

CORRUPTION, CRIMINALITY,
AND THE NICKELODEON

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We begin with the sad story of the rise and fall of Gaetano D'amato, a young Italian American who went from bootblack to the relatively prominent position of deputy chief of New York City's Bureau of Licenses, the government office that issued common show licenses to the city's nickelodeons. In October 1908, following an extensive investigation of the Bureau, D'amato was arrested, "charged with grafting."¹

The facts indicate that in place of allowing these matters to take the regular course, he put himself to considerable trouble in many cases, and interested himself beyond the limits of his usual duties, in order to "expedite" the issuance of licenses, notwithstanding that in so doing, he was acting contrary to rule and prescribed practice.²

In one such instance, D'amato issued a license contrary to the Fire Department's expressed disapproval of the proposed nickelodeon premises. Despite such "expediting," often done for his fellow countrymen, the majority of those testifying against D'amato were also Italian. Others among his countrymen supported him, as D'amato's plight called forth contradictory reactions from the "Italian colony of New York, with its several hundred thousand members," which the *New York Times* reported was "split wide open over [his] arrest."

Little else has been talked of all week among the politicians of the colony. The older men, the ones who have always resented D'amato's rapid rise, shake their heads and declare they had long foretold it. But with the younger element, who accepted D'amato as a sort of leader, they declare it is all a plot.³

The story of D'amato concerns us not for its rarity but for its typically negative portrayal of the cinematic institution. Emerging alongside the social upheaval attendant upon rapid urbanization, increasing immigration, labor strife, and so forth, the new film medium quickly found itself caught up in the social debate over national values and identity that raged during the first two decades of the new century.⁴ As the cinema struggled to disassociate itself from the workers and immigrants perceived as threatening the status quo and to establish itself as mainstream, respectable entertainment, tales of corruption, immorality, fires, collapsing balconies, and other outrages circulated publicly in the popular press and privately in the official reports of state and civil institutions. Government officials, both corrupt and upright, clergymen, both moralistic and supportive, civic reformers, both repressive and progressive, and theatrical entrepreneurs, wanting simply to crush the competition, all pursued their own agendas, in the process contributing to this negative discourse about cinema.⁵

During the nickelodeon period, anecdotes about D'amato and his ilk formed part of a master narrative constructed in the popular press and private documents, and it is possible to trace in this tale a move from the disequilibrium of anarchy and corruption associated with the marginalized worker and immigrant classes to a rational equilibrium associated with social/cultural elites imposing control on the new medium. The period's archival record (court cases, fire insurance records, journalistic reports, police investigations, city ordinances, and civic reform groups' investigations) resulted directly from the attempt to impose this master narrative and thus both constituted and was constituted by the discourse of rationality. The period's master narrative positioned Gaetano D'amato as a corrupt individual, an exploiter of the underclass, vanquished by the powers of progressive reform.

Today, the archival record established by the

period's elites constitutes the "facts" that comprise what we normally consider to be historical evidence. Given this limitation upon the available data, scholars reassessing the nickelodeon period are in danger of partially reproducing the elites' master narrative, as we speak of "Americanization," of "bourgeoisification," of "industrialization," or of the "social control" of the cinema.⁶ In fact, when we began our investigation of cinema exhibition in New York City between 1907 and 1913, master narratives of this kind appeared to provide powerful explanatory paradigms. At first, Mayor George B. McClellan and other city officials relied upon the powers granted them by pre-existing state statutes and city ordinances, but this legislation rapidly proved an inadequate means for dealing with the social upheaval engendered by the growing popularity of the new film medium. Faced with such ineffective control mechanisms, various social elites—McClellan's successor, Mayor William J. Gaynor, civic reformers, fire underwriters, and others—joined together to draft a detailed ordinance regulating moving picture exhibition venues, eventually passed by New York City's Board of Aldermen in 1913. Were one seeking to impose coherence upon these events through the customary historiographic practice of periodization, one could characterize the 1907 to 1909 period as fairly anarchic, with the state's primary response being outright suppression, and the 1910 to 1913 period as one of containment, regulation, and rationalization. One might even detect in the period's discourse a Foucauldian trajectory from morality and personified authority to rationality and systematization, in which highly visible means of control, such as suspending licenses, were replaced by the disciplinary micro-techniques of the regulation of architectural spaces, employees, and the cinema audience. These interpretive frameworks would position Gaetano D'amato as a relic of an outmoded and rapidly transforming system.

Given the origins of archival evidence within

the period's master narrative, data that would permit an alternative and perhaps more favorable positioning of D'amato may never be forthcoming, but re-examining the available data from a slightly different perspective, reading it against the grain, as it were, might cast a more favorable light upon D'amato's behavior. The *New York Times* tells us that "the younger element [among the Italians], who accepted D'amato as a sort of leader" declared that "it is all a plot." Might D'amato have been a hero of sorts to some of his people, even after the discovery of his grafting? Might they have appreciated the fact that he "expedited" their license applications? Might they have seen his approval of premises disapproved of by a Fire Department inspector as an appropriate response to a city department reputedly controlled by and run for the benefit of the Irish immigrant population? Might they have perceived the case against their peer as yet another in a series of systematic discriminatory actions directed against Italians? These questions must remain unanswered but posing them suggests that trying to hear the voices of the marginalized social groups whose perspectives were largely excluded from the period's master narrative might lead us both to reposition D'amato and to question many of our assumptions about "corrupt" and "criminal" behavior during the nickelodeon period.

Does questioning these assumptions entail condoning graft, or, worse yet, the truly appalling conditions existing in some New York City nickelodeons before the enactment of the 1913 ordinance? Were we ourselves somehow magically transported back to 1908 New York City, we must admit that a serious concern for life and limb might outweigh the immediate urge to undertake a personal investigation of some of the less salubrious nickelodeons. Between 1907 and 1909, the popular press and official reports indicate that nickelodeon owners obtained licenses illegally, safety inspectors demanded payoffs, projectionists smoked while handling volatile celluloid film, and

understandably panicky audiences made conditions even worse. (And conditions seem to have been bad enough, with fire exits leading to bricked-up walls, balconies collapsing, and a general failure to meet even the minimum safety requirements well in evidence.) Consider a few excerpts from the official report to Mayor McClellan that preceded the famous 1908 nickelodeon closings:

A wooden stairs led up at the left side to the top of the fence at the rear of the yard. Nine steps take one up to a small platform and three higher lead to the top of the fence. On the left is a sheer drop of eighteen or twenty feet into the yard of the adjoining house. There is no stairs leading from the before described stairs to the yard behind that of the yard of the moving picture show.

The exit on the right hand side of the hall was blocked up by a chair behind the door. The courtyard is bounded by a board fence about 6' 6" and by a four or five story brick building. There are no doorways through the fence. To get out of the yard one must scale the fence or else go through an iron door leading into an adjoining building. This was not open when I inspected the premises.

Here one is given his choice of leaping a picket fence, behind which there is a drop of ten feet, or of going up a stoop into the kitchen of the adjoining house.⁷

Do we mean to excuse such flagrant disregard of basic safety standards? Can we even understand it? We could challenge the "accuracy" of the "facts" reported in the press and official documents—was the fire exit really bricked in? Did the balcony really collapse, killing three people? We could "explain" these conditions in terms of the excesses of an early-twentieth-century capitalism, concerned with profit at any price, that gave rise both to robber barons such as Andrew Carnegie and to cockroach capitalist nickelodeon owners with few means and fewer scruples. But, as we did with D'amato, we might once more read the evidence against the grain, attempting to take the perspective of those marginalized social form-

ations largely excluded from the period's archival record and from the construction of the period's master narrative, who nonetheless played a prominent part within it. How might members of such social groups, from whose ranks came many nickelodeon proprietors, employees and audience members, regard the laws which mandated compliance with safety standards or forbid grafting?

The law, as the discursive realm of definition, regulation, and arbitration, might have seemed the quickest route for the motion picture's incorporation into (or exclusion from) the social order. Yet, as we have said above, the social order was itself in flux, undergoing change so rapid that some historians speak of a hegemonic crisis in the decades between 1880 and 1920, perhaps most apparent on a local level, in the cities that were initially the primary site of both cinema production and exhibition. The medium found itself caught between two different modes of social organization, roughly characterizable as the "old" and the "new." On the one hand, there was the charismatic, ad hoc, and personalized authority of the clergy and of the political machine: Tammany Hall in New York City. On the other, there was the rationalized, systematic authority of the managerial classes: civic reform groups, professionals such as fire underwriters and engineers, "progressive" city officials. Tammany saw the new medium as yet another opportunity for personal gain in a field that had already yielded them a rich harvest. As John Collier of the People's Institute, a civic reform group concerned with the film industry, noted, "All the exhortations that can be made and all the laws that can be passed won't break the grip of Tammany as long as Tammany controls the people's amusements."⁸ Some Tammany politicians quickly added nickelodeons to their existing theatrical interests while the Tammany aldermen (city councilmen), whom the City Charter granted the ultimate authority for the issuance of licenses, demanded payoffs from nickelodeon proprietors. Many of these proprietors, hailing from the "old country," found nothing surprising

about a personalized authority that demanded individual tribute, and the aldermen may indeed have been more responsive to their needs than an impersonal government bureaucracy.⁹ Even the organ of a progressive reform organization, the *Civic Journal*, was sympathetic to this perspective, as it answered the question: "What, *in practice*, is an alderman?"

In the congested districts the alderman is the poor man's lawyer (getting people out of trouble by politics not by law). He is an employment agency (representing his political organization always, whether helping out those on civil service lists or getting the applicant a place with some friendly corporation). He gives stand permits for news dealers, bootblacks, and the like. In some districts he collects toll for these services, and those affected pay the five or ten dollars as if it were a fine imposed by law; it is imposed by custom and tradition.¹⁰

Some clergymen hailed the new medium's potential for "uplift," but others, like the Tammany politicians, simply extended their previous practices and rhetoric to encompass it. These repressive clergy associated the cinema with all the other "cheap amusements" that wreaked havoc by distracting the "lower orders" from their religious obligations and exposing them to texts of dubious morality. Seeking to counteract the deleterious influence of these cheap amusements, the clergy mounted a rigorous defense of "blue" Sundays, bringing pressure to bear upon civic officials to enforce archaic laws that prohibited various activities on the Sabbath day. Unlike many European countries, but like England, the United States had a strong tradition of Sabbatarianism, and even the entertainment media of a cosmopolitan urban center such as New York City were occasionally subject to Sunday closing laws, despite the fact that for many working people the Christian Sabbath was the single day of leisure. Many New York clerics associated the danger to the Sabbath, and by extension to fundamental American values, with the ever-rising influx of "aliens" from southern

and eastern Europe, ill-disposed to conform to dominant, i.e., white, Anglo-Saxon, Protestant values, yet constituting a large proportion of the city's population and, according to the clergy, of nickelodeon audiences. Banning the Sunday showing of moving pictures, thought certain clergymen, was a tactic for disciplining these unruly elements, who, as Methodist minister John Wesley Hill said, substituted "the red laws of riot, carnival and immorality" for the blue laws of puritanism.¹¹

The managerial classes saw the new medium as yet another field for rationalization through the imposition of their professional expertise. This ethos drew upon an emerging social science paradigm predicated upon the gathering of data that would "objectively" reveal patterns of human behavior and thus enable predictions about the ameliorative possibilities of particular regulations. During the first decade of the twentieth century, surveys proliferated on various aspects of the urban condition: demographics, living conditions, the "social evil" (prostitution), and cheap amusements, among others.¹² These surveys rendered individuals as statistical constructs marked only by aggregate variables such as age, gender, ethnicity, and occupation. Here, the reformers' stance closely resembled reform rhetoric about tenement conditions, with researchers investigating conditions such as crowding, sanitation, and potential fire hazards. Evidence such as this enabled these reformers to make both predictions and recommendations, as they called for better air flow or more frequent fire inspections, hoping that such ameliorations would better the lot of an underprivileged and relatively powerless audience whom the reformers saw as dependent upon their intervention. Casting the audiences as victims, they often ignored the immigrants' established folkways, avowedly seeking to abolish such "anachronistic" practices in favor of a modernized bureaucracy.¹³

In the film industry, the more successful producers, whose opinions were represented in such trade journals as the *Film Index* and the *Moving Picture World*, generally allied themselves with the

managerial classes and supported the framing of legislation to rationalize and modernize their industry (as well as providing a way to rid the industry of its "lowest" elements), viewing this as a route to respectability and increased profits. At the same time, they resisted those laws, often framed and/or supported by the repressive clergy, that aimed at the outright suppression of cinema exhibition, seeing them as emanating from a groundless moral panic over the new medium. The more marginal nickelodeon proprietors, the cockroach capitalists, shared their more fortunate brethren's suspicion of repressive legislation, while sometimes suffering on the one hand, from Tammany's use of the law for personal gain, and on the other, from their more powerful rivals' use of the law to drive them out of business.

Caught as they were among these conflicting discourses and practices of corruption, morality, and rationality, members of the film industry harbored a certain justifiable suspicion of the law. Articles in the trade press reveal that the successful producers, both the members of the Motion Picture Patents Corporation and their independent rivals, considered negative discourse about the cinema a weapon employed by those hostile to the industry who wished to frame repressive legislation. With a certain (justifiable) paranoia, members of the industry may have deemed everything from official reports about bricked-up exits to the popular press's constant refrain about fire as easily discounted "enemy propaganda." For example, in 1910, the *Nickelodeon*, a trade journal for the moment allied neither with the MPPC nor the independents, complained of the law's attitude toward motion picture exhibition.

Municipal authorities seem generally prone, without reason, to assume that the proprietors and managers of motion pictures theatres are natural violators of the law, and that special ordinances are requisite to hold them in restraint. This spirit is responsible for much of the peculiar legislation that

has harassed the exhibitor since the first picture theatre opened.¹⁴

Once more reading the available evidence against the grain, we conclude that the "cockroach capitalists" of the film industry's low end suspected the motivations not only of municipal authorities but of the financially more secure producers, whom they believed were attempting to impose control over the industry through such means as the establishment of the MPPC and an alliance with the managerial classes. Hence, some nickelodeon owners probably appreciated the power of their many enemies—conservative clerics, rival theater and vaudeville owners, the MPPC—to use the law and the press against them. However "true" the reports about health and safety dangers, however necessary regulatory statutes, low-end nickelodeon proprietors may have had ample grounds to discount them as yet another attempt to drive them out of business. From their perspective, discrediting both "disaster reports" and the "laws" designed to prevent them might have been simply the necessary evasion of their opponents' knavish tricks.

Certainly the more prosperous elements of the film industry constantly fulminated against the more marginal nickelodeons as they strove for a "middle-class" respectability. In December 1908, Francis V. S. Oliver, Chief of the Bureau of Licenses, included the views of a Mr. Rubenstein in his report on the Bureau's inspection of moving picture theatres:

Every man who has the interest of the business at heart is looking forward to the time when every moving picture show in the country will be shown not in a cut-out front store, but in an actual theatre put up for the production of moving pictures as they are put up at the present time for plays.¹⁵

Rubenstein's statement is an early example of the Trust's anti-storefront rhetoric, oft-repeated during the following years' debate over nickelo-

deon regulation. In 1910, the *Film Index*, jointly owned by trust members Vitagraph and Pathé, lauded New York City's efforts to curb the "moral" and safety hazards of the storefront shows:

In New York, the authorities are going after the dark houses and the irresponsible machine operators with a vengeance that is wreaking havoc among cheap exhibitors of the East Side. This is as it should be. There is no excuse for a dark house where unmentionable evil may flourish, and there is no excuse for a ten dollar a week foreigner turning the crank of a picture machine on the ground floor of a tenement containing a hundred other excitable foreigners.¹⁶

Any "foreign" entrepreneur, struggling to make a go of his "dark house," would probably have sensed the anti-immigrant bias here and may have had good grounds to regard regulations concerning theater lighting and the employment of qualified projectionists as yet more unfair impositions originating from his business rivals. Indeed, during the battle over the framing of the 1913 audience, the smaller proprietors repeatedly claimed that some of the more stringent requirements were specifically designed to drive the "small fry" out of the business.

Reports of dark houses, irresponsible machine operators and excitable audiences may have circulated primarily to the detriment of the low-end operators, but the industry as a whole resented the exaggerated and often groundless reports of cinema-related fires, distrusted a popular press that sought to boost circulation through attacking the highly visible film industry and believed some of the more stringent regulations proposed by frightened legislators to be unnecessary. The Iriquois theatre fire of 1903 had forged a popular association between fires and theatres, reinforced by the Boyertown fire of 1908, that led to great public concern about the mandating of safety standards to avoid future disasters. Said the National Board of Fire Underwriters in 1909:

The Iriquois fire in Chicago, December 30, 1903, in which 600 persons lost their lives, was a terrible object lesson in bad construction and equipment, yet this was not sufficient to stop these disasters. The January 13, 1908 fire in an opera house in Boyertown, PA, cost the lives of nearly 200 women and children.¹⁷

Neither of these famous fires, however, occurred in nickelodeons. And, despite the widespread impression to the contrary, while the Boyertown opera house was exhibiting films on the disastrous day, official reports stated that the motion picture equipment did not cause the fire.

Industry representatives continually sought to counter the conviction that motion picture projectors inevitably led to fires. Gustavus Rogers, representing the New York exhibitors at the hearing that preceded the Christmas Eve, 1908, nickelodeon closings, spoke directly to the issue of fires.

So as far as fires and panics are concerned—and I challenge contradiction of the statement I now make—an examination of the records of the Fire Department of the City of New York will show that there have been more fires in butcher shops and in other places where articles of merchandise are exhibited than in moving picture places.¹⁸

A year later, the *Nickelodeon* said much the same thing about Chicago.

There were 7, 075 fires in Chicago in 1909. . . . There is no reference whatever to picture theatres or to motion picture films. It will be noted that they are not represented under "explosions"—that favorite expression of the theatre fire reporter; neither are they mentioned under "ignition." The conclusion grows upon us that there were no film fires in Chicago in 1909.¹⁹

Given the disparity between public impressions and what seem to have been the actual "facts" of the matter, members of the film indus-

try might be excused for taking a fairly cynical attitude toward fire regulation laws, viewing them not as necessary for the preservation of life but rather as a necessary public relations ploy.

So much exaggeration has existed in the treatment of picture theatre fire reports that exhibitors have come to detest and avoid the very word, even when used in a protective way. They are inclined to overlook the fact that the danger lies not in the actual liability to fire, but purely in the minds of the people themselves.²⁰

A broader public shared the film industry's cynical attitude toward the law, since the period's hegemonic crisis entailed a widespread critique of the legal system as corrupt and inefficient, particularly within the nation's machine-ruled urban centers. New regulations or changes in existing ones were frequently viewed as but another means of extorting graft from the struggling businessman. New rules meant new payments, and, thus, more often functioned to exclude those who would not pay than to regulate the behavior of those who would. City inspectors, policemen, firemen, and petty city bureaucrats like Gaetano D'amato found new ways to supplement their incomes through new regulations. The "law," in practice rather than theory, often came down to a matter of whom to pay, not what regulations to follow. A 1913 article written by New York City's Commissioner of Accounts Raymond Fosdick, head of the department charged with investigating illegalities in city agencies, makes it clear that corruption on all levels had become an accepted business practice. Talking about the city's building trade, he asserted that even the initially honest city inspector came to participate in the corrupt system. "By and by he comes to expect it [the pay-off], and learns how, by rigorous application of minor features of the law, to make the life of the non-tipping contractor miserable."²¹ In paying city inspectors or bribing Gaetano D'amato or their aldermen to issue them licenses, nickelodeon

proprietors simply followed the era's standard operating procedures.

Seeing the potential for corruption everywhere, the film industry's trade organs, as well as progressive reform organizations concerned with cinema regulation, often denounced legislators, their proposed legislation, and the entire legal system. For example, a 1910 editorial in the *Film Index* suggested that New York state politicians wished to establish a state censorship board not to protect the people but to line their own pockets and continued by extending its critique to the law generally. "The way not to have a thing properly done is to give someone authority by law to do it."²² The *New York Times* reported on a meeting in which members of civic reform organizations denounced the Board of Aldermen for obstructing the ordinance to regulate motion picture theatres.

Some of the speakers said that the reason the ordinance was being held up was because "the motion picture show proprietors had 'reached' the Tammany Aldermen." Other speakers said that the Aldermen had been "reached" by the vaudeville theater proprietors who didn't want the rival business of motion pictures to improve and develop. All agreed, however, that the Aldermen had been subjected to some mysterious and malign influences and they were characterized generally as "grafters."²³

But critics went beyond excoriating only the most obvious excesses of corrupt politicians, as a ubiquitous lack of respect for the law, its framers and its agents made suspect every aspect of the legal system, from the drafting of legislation to its enforcement. This was especially true with regard to the often vague laws regulating entertainments, cheap amusements, and the cinema. Highly regarded public figures openly challenged legal decisions and the motivations of those who made them, while the press represented aspects of the legal process, especially the deliberations of the Board of Aldermen, as a cross between a circus and a prize fight. William Sheafe Chase, canon

of the Episcopal Church and one of motion pictures' most vociferous opponents, was once charged with contempt of court for having "viciously and maliciously criticized" a New York judge who made a Sunday closing decision favorable to the film industry.²⁴ Theodore Bingham, having resigned his position as New York City's police commissioner, asserted that Mayor McClellan had closed the nickelodeons merely to appease his political opponents. "I asked the Mayor why he had taken such a sudden interest in the moving picture question, and he answered: 'I am playing a little game to win the ministers.'" ²⁵ Newspapers delighted in reporting on the more bizarre aspects of legal decision making and the Board of Aldermen proved a ready source of good material, with the aldermen engaging in name-calling and even the occasional fist-fight. In 1907 the *New York World* reported on the aldermen's deliberations on the Doull ordinance, a piece of legislation designed to amend Sunday closing requirements.

The Aldermanic meeting yesterday was a peppery occasion literally and figuratively. Soon after it began a man in a crowded gallery sifted about a pound of cayenne pepper among the throng of spectators standing below. Sneezing and coughing and the wiping away of tears became the occupation of everybody in the rear of the chamber.

Later in the same meeting, an Alderman Peters who refused to be quiet and take his seat had to be restrained by two sergeants at arms and forcibly put back in his place.²⁶

The situation did not improve once the laws were on the books, as those charged with their enforcement seemed unclear as to their intent and even questioned their usefulness. After the 1908 closings that also affected vaudeville and other theatres, entertainment executives asked Police Commissioner Bingham to clarify the Sabbath laws. Said Bingham, "I'd like to know what the law is myself." A little while later, in answer to another question, the commissioner said: "Oh, I

don't know the law myself. Why don't you go at once to the Corporation Council's office?"²⁷ The famous Tammany magistrate "Battery Dan" Flynn dismissed a complaint against a nickelodeon proprietor charged with admitting an under-age (under sixteen) patron, saying, "The law is an outrage. It deprives poor people of going to the theatre, and I believe it was passed in the interest of the big theatres that don't want people to go to the five and ten cent shows." Flynn said that he himself had bought nickelodeon tickets for unescorted children.

Not only were the laws represented as unclear or unjust, they were also represented as unequally enforced. Some interpretations of the statutes held that both nickelodeons and saloons should be closed on Sundays, yet a widespread system of payoffs enabled the latter to continue their operations even on the "Lord's" day. In 1909 the *Moving Picture World* complained of this inequity, reprinting an article from the *Brooklyn Standard Union* that criticized the police for permitting the saloons to sell liquor on Sunday.

Few people could be convinced, in view of the evidence on all sides, that the police knew the excise law was placed on the statute books to be enforced. . . . And perhaps not until hypocrisy is banished from local police affairs and intelligent and fearless leadership directs police activity will the laws be enforced impartially.²⁸

An unlucky but ingenious nickelodeon proprietor, Mr. Cohen, of whom we shall hear again shortly, was arrested numerous times for showing films on Sundays. On the occasion of his fifth arrest, Cohen said that "he was being harshly treated by Captain Reynolds, who allowed other men to do the same things without arrest. 'He says he can't arrest them because they sell soda water,' said Cohen. 'Well, last week I was selling soda and he arrested me.'" ²⁹

Faced with unjust or unequally enforced legislation, opponents of the law could simply ignore

legislation and face the consequences of fines or imprisonment, but the more astute used the legal system against itself in an attempt to get specific laws repealed. Said the *Nickelodeon* about the under-sixteen admission requirement: "The quickest way to kill an obnoxious law is to enforce it so rigidly that the people grow sick of it and see that it is repealed."³⁰ The test case—arresting a violator in the hopes of a judicial decision invalidating the law—was also a useful tactic. The *Tammany Times* asserted that this was Mayor McClellan's motivation for strictly enforcing Sunday closing laws.

Mayor McClellan wants neither a blue Sunday nor the pleasure of the people unduly curtailed or restricted. . . . What the Mayor wants is to obtain from the courts a proper definition of the laws now on the statute books. There is only one way of getting this desired information, and that is through the medium of a test case. . . . To make a test case arrests are necessary.³¹

As we have seen, several factors, ranging from corruption to unequal enforcement, combined to undermine the legal systems' authority during the nickelodeon period. The nickelodeon entrepreneurs, often drawn from the ranks of lower or immigrant classes, had good reason to share the period's general disdain for the law. Not yet fully acculturated within the idealized ethics of the system, nor economically able to stand by and watch their investments destroyed (and perhaps even inspired by the model of robber-baron entrepreneurial capitalism), nickelodeon proprietors seem to have developed a set of unorthodox, innovative responses to legal constraints. But since the historical records (popular and trade press reports, police, fire and judiciary records, and the published observations of concerned clerics, progressive reformers, and even the fire insurance industry) contained relatively few of these responses and they formed no coherent pattern, we at first invalidated them as historical "evidence" and

tended to relegate them to the status of period "color." Then we realized that such relegation might result in our unwittingly reproducing the period's own preferred discourse and confirming its own biases. In this article we are endeavoring to empower the voices of those who in their own period might not have "fit"—in terms of class, or ethnicity, or cultural background—and who in our period do not "fit" historiographically. Our method is to read the available evidence against the grain of the period's interpretation, reconsidering practices that period elites categorized as corrupt or criminal, in order to see the sometimes curious, sometimes outrageous, and sometimes startlingly dangerous actions of nickelodeon proprietors and their personnel operators as the guerrilla-like activities of those simply struggling to survive.

Nickelodeon owners adopted several survival strategies. Some worked within the legal system, cooperating with those who sought test cases or seeking court injunctions to prevent city officials like McClellan from suspending their licenses. Others evaded the law, violated fire-regulations or Sunday closing statutes and paid off city officials like D'amato. And others responded in a more imaginative fashion, claiming to stay within the letter if not the spirit of the law. The same Mr. Cohen who was frequently arrested for violating the Sunday closing laws continually contrived ingenious defenses. At one of his court appearances, "Captain Reynolds told Magistrate Hylan that Cohen had been charging admission to his show by a subterfuge. Persons were admitted free of charge, but when seated on the inside everyone had to purchase five cent's worth of candy, or incur the displeasure of the management."³² Cohen had earlier claimed that the profits from Sunday exhibitions went to charity or that he charged his patrons for soda water, not the films.³³ Two nickelodeon owners fined twenty-five dollars for admitting under-age minors attempted to make life difficult for the court clerk by paying

in nickels from three large paper bags they carried under their arms. Court clerk Fuller refused to count the money in court and said it must be taken up to a quieter room. . . . On their way up one of the bags broke and the contents scattered in all directions. This was too much, and the two prisoners were taken before the justices again while the question of legal tender was considered.

The pair relented when told to pay their fine in paper money or go to jail.³⁴

Proprietors also engaged in less veiled ridicule of the law. When the police department finally enforced Sunday shutdowns in 1907, ironic signs appeared on the closed nickelodeons: "Little Old New York died to-day. We have gone to the funeral. We will be back to-morrow"; "We are on the ice temporarily. Will get off to-morrow"; "We have not gone into the undertaking business. Not yet, but . . ." and, most mordant of all, "We are thinking of moving to Boston."³⁵ The next year's closing gave rise to unintentional humor as the proprietors of Hammerstein's Victoria (a vaudeville house) strove to keep within the letter of the law by providing a lecture to render a travel film of northern Europe an "educational" show suitable for the Sabbath.

"A railroad track," said the lecturer, the moving pictures having been taken evidently from the front of a train.

"Some men," continued the educationalist presently when a group of men on skis were shown. The next scene revealed them speeding downhill.

"Men skiing," announced the man.

The pictures again switched to the railroad track.

"Another railroad track."

The track ran across a low trestle.

"The Brooklyn Bridge," bellowed the announcer.

Pictures showing reindeers tramping about in the snow were explained as "animals eating snow-balls."³⁶

Sometimes the owners of moving picture venues engaged in a more active resistance aimed at the lawmakers themselves. At the "peppery" meeting at which the aldermen debated the Doull Ordinance, a Mr. Moses, owner of an establishment that showed films, first raised the issue of corruption, saying to those who opposed the bill, "What do you mean by voting against an open Sunday? Is it another hand-out for graft?"³⁷ When this tactic produced no results, Moses resorted to more strongly persuasive means, physically attacking Alderman Cornelius D. Noonan, who had voted against the ordinance.³⁸

Isolated incidents of selling candy instead of charging admission, posting humorous signs and hitting public officials do not normally constitute "valid" historical evidence, since their comparative rarity and random occurrence mitigates against their fitting into our historiographical models of consistency, resonance, etc. But we have argued that this lack of "fit" stems from the period's own archiving practices—in which the records that were kept tended to support the period's master narrative—and the present-day unwitting reproduction of that master narrative. We have attempted to use these examples of "random, non-patterned" evidence to suggest a counter-narrative by drawing upon the probable perspectives of the period's marginalized social groups with regard to the legal apparatus.

Survival tactics that entailed flouting the regulatory apparatus constructed by law and civil statute occasionally resulted in violations with disastrous consequences such as the collapse of a balcony at a Rivington Street nickelodeon that cost several lives. More often, however, the potential for danger was subject to strong discursive amplification. We do not wish to trivialize attempts to "better" the conditions of film exhibition, but, rather, to offer a new vantage point on seeming "transgressions," that is, the many incidents of "criminal" or "corrupt" behavior associated with the emergent nickelodeons. As noted at

the outset of this essay, the limited array of interpretative paradigms currently used to understand the period tend to emphasize the sordid nature of these “violations” and the subsequent triumph of “progress.” We have suggested an alternate paradigm that might see these “violations” as perfectly consistent with the period’s dominant practices. The laws regarding nickelodeons—from their conception and formation to their deployment and enforcement—were seen as corrupt and sometimes as specifically designed to subvert the film business. In this context, the various tactics deployed by nickelodeon owners seem less “corrupt” or “irrational” as they do motivated and reasonable acts of survival.

In concluding this chapter, a return to the kind of anecdotal evidence with which we began may help to reinforce our point concerning reading period evidence against the grain or within the perspective of the periods’ marginalized social formations. In 1908 the *Moving Picture World* ran a story titled “Audience Applauds His Shrieks of Agony,” relating the horrifying experience of projectionist John Riker.

Reaching into the sheet-iron cage that covered a moving-picture machine with which he was giving an exhibition, John Riker seized a bare electric wire instead of the switch. He was held fast while a current of 1000 volts went through his body. He shrieked for help. His cries, coming through the narrow aperture of the booth, sounded to the audience like a phonographic accompaniment to the blood and thunder drama that was being portrayed in the moving pictures. The audience, not suspecting the dangerous plight of the man, applauded. . . . [When he was rescued] Riker’s hand still gripped the wire and had to be pried off. His hand was almost roasted by the strength of the current. [When will operators learn? We cannot understand why a bare wire was allowed to be used. Every operator ought to use only properly insulated wires, and if any bare surface shows they should be bound with tape.—ED.]³⁹

Why did the journal print this story—to appeal to their readers’ rubber-necking propensities, their potential *schadenfreude*? For that matter, why do we reprint it? We do so because we wish to suggest that such anecdotes might have had a powerful communicative function. The top-end of the film industry joined with groups such as the fire underwriters or New York City’s Department of Water, Gas and Electricity in promulgating certain “reasonable” (nonmoral, nonjudgmental) propositions: “Don’t touch bare wires”; “Don’t smoke around nitrate film”; “Don’t hire inexperienced projectionists.” But in an environment where authority was so fundamentally subverted, so suspect, where statute, law, or even “common sense” safety standards were undermined and questioned, where every law could be seen as yet another another attack or opportunity for graft, how were “rules” to be communicated? With the discursive structure of laws and regulations invalidated, cautionary tales, narrativized vignettes of operators with horribly maimed arms and others that we have found, were called into service.

Notes

- 1 “D’amato’s Arrest Stirs Italians,” *New York Times* (Oct. 4, 1908).
- 2 The complainants and prices paid for a \$25 initial license and/or \$12.50 renewal included M. di Christophero, \$185; Roger di Pasca, \$100; and Joseph Brunelli, \$75. Special examination of the accounts and methods of the Bureau of Licenses, Office of the Commissioners of Accounts, Nov. 2, 1908, Accounts, Commissioner of, MGB 44, New York City Municipal Archives.
- 3 “D’amato’s Arrest Stirs Italians,” *New York Times* (Oct. 4, 1908).
- 4 For a detailed discussion of this situation, particularly as it regards the workers and immigrants so often assumed to constitute cinema’s audiences, see William Uricchio and Roberta E. Pearson, *Reframing Culture: The Case of the Vitagraph Quality Films* (Princeton: Princeton University Press, 1993), especially chapter 1.
- 5 William Uricchio and Roberta E. Pearson, “Constructing the Mass Audience: Competing Discourses of

- Morality and Rationalization in the Nickelodeon Period," *Iris* 17 (1994): 43-54.
- 6 For example, see Tom Gunning, *D. W. Griffith and the Origins of American Narrative Film* (Urbana: University of Illinois Press, 1991); Miriam Hansen, *Babel and Babylon: Spectatorship in American Silent Film* (Cambridge, MA: Harvard University Press, 1991); and Uricchio and Pearson, *Reframing Culture*.
 - 7 Francis V. S. Oliver, Chief, Bureau of Licenses to George B. McClellan, Mayor, "Regarding Inspection of Moving Picture Theatres," December, 1908, Folder 4, Bureau of Licenses, MGB 51, New York City Municipal Archives. The inspections were carried out under the city's mandate to protect the safety of its citizens, even though specific statutes regarding nickelodeon construction were not approved in New York City until 1913.
 - 8 "People's Amusements," *New York Daily Tribune* (Dec. 19, 1908).
 - 9 Mario Maffi, among others, argues that the organization of social life particularly in southern Italy was based upon a pattern of social stratification and personified power which was transferred to and quickly adapted by the immigrant community in the United States. See *Gateway to the Promised Land: Ethnic Cultures on New York's Lower East Side* (Atlanta: Rodopi, 1994).
 - 10 "Worrying about the Aldermen," *Civic Journal* 1(7): 3, 8.
 - 11 "Commends the Mayor," *New York Times* (Dec. 28, 1908).
 - 12 For an overview of these surveys, see Alan Havig, "The Commercial Amusement Audience in Early-Twentieth-Century American Cities," *Journal of American Culture* 5 (1982): 1-19. For period surveys see, among many others, Edwin R. A. Seligman, ed., *The Social Evil: With Special Reference to Conditions Existing in the City of New York* (New York: G. P. Putnam's Sons, 1912); Robert Coit Chapin, *The Standard of Living Among Workingmen's Families in New York City* (New York: Russell Sage Foundation, 1909); and Louise Bolard More, *Wage-Earners' Budgets: A Study of Standards and Cost of Living in New York City* (New York: Henry Holt, 1907).
 - 13 One of the problems faced by the managerial classes in their reform program was the entrenched corruption of the system upon which they were forced to rely for social change. After he was pushed out of his office by Mayor McClellan, former Police Commissioner Bingham said that the mayor ordered a hearing about the nickelodeons but the man put in charge was the head of the license bureau. "Not only was it [the License Bureau] found to be doing a land office business in graft, by charging double and sometimes treble the legal cost of common-show licenses, but it was also trafficking in peddler's licenses in the same outrageous way." Theodore Bingham, "Why I Was Removed," *Van Norden's; World Mirror* (Sept. 1909): 595.
 - 14 "Putting the Picture Theatre Right," *Nickelodeon* 4(2) (July 15, 1910): 27.
 - 15 Francis V. S. Oliver, Chief, Bureau of Licenses to George B. McClellan, Mayor, "Regarding Inspection of Moving Picture Theatres," December, 1908, Folder 4, Bureau of Licenses, MGB 51, New York City Municipal Archives.
 - 16 "Answer New York Sun's Editorial," *Views and Film Index* (Dec. 31, 1910): 245.
 - 17 Proceedings of the 43rd Annual Meeting of the National Board of Fire Underwriters, May 13, 1909, 70.
 - 18 Francis V. S. Oliver, Chief, Bureau of Licenses to George B. McClellan, Mayor, "Regarding Inspection of Moving Picture Theatres," December, 1908, Folder 4, Bureau of Licenses, MGB 51, New York City Municipal Archives.
 - 19 "The Causes of Fires," *Nickelodeon* 4(5) (1910): 120. The list of probable causes curiously includes seventeen fires resulting from "rats and mice with matches." Beware of pyromaniac rodents!
 - 20 "Panics," *Nickelodeon* 2(5) (Nov. 1909): 136.
 - 21 Raymond B. Fosdick, "Driven from the City: Another Point of View," *Outlook* (Jan. 18, 1913): 134.
 - 22 "Casual Comment," *Film Index* (Nov. 26, 1910): 2.
 - 23 "Denounce Fight Law Fight," *New York Times* (June 18, 1912): 6.
 - 24 "Rector Chase Found Guilty of Contempt," *Moving Picture World* (Jan. 18, 1908).
 - 25 Theodore Bingham, "Why I Was Removed," *Van Norden's; World Mirror* (Sept. 1909): 596.
 - 26 *New York World* (Dec. 18, 1907): 2.
 - 27 "Diluted Vaudeville To-Day's Show Menu," *New York Times* (Dec. 27, 1908): pt. 2:1.
 - 28 "Trade Notes," *Moving Picture World* (Oct. 1909): 521.
 - 29 *Moving Picture World* (June 1, 1907): 201.
 - 30 "Putting the Picture Theatre Right," *Nickelodeon* 4(2) (July 15, 1910): 27.
 - 31 "The Mayor No Puritan," *Tammany Times* (May 22, 1909): 8.
 - 32 *Moving Picture World* (June 8, 1907): 217.
 - 33 *Moving Picture World* (June 1, 1907): 201.
 - 34 "Nickles to Pay Their Fines," *Nickelodeon* 5(10): 282.
 - 35 *New York World* (Dec. 9, 1907).
 - 36 *New York World* (Dec 28, 1908).

- 37 "Aldermen Fail to Doctor Blue Laws," *New York American* (Dec. 11, 1907): 1.
- 38 "One More Silent Sunday Certain; Aldermen Halt," *New York Herald* (Dec. 11, 1907): 1.
- 39 "Audience Applauds His Shrieks of Agony," *Moving Picture World* (Feb. 22, 1908): 138. Countless of these cautionary tales appeared in the *Moving Picture World*, usually with an admonitory comment at the end (see also Aug. 8, 1907, 359, and Sept. 14, 1907, 438).

"RACIAL CROSS-DRESSING"
 IN THE JAZZ AGE: CULTURAL
 THERAPY AND ITS DISCONTENTS
 IN CABARET NIGHTLIFE

Nicholas M. Evans

In his 1933 autobiography, *Along This Way*, James Weldon Johnson recalls delivering a lecture in 1917 containing a controversial proposition: "that the only things artistic in America that have sprung from America soil, permeated American life, and been universally acknowledged as distinctively American, [are] the creations of the American Negro." Johnson reasserts this idea in the autobiography, identifying ragtime and jazz ("lighter music") as particularly influential cultural creations:

It is to this music that America in general gives itself over in its leisure hours. . . . At these times, the Negro drags his captors captive. On occasions, I have been amazed and amused watching white people dancing to a Negro band in a Harlem cabaret; attempting to throw off the crusts and layers of inhibitions laid on by sophisticated civilization; striving to yield to the feel and experience of abandon; seeking to recapture a taste of primitive joy in life and living; trying to work their way back into that jungle which was the original Garden of Eden; in a word, doing their best to pass for colored.¹

The basic terms of Johnson's formulation reproduce a social, cultural, and racial binary popular well into the twentieth century—the idea that "sophisticated civilization," or bourgeois rational culture associated with upper-middle-class "Anglo-Saxons," was divided irrevocably from "primitive joy in life," or intense physical and emotional pleasure associated with African Americans and other social minorities. Johnson clearly satirizes this distinction as untenable; his invocation