of Decency were in fact mainly cosmetic. There was a further tightening up of practice, but this had occurred on at least three other occasions since 1931, and Breen was not given any new or arbitrary powers to cut or ban movies. The differences between movies made in the early 1930s and those made later in the decade are undeniable, but the change was gradual rather than cataclysmic, the result of the development of a system of conventional representation that was constructed by experiment and expedient in the first half of the decade and maintained in the second. The Code forced Hollywood to be ambiguous, and gave it a set of mechanisms for creating ambiguity, while viewers learned to imagine the acts of misconduct that the Code had made unmentionable.

This system of representation had two governing principles. One was stated in the Code itself: that "No picture shall be produced which will lower the moral standards of those who see it." Under this law a strict moral accountancy was imposed on Hollywood's plots, by which a calculus of retribution or coincidence invariably punished the guilty and declared sympathetic characters innocent. The Code's other principle permitted

producers to deny responsibility for a movie's content, through a particular kind of ambiguity, a textual indeterminacy that shifted the responsibility for determining what the movie's content was away from the producer to the individual spectator. As the Code's first administrator, **Jason Joy**, explained, studios had to develop a system of representational conventions "from which conclusions might be drawn by the sophisticated mind, but which would mean nothing to the unsophisticated and inexperienced."

The Production Code was a consequence of commercialism, and of the particular understanding of the audience and its desires that the industry's commercialism promoted. As such it was a symptom of the lack of aesthetic or ideological radicalism in Hollywood, not the underlying cause. For Hollywood to produce movies different from those it actually produced would have needed changes far more substantial than the alteration or even abolition of the Code; it would have needed a redefinition of the cultural function of entertainment, and that was a task beyond the limits of responsibility the industry set itself.

I want to look at how we might consider **Public Enemy as** an historical object, by looking at the context in which it was released. A significant part of the Pre-Code cinema mythology involves the argument that these movies presented the gangster as a Tragic Hero, in Robert Warshow's resonant phrase, a figure who is, at the same time, both a social bandit and "the monstrous emblem of the capitalist."^{vii} Historian Richard Pells, for instance, observes that the gangster film "often functioned as a parody of the American Dream. ... the criminal became a kind of psychopathic Horatio Alger embodying in himself the classic capitalist urge for wealth and success."^{viii}

Ironically, this dominant critical paradigm has accepted and then inverted the perspective of conservative moral reformers, valorising as subversive “the fashion for romanticizing gangsters” that some contemporary critics complained of.^{ix} If the editor of the *Christian Century* had, for instance, read John G. Cawelti’s comment that one of the gangster hero’s “most endearing traits was that he never became assimilated into an upper-class lifestyle but remained an unregenerate barbarian,” he would have had his—and Al Capone’s—very worst fears about the effects of the movies on the minds of the young confirmed.^x

This is not, certainly, what the movies said they were doing. Like many 1930s crime movies, *The Public Enemy* (1931) begins with an explicit statement of authorial intent: “It is the intention of the authors of *The Public Enemy* to honestly depict an environment that exists today in a certain strata [sic] of American life, rather than to glorify the hoodlum or the criminal.” This declaration of civic responsibility is usually regarded as an empty, cynical gesture intended to appease critics concerned at the movies’ “subversive” effects. Contemporary reviews, however, treated *The Public Enemy*’s claim to provide “a sociological study” of gangland more seriously, endorsing its “remarkably lifelike portraits of young hoodlums” as “a hard and true picture of the unheroic gangster.”^{xi}

The studio did not aim to produce either a sociological treatise or a socially subversive text, but the “roughest, toughest, and best of the gang films to date.”^{xii} In the cultural climate of the time, its producers had to defend it against the persistent criticism that such movies were a source of inspiration for criminal behaviour. The editorial justification of *The Public Enemy* as a

contribution to social debate was not, however, something tacked on to the end of the project to fool the censorious, but an integral part of the movie's process of construction. As the script was being written, Darryl F. Zanuck, head of production at Warner Bros., argued to the administrators of the Production Code that "if we can sell the idea that ... ONLY BY THE BETTERMENT OF ENVIRONMENT AND EDUCATION for the masses can we overcome the widespread tendency toward lawbreaking – we have then punched over a moral that should do a lot toward protecting us" from cuts at the hands of state and municipal censor boards.^{xiii}

In adopting this tone, the movies borrowed the rhetoric of contemporary press editorials demanding an end to "the reign of gangdom" to denounce their protagonists. This had not, however, been what everyone had been saying about gangsters five years earlier, when metropolitan corruption had seemed to some to be the acceptable price of Prohibition. In 1929, American cultural critic **Waldo Frank** wrote that the spectacle of crime had become a form of entertainment, "so potent and popular that it outdoes politics and vies with sport in its rank in the public prints ... the crowd creates a huge professional class of criminals - entertainers who grow yearly more self-conscious of their "mission." To cooperate with them in their trials and exploits there is an almost equally large group of crime reporters."^{xiv}

For much of the 1920s the performance of organized crime had been an acceptable public spectacle. Beginning with the funeral of **Big Jim Colosimo** in May 1920, big gangster funerals became media events, while police raids and gangland wars supplied the melodrama on which the tabloids and sensational magazines thrived. These melodramatic representations

concealed the practical realities of liquor-related crime, in which bootleggers, racketeers and speakeasy operators were "technicians" in a business enterprise run by "respectable" brewery owners, law enforcement agencies, politicians and public officials.^{xv} Al Capone never "ran" Chicago, and the prolonged gang warfare there and in New York was an indication of poor organization rather than power, but the tabloid melodrama served as an entertaining distraction from the realities of 1920s municipal realpolitik, in which city government was an exercise in barely concealed corruption.

While Prohibition was a subject of constant discussion in the 1920s, it was not a dominant political issue. A tolerant contempt for the law circumvented any great need to campaign for repeal. This framework of public morality permitted Capone to claim in 1931, "I'm just a businessman. ... When I sell liquor, it's called bootlegging. When my patrons serve it on silver trays on Lake Shore Drive, it's called hospitality. ... Why should I be called a public enemy? ... My rackets are run along strict American lines. This American system of ours—call it capitalism, call it what you like—gives each and every one of us a great opportunity, if we only seize it with both hands and make the most of it. ... I've made my money by supplying a popular demand ..."^{xvi}

Capone achieved such national prominence not because he was particularly successful in his chosen field of endeavor, but because he courted media attention. To the consternation of provincial Protestant culture, Capone appeared a celebrity in media consumed by the urban working class in the 1920s: daring, stylish in his yellow and purple suits.

Public attitudes toward the spectacle of criminality, however, began to change drastically in 1929. This was partly the result of the Hoover

administration's much more strenuous attempt to enforce the Prohibition law, but it also reflected the perception created by the Wall Street Crash "that something had gone wrong with individualistic capitalism and must be set right."^{xvii} **The cultural function of the gangster** and racketeer changed very rapidly: "no longer envied or admired as the fascinating middleman," he became instead a symbol of "a more general fear: that under the impact of the depression, American society would no longer be able to enforce the rules that held it together."^{xviii} In a manner quite different to that implied in by Robert Warshow in his essay on "The Gangster as Tragic Hero," the gangster in this account became a scapegoat of the early Depression years, a significant part of the sin that was being expiated after the Crash.

In the second half of the 1920s, voices in the dominant culture expressed increasing concern that the media were presenting the gangster—archetypally Capone—as an heroic role-model, particularly for the children of immigrants, alienated from their parents' world by the superficial Americanization they acquired through their consumption of mass media. As the most prominent representative of organized crime, Capone—the media creation of Scarface Al Capone, King of the Rackets—became the most prominent target of a new wave of aroused bourgeois reform sentiment and changing press and public attitudes. As he declared after his sentence for tax evasion, "Publicity—that's what got me." In part, he brought it on himself: **the St. Valentine's Day** massacre in 1929, was, in a notable apocryphal phrase, "lousy public relations."^{xix} In March 1930, the Chicago Crime Commission coined the term Public Enemy, and named Capone Public Enemy No. 1. The phrase was taken up by newspapers across the country. In the second half of 1930, the

gangster melodrama acquired a new hero, who courted the press as assiduously as Capone. **Eliot Ness's** highly publicised campaign of wrecking raids on Chicago speakeasies, gambling joints and brothels was principally intended to undermine Capone's prestige and to encourage the press to present Ness as "Capone's nemesis, the representative of Good in a triumph against Evil."^{xx}

By January 1931, when **Little Caesar** was released, most Americans agreed that Prohibition was unenforceable and served only to aid organized crime.^{xxi} The spectacle of gangsterdom, had ceased to be the acceptable price of Prohibition.^{xxii} Instead, the popular press invoked a melodramatic framework in which "every major crime was turned into a test of whether America and its values could survive the depression."^{xxiii}

Press coverage of Capone in 1931 was preoccupied with his sequence of court appearances and his litany of denial that he was still active in the rackets. Capone was indicted for tax evasion in July and tried in October, when he was sentenced to **eleven years' imprisonment**. His parting comment to the press was, "It was a blow below the belt, but what can you expect when the whole community is against you?"^{xxiv} The community was, however, hardly satisfied with the outcome. Capone's prosecution for the technical crimes of contempt and income tax evasion did not satisfy the public demand for "a poetic justice that took into account moral, and not merely legal, guilt," and for a symbolic punishment that would demonstrate the victory of order.^{xxv} **By coincidence, Capone's** cultural nemesis made his first appearance in the New York *Daily News* and the Chicago *Tribune* on October 12, 1931, five days before the verdict in the Capone trial: not Eliot Ness but Dick Tracy, comic

strip prototype for J. Edgar Hoover's G-Men. Tracy's first adventure began with the murder of his girlfriend Tess Trueheart's father by minions of Big Boy, the Capone-like boss of an unnamed city that might be Chicago. Tracy swears vengeance and joins the police force to pursue a "single-minded, meet violence-with-violence war on crime," meting out the melodramatic justice to the nation's public enemies in the funnies that the public looked for in vain in the news pages.^{xxvi}

1931 was, then, the best of times and the worst of times for the motion picture industry to release films about gangsters. They could hardly be more topical, but the climate in which they were released was one in which a generally tolerant press attitude had shifted to outspoken condemnation, expressed in editorial demands to "End the reign of gangdom."^{xxvii} Capone's demise in public reputation provided the movie biographies with the sense of an ending, which they could then embellish. The gangster narrative became an overtly fictional form at the moment when its closure could be established, because the gangster's death was culturally, metaphorically, meaningful. Significantly, these films were all overtly retrospective accounts of the excesses of the 1920s as seen from the perspective of the worst years of the Depression. In all of them a strong element of criticism of their central character is present, couched in a rhetoric comparable to that used by press editorials, and their press campaigns endorsed that position as the only credible one available for their promotion.

Contrary to the mythology of a "pre-Code" cinema, the "classic gangster film" was in fact the product of only one production season, 1930-1931, and constituted a cycle of fewer than thirty pictures. The box-office

success of *The Doorway to Hell* in late 1930 and *Little Caesar* in January 1931 triggered a series of imitations in a pattern typical of the industry's exploitation of a topical cycle, but none of the pictures released after April 1931 were box-office successes. By then, exhibitors were reporting that audiences had had enough of gang pictures, while civic and religious organisations complained that these movies continued to endow gangsters "with romance and glamour." After the New York censor board eliminated six scenes from *The Public Enemy* before permitting its release in mid-April, the MPPDA acted to curtail the cycle, establishing guidelines for "the proper treatment of crime" in pictures and eliminating scenes of inter-gang conflict and stories with gangsters as central characters.

The conventional critical identification of *The Public Enemy* with *Little Caesar* and *Scarface* as the trilogy of "classic" early 1930s gangster movies has encouraged a reading of its plot as if it portrayed the rise and fall of a gangster in Capone's image, but actually, it depicts a different criminal tradition. Unlike *Little Caesar* or *Scarface*, however, *The Public Enemy* does not depict the acquisition, exercise or loss of power. Tommy Powers (James Cagney) remains more hoodlum than gangster, occupying a subordinate role in the bootlegging business, not an organisational one, obeying instructions rather than giving them, and untroubled by any ambition to escape the neighbourhood.

Zanuck's claim that the movie was "more biography than plot" was not, however, inaccurate: *The Public Enemy* might fairly be described as a composite biography of a neighbourhood criminal gang such as Chicago's Valley gang, led by Patrick "Paddy the Bear" Ryan until his assassination in

1920. His protégés **Terry Druggan and Frankie Lake** became the first gangsters to distribute beer on a large scale in Chicago after Prohibition, providing Capone's mentor **John Torrio** with a model of successful collaboration between bootleggers and respectable business. By 1924 bootlegging had made them millionaires, and Druggan boasted to the press that even the lowliest member of his gang wore silk shirts and rode in chauffeur-driven Rolls Royces.

The movie's press book explicitly identified its two protagonists as being based on Lake and Druggan, but Tommy inherited his impulsiveness and lack of organizational prowess from press accounts of Northside gang leaders **Dion O'Banion** and Hymie Weiss, figures who were depicted as embodying a more traditional mode of criminal behaviour rooted much more in the neighbourhood, rather than as Capone-like businessmen. **The anonymous 1930** publication *X Marks the Spot* described O'Banion as the underworld's "most fantastic and picturesque personality," a "paradoxical mixture of ferocity and sentimentality ... a typical neighbourhood gangster from boyhood. ... Torrio was a businessman first and a gangster second. O'Banion was a gangster. ... One didn't want trouble; the other was always looking for it. ... O'Banion depended upon his pals, and his pals depended upon him."^{xxviii} The gangster philosophy articulated in *The Public Enemy* was closely aligned to the personal and neighbourhood loyalties of Druggan, O'Banion or Weiss, rather than to Torrio or Capone's expediency.

The movie borrows freely from the "factual" accounts of the O'Banion gang's exploits, incorporating several incidents from newspaper reports of the lives of **O'Banion, Weiss, and Louis** "Two-Gun" Alterie. Most famous of these was the

1923 death of Samuel “Nails” Morton in a riding accident, and the subsequent (apocryphal) execution of the horse by either O’Banion or Alterie. After O’Banion’s assassination in 1924, Alterie vowed revenge by proposing a publicly staged shoot-out with O’Banion’s killers, akin to Tommy’s attack on Schemer Burns’ headquarters. Weiss was notorious for his evil temper and impulsiveness, and reports that he once pushed an omelette into a girlfriend’s face were cited as the source of *The Public Enemy*’s infamous grapefruit incident. His assassination in the first “machine-gun nest” murder in October 1926 was recreated in the killing of Matt Doyle (Edward Woods).

Like other crime movies of the period, *The Public Enemy* omitted any substantial or detailed representation of what sociologists at the time described as the “unholy alliance between organized crime and politics,” in favour of their representation of the spectacle and melodrama of criminal performance.^{xxix} Tommy does become a member of the nouveau riche, dressing and driving in the style to which Terry Druggan’s gang became accustomed, and visiting as ritzy a nightclub as Warner’s set budget would allow. But Tommy and Matt remain “boys” throughout the movie, and Tommy’s psychological immaturity is most vividly demonstrated in his relationships with women. Incapable of domesticity – Matt says he is “not the marrying kind” – Tommy treats women as a form of property, a means to display his new affluence, along with clothes and cars. When Kitty’s (Mae Clark) attempts at domesticity start “getting on my nerves,” he trades up for a more luxurious model, but his relationship with Gwen (Jean Harlow) is never consummated, since Matt interrupts them with the news of Nathan’s death,

and Tommy is deprived of the social and sexual opportunity she presents because he has to go and shoot a horse.

The Public Enemy is also a family melodrama, staging the conflict between the two social worlds of the second generation immigrant, dramatising the family conflicts generated by the process of Americanization. Tommy's father makes only one appearance in the movie, emerging from the house in police helmet and braces to beat Tommy for theft. He is subsequently absent from the movie, and the law is otherwise present only through the appearance of the garrulous Officer Patrick Burke, who tells Mike that "the worst part" of Tommy's delinquency "is that he's been lying to his mother." Tommy and his elder brother Mike fight in every scene they share until Tommy is in hospital.

In its plot and character delineation, *The Public Enemy* attempted to render its protagonist unattractive, but the picture's most problematic element was also its most significant commercial achievement: the creation of a new star in James Cagney. To an even greater extent than was true of Edward G. Robinson's performance in *Little Caesar*, Cagney's screen persona was defined by his first starring performance, and both Cagney and his studio were faced with the issue of containing the specific commercial appeal of his rebellious, iconoclastic behaviour within an acceptable narrative framework.^{xxx}

Alone among the major stars of Classical Hollywood, Cagney's appeal was almost exclusively to "the boys who go for the gangster stuff," an urban male audience who apparently found no anxiety in recognising themselves in him.^{xxxi} Cagney's appeal to the semi-delinquent rapidly became trade press folklore. Although he did not play a gangster – that is, a character making his

living through organised criminal activity and in armed conflict with the police – again until 1938, Cagney did play a series of gamblers, con artists, ex-gangsters and reformed criminals who behaved very much as gangsters, and through these performances he became the mediated, heroic embodiment of the hoodlum: “good-natured, well-dressed, adorned and sophisticated, and above all ... American, in the eyes of the gang boy.”^{xxxii} Some of his most disreputable fans accepted the authenticity of his performance, believing that both he and Robinson were slum boys who had “made good in a big way in the movies,” and eagerly imitating Cagney’s dress and mannerisms.^{xxxiii} Nevertheless, adolescents with more practical experience of criminality recognised the repressive artificiality of narrative closure when they saw it. As one explained, “Sure, I like Little Caesar and Jim Cagney, but dat’s de boloney dey give you in de pitchers. Dey always died or got canned. Day ain’t true.”^{xxxiv}

The problem created by the gangster film took place in a much more specific period than that described in conventional histories of the genre, and in relation to a quite specific set of external events. The movies themselves were part of a wider discourse of condemnation of gangsterdom. In its various public forms, that discourse was a subject of controversy, but during the period in which the pictures were released, both press and film versions of that discourse were obliged to represent themselves as firmly repudiating any glamorisation of organized crime.

However topical or potentially lucrative the subject might have been, the industry was unable to negotiate the contradictions required of an adequate representation of the gangster. Instead, it took concerted and largely

successful action to abandon production in the face of public opposition. The last movies in the gangster cycle were more properly vigilante stories: in *The Secret Six* and *Beast of the City* gangsters protected by corrupt lawyers or politicians are finally eliminated by the extra-legal action of concerned citizens; in *This Day and Age*, gangster Charles Bickford is kidnapped by a group of idealistic high school students and tortured into confession.

What I am describing took place in 1931, not 1934. By mid-1932, concern about the representation of crime had almost entirely disappeared, replaced by a concern over the representation of sex. The Legion of Decency campaign in 1933 and 1934 was preoccupied with sex and sacrilege and showed no concern at all with the representation of crime. But the history of the short-lived gangster cycle is typical of the ways in which the industry sought to use the Code to represent topical subject matter in this period. Like many other movies in the early 1930s, they should be seen as attempts to negotiate a strategy of representation, by which a transgressive spectacle could be contained within a repressive narrative structure, so that it could become entertaining. The gangster movies, however, were a failed attempt at such a strategy, since their reception deemed them inadequate representations of public hostility to the spectacle of criminality, and made the movies a collateral target for the denunciations and anxieties of that spectacle of criminality was attracting through other media.

It is very easy, watching *Public Enemy* without a sense of the context of its initial reception to assume that the contradictions in the movie mean that it was really, covertly, subversive, that the protestations against gangsters were just there to fool the censors. This is naïve, but most of all it's unhistorical.

The reality is that that the contradictions in *Public Enemy's* representations are there precisely because it sought to depict contradictory things and carry contradictory messages, not in order to be subversive but because it was incapable of resolving the contradictions that were larger than itself.

ⁱ Quoted in James D. Horan, *The Desperate Years* (New York: Crown, 1962), p. 44.

ⁱⁱ Lewistown (ME) *Sun*, 23 April, 1932.

ⁱⁱⁱ *New York Times*, 26 June 1931.

^{iv} *Literary Digest*, 25 Jul 1931, 20-21.

^v Al Capone, 29 July 1931, quoted in John Kobler, *Capone: The Life and World of Al Capone* (London: Coronet, 1973), 313.

^{vi} Doherty, Back cover description, Thomas Doherty, *Pre-Code Hollywood, Sex, Immorality and Insurrection in American Cinema, 1930-1934* (New York: Columbia University Press, 1999)

^{vii} *Godfather II* "was always a loose metaphor, Michael [Corleone] as America." Francis Ford Coppola, quoted in John Hess, "Godfather II: A Deal Coppola Couldn't Refuse," in *Movies and Methods*, ed. Bill Nichols (Berkeley: University of California Press, 1976), p. 82; Shadoian, p. 6.

^{viii} Jack Shadoian, *Dreams and Dead Ends: The Gangster/Crime Film* (Cambridge, Mass: MIT Press, 1979), p. 22; Richard H. Pells, *Radical Visions and American Dreams: Culture and Social Thought in the Depression Years* (Middletown, Conn: Wesleyan University Press, 1973), pp. 271-272.

^{ix} *Time* review of *The Public Enemy*, quoted in Jowett, p. 69.

^x John G. Cawelti, *Adventure, Mystery and Romance: Formula Stories as Art and Popular Culture* (Chicago: University of Chicago Press, 1976), p. 60.

^{xi} Warner Bros. press book for *The Public Enemy*, André Sennwald, "Two Thugs," *New York Times*, 24 April 1931, p. 27

^{xii} *Variety* review of *The Public Enemy*, 29 April 1931.

^{xiii} Zanuck to Joy, January 6, 1931, PCA *Public Enemy* Case File. Typography in original.

^{xiv} Waldo Frank, *The Re-Discovery of America: An Introduction to a Philosophy of American Life* (New York: Scribner's, 1929), pp. 91-2, 97-8.

^{xv} Michael Woodiwiss, *Crime, Crusades and Corruption*, p. 14.

^{xvi} Capone quoted in Allsop, p. 365.

^{xvii} Frederick Lewis Allen, *Only Yesterday: An Informal History of the 1920s* (New York: Harper, 1964; first published 1931), pp. 290, 293, 295.

^{xviii} Richard Gid Powers, *G-Men: Hoover's FBI in American Popular Culture* (Carbondale: Southern Illinois University Press, 1983), p. 55.

^{xix} Quoted in Andrew Sinclair, *Era of Excess: A Social History of the Prohibition Movement* (New York: Harper, 1964), p. 229.

^{xx} Woodiwiss, p.25.

^{xxi} Woodiwiss, p. 30.

^{xxii} *America as Americans See It*, p. 175.

^{xxiii} Powers, p. xv.

^{xxiv} Quoted in Allsop, p. 377.

^{xxv} Powers, p. 8.

^{xxvi} *The Dick Tracy Casebook: Favorite Adventures 1931-1990*, eds. Max Allen Collins and Dick Locher (New York: Penguin, 1990); Powers, p. 29.

^{xxvii} For example, the *Saturday Evening Post* in 1931 declared, "before any other question is worth settling, we must get a decision on who is the Big Shot in the United States - the criminal or the Government." Quoted in Woodiwiss, p. 41. Part of the furore over gang films was undoubtedly created by a press anxious to transfer public opprobrium away from their own representation of crime.

^{xxviii} *X Marks the Spot*.

^{xxix} John Landesco, *Organized Crime in Chicago: Part III of The Illinois Crime Survey 1929* (Chicago: University of Chicago Press, 1968), p. 277.

^{xxx} *Variety* review of *Lady Killer*, 2 January 1934.

^{xxxi} Lincoln Kirstein, "James Cagney and the American Hero," *Hound and Horn*, 5 (April-June 1932), pp. 466-7, quoted in Robert Sklar, *City Boys: Cagney, Bogart, Garfield* (Princeton, NJ: Princeton University Press, 1992), p. 12; *Variety* review of *Delicious*, 29 December 1931. Cagney's lack of appeal to female audiences is evidenced by the dearth of stories on him in fan magazines, notable *Photoplay*.

^{xxxii} Landesco, p. 210.

^{xxxiii} Paul G. Cressey, "The Community – A Social Setting for the Motion Picture," in Garth S. Jowett, Ian C. Jarvie and Kathryn H. Fuller, *Children and the Movies: Media Influence and the Payne Fund Controversy* (Cambridge: Cambridge University Press, 1996), p. 181.

^{xxxiv} Henry James Forman, *Our Movie-Made Children* (New York: MacMillan, 1933), p. 264.