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## THE NEW CENSORS

### Movies and the Culture Wars

In the series

CULTURE AND THE MOVING IMAGE

edited by Robert Sklar

# **THE NEW CENSORS**

MOVIES AND THE CULTURE WARS

Charles Lyons



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For Nick, Mari, Jennifer, Paul, and Tony



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## THE NEW CENSORS

### Movies and the Culture Wars



## **INTRODUCTION Don't Watch That Movie!**

Protesters stand in front of your neighborhood movie theatre. Some chant, some carry banners, some distribute flyers. All seem frenzied. What's the commotion? you wonder. What's so outrageous about the movie against which they are protesting? You decide to cross their picket line, to watch the film yourself, to know, definitively, the reason for the all fuss and bother. Boldly, you approach the ticket window. Just as boldly a protester blocks your way. "Don't watch that movie!" he barks. "It's a lie!" this censorship or simply a healthy instance of democratic freedom of expression?

In this book I argue a simple central point: Although some antimovie actions by groups or institutions may produce censorious results, in a democracy it is far more healthy to risk such an outcome than in any way to limit groups' right to "peaceably gather" and protest. I also have found that between 1980 and 1995 the Right was far more successful in achieving censorship of movies than was the Left.

In making these arguments, I explore how censorship operates within the movie industry today and reflect on the separate histories of both pressure group and governmental activity against five selected movies. For only by following the history of censorship controversies over a period of time can we approach such questions as these: What do the

successes of some groups and the failures of others in effecting censorship tell us about power and about the operation of corporate capitalism in the United States today? What does the relationship between protest and legal censorship tell us about contemporary U.S. democracy? Government involvement in movie censorship invites a separate series of questions, most importantly, when one branch of the government in the early 1980s decides to label an anti-nuclear film “political propaganda” and attempts to limit public access to it, what does this reveal about that government's ideological agenda?

Between 1980 and 1995, protests over cinematic imagery came to reflect larger cultural debates over a wide variety of art. But the battles over movies deserve separate attention for at least two reasons: because groups on the Left and Right so visibly and aggressively participated in them, and because they demonstrate how direct-action campaigns have come to overshadow the only remaining formal means of movie regulation, the rating system.

Since the Supreme Court held censorship of films unconstitutional in 1952, and especially since the motion picture industry abolished the Hays Production Code in 1968, special-interest pressure groups have emerged as the primary protagonists in an ongoing drama about how movie content should be controlled. For groups on the Right as well as, in one instance, a branch of the U.S. government, the movies were too free in their depiction of environmental viewpoints, sex, and religion; for groups on the Left, the moviemakers' abuse of freedom in the depiction of women, ethnic groups, and gays and lesbians made movies objectionable. Although their methods of protest or censorship often appeared the same, the results achieved by the Right and Left were strikingly different.

Years from now, cultural historians and statisticians may argue over whether the 1980s and early 1990s actually produced more censorship than did, say, the 1930s or 1950s. What is clear is that between 1980 and 1995—a period whose first twelve years were controlled by a Republican White House—movie censorship controversies became inexorably linked to larger political struggles. Protests by historically marginalized groups such as women, Asian Americans, homosexuals, and simultaneously by conservative groups from the New Christian Right, distinguish these years as a time when movies were battlegrounds in the ongoing culture wars.<sup>1</sup> These wars included skirmishes over works ranging from art funded by the National Endowment for the Arts, to library books, to rap albums and music videos.

While some of these skirmishes erupted late in the decade, 1980 signaled a sudden increase in the lengths to which political groups were willing to go to combat images in movies. (Steven Vineberg has labeled the opposing forces “the conservative and politically correct camps.”)<sup>2</sup> For groups on the Left, protests tested the extent to which the empowerment they had fought for since 1960 had been realized and could be defended. For conservatives, the 1980 election of President Ronald Reagan seemed the beginning of a new era during which what they saw as baneful cultural change might be halted or reversed, and “traditional” or “family” values reinstated. That year was marked by controversy over a large number of films either released or in production: *Dressed to Kill*; *Fort Apache, the Bronx*; *Charlie Chan and the Curse of the Dragon Queen*; *The Gods Must Be Crazy*; *Monty Python's Life of Brian*; *American Gigolo*; *Windows*; and *Cruising*.

Why so many protests in 1980 alone? How did it happen that traditionally Left groups—responsible for all but the



actions against *Life of Brian*—had grown so sensitive to the way Hollywood depicted them? Did defeat in the political arena breed a sense of powerlessness among minority groups and inspire them to combat negative images with renewed energy? I believe that studying each protest campaign against a representative movie during years since 1980 will help explain what was at stake for each group of protesters and for the government—and why they believed the stakes were so high.

## **The Evolution of Movie Censorship**

In the United States today, censorship has become a high-profile social phenomenon. According to posters, buttons, and bumper stickers, “Censorship is un-American.” Censorship challenges, whether over library books, rap albums, photographs, or movies, quickly become media circuses, with pouting politicians and insolent artists shouting at each other on national television talk shows, or private free-for-alls, with relatives and friends caught in heated exchanges. Although the debates seem constant and ubiquitous, they offer little clarity about what precisely censorship is or how it operates.

According to Oxford English Dictionary (OED), censor can refer to (1) “the title of two magistrates in Ancient Rome, who drew up the register or census of the citizens, etc., and had the responsibility of the supervision of public morals,” or to (2) “an official in some countries whose duty is to inspect all books, journals, dramatic pieces, etc., before publication, to insure that they shall contain nothing immoral, heretical, or offensive to government.”<sup>3</sup> In legal circles, censorship tends toward the OED's second definition. Many

constitutional lawyers hold that a democracy guarantees a free marketplace of ideas and that the public therefore has the right to see or read any expression in that marketplace. The most feared scenario occurs when, as eminent constitutional lawyer Thomas I. Emerson notes, the communication is banned “and never reaches the marketplace [of ideas] at all.”<sup>4</sup> In legal parlance, this is known as “prior restraint.” Most legal thought about censorship considers prior restraint and censorship to be practically synonymous.

Outside law, a broader view of censorship predominates with regard to both extralegal (or de facto) censorship and actions that occur after an expression has reached the marketplace. Writing generally about the phenomenon of censorship in modern capitalist societies, Sue Curry Jansen questions the whole liberal notion of a marketplace of ideas, which

discourages inquiry into the most serious forms of censorship operating in Liberal societies today: censorships routinely undertaken by state bureaucracies in the name of “national security” and censorships routinely sanctioned by the “profit principle.” By reducing dialogues on censorship to litigations involving publishers' claims to profits, the Anglo-American legal community has removed an emancipatory concept from the vocabulary of the people.<sup>5</sup>

Jansen, objecting to a narrowly legal view of censorship in the United States, points to a wider range of actions, including press censorship during times of national emergency or choices by media executives that have only commercial gain rather than the artists' work in mind. In other

words, she locates outside of the law some of the numerous censorships that occur in modern capitalist societies—a goal shared by this project.

Even those who acknowledge the existence of extralegal censorship associate most censorship with repressive acts performed by public officials who preach conservative agendas. In the United States in recent years, censorship has come to mean any repression that results from either official acts or pressure. In the context of film production, distribution, and exhibition, censorship refers to a set of practices by institutions or groups, either prior to or following a film's release, that result in the removal of a word, a scene, or an entire film from the marketplace. The most obvious forms of movie censorship are the actions of federal, state, and municipal governments and the mechanisms of self-regulation established by the motion picture industry itself—today, the Motion Picture Association of America's (MPAA) movie ratings. A third kind of censorship occurs as a result of group protests—the focus of this book. Not all protests lead to censorship; many are primarily a means of publicizing a group's complaint. But when, because of protests, a movie is reedited or pulled from theatres, such protests can be said to result in censorship.

Traditionally, opponents of censorship have objected more to federal, state, and municipal censorship than to industry self-regulation or to group protests. Government censorship threatens the free-speech guarantee expressed in the First Amendment of the U.S. Constitution; it also places the power to control what the public sees in the hands of a select few and thereby appears antidemocratic. While censorship by government agencies was common during the formative years of the motion picture industry,

censorship wasn't legally sanctioned until 1915, when the Supreme Court considered *Mutual Film Corporation v. Industrial Commission of Ohio*. Justice Joseph McKenna, who drafted the Court's majority opinion, concluded that movies were “a business pure and simple, originated and conducted for profit . . . not to be regarded . . . as part of the press of the country or as organs of public opinion.” As a result of this decision, state and city censorship increased.

To avert federal censorship, the motion picture industry introduced a system, often termed “self-regulation,” that codified rules governing motion picture content. The most significant of these were the “Thirteen Points” and twenty-six other subjects established by the National Association of the Motion Picture Industry (NAMPI), in force from 1916 to 1922; the “Don'ts and Be Carefuls” created by the Motion Picture Producers and Distributors of America (MPPDA, 1922–1930); the Hays Production Code created by the MPPDA and administered by the Production Code Administration, which granted or withheld its Seal of Approval (1930–1961); and the rating system instituted by the MPAA (1968-present). In many well-documented instances, such self-regulation, especially during the years of the Hays Code, resulted in censorship.<sup>7</sup> The Hays Office forced the deletion of sexually explicit scenes from *Madame du Barry* (Warner Brothers 1934) and *Klondike Annie* (Paramount 1936), among many others. Since all the studios had supported self-regulation and the Hays Code, there was little anyone could do to resist censorship decisions other than try to release a movie without Hays Office approval and thereby risk financial doom. Only the most powerful producers were successful in challenging the Hays Office, as in the infamous case when David O. Selznick won the right to

use the banned word “damn” in the last sentence of his “Gone with the Wind” (MGM 1939), a film censored in many other scenes.

During the 1950s and early 1960s, legal censorship came under attack. In a routine decision, the New York Board of Regents labeled a small Italian “art” film, Roberto Rossellini's *The Miracle* (1951), “sacrilegious” and temporarily restricted its exhibition. Joseph Burstyn, a distinguished liberal lawyer, came to the film's defense, arguing in the 1952 case *Burstyn v. Wilson* that individual states could not claim “sacrilege” as a standard for restricting a film. Though Burstyn lost in the local courts, later that year the decision was reversed by the Supreme Court. Justice Tom C. Clark ruled that “sacrilege” was not a “viable standard” by which to suppress a movie and simultaneously overturned the thirty-seven-year-old opinion that movies could not be protected by the First Amendment and ought to be regarded as a “business pure and simple.” Movies from this point on would be considered protected speech, suddenly part of the press of the nation. Clark's ruling also made it increasingly difficult for states and cities to censor films on legal grounds, except in cases involving imagery that the courts considered legally “obscene.”<sup>8</sup>

The formal methods of movie censorship were quickly vanishing. A series of U.S. films released in the 1950s and early 1960s challenged the aging MPPDA Hays Code. The release of such films as Otto Preminger's *The Moon Is Blue* (1953) and Sidney Lumet's *The Pawnbroker* (1965) without the Production Code Administration's Seal of Approval paved the way for a streamlined code. The industry was finally responding to social reality. By 1968, with all of the code's provisions abandoned, the U.S. screen appeared

freer from censorship than ever before. The question now became, To what extent would tacit controls replace the obsolete formal restrictions?

During the civil rights movement, an increasing number of minority groups sought political and social empowerment and came to recognize the role images play in reinforcing power structures. In the 1970s and after, such awareness led to an unprecedented number of protests against movies, which during the same period were also a regular target of groups associated with the New Christian Right. How would such protests affect movies released during the 1980s and 1990s?

At this juncture, something needs to be said about how I use the problematic terms liberal and conservative in this book. During the 1988 presidential campaign, George Bush labeled the politics of his opponent, Michael Dukakis, with the “L” word, capitalizing on the increasingly negative public perception of liberalism—especially the idea that the Great Society as envisioned in the 1960s had failed.<sup>9</sup> All of the country's greatest problems could be solved, Bush seemed to suggest, if only that dangerous weed called liberalism were plucked from the garden of U.S. politics. Bush's victory confirmed the success of his strategy. In 1988, at least, intellectuals continued to wonder, Where have all the liberals gone?

Why liberal and conservative today mean most as cultural labels relates to our discussion of censorship. For John Stuart Mill, ideological opposition between liberals and conservatives could be understood in the historical antagonism between individuals and institutions and between freedom and oppression. From the opening paragraph of his essay *On Liberty*: “The subject of this Essay is not the so-called

liberty of the will . . . but Civil or Social Liberty; the nature and limits of the power which can be legitimately exercised by society over the individual.” To be human, Mill suggests, is to be free from chains and from imprisonment—most of all, to be free to choose. But in nineteenth-century England Mill saw as a denial of freedom the insidious tendency of institutions such as estates, churches, and unions, as well as of the powerful elite, to choose for the individual. “There is in the world at large,” he wrote, “an increasing inclination to stretch unduly the powers of society over the individual, both by the force of opinion and even by that of legislation.”<sup>10</sup>

Even more to our purposes, Mill introduced the idea that “force of opinion” could easily result in infringements of one's physical freedom as well. Mill's often-quoted statement that “we can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still” is best understood in the context of his larger concern for freedom from a tyrannical government.<sup>11</sup> He did not view free speech, in other words, as a right separable from the need to be free from greater restraints.

In the twentieth century, liberal more often than conservative ideas found easy adaptation in the United States. No longer did they mean Mill's celebration of individual rights, but rather a wide public embrace of Franklin Delano Roosevelt's New Deal politics: Now liberals supported welfare, trade unionism, old age pensions, and other social programs. By the mid-1930s liberalism had, as Alonzo Hamby writes, “become a norm in American politics.”<sup>12</sup>

As fashioned in the late 1950s and early 1960s, liberalism became more clearly associated with minorities' claims

to equality, called by some “identity politics.” Civil rights now jumped to the top of the liberal agenda. The utopian liberal ideal of the Great Society in which all people were finally and totally equal suggested just how high this new breed of liberals' hopes aimed. A decade later, such hopes would face the strongest conservative challenges in the twentieth-century to that date. Deep in the political and military morass of Vietnam, President Richard Nixon and his neoconservative advisors came to question the assumptions and techniques of liberalism. To them, the Great Society, as Hamb writes, “had become too ambitious, too wasteful, too redistributionist, too anti-democratic.”<sup>13</sup> Neo-conservatives also believed that the liberals comprised a party of an intellectual, mostly eastern elite and further that “the people,” Middle Americans, were being left out of the equation. Nixon campaigned for a politics of stability in direct opposition to the 1960s politics of chaos. By the mid-1970s, the wheels of political change were spinning fast.

Throughout the 1980s and early 1990s, few liberals would deny that there had been failures during the turbulent previous two decades, but loyal liberals rejected the idea, promoted by conservatives, that liberalism had in fact been rooted out of U.S. politics. As neoconservatives joined with groups associated with the New Christian Right to fight against women's right to abortion, against pornography, and in favor of prayer in school, liberals rallied to a cultural liberalism that united theories, definitions, and practices of earlier periods. In fact, issues of culture had become central tenets of both political parties' platforms in the 1980s and early 1990s.

For the purposes of this book, the most significant differences between conservatives and liberals, here termed



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