

The Bishops Go to the Movies

The Miracle: Film Censorship and the Entanglement of Church and State
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Late in December 1950, an obscure Italian film called *Il Miracolo* (*The Miracle*) opened at the Paris Theater in Manhattan. Directed by Roberto Rossellini, *The Miracle* features a dim-witted peasant woman who is plied with drink and then seduced by a vagabond whom she mistakes in her stupor for St. Joseph. She soon discovers she is pregnant and decides it is an immaculate conception. Her fellow villagers mock and torment her; she escapes to a hilltop church, and experiences a moment of religious ecstasy after giving birth on the church floor.

When released in Italy in 1948, *The Miracle* was harshly criticized by the Catholic Cinematographic Center--an arm of the Vatican devoted to vetting movies for moral propriety. But it was not banned--indeed, it was shown at the Venice Film Festival, where works considered blasphemous by the Vatican would not have been allowed. The Vatican's semi-official newspaper, *l'Osservatore Romano*, published a guardedly appreciative review, noting that "objections from a religious viewpoint are very grave," but also pointing to "scenes of undoubted screen value," and concluding that "we still believe in Rossellini's art." (1)

However, the Catholic church's Legion of Decency and the powerful head of the New York archdiocese, Cardinal Francis Spellman, immediately took offense at *The Miracle* ("a despicable affront to every Christian," Spellman said), and demanded that the New York Board of Regents revoke the film's license. (2) Since the 1920s, New York law required every film first to receive permission from the state before it was shown, and one of the grounds on which permission could be denied was "sacrilege." Meanwhile, the Knights of Columbus and other Catholic lay groups picketed the Paris Theater, with signs reading: "This Picture is an Insult to Every Decent Woman and Her Mother," "This Picture is Blasphemous" and "Don't be a Communist--all the Communists are inside." Within weeks, the Board of Regents acquiesced to pressure from Spellman and revoked *The Miracle*'s license.

The film's distributor, Joseph Burstyn, appealed to the state courts, but they made short work of his arguments that not only the sacrilege standard, but the very existence of movie licensing, violated the First Amendment. On the contrary, the New York judges said that banning *The Miracle* was necessary to accommodate Catholics' religious preferences. Not to protect believers against this "gratuitous insult," said the state court, would infringe their freedom to worship and believe. (3)

Burstyn appealed again, and the Supreme Court, in a unanimous 1952 decision, reversed the ban on *The Miracle*. Although it rejected Burstyn's argument that the First

Amendment bars states from creating "prior restraint" licensing schemes for movies, the Court did declare "sacrilege" too vague a standard for licensing. Empowering censors to decide what is sacrilegious, said the Court, sets them "adrift upon a boundless sea amid a myriad of conflicting currents of religious views, with no charts but those provided by the most vocal and powerful orthodoxies."(4)

The Supreme Court noted in passing that banning films because of sacrilege might also "raise substantial questions" under the First Amendment's Establishment Clause, which prohibits any "law respecting an establishment of religion." But the Court stopped short of deciding the case on Establishment Clause grounds- with consequences that reverberate today. With government vouchers funding religious schools, government officials attacking "blasphemous" art and a White House Office of Faith-Based Initiatives, we are still wrestling with the issues in the *Miracle* case.

THE CHURCH AND FILM CENSORSHIP

From the beginning of film censorship in America, religious institutions played a starring role. Early movies featured bawdy street scenes, exciting crime stories and muckraking exposés of political corruption. The Progressive Era's anti-vice crusade, which included a fair representation of clergy, attacked this new, popular medium as a threat to public peace and morality.

Municipalities and states soon responded with licensing laws: Chicago's was first, in 1907; seven states and about 100 localities followed. These censorship laws empowered government boards to deny licenses to films considered "indecent," "immoral," "sacrilegious" or otherwise objectionable. The Supreme Court gave licensing the green light in 1915 by ruling, much to the surprise of the nascent movie industry, that cinema was merely a business, not a form of expression protected by the First Amendment. (5)

In the 50 years that followed, thousands of movies were cut, bowdlerized or banned outright by state and local censors. Chicago suppressed newsreels of police shooting labor pickets, and refused a license for *Anatomy of a Murder* because it objected to the words "rape" and "contraceptive." A film version of *Carmen* was condemned in Ohio because girls "smoked cigarettes in public," and in Pennsylvania because of "the duration of a kiss."

This decentralized system left much to be desired, however. Censors complained that not all states and localities had licensing boards and those that did applied widely varying standards. While moral reformers were outraged at sexual content (Cecil B. DeMille's orgiastic biblical epics were a particular concern), Southern cities banned anything that even remotely questioned racial segregation.

As more licensing bills were introduced, and reformers pushed for a national censorship system, Hollywood took its first stab at improving its image and thereby stopping the legislative juggernaut. In 1922, the studios hired Will Hays, former Postmaster General and head of the Republican National Committee, to direct a new association that would set moral standards for movies. Hays introduced a list of "Don'ts and Be Carefuls" which,

among other things, disapproved profanity, nudity or any mention of "illegal traffic in drugs," miscegenation, venereal disease, scenes of childbirth or "ridicule of the clergy." (6) But the studios bridled at Hays' efforts at control.

It was at this point that the Catholic hierarchy weighed in with a censorship plan of its own. The major strategist was Martin Quigley, a Chicago publisher who saw that movie content could be most effectively controlled not through licensing boards but through vetting at the pre-production stage. He enlisted Chicago's Cardinal George Mundelein, who invited a Jesuit theologian, Daniel Lord, to draft a Catholic code for movies. Lord's draft contained sweeping moral rules along with specific prohibitions on "lustful kissing," disparagement of organized religion and dozens of other scenes, words, inferences, or ideas.

Lord's code came at an opportune time for Hays. With the movie industry in jitters after the stock market crash and some investment bankers sounding the alarm about immoral films, Hays persuaded the producers to accept Lord's draft, and in 1930, with only minor changes, it became the Hollywood Production Code. But as Hays and his staff struggled to enforce the Code, movies actually got saltier. Mae West's *She Done Him Wrong*, with its sexy banter and hip-rolling heroine, was a hit in 1932; her *I'm No Angel* the following year was equally popular. The gangster films *Little Caesar*, *Scarface*, and *Public Enemy* were all produced in the early 1930s. DeMille's Roman orgies continued to succeed at the box office and outrage the church hierarchy.

Frustrated, Quigley and several American bishops in 1934 persuaded a visiting Vatican emissary, Monsignor Amleto Cicognani, to urge harsher action. At a speech to Catholic Charities, this monsignor bemoaned the movies' "massacre of innocence of youth" and urged Catholics to unite in a campaign of purification. (7) With this seeming imperative from Rome, the Conference of Catholic Bishops created a Legion of Decency to decide which movies would be forbidden to Catholics and to organize boycotts of theaters that showed any film thus condemned.

Again, Hays welcomed the pressure. Like the church hierarchy, he preferred industry self-regulation to government censorship. Bolstered by threats from bankers, Hays now established a Production Code Administration (PCA) to vet all scripts in advance, and hired Joseph Breen, a virulent anti-Semite who had worked with Martin Quigley in Chicago, to head the new censorship office.

By the late 1930s, between the Legion of Decency and Breen, the church hierarchy's delegate at the PCA in Hollywood, the Catholic hierarchy controlled the content of American movies. Every script was submitted in advance, and if rejected, was rewritten to conform to Breen's requirements. In 1936, Breen's office the bishops go to the movies reviewed over 1,200 scripts, and had more than 1,400 conferences with producers to discuss rewrites. If, after this process, the Legion still objected to certain scenes, Breen would force further changes. Thus in 1941 when the Legion disapproved Greta Garbo's *Two-Faced Woman*, because of its "un-Christian attitude toward marriage," MGM withdrew it, then added scenes to negate any hint of adultery.

DISSENT IN THE CHURCH

Foreign films, obviously, were not subject to the Hollywood Production Code; hence, the importance to prelates like Spellman of having government licensing boards as a backup. As the Legion of Decency noted in its 1950 annual report, foreign films were gaining popularity in America, and 53% of them the Legion considered objectionable.

The Miracle was a good example; but not all Catholics agreed with Spellman and the Legion that the film was immoral. Otto Spaeth, a leading Catholic intellectual, wrote that "there was indeed 'blasphemy'" in *The Miracle*, "but it was the blasphemy of the villagers, who stopped at nothing... in their brutal badgering of the tragic woman." (8) *Commonweal* editorialized that sometimes American Catholics, in their resort to "picket lines and pressure groups," forget the emphasis that Catholic doctrine places on "free consent and reasoned morality." (9) By the time the *Miracle* case arrived at the Supreme Court, a group of Catholic writers, teachers, editors, and lawyers decided that more than individual statements were necessary, and resolved to file a "friend-of-the-court" brief, as Catholics, opposing the ban.

The archdiocese thereupon summoned the rebels to a meeting where Monsignor John Middleton assured them that he was as concerned as they were over "extremist actions" by lay Catholic groups but, as historian Alan Westin writes, suggested that "a better result might be achieved for both the church and cultural freedom if the Committee did not file a brief in the Supreme Court." If the Committee backed off, Middleton said, the Chancery would consider their views in future censorship controversies. So the Committee of Catholics for Cultural Action folded its tents, "out of consideration," it explained, "for the larger ambiguities in the situation and out of filial deference" to Cardinal Spellman. (10)

But all of the church hierarchy's machinations ultimately backfired in the *Miracle* case. Fearful that it could not control the content of foreign films, Spellman set in motion a lawsuit that did much to end "prior restraint" licensing of even movies made in America. The Supreme Court decision did not end film licensing, but it weakened it considerably. If "sacrilege" was too vague a standard to comport with the First Amendment, "indecent" and "immorality" were unlikely to fare much better. By the late 1960s, official licensing boards had faded from view--around the same time that Hollywood abandoned the Production Code and replaced it with the rating system that we know today. Movie ratings are not without censorial effects--producers negotiate with the ratings board and make cuts in order to achieve a desired classification--but there is no question that American cinema today is far freer than in the heyday of the Code, when Joe Breen's blue pencil and the Legion of Decency's boycott threats combined to assure that films adhered to church doctrine.

THE PROBLEM OF CHURCH-STATE SEPARATION

What does the *Miracle* case tell us about religion, artistic freedom and church-state separation in America? Today, we do not have church control of movies, but we do have government prayer breakfasts promoting Christianity; government funding, through vouchers, of parochial schools; and "charitable choice" laws that allow government-funded Catholic hospitals to deny contraceptive and abortion services even when patients

have nowhere else to go. President George W. Bush's Office of Faith-Based Initiatives fosters the payment of taxpayers' money directly to churches for religiously-based social services.

On the art scene, too, government officials merge politics with religion. Former New York mayor Rudolph Giuliani's 1999 attempt to defund the Brooklyn Museum because of a painting that he thought blasphemous was probably the best-publicized recent instance of a government official applying religious tests to art. Ten years earlier, it was Senator Jesse Helms punishing the National Endowment for the Arts for allowing a museum that received a government grant to include a much-misunderstood photograph called *Piss Christ* in an exhibit of contemporary work.

History shows that powerful religious institutions often seek to influence government in ways that compromise artistic freedom and threaten church-state separation. It happened in 1951 with *The Miracle*, and it is happening now with parochial school vouchers, charitable choice, and faith-based initiatives. The Hollywood Production Code and the New York film licensing board may seem like relics of a distant past, but their legacy is powerfully present in today's church-state dilemmas.

1 *Commonweal*, "Criticism of 'The Miracle'," March 23, 1951.

2 *New York Times*, "Spellman Urges 'Miracle' Boycott," January 8, 1951.

3 *Burstyn v. Wilson*, 303 N.Y. 242, 260-61 (1951).

4 *Burstyn v. Wilson*, 343 U.S. 495, 504-05 (1952).

5 *Mutual Film Corp. v. Industrial Commission of Ohio*, 236 U.S. 230, 242-44 (1915).

6 Stephen Vaughn, "Morality and Entertainment: The Origins of the Motion Picture Code," *Journal of American History*, June 1990, p44.

7 Gregory Black, *The Catholic Crusade Against the Movies, 1940-1975*, Cambridge University Press, 1997, p20.

8 Otto Spaeth, "Fogged Screen," *Magazine of Art*, February 1951, p44.

9 *Commonweal*, "'The Miracle' and Related Matters," March 2, 1951.

10 Alan Westin, *The Miracle Case: The Supreme Court and the Movies*, University of Alabama Press, 1961, p25.

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