

ABSTRACT

Title of Document: OUT OF THE PAST: PUBLIC POLICIES,
POLITICAL PRESSURES, AND AMERICAN
FILM PRESERVATION

Brian Real, Doctorate of Philosophy in
Information Studies, 2015

Directed By: Professor John Carlo Bertot, College of
Information Studies

Professor Paul T. Jaeger, College of Information
Studies

This dissertation analyzes the federal government's support for motion picture preservation, beginning with the founding of the American Film Institute (AFI) as a federally funded, nonprofit organization in 1967 and continuing through various government actions to support film preservation through the 1990s. The nature of this support, funding or otherwise, has varied greatly over the past decades, being informed by contemporary contexts and the perceived needs of the United States government. From the founding of cinema through the middle of the 1930s, most films were considered expendable within several years after their release. This changed in the United States when the Museum of Modern Art began collecting motion pictures. The federal government began supporting the activities of this institution and other film archives soon after and into the following years. Federal

support for film preservation was generally sporadic, with the government often ceasing funding when its perceived needs were met, until the founding of the AFI. At this point, film preservation became an ongoing concern of the federal government, and it has remained so since. Beyond the AFI, landmark moments for film preservation have included the National Film Preservation Acts of 1988, 1992, and 1996 and the founding of the National Film Preservation Foundation in 1996. This study used a holistic approach, considering how various stakeholders have influenced or been influenced by the federal government's actions regarding film preservation. Such stakeholders include film preservationists and archivists, businesses that produced or own the rights to films, the creative talent that makes movies, media scholars, and the general public. This analysis provides a history that will be of interest to practitioners in the field of motion picture preservation and it will help them to understand how to navigate the competing interests that influence their profession.

OUT OF THE PAST:
PUBLIC POLICIES, POLITICAL PRESSURES,
AND AMERICAN FILM PRESERVATION

By

Brian Real

Dissertation submitted to the Faculty of the Graduate School of the
University of Maryland, College Park, in partial fulfillment
of the requirements for the degree of
Doctorate of Philosophy
2015

Advisory Committee:
Professor John Carlo Bertot, Chair
Professor Paul T. Jaeger, Co-Chair
Oliver Gaycken, PhD
Ricardo Punzalan, PhD
Elizabeth A. Papazian, PhD

© Copyright by
Brian Real
2015

Acknowledgements

This dissertation could not have been completed without the considerable support of numerous individuals over the past decade. My interest in film preservation began for two key reasons. First, my work for the Calvert Library, a public library system in southern Maryland, introduced me to librarianship and generated my interest in other information institutions such as archives. The years 2006 through 2010 were perhaps the most important for my personal and professional develop, due to the high level of support I was given for my work during these years. The fact that I am not thanking anyone personally for my time at Calvert Library is a result of there being too many individuals deserving of recognition. Second, although I previously had an interest in film studies and silent cinema, I was introduced the concepts underlying film preservation when I attended Le Giornate del Cinema Muto – also known as the Pordenone Silent Film Festival – after receiving funding to be part of its annual “Collegium” of students, young scholars, and young professionals in 2007 and 2008. I met some of my closest friends in the film studies and film archives fields at this festival, at Le Giornate del Cinema Muto in Bologna, and at various academic conference throughout the United States in the ensuing years. All of these individuals have contributed to this work in some way, but I am particularly grateful for the help and support of James Layton, Laurel Howard, Daniel Wiegand, Jelena Rakin, Andreas Thein, Ashley Blewer, and Travis Wagner.

The staff of Library Media Services at the University of Maryland provided me with invaluable training in media librarianship, as well as ongoing moral support over the years following my departure from this library. I am grateful to Allan Rough,

Carleton Jackson, Linda Sarigol, Ying Guo, and Fernando Jimenez for sharing their knowledge with me.

Elizabeth Papazian and Caroline Eades deserve special recognition for bringing me into the film studies working group at the University of Maryland and giving me an opportunity to contribute to the creation of the university's film studies program and the promotion of cinema culture on campus. Both offered a level of trust in my abilities and ongoing guidance that allowed me to create an impact on the University of Maryland of which I am particularly proud. Liz, in particular, has provided feedback over the years that has made me a better scholar and contributed significantly to shaping this dissertation through her service on my committee. I am grateful for the support and collegiality of faculty members Valerie Anishchenkova, Jonathan Auerbach, Hester Baer, Peter Beicken, Oliver Gaycken, Saverio Giovacchini, Judith Hallett, Regina Harrison, Jason Kuo, Michele Mason, Zita Nunes, Valerie Orlando, Orrin Wang, and Eric Zakim over the past five years. Oliver was particularly gracious in agreeing to serve on the committee for this dissertation, and both he and Jonathan Auerbach have provided useful feedback in response to my ideas in the past years. Likewise, fellow graduate assistants Mike Quilligan, Arielle LaBrecque, and Jeff Eastman, as well as fellow grad students Andy Black, Paul Cote, and Adam Nixon helped me to feel like part of a community of peers while at UMD.

My knowledge of Information Studies was fostered by faculty mentors during my time with Maryland's iSchool. Bruce Ambacher and Jean Dryden provided me with my initial academic understanding of archives, while John Bertot and Paul Jaeger have worked with me over the past four years to guide my transition into

academia and shape my knowledge of information policy. John and Paul guided the committee for this dissertation, and they have given me a wealth of opportunities to work on projects that have developed my professional reputation and competencies in recent years as I have worked under them at the Information Policy and Access Center (iPAC). I cannot overstate the value of their guidance and patience.

Faculty members who have helped me in my development at the iSchool are too numerous to list in full. Ricky Punzalan deserves recognition for serving on my committee and for his considerable contributions to archival education at UMD and in the field broadly. Beth St. Jean was exceptionally kind and supportive in teaching me how to teach. Mega Subramaniam, Katie Shilton, Andrea Wiggins, Kari Kraus, Brian Butler, Michael Kurtz, and Doug Oard all provided academic guidance and a feeling of collegiality that made it a pleasure to be part of the iSchool. Likewise, the sense of community within iPAC was greatly enhanced by fellow PhD students Ursula Gorham, Natalie Greene Taylor, and Amanda Waugh, MLS Coordinator Lindsay Sarin, graduate research associates Frank Bonnevier, Liz Larson, Jean Lee, Ruth Lincoln, Abby McDermott, Becca Oxley, Johnna Percell, Kim White, and Erin Zerhusen, and many others.

I am grateful for the various opportunities I had to test out and refine the concepts presented throughout this dissertation. The editors of *The Moving Image*, then Marsha Gordon and Devin Orgeron, provided much needed feedback on my article on the National Film Preservation Acts, which became the basis of chapters five and six. I am also grateful to the two anonymous peer reviewers, whose remarks were indispensable in helping me to refine my thoughts and find sources I had

initially overlooked. I presented earlier versions of the discussions of George Stevens Jr. and the USIA Motion Picture Service, now part of chapter three, at the 2013 Northeast Historic Film Summer Symposium and the 2013 graduate conference Special Affects, organized and hosted by the Film Studies Graduate Student Organization at the University of Pittsburgh. Additionally, I was allowed to present some of my early thoughts on the founding and operations of the AFI at the 2013 Film & History Conference in Madison, WI. Without these opportunities to present my work to audiences and receive valuable feedback, this dissertation would not be what it is today.

Archival materials for this study include Anthony Slide's personal papers at the Center for Archival Studies at Bowling Green State University, as well as the Fred Zinnemann and Larry Karr papers at the Academy of Motion Picture Arts and Sciences Margaret Herrick Library. I am grateful to the staff of all of these institutions for their time and considerable patience. Anthony Slide deserves recognition for meticulously maintaining his and Larry Karr's papers, as does Snowden Becker for providing me with a place to stay while conducting research at the Academy.

Eric Schwartz, George Stevens Jr., and David Shepard were extremely generous with their time during interviews, and their candidness was much appreciated. Likewise, Paul Spehr, David Pierce, and Kim Tomadjoglou provided a wealth of informal advice. Their knowledge of the field of motion picture preservation cannot be understated and was indispensable for shaping this study. Beyond these three individuals, the film preservation community has been extremely

welcoming over the recent years, and I appreciate of the many individuals who have allowed me to be part of this world.

Most importantly, I thank Sarah Cantor for her support over the last four years, including her patience with innumerable drafts of this text, her willingness to listen as I attempted to work through ideas, and being there during moments of doubt that inevitably come with an undertaking of this scale.

Considering that this dissertation discusses numerous contentious moments in the development of motion picture preservation in the United States, I have attempted to maintain a balanced analysis and separate subjective feelings from indisputable facts. Any mischaracterization of events, individual actions, or personal characters are the fault of the author alone.

Table of Contents

Acknowledgements	ii
Table of Contents	vii
List of Tables.....	x
Chapter 1: Introduction.....	1
Research Questions.....	2
Previous Research and New Research Directions	4
The AFI and Government Support for Film Preservation	6
The National Film Preservation Acts.....	8
Methodology	9
Validity in Iterative Research Processes	16
Preliminary Literature Review: Perspectives on Film Preservation and Public Policy	19
Limitations: Selection of Film Archives and Types of Federal Support	27
Film Preservation as a Flexible Concept	28
Conclusion.....	32
Chapter 2: The Museum of Modern Art, the Library of Congress, and the Beginning of American Cinema Collections	34
Introduction	34
The U.S. Government and Film Collecting before MoMA	36
MoMA and the Beginning of a Nationalistic Film Collection.....	40
Iris Barry: From British Film Critic to Advocate of American Culture	41
The Formation and Programs of the MoMA Film Library	44
MoMA and Hollywood.....	47
The MoMA Film Library and International Collaboration	50
MoMA, Cinema, and the Promotion of American Policy	53
The Library of Congress, a National Film Collection, and Early Preservation Methods.....	56
The George Eastman House Enters the Film Preservation Field	60
Forgotten Films: Why Large Archives Ignored Avant-Garde and other Nontheatrical Works	64
Conclusion.....	66
Chapter 3: Before the AFI: Proposed Plans for the Promotion of American Film Heritage.....	68
Introduction	68
A Proposal for an Academically Driven and Nongovernmental AFI	70
The Art House Scene and Contemporary Films of Artistic Merit.....	72
Barriers to Creating Film History	74
Obstacles to Implementation and Competing Plans	76
George Stevens Jr., the USIA, and the Pre-Planning of the AFI	79
The USIA's Motion Picture Activities	81
Expanded USIA Film Plans and the Secret Origin of the AFI's Activities	85
The NEA and the Stanford Research Institute	89
Filmmaking at the AFI.....	94

Plans for Preserving, Exhibiting, and Providing Access to American Film Culture.....	97
Ambitious Goals and Vague Funding Plans	103
Conclusion.....	107
Chapter 4: The AFI in Action: Years of Growth, Years of Controversy	110
Introduction	110
The AFI's Initial Structure, Funding, and Activities.....	112
Saving the Cinematic Record: The Early Years of the AFI Film Preservation Program.....	115
Building a Preservation Program and a National Film Collection	116
Negotiating with the Film Studios	118
Connecting with Collectors	122
Reasons for the Exclusion of Nontheatrical Works.....	126
The AFI Catalog	127
Film Preservation Grants and the Archives Advisory Committee	128
Funding Crises and Alienation of the Academic Community	132
"The Unloved One:" The Academic Community's Challenge to the AFI	134
The AFI's Attempted Divorce from the NEA.....	137
The AFI's Progress to Date	139
The NEA's Relationship to the AFI	140
Criticism from the Academic Community and Independent Filmmakers	143
"Détente" and the End of George Stevens Jr.'s Tenure.....	145
The Firstenberg Era: New Challenges in Preservation.....	147
Greater Visibility for Film Preservation	150
The AFI's Film Preservation Finances	153
The Film Archives Revolt.....	157
The End of the AFI's Preservation Activities and Ongoing Federal Support.....	162
Conclusion.....	167
Chapter 5: Films as Exploitable Commercial Assets: Private Ownership versus Public Interest.....	168
Introduction	168
Films Become Assets: Changes in Media Ownership and Corporate Preservation Strategies	170
The NFPA of 1988: Colorization and Moral Rights of Motion Picture Artists	177
Initial Legislative Attempts to Address Colorization and Moral Rights	180
The National Film Preservation Act of 1988	184
Sony Buys Columbia: Foreign Ownership Fears Prompt Better Preservation	190
Conclusion.....	195
Chapter 6: The National Film Preservation Acts of 1992 and 1996 and Greater Recognition for Orphan Films	197
Introduction	197
The NFPA of 1992 and Congressional Support for Actual Motion Picture Preservation.....	201
The National Film Preservation Plan and Better Archival Cooperation	207
The Rise of the National Film Preservation Foundation	211

The Fall of the American Film Institute as a National Film Preservation	
Organization	216
The NFPPF's Legacy and Greater Recognition of Orphan Works	224
Conclusion.....	227
Chapter 7: Future Film Preservation Challenges	230
Changing Meanings of Preservation.....	232
Corporate Motivations for Preserving Motion Pictures.....	235
Shifting Priorities in Government Support for Motion Picture Preservation.....	239
Orphan Films and New Copyright Dilemmas	241
Conclusion.....	247
Bibliography.....	249

List of Tables

Table 1: NEA Film Preservation Grant Distributions, in Dollars	154
Table 2: NEA Funding to the AFI for Ongoing Activities, in Dollars	155
Table 3: Distribution of NEA Film Preservation Grants to Film Archives other than MoMA, GEH, and UCLA, in Dollars	156

Chapter 1: Introduction

This dissertation analyzes the federal government's support for motion picture preservation, beginning with the founding of the American Film Institute (AFI) as a federally funded, nonprofit organization in 1967 and continuing through various government actions into the 1990s. The nature of this support, funding or otherwise, has varied greatly over the past decades, being informed by contemporary contexts and the perceived needs of the United States government. From the founding of cinema through the middle of the 1930s, most films were considered expendable within several years after their release. This started to change in the United States when the Museum of Modern Art (MoMA) began collecting motion pictures. The federal government began supporting the activities of this institution and other film archives soon after and into the following years. Federal support for film preservation was generally sporadic, with the government often ceasing funding when its perceived needs were met, until the founding of the AFI. At this point, film preservation became an ongoing concern of the United States government, and it has remained so since.

Federal support primarily focused on the preservation of motion pictures produced by film studios, largely ignoring non-narrative and nontheatrical films. However, changes in political and economic climates in the mid-1990s prompted Congress to refocus federal film preservation funding priorities to nontheatrical films such as home movies, educational films, industrial and training documentaries, and other works that have little profit potential within a few years of their initial creation. The preservation of these types of motion pictures, more commonly known as orphan films,

has spurred new trends in academic scholarship while also creating serious debates about copyright standards.

The fact that the federal government has funded the preservation of American motion pictures is incontestable, as is its decision to focus on different types of films at different time periods. However, the motivations for and effectiveness of this fiscal support are far less clear. This dissertation explores the reasons the government chose to support motion picture preservation in the United States and the impact that this has had on the preservation and accessibility of the American cinematic record. This study used a holistic approach, considering how various stakeholders have influenced or been influenced by the federal government's actions regarding film preservation. Such stakeholders include film preservationists and archivists, businesses that produced or own the rights to films, the creative talent that makes movies, media scholars, and the general public. This analysis provides a history that will be of interest to practitioners in the field of motion picture preservation and it will help them to understand how to navigate the competing interests that influence their profession. The following research questions guide this analysis.

Research Questions

The United States government has a long history of using taxpayers' money to support the cause of motion picture preservation in the United States. Preliminary research by the author showed that this has influenced the type of materials that have been saved at different times. Relatively little had been written on why the government supported film preservation at all, as well as why it shifted from primarily favoring theatrically released feature films and their antecedents to the modern orphan films trend.

The development of such trends for the time period before the founding of the AFI is well documented, but there are significant limitations to the relatively small body of literature that has been produced for the time period following this. Therefore, the first research question that guides this dissertation is: **How have federal policies and funding influenced and shaped motion picture preservation in the United States from the founding of the AFI to the present?**

While this initial question may seem somewhat vague, it is essential to understand that both policy and preservation are value-laden concepts. Not all films can be saved, and preserving and providing access to certain motion pictures over others has significant impacts on film scholarship, perceptions of the cinematic canon, and even national identity. Therefore, the next research question is: **How has federal policy influenced what types of films have been saved over time?** Likewise, any federal policy actions are taken and supported at moments when Congressional time and federal funds can be used for other purposes, and policy actions are often driven by stakeholders who have specific interests in the causes they are promoting. In fact, various stakeholders lobbied the federal government to take actions in regard to film preservation, rather than relying on the free market or other nongovernmental systems to do so. This implicit need for government action can be better understood by asking the next research question: **What were the motivations of the designers of federal policy on film preservation, including Congress as well as other stakeholders, for encouraging certain actions?** Since the author's preliminary research has already partially answered this by showing that motion pictures were considered representative of American culture by various individuals, this concept was expanded through a fourth research question: **What are**

some of the ways in which the concept of American cultural identity has influenced the relationship between the government, cinema, and film preservation?

Previous Research and New Research Directions

This dissertation began as an article for *The Moving Image*, which is the journal of the Association of Moving Image Archivists. In response to a call for proposals for a special issue on histories of moving image archives, the author proposed an article on the history of the National Film Preservation Acts (NFPAs) of 1988, 1992, and 1996. The eventual article, now in print, served as preliminary research for the present study and focused on the programs and changes to community perceptions about film preservation that emerged from these legislative actions.¹ Conducting this preliminary research provided insight needed to better understand the background and context of the history of the interactions that establish the basis of this dissertation, which will detail the intersection of federal public policy and motion picture preservation from the founding of the American Film Institute through the present.

This early research revealed other related areas in the history of film preservation that have not been well documented. The AFI and its film preservation activities had been partially funded by the federal government from 1967 through 1995, when Congressional budget cuts to its funding agency, the National Endowment for the Arts, ended this support. However, Congress created a new nongovernmental organization, the National Film Preservation Foundation (NFPF), one year later through the NFPA of 1996. The primary purpose of this organization was to distribute federal grant funds to

¹ Brian Real. "From Colorization to Orphans: The Evolution of American Public Policy on Film Preservation." *The Moving Image* 13, no. 1 (2013): 129-150.

film archives for film preservation activities. Considering that the AFI had distributed federal preservation grants from 1972 to 1995, the author questioned why the government started a new organization rather than renewing its partnership with the AFI for this purpose. Research into this revealed that the academic literature contained a paucity of information about the reasons for the founding of the AFI, its relationship to the federal government, why the government chose to fund it, and its relationship with the motion picture preservation community.

Additionally, nontheatrical motion pictures – also known as orphan films – had, for the most part, been sidelined by the largest film archives in the United States, including the Library of Congress (LoC) and nonprofit organizations like the George Eastman House (GEH), Museum of Modern Art (MoMA), and the UCLA Film and Television Archives (UCLA). Instead, these institutions focused mainly on studio produced motion pictures and their antecedents, and the federal funding that supported them reinforced these choices. Although existing literature demonstrates that scholarly attention and preservation interest for orphan films has only become a major trend since the early 1990s, the scholarship had not revealed why the NFPAs developed in a way that contributed to the development of this trend.² The preliminary research for this dissertation remedied this, and this research is included in the present study. However, the remaining question was why the preservation of orphan films did not receive significant, ongoing funding before this point. Several authors have answered this question for a limited time period, showing how major film archives – especially MoMA – came to focus primarily on studio films and why this remained the status quo through

² Dan Streible, “The Role of Orphan Films in the 21st Century Archive,” *Cinema Journal* 46, no. 3 (2007): 124–28.

the establishment of the AFI in 1967.³ This focus on Hollywood-produced films was the result of two major factors. First, film studios benefited through the legitimization of cinema as an art form, and associations with museums and archives helped in this effort. Second, the government used Hollywood films as a way to export American culture, and maintaining these artistic works was particularly important during the identity politics of the Cold War period. The literature, however, does not currently address why these works were still largely ignored after the founding of the AFI through the passage of the NFPA of 1996. Additionally, the current literature does not discuss whether Cold War politics and other external political threats continued to play a role in film preservation after the founding of the AFI. This dissertation remedies some of these gaps in the existing scholarship.

The AFI and Government Support for Film Preservation

The establishment of the AFI was a watershed moment for the interaction of public policy and motion picture preservation. Federal government entities such as the LoC and National Archives (NARA) had previously preserved some films, but NARA focused primarily on government produced works and the LoC had a relatively small collection, due to sporadic funding for these purposes during the prior decades. The creation of the AFI was the first time that Congress acted with the approval of the President to create an independent, non-governmental organization solely dedicated to the promotion of cinema as an art form, with the preservation of motion pictures stated as

³ While several authors have provided valuable contributions to an understanding of this situation, a key source is Peter Decherney, *Hollywood and the Culture Elite: How the Movies became American* (Columbia University Press, 2005), 123-160.

an explicit goal of the Institute from its founding.⁴ Despite the AFI receiving annual federal funding for motion picture preservation from 1967 through 1995, though, relatively little has been written about what the Institute specifically did in terms of preservation and whether these actions were effective. A notable exception to this is a chapter in Anthony Slide's 1992 book *Nitrate Won't Wait*, in which the author criticizes the AFI and suggests that the organization did far less in terms of motion picture preservation than it led the public to believe, especially from the 1980s onward.⁵ After the publication of this book, Slide was criticized for his methodology and a supposed lack of comprehensiveness in his investigations, although it was acknowledged that he identified issues of concern within the AFI and the film preservation community as a whole.⁶ The fact that Slide was a former employee of the AFI who was known to have not been on good terms with the organization added to these criticisms.

Considering the decline of the AFI's film preservation program in subsequent years, the fact that issues Slide addressed contributed to this decline, and that his personal papers strongly contradict any accusations of a lack of comprehensiveness or thoroughness in his research, Slide's work seems prescient and deserves critical reappraisal. The AFI lost federal funding in 1995 with a new organization, the NFPP, effectively taking its place as the distributor of federal motion picture preservation funds the following year. The AFI ended all of its preservation activities just over a decade

⁴ Peter D. Tilton, Charles K. Martin, Jr., and Carleton Green, *Organization and Location of the American Film Institute* (Stanford: Stanford Research Institute, 1967), 1-10.

⁵ Anthony Slide, *Nitrate Won't Wait: A History of Film Preservation in the United States* (Jefferson, N.C.: McFarland, 1992), 74-88.

⁶ Eileen Bowser, Review of *Nitrate Won't Wait: A History of Film Preservation in the United States* by Anthony Slide. *FIAF Bulletin* 45 (1992), 59-61.

later. Officials from the LoC and other government agencies supported this transition, demonstrating questions of confidence as to the efficacy of the AFI's preservation activities. This dissertation will analyze the history of the AFI's preservation program with the benefit of hindsight, documenting its actions in this domain and questioning the effectiveness of these activities.

The National Film Preservation Acts

Previous research revealed that the NFPA of 1988 was barely concerned with actual film preservation, but was instead an attempt to prevent copyright holders from colorizing and otherwise altering films they owned. This legislation was spurred through lobbying from the Hollywood creative community – such as actors, directors, and cinematographers – who were attempting to assert their moral rights over works-for-hire in which they had been involved. This legislation did not work as intended, since film studio lobbyists intervened to encourage cooperative members of Congress to alter the law before it passed, limiting how much the government could regulate alterations to films versus earlier drafts. However, the law created national press coverage about saving cinema and, through this, support for the NFPA of 1992, which authorized Congressionally-funded studies on the state and needs of the film preservation community in the United States. Congress then acted on the information presented in these studies through the NFPA of 1996, which created the NFPF as a Congressionally-chartered nongovernmental nonprofit that, to this day, still distributes federal funds annually to a wide range of different archives to preserve films. Various stakeholders in the film preservation community – including film archivists, studio executives, directors and cinematographers, film scholars, and the government – all took part in the NFPAs of

1988, 1992, and 1996. The most significant change that occurred through this process was a shift from government resources being used mainly to help preserve theatrical motion pictures from film studios to annual funding primarily focusing on nontheatrical works.

In short, preliminary research has already shown that government involvement significantly influenced the nature of America's surviving cinematic record. The federal government had reasons to fund film preservation in limited instances from the 1930s through the 1960s, before deciding to provide ongoing funding for such activities as of 1967. This support focused on studio-made feature films for political reasons into the early 1990s, when various stakeholders acted to shift the government's focus to works that were less likely to be saved due to their lack of potential profit. This dissertation provides an in-depth analysis for the reasons for these actions and their impact on the American cinematic record.

Methodology

This dissertation primarily focuses on the history of the interaction between public policy and film preservation in the United States, analyzing how different parties exerted their influence to shape film preservation priorities. Answering the research questions involved using historical documentation, such as archival materials and press reports, combined with follow-up interviews with individuals who were involved in past interactions between cinema preservation and public policy. The end result is a thorough analysis of how federal public policy has shaped film preservation priorities.

Research Questions
RQ1: How has federal policy influenced and shaped motion picture preservation in the United States?
RQ2: How has federal policy influenced what types of films have been saved, and how has this changed over time?
RQ3: What were the motivations of the designers of federal policy on film preservation, including Congress as well as other stakeholders, for encouraging certain actions?
RQ4: How has the concept of American cultural identity influenced the relationship between the government, cinema, and film preservation?

The author conducted an ad hoc search for and analysis of documents for his preliminary research, which revealed several useful techniques for this study. This included relying on an iterative process of finding key concepts through the analysis of documents, creating short notes or memos documenting these ideas, and then returning to previous documents and searching for new documents to verify, discount, or expand on these findings. Considering the effectiveness of this initial approach, a more formalized but comparable process has been used for this dissertation as a whole.

The procedures for the preliminary research on the NFPAs were similar to Yanow's methodology for conducting interpretive policy analysis, which was used for this dissertation as a whole.⁷ Yanow's interpretative method asks the question, "What does this [...] program mean; and, for whom does it have meaning?"⁸ These questions are often overlooked in quantitative methods that demonstrate the effectiveness of policy programs through distinct and easily replicable forms of measurements, despite the fact that how an issue is perceived – or "framed" – by particular affected individuals and

⁷ Dvora Yanow. *Conducting Interpretive Policy Analysis* (Thousand Oaks, CA: Sage, 2000).

⁸ Yanow. *Conducting Interpretive Policy Analysis*, viii.

groups in relation to their backgrounds and beliefs can significantly influence the effectiveness of a policy action.⁹ Interpretive policy analysis is effective in demonstrating how those affected by particular policies – or “stakeholders” – can cooperate to make policies effective or impede their implementation in reaction to how they are framed.

Furthermore, Yanow notes that through published interviews, speeches, and other documentation, policymakers may express different intentions than what an implemented policy actually achieves.¹⁰ Such discrepancies can become major sources of tension between policymakers and their stakeholders. While most quantitative analysis focuses on implemented policies and their measurable outcomes, interpretive analysis can show these discrepancies and illustrate why certain policies ultimately succeeded or failed.

Yanow suggests that interpretive policy analysis begin with document analysis. These documents can include a wide range of sources, beginning with “newspaper (and other media) coverage and extending to transcripts of committee hearings, various reports, legislation, or agency documents.”¹¹ These documents provide a basic overview of a policy and how it developed. The researcher developed further questions about the meaning of the policy to various groups through these documents. He responded to this by using the information gained from these documents as the basis of questions during interviews with stakeholders, which further clarified the meaning and effectiveness of particular policies.

There are, however, limitations to the quality of sources available for this dissertation. Many individuals involved in film preservation over the last fifty years are

⁹ Yanow. *Conducting Interpretive Policy Analysis*, 11.

¹⁰ Yanow. *Conducting Interpretive Policy Analysis*, 9.

¹¹ Yanow. *Conducting Interpretive Policy Analysis*, 31.

now deceased, and the AFI does not allow researchers access to its own documentation about the organization's operations. Nonetheless, the author made a considerable effort to find the best documentation available. For the AFI, this includes dozens of articles in newspapers and trade publications, a review of *Nitrate Won't Wait* author Anthony Slide's personal papers, unpublished personal correspondence between AFI founding director George Stevens Jr. and personal confidant Fred Zinnemann, and several hundred pages of internal documents from the AFI's preservation office that were collected by one of its employees, Lawrence F. Karr, when he was employed with the organization from 1973 to 1983.¹² This information was enhanced and clarified through interviews with George Stevens Jr., founding director of the AFI, and David Shepard, who was hired as Associate Archivist in charge of acquiring films for preservation shortly after the organization's founding. Likewise, much of the information for the study of the NFPAs and NFPF was provided by contemporary press coverage, hundreds of pages of Congressional testimony and other publicly available documentation that came from the passage of three laws, and an interview with Eric Schwartz, author of the the NFPAs of 1992 and 1996 and founder of the NFPF.

As discussed in further detail below, the reliability of the information obtained through these sources increased through further analysis of the documentation already collected, additional archival and press materials, and interviews with individuals involved in the operation of the AFI and the creation of the NFPAs. Many of the materials and persons consulted for this dissertation are not directly cited, but still had a

¹² These internal documents were photocopied by Lawrence F. Karr, better known as Larry Karr, during his time with the AFI. The binders holding these files are not cataloged, but they are available to researchers at the Academy of Motion Picture Arts and Sciences' Margaret Herrick Library.

significant impact on this research. Lawrence Karr's personal papers provided a wealth of information about how the AFI operated and key moments in its operations relating to film preservation. Rather than citing these materials directly, the author used this information to form the basis of questions for George Stevens Jr. and David Shepard, and he found published information that provided coverage of the same facts. The Fred Zinnemann papers provided a wealth of information about George Stevens Jr.'s professional activities before the AFI and some of the problems the organization had with employee morale in the early 1970s, but while these records gave the author an overall sense of these moments, he only used a sample of these materials to convey key facts. Meanwhile, the former Chairman of the Board and Director of the NFPF, Roger Mayer and Annette Melville, read the original published version of the history of the NFPAs and NFPF that appeared in *The Moving Image* and approved of its content and assertions after it appeared in print, thereby confirming the accuracy of the article and the information obtained from Eric Schwartz.

Through document analysis for preliminary research on the NFPAs, the author has identified five key groups of stakeholders whose interaction guides federal public policy in regard to motion picture preservation:

1. Film preservationists and archivists, including the employees of governmental and nonprofit archives;
2. Motion picture studios and other copyright holders;
3. Filmmakers, actors, and other individuals who are involved in the creative process but, in most cases, do not control the copyright to the motion pictures they helped to create;

4. Film scholars and other academics, who benefit through access to motion pictures; and
5. The public, as represented by government officials, who benefit through the preservation of American cultural heritage.

These stakeholder categories were further supported by the review of archival documents and press coverage relating to the AFI, revealing that virtually all commentators on the AFI and its activities fell into the categories above.

While the author used Yanow's methodology as his primary means of analysis for this dissertation, he modified these techniques by using a framework developed by Mohr.¹³ Mohr notes that a key element of policy analysis is determining whether the outcome of a policy was effective.¹⁴ Like Yanow, however, Mohr notes that a policy's expected or needed outcome can subjectively vary, and researchers must take this into account when determining if an outcome can be declared effective for all interested parties or only particular stakeholders.

Mohr suggests that the effectiveness of policies be analyzed through a causal chain that he defines as an outcome line.¹⁵ For a successful policy program, this line ends with the completion of the outcome of interest, also referred to as the objective for the purposes of this dissertation. To fully understand how an outcome was or was not achieved, though, one must understand the actions that contributed to this success or failure. Mohr urges researchers to consider what he calls subobjectives – or, alternatively described, project goals – that are expected to contribute to the success of the outcome of

¹³ Lawrence B. Mohr, *Impact Analysis for Program Evaluation* (Thousand Oaks, CA: Sage, 1995).

¹⁴ Mohr, *Impact Analysis for Program Evaluation*, 14.

¹⁵ Mohr, *Impact Analysis for Program Evaluation*, 15-18.

interest. To properly understand how subobjectives were or were not achieved, the researcher must analyze the actions that were taken in an attempt to achieve these subobjectives. According to Mohr, analysis of a policy program becomes richer as the researcher reviews more actions and subobjectives. The inclusion of further data makes it more likely that the researcher will be able to pinpoint what successful actions and subobjectives contributed to the completion of the outcome of interest. The researcher will also be able to identify which completed subobjectives did not contribute to the outcome of interest, or which subobjectives failed because a planned supporting action was not taken or not completed properly.

To provide a practical example of this model that appears later in this dissertation, the objective of the AFI was to enhance the appreciation of cinema as an art form within the United States. Two of the most notable subobjectives the AFI used in its attempt to achieve this outcome were to preserve motion pictures and train a future generation of filmmakers. Actions taken to achieve these subobjectives included, respectively, acquiring films that could be deposited in major film archives and opening a conservatory to train film production students. Even if an overall outcome is successful, though, this does not mean that all or both of the subobjectives contributed to this outcome, and this in-depth analysis can help to clarify this matter and determine if similar actions should be taken in the future. Likewise, subobjectives can be broken down for further analysis. If a researcher were to analyze the AFI's preservation efforts for their own sake rather than part of a greater objective, then subobjectives of the preservation program could be seen as purchasing films for deposit in major archives and raising public awareness of the need to preserve motion pictures. Actions to achieve these subobjectives could include,

respectively, negotiating with film collectors to donate prints to archives in exchange for tax write-offs and throwing high-profile galas to gain public attention. If the first action clearly made more films available for preservation while the latter showed no demonstrable impact on preservation funding, the first would be seen as contributing to its subobjective while the latter would not.

The combination of Mohr's action – subobjective – outcome model and stakeholder considerations from Yanow's interpretive policy analysis model provides structure to this dissertation. The author outlined the actions taken to achieve particular objectives and considered how various stakeholder groups took action to influence these policies and how different stakeholders reacted to the proposal or enactment of particular policies. Analyzing how stakeholders interpreted and influenced a policy is a major factor in showing how outcome lines were formed. Such influence contributes to the success or failure of intended outcomes. Likewise, there are cases where policymakers successfully achieved their intended outcomes, but certain stakeholders disagreed with the benefits of such outcomes and presented future problems. Combining Mohr and Yanow's frameworks facilitated an analysis of such situations.

Validity in Iterative Research Processes

The primary means of ensuring research quality in this dissertation was through comparing sources of evidence to each other. Morse et al explain that “qualitative research is iterative rather than linear, so that a good qualitative researcher moves back and forth between design and implementation to ensure congruence among question

formulation, literature, recruitment, data collection strategies, and analysis.”¹⁶ This triangulation helps to ensure data quality, since “collecting and analyzing data concurrently forms a mutual interaction between what is known and what one needs to know. The pacing and the iterative interaction between data and analysis ...is the essence of attaining reliability and validity.”¹⁷ While the initial research for this dissertation began with a search of relevant literature and expanded into a review of archival documents and contemporary press materials, the questions that emerged from these sources led to a review of more scholarly literature and further analysis of additional archival and press materials. In other words, the research process for this dissertation was not simply cyclical. The author did not merely move from literature to documentary evidence to interviews before restarting the process with a further search of literature. Instead, he verified and expanded on concepts from various sources by relying on other sources throughout the research process, moving back and forth as questions that arose from one source could be answered by another. This triangulation generated more accurate findings for this study, and comparing different accounts allowed for the separation of the facts of certain incidents from the subjective viewpoints of different stakeholders.

A significant advantage of this iterative, nonlinear research process was that it allowed for a natural expansion and refinement of the dissertation. This has a considerable advantage over certain quantitative methods, which have predetermined questions and measurements that cannot be easily altered to explore new concepts that emerge during the research process. Likewise, the techniques used for the dissertation

¹⁶ Janice M. Morse, Michael Barrett, Maria Mayan, Karin Olson, and Jude Spiers, “Verification Strategies for Establishing Reliability and Validity in Qualitative Research,” *International Journal of Qualitative Methods*, 1, no. 2 (2002): 17.

¹⁷ Morse et al, “Verification Strategies for Establishing Reliability,” 18.

allowed for a greater understanding for subjective reasons for persons to have taken certain actions that affected film preservation, as well as individual reactions to policy actions. Considering the nature of the research questions noted above, understanding these subjective influences are essential to the research process.

There were, however, limitations to the qualitative processes detailed above, as a tradeoff of using these methods over quantitative techniques can lead to less replicable findings. To increase research validity, the author reviewed as many sources as possible, documenting these sources clearly in the dissertation to allow for an audit trail. There are limits to this, since the AFI's own internal documentation and other records are not publicly available to researchers, and some key individuals are either deceased or were unwilling or unable to participate in interviews. The author has noted these deficiencies in the study, allowing the reader to appropriately scrutinize the findings presented in the dissertation. However, whenever possible, the author attempted to verify facts through triangulation between multiple sources.

This constant attempt on the part of the researcher to question the validity of sources and verify their assertions throughout the research process falls in line with arguments made by Morse, who asserts that it is the responsibility of the author to use such iterative verification strategies.¹⁸ The use and documentation of such strategies keeps the onus of verification away from the reader. The end result satisfies Kathy Charmaz's four criteria for quality qualitative research: credibility, originality, resonance, and usefulness.¹⁹ Using a variety of sources to triangulate findings has led to credibility,

¹⁸ Morse et al, "Verification Strategies for Establishing Reliability," 13-22.

¹⁹ Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide through Qualitative Analysis* (Thousand Oaks, CA: Sage, 2006), 182-3.

while the fact that this study addresses issues that have not been adequately discussed in the literature lends to the originality of this research. Meanwhile, the focus on the subjective meaning of certain incidents and policy events should allow this research to resonate with practitioners in the field, and the theoretical basis this history provides will prove useful to film archivists and other stakeholders who need to work in the policy domain. In short, the methodology used for this dissertation took steps to minimize limitations and ensure reliable research findings.

Preliminary Literature Review: Perspectives on Film Preservation and Public Policy

Gracy notes that, “the literature of moving image archiving is sparse, limited largely to a few historical overviews, reports on recent projects in the professional literature, and specialized technical information on preservation and restoration processes.”²⁰ That this dissertation relies on a relatively small number of sources is a reflection of the existence of few sources, especially scholarly books and other long-form histories of motion picture preservation.

Since this dissertation adds another historical overview to this small body of literature, a discussion of previous histories of motion picture preservation is useful for understanding the placement and purpose of the present study. These long-form histories of film preservation are cited throughout this dissertation, so the discussion that follows is not meant to be a comprehensive review of the literature regarding the intersection between motion picture preservation and federal public policy. However, a brief discussion of some of key sources from this relatively small body of literature on this

²⁰ Karen Gracy, *Film Preservation: Competing Definitions of Value, Use, and Practice* (Chicago: Society of American Archivists, 2009), 4.

subject illuminates two important points. First, the literature on public policy and film preservation before 1965, when federal legislation authorized the founding of the AFI, is rather thorough, discussing how policy needs shaped film preservation funding and priorities. However, there is less literature on this matter detailing the time period from the founding of the AFI to the present. Much of this scholarship concludes its analysis before major changes occurred in the film preservation field in the early and mid-1990s, or it contains significant oversights that must be addressed to properly document the history of film preservation in the United States.

Anthony Slide's 1992 book *Nitrate Won't Wait: A History of Film Preservation in the United States*, is the first book length study of American film preservation.²¹ His study covers many important points, such as the creation of the National Archives and the development of the film preservation program at the Library of the Congress. However, Slide admits his own bias in his chapter on the AFI, due in no small part to his belief that he was wrongly fired by the organization. He has been accused by other individuals of bias and suppressing several sources that ran counter to his arguments throughout the book.²² Furthermore, since the book was published in 1992, Slide does not discuss the involvement of the AFI – or lack thereof – in the NFPAs of 1992 and 1996, the end of federal funding to the AFI in 1995, or the closing of its preservation office a decade after that. Considering that Slide heavily criticized the AFI and provided several instances of what he believes were inappropriate organizational actions, his writing deserves reappraisal in light of the AFI's later decline in the field of film preservation. This can be

²¹ Slide, *Nitrate Won't Wait*.

²² Bowser, Book Review of *Nitrate Won't Wait*.

achieved not only through analysis of his published text, but also through study of his meticulously organized papers for this book that are held by Bowling Green State University. The author of this present study has phrased many things in softer ways than Slide's sometimes pointed analysis, but he did not find significant factual errors in Slide's work or any indication that his admitted biases diminished the accuracy of his writing.

Meanwhile, British film critic Penelope Houston's 1994 book *Keepers of the Frame: The Film Archives* only touches briefly on the development of American film preservation, instead focusing primarily on the development of British institutions – such as the British Film Institute – and the creation of international alliances and continued cooperation between archives.²³ Through her discussion of the member institutions that formed FIAF (the French acronym for the International Federation of Film Archives), Houston provides a framework for understanding how concepts of national identity and various policy needs led to the development of film preservation mechanisms in multiple nations. Geoffrey Nowell-Smith and Christophe Dupin expanded on this line of inquiry in their 2012 book *The British Film Institute, the Government, and Film Culture, 1933 – 2000*.²⁴ While these studies do little to directly illuminate the American situation, they provide a valuable basis of comparison when discussing broader theoretical concepts of film preservation, policy, and national cultures.

Two of the key scholarly sources on the history of American film preservation, Haidee Wasson's 2005 book *Museum Movies: The Museum of Modern Art and the Birth of Art Cinema* and Peter Decherney's 2006 book *Hollywood and the Culture Elite: How*

²³ Penelope Houston, *Keepers of the Frame: The Film Archives* (London: BFI, 1994).

²⁴ Geoffrey Nowell-Smith and Christophe Dupin, *The British Film Institute, the Government, and Film Culture, 1933 – 2000* (London: BFI, 2012).

the Movies Became American both focus primarily on the creation of MoMA's film preservation programs in the 1930s and the further development of this program through the decades.²⁵ While Wasson focuses exclusively on this single institution, Decherney also documents prior failed and underdeveloped attempts to save American films of different types, arguing that MoMA was the first large scale and successful film archive in the United States. An important element of these works is discussions of the interaction between MoMA and the federal government, especially during and shortly after World War II. The federal government saw cinema as an important and popular means of spreading American values and culture abroad, as well as a means to reaffirm national identity in the wake of external threats.

Not only did this result in federal funding for MoMA to preserve and distribute American studio-made films, but it also led to government support for a film collection at the LoC that would be curated by MoMA for the express purpose of preserving works that were an essential part of American identity. The LoC program was defunded in the late 1940s. Decherney argues that this was due to the end of the crisis of the war and the identity politics that came with the decline. The rise and fall of such crises corresponded with the rise and fall of film preservation efforts and funding throughout American history. On this note, he argues that the rise of the AFI, which involved increasing funding to and expanding film preservation at the LoC, was due to the rise of Cold War identity politics in the 1960s. Decherney asserts that the AFI's focus on studio-produced motion pictures rather than avant-garde works was a result of the greater popularity of the

²⁵ Peter Decherney, *Hollywood and the Culture Elite* (New York: Columbia University Press, 2005); Haidee Wasson, *Museum Movies: The Museum of Modern Art and the Birth of Art Cinema* (Berkeley: University of California Press, 2005).

former among the general public and the proven success of these works in promoting American value and reaffirming national cultural identity. However, Decherney limits his discussion of the founding of the AFI, as his main interest in detailing this is to provide an explanation for the exclusion of avant-garde filmmakers from federal artistic grants. Thus, while Decherney provides a historical and theoretical framework that is essential to understanding how federal policy has affected the development of American film preservation from the founding of the AFI to the present, he leaves the history for this time period unwritten.

Robert Sitton's *Lady in the Dark: Iris Barry and the Art of Film* is a biography of MoMA's first film curator, overlapping Decherney and Wasson's analyses.²⁶ Sitton also discusses Barry's earlier involvement in film criticism in her native England in the 1920s, providing an analysis of attempts by the British to shield their own nation's film productions from being beaten at their home box offices by American features.²⁷ This British example of the threat of American exports provides a useful framework for understanding why other countries needed to create formalized institutions to protect and promote their film industries and cultures. Conversely, as discussed in this dissertation, the AFI had difficulty maintaining adequate support because the American film industry needed no such protections.

Sarah Ziebell Mann's thesis for her Master of Library Science, *American Moving Image Preservation: 1967-1987*, is a foundational study of the film preservation activities

²⁶ Robert Sitton, *Lady in the Dark: Iris Barry and the Art of Film* (New York: Columbia University Press, 2014).

²⁷ Sitton, *Lady in the Dark: Iris Barry and the Art of Film*, 91-148.

of the AFI and LoC during this time frame.²⁸ A portion of this study has been published as an academic journal article entitled “The Evolution of American Moving Image Preservation: Defining the Preservation Landscape (1967-1977).”²⁹ Mann does not go into depth on the political debates that shaped film preservation during this time as much as the current study, but she provides more thorough discussions of television preservation and moral rights for motion pictures beyond colorization. Her decision to conclude her study at 1987 also led to the exclusion of discussions about significant changes in film preservation that ensued in the following years, such as the NFPAs and the end of federal funding for the AFI. Additionally, numerous archival collections relevant to this subject have become available since Mann submitted her thesis in 2000.

Likewise, Caroline Frick’s book *Saving Cinema: The Politics of Preservation* overlaps much of Decherney and Slide’s historical work, discussing MoMA only briefly, but chronicling the history of collections such as the National Archives while moving into the present with brief discussions of the AFI and the NFPAs.³⁰ She acknowledges the influence of the latter in shifting federal funding and scholarly research interests towards orphan works, providing a useful perspective on what this turn towards a more expansive cultural definition of cinema means for concepts of national identity. Additionally, her discussions of how studios have preserved their own films, with the strength of these efforts leaving much to be desired until the 1980s, provides important context for the

²⁸ Sarah Ziebell Mann, “American Moving Image Preservation: 1967-1987” (MLS thesis, University of Texas at Austin, 2000).

²⁹ Sarah Ziebell Mann, “The Evolution of American Moving Image Preservation: Defining the Preservation Landscape (1967-1977),” *The Moving Image* 1, no. 2 (2001): 1-20.

³⁰ Caroline Frick, *Saving Cinema: The Politics of Preservation* (Oxford: Oxford University Press, 2011).

discussions of the NFPP of 1988 in the current study.³¹ However, the policy negotiations that led to the creation of the AFI, the passage of the NFPAs, and the creation of the NFPP are left unexplored.

Meanwhile, in the first half of her book *The Past is a Moving Picture: Preserving the Twentieth Century on Film*, Janna Jones specifically addresses the development of the AFI, the passage of the NFPAs, and the founding of the NFPP.³² As part of this, she develops a useful theory that the AFI's efforts to legitimize cinema to the general public in the United States during the simultaneous rise of auteur theory in cinema studies led to greater respect for the rights of filmmakers, facilitating support for the moral rights legislation that was the NFPA of 1988. However, when discussing the AFI, Jones states that "while it has been widely criticized for its inability to maintain a strong preservation agenda, it is important to remember that the AFI was developed for the purpose of fostering the talents of filmmakers."³³ Jones makes strong arguments that the preservation program of the AFI was founded in part to make films available for future filmmakers to study, but by omitting the Institute's other publicly stated reasons for supporting preservation, such as educating the general public in the art of cinema, she rejects critiques of the AFI's preservation activities without adequate justification for doing so. Jones does not provide sources or further details for these negative assessments, dismissing them without providing a critical analysis of these detractors' arguments.

³¹ This same issue is discussed in much further detail in Eric Hoyt, *Hollywood Vault: Film Libraries before Home Video* (Berkeley: University of California Press, 2014).

³² Janna Jones, *The Past is a Moving Picture: Preserving the Twentieth Century on Film* (Gainesville: University of Florida Press, 2012).

³³ Jones, *The Past is a Moving Picture*, 71.

Similarly, when discussing the policy negotiations leading to the passage of the NFPAs and the eventual founding of the NFPF, several authors portray film studio representatives as entirely adversarial or at least unhelpful, suggesting that they shirked responsibility for preserving their own studios' films and opposed outside preservation efforts in general.³⁴ This ignores the fact that most of the major Hollywood studios had considerably increased their internal preservation expenditures and efforts in the years leading to this legislation. Most importantly, previous scholarship omits that the Congressional testimony of studio executives was highly favorable towards the founding of the NFPF and using government funds for preserving nontheatrical works through this organization.³⁵ Frick mentions this briefly, but does not go into the motivation for studios supporting the preservation of "orphan" films.³⁶ The fact that the head of a major corporation that held the rights to studio-produced motion pictures, Turner Entertainment president Roger Mayer, became the first Chairman of the NFPF in 1996 and served in this pro-bono position until shortly before his death in 2015, is absent from the prior literature.

Thus, the literature provides a strong historical explanation of the development of film preservation in the United States up to the founding of the AFI. These analyses provide an important theoretical basis for understanding the policy actions discussed in this present study, as do the well-documented comparative cases of Great Britain and other nations. However, while the American-focused literature that extends beyond the mid-1960s undoubtedly demonstrates that federal policy actions have had a significant

³⁴ Jones, *The Past is a Moving Picture*, 88-91.

³⁵ Real, *From Colorization to Orphans*, 132-3, 143-4.

³⁶ Frick, *Saving Cinema*, 142-147.

impact on the development and direction of American film preservation, these studies focus on limited time frames that conclude before the significant developments of the 1990s, ignore many of the negotiations that shaped policies, exclude significant sources and discount notable controversies, or provide a biased analysis of events.

The objective of the present study was to recognize the importance of these policy decisions while overcoming the deficiencies of previous scholarship. This has been achieved through the use of previously unexplored archival sources, interviews with key individuals who shaped preservation and federal government policies, close readings of relevant legislation, and an in-depth search of newspaper and periodical articles on the issues discussed. The end result is a study that reveals a previously undocumented level of complexity in shaping policies regarding film preservation, including analyses of stakeholder influences that have not been acknowledged in the extant literature.

Limitations: Selection of Film Archives and Types of Federal Support

This dissertation is not meant to provide a full history of American film preservation. Instead, it discusses the development of American motion picture preservation in relationship to federal government support and interventions that developed through policy needs and debates between stakeholders. As a result, certain film archives receive more attention in this study than others. The National Archives and Records Administration is a federally supported institution, but since it was founded with a mandate to preserve federal records, which includes films made by the United States government, little debate has followed as to whether it should receive continuous funding for this mission. Although the history of this organization is important, the fact that stakeholder debates have not continually shaped its film preservation operations has led

to it receiving relatively little analysis in the present study. Meanwhile, since MoMA and the LoC developed in relationship to various political pressures and inconsistent federal funding, these institutions are analyzed in greater detail.

Other film archives enter this study at various points, but since their founding was not tied to federal support and political debates, the contexts of their creation are given less attention than their later governmental interactions. As an example of this, several smaller film archives become part of this narrative in discussions of the formation of the NFPF, which was created by the federal government to support the type of non-commercial works many of these institutions hold. The basic purpose and collecting scope of some of these archives are discussed briefly, but detailed histories of these institutions are not provided.

The organizations that receive the most attention are those that the federal government created for the purpose of supporting film preservation. The AFI was meant to distribute tax dollars to support film preservation nationwide, and it was intended to act as a coordinating body to foster cooperation between film archives. The political contexts that informed its creation and ongoing controversies that surrounded the AFI are analyzed in depth. Likewise, while the actions of the NFPF have faced little controversy, the political debates and stakeholder discussions that led to its formation as a grant making organization that distributes federal monies for film preservation are discussed in detail.

Film Preservation as a Flexible Concept

Throughout this dissertation, film preservation has different meanings. When MoMA began collecting films it was more focused on screening and distributing motion

pictures, and preserving these works for prosperity was a secondary goal. It was known that nitrate film stock was flammable and prone to deterioration, and this decomposition was believed to be inevitable. Some titles were saved due to MoMA copying them from their original 35mm format to acetate-based 16mm film, since acetate “safety” film deteriorates more slowly and was not believed to decompose at all at this time. Most of these 16mm copies were made for distribution to cultural centers, so these films were accidentally preserved. Trends of protecting the content of nitrate films by copying them to 35mm acetate film – retaining most of the picture quality – did not occur until the Hollywood film industry shifted to this standard in the 1950s, and 16mm was still often used as a preservation standard due to its lower cost and the limited budgets of nonprofit film archives.

As the AFI came into existence in 1967, bolstered the LoC’s preservation activities, and helped to support other archives, preservation meant protecting the content of motion pictures through copying these 35mm nitrate materials to “safety” stock that was the same size as the original films. However, in the late 1970s, film archivists discovered that acetate film was prone to decomposition, albeit slower and less dangerous than nitrate. Around the same time, color fading was also discovered to be a significant problem for most color motion pictures produced from the 1950s onward. Just as all film was discovered to be prone to decomposition, experiments in the 1980s revealed that storing films at near-freezing temperatures slowed and halted virtually all forms of disintegration. As a result, film preservation now means taking actions to preserve motion pictures in their best-surviving physical form for as long as possible.

In her book *Film Preservation: Competing Definitions, Value, and Use*, Karen Gracy discusses how the concept of film preservation has changed with time and through its interaction with different communities. Put simply, it is impossible to offer a singular, uncontested definition of film preservation. One notable way in which this dissertation differs from Gracy's work is its treatment of for-profit archives, especially the film collections of the studios. Gracy asserts that a film archive is an institution that preserves films without regard for profit motivations, while she prefers the phrase "commercial film library" for any organization that holds or preserves films primarily for profit motivation.³⁷ This definitional limitation has merit for two notable reasons. FIAF has agreed with this concept since its formation in the late 1930s, only allowing nonprofit archives to join its ranks. Furthermore, the film studios often did not take care of their own films and sometimes deliberately destroyed them, resulting in an "initial scramble to protect films from annihilation" on the part of the nonprofit archives.³⁸ However, even though the rescuing of commercially-produced films fell on film archives from the 1930s through the 1970s, changes in the media industry resulted in the film studios and other corporations with large film libraries taking better care of their materials. Gracy's perspective adds to the understanding of non-studio film archives were important in preserving studio works and sets the stage for tension that would emerge between film archives and film studios. With this said, this dissertation deviates from this conceptual framework by considering any institution that preserves films in a way that prolongs their life considerably beyond what it would be without intervention to be a film archive,

³⁷ Gracy, *Film Preservation*, 2-3.

³⁸ Gracy, *Film Preservation*, 2.

regardless of whether protection of culture or promotion of profit is the primary motivator for these actions.

Gracy also notes that “many film archives have expanded their definition of preservation to include the production of catalog records (both local holdings in individual institutions and compendia such as the American Film Institute’s catalog of motion pictures produced in the United States) and providing access to the film as essential components of the film preservation process.”³⁹ These activities are an essential part of the film preservation process, but fully conflating these actions with film preservation has led to controversy. Specifically, as discussed in chapter four of this dissertation, the AFI’s decision to use federal funds earmarked for preservation for these types of adjacent actions led to considerable criticism from archives that did not have adequate funding for direct interventions to increase the lifespan of their film holdings. In other words, Gracy is correct in her argument that many archives consider cataloging, providing access, and promoting collections to be part of preservation, but this was complicated by disagreements within the field. The fact that other institutions and individuals disagree on this point has led to considerable strife between stakeholders.

In summary, this dissertation considers film preservation to be the undertaking of adequate actions to prolong the physical life of motion pictures or, when this is not possible, ensure that the content of this material survives. The adequacy of such interventions has changed over time, following developing community norms as the field of motion picture preservation has advanced. A for-profit institution such as a film studio can act as a film archive provided that its preservation interventions are on par with the state of the art for nonprofit film archives, but for the most part the major film studios did

³⁹ Gracy, *Film Preservation*, 3.

not reach this parity until the late 1970s and early 1980s. Meanwhile, while providing access, cataloging collections, and promoting holdings are essential activities for film archives to undertake and go hand-in-hand with motion picture preservation, debates between various stakeholders in the field has shown that these actions cannot be considered to constitute film preservation.

Conclusion

As film stock continues to decay with time, film archivists need to maintain government and public support to continue to save the nation's cinematic record. An understanding of the history of garnering such support can be useful in this cause. Although the rise and decline of the AFI in this domain were due to political situations that were specific to their time periods, the success and failure of the Institute's activities can act as valuable lessons for film preservation stakeholders who need to maintain government and public support. Likewise, the current state of the interaction between film preservation and federal policy, as exemplified through continued funding of the NFPPF, was reached through decades of negotiations that heavily involved stakeholders in the field of film preservation. Understanding how this status quo was reached will allow film archivists, cinema scholars, and other interested parties to recall arguments that can still be useful when defending this continuing support against potential funding cuts. In short, documenting the lessons of the past will be useful in ensuring that film preservation has a strong future.

The next chapter of this dissertation discusses federal support for film preservation from the creation of cinema to the 1960s, relying on previously published academic literature for this information. This is followed by chapter three, which

analyzes three different proposals to create an American Film Institute or similar organization that would coordinate certain national activities related to cinema, including preservation. These plans resulted in the formation of the AFI in 1967, and the fourth chapter provides an analysis of the Institute's activities regarding film preservation and interactions with the federal government and the film preservation community from its founding into the 1990s. The following two chapters then shift to discussions of the NFPAs. Chapter five considers why government intervention in the preservation of studio produced films was necessary, leading to a discussion of how changes in home media technologies in the 1980s led to the film studios spending more of their own money to preserve films they owned. This also includes a discussion of the NFPA of 1988, which proposed as a regulatory action against the film studios, and how these companies used the concept of film preservation to diminish government interference in their activities. Finally, chapter six discusses the NFPAs of 1992 and 1996, the government's creation of the NFPF to fund the preservation of orphan films at a wide range of institutions, and how the film preservation community's dissatisfaction with the actions of the AFI led to many of its functions being shifted to the LoC and NFPF.

Chapter 2: The Museum of Modern Art, the Library of Congress, and the Beginning of American Cinema Collections

Introduction

Two of the most significant institutions for the founding of film preservation in the United States are the Museum of Modern Art (MoMA) and the Library of Congress (LoC). The LoC began collecting motion pictures unintentionally since the birth of cinema at the end of the nineteenth century as filmmakers deposited works to protect their copyrights. This collecting trend was highly inconsistent over the ensuing years, in no small part due to shifts in the Library's internal copyright deposit policies for motion pictures, until it began significant efforts to more deliberately develop and preserve its collection in the late 1960s. Such activities continue to date, and the LoC is currently the largest motion picture archive in the United States. The LoC's National Audio-Visual Conservation Center, opened near Culpeper, Virginia in 2007, contains over five million audiovisual items, including more than 130 million feet of nitrate film.¹ MoMA, meanwhile, began collecting motion pictures for exhibition, promoting cinema as the most modern of art forms and displaying it for the same reasons it allowed the public to see paintings by Picasso and Matisse. This focus on exhibition would give way to an equally important emphasis on preservation in the ensuing decades, when it became apparent that the unstable chemical composition of the films in the Museum's collections would lead to their deterioration without significant intervention.

¹ Mike Mashon, "The Library of Congress National Audio-Visual Conservation Center," *Cinema Journal* 46, no. 3 (2007): 140.

This chapter focuses largely on these two institutions and how the needs of, and interactions with, the federal government shaped their development and activities regarding film preservation. Recent historical scholarship has thoroughly documented this federal impact on motion picture preservation from the founding of cinema into the mid-1960s.² One notable reason for such support is that the government recognized motion pictures' ability to convey American culture and values, contributing to its decision to fund the distribution of such works to audiences and the preservation of these films for the benefit of future assessors of contemporary national culture. Funding for such activities was most forthcoming at times of national crisis when American identity was under threat of foreign forces, such as during World War II, while it declined in periods of relative national stability. The popularity of Hollywood produced motion pictures allowed these works to be perceived as the most effective tools of such identity politics, to the exclusion of avant-garde and nontheatrical films. Understanding these trends, as analyzed in the review of the literature that follows, is essential to understanding the development of American motion picture preservation in the 1960s and onward.

² Although numerous studies are cited throughout this chapter, it is worth mentioning specific works that connect the history of film preservation to political and policy influences. Slide, *Nitrate Won't Wait* and Penelope Houston, *Keepers of the Frame: The Film Archives* are seminal books on the history of film archives and preservation, with the former discussing the American situation and the latter including a greater European focus. Peter Decherney, *Hollywood and the Culture Elite: How the Movies Became American* provides an overview of early film education movements in the United States, the origins and government-related activities of the MoMA, and the beginnings of the AFI. Haidee Wasson, *Museum Movies: The Museum of Modern Art and the Birth of Art Cinema* focuses specifically on MoMA and also provides considerable insight into the organization's governmental connections. Caroline Frick, *Saving Cinema: The Politics of Preservation* and Janna Jones, *The Past is a Moving Picture: Preserving the Twentieth Century on Film* both provide broader political histories of American film preservation, from the beginnings of cinema to the last several years.

The U.S. Government and Film Collecting before MoMA

The largest collection of surviving examples of early American cinema is at the Library of Congress. The LoC's initial motion picture collections arrived at the institution because the Library was the copyright depository for the United States.³ Prior to changes in copyright law in 1976, the LoC could require individuals or companies to deposit a copy of any published material they wished to copyright to the Library.⁴ This benefited the LoC by helping to build many of its collections, especially for print-based materials. When cinema began in the mid-1890s, there were no provisions in the copyright law designed specifically for motion pictures.⁵ Meanwhile, the industry's then immature and relatively weak self-regulation to block one production company from pirating and distributing another company's films made copyrights and the legal protections that came with them desirable to producers. As a result, early cinema producers used existing copyright law pertaining to photographs to register their motion pictures as a series of thousands of still images.⁶ They did this by using the motion picture negatives to print similarly sized positives on long, continuous rolls of photographic paper, now commonly referred to by film historians as paper prints. This practice mostly ceased in 1912, when revisions to copyright law allowed for motion pictures to be copyrighted. The LoC chose not to use the newly revised law to enjoin producers to either continue submitting paper

³ Jones, *The Past is a Moving Picture*, 36-7. Tom McGreevey and Joanne L. Yeck, *Our Movie Heritage* (New Brunswick, New Jersey: Rutgers University Press, 1997), 29. Peter Decherney, *Hollywood's Copyright Wars: From Edison to the Internet* (New York: Columbia University Press, 2012), 23-6.

⁴ David R. Hansen, "Orphan Works: Causes of the Problem," (Berkeley Digital Library Copyright Project, White Paper No. 3, 2012): 2-5.

⁵ Decherney, *Hollywood's Copyright Wars*, 11-5.

⁶ Decherney, *Hollywood's Copyright Wars*, 11-5. The discovery of this collection and its transfer back to film is detailed in Kemp Niver, "From Film to Paper to Film: The Story of the Library of Congress Paper-Print Conversion Program," *Quarterly Journal of the Library of Congress* 21, no. 4 (1967): 248-64.

prints or create a new policy under which they would have to supply projection prints to the library, as they could have done as the nation's copyright depository.⁷ Instead, films could be copyrighted through the submission of stills, scripts, and other ancillary materials. However, the paper prints survived as an accidental archive of early American cinema, and their rediscovery in the LoC in the 1940s after decades of neglect allowed for a reappraisal of these works by scholars once they were copied back to film in the 1960s.⁸

Paul Spehr, former assistant chief of the LoC's Motion Picture, Broadcasting, and Recorded Sound Division notes that "the flammable nature of nitrate film is usually given as the reason for the 1912 decision not to keep films, but skepticism about the suitability of film in the national library probably played a role."⁹ This lack of respectability and volatile nature of film stock prevented the LoC and other American institutions from taking responsibility for American motion pictures. The actual studios that produced these films, meanwhile, did little to protect their own product. Some collections were lost due to the decline of certain studios, but for the most part the production companies either neglected these works or, far more often, intentionally destroyed them.¹⁰ The explosive nature of nitrate stock made storage of these works both costly and dangerous, the silver contained in silent-era prints could be reclaimed through the destruction of the prints for other manufacturing purposes and, for the most part, films were not profitable after their

⁷ McGreevey and Yeck, *Our Movie Heritage*, 29.

⁸ Paul C. Spehr, "The Education of an Archivist: Keeping Movies at the Library of Congress," *The Moving Image* 13, no. 1 (2013): 151.

⁹ Spehr, "Education of an Archivist," 151-2.

¹⁰ A detailed explanation of the various reasons for the intentional and unintentional destruction of silent films can be found in David Pierce, "The Legion of the Condemned - Why American Silent Films Perished," *Film History* 9, no. 1 (1997): 5-22.

initial runs. On this final point, there are exceptions, especially for films that featured cast members who went on to become major stars.¹¹ However, rapid advancements in cinematic style and technologies made films from just several years before seem antiquated to audiences, with this problem becoming particularly acute after the transition to sound. As a result of these factors, David Pierce recently estimated that only 14 percent of motion pictures created by film studios between 1912 and 1929 survive as complete versions in their original film gauge format – regardless of whether this is negative or a high-quality print – with another 11 percent being available either in alternate formats or incomplete forms.¹²

American institutions did very little in terms of intentionally collecting and preserving motion pictures until the 1930s. Although in 1935 MoMA became the first major American institution to successfully create an ongoing collection program for motion pictures as cultural and artistic artifacts, as discussed in the next section, the United States government took action to save films as historical records the year before. On June 19, 1934, Congress passed legislation to create the National Archives and Records Service, now known as the National Archives and Records Administration (NARA).¹³ As Anthony Slide notes, the founding of this institution came rather late in the United States' history relative to the creation of similar institutions in other nations, with the reasons for this being outside of the scope of this dissertation.¹⁴ However, since the

¹¹ The reissuing of earlier films featuring recently popularized stars, as well as some of these actors attempts to block these films from being redistributed, are discussed in Eric Hoyt, *Hollywood Vault*, 1-49.

¹² David Pierce, *The Survival of American Silent Feature Films: 1912-1929* (Washington: Council on Library and Information Resources and the Library of Congress, 2013), vii-viii.

¹³ Slide, *Nitrate Won't Wait*, 25-35.

¹⁴ Slide, *Nitrate Won't Wait*, 26.

National Archives' mandate was to collect and be a permanent repository for records created by the federal government regardless of format, this created a home for government films. In the ensuing decades these materials would be joined by the addition of newsreel collections from various film studios, since the studios saw these donations as tax write-offs and NARA recognized the value of using these documentary works to supplement the content of their filmic and non-filmic records.¹⁵ Likewise, NARA holds collections of motion pictures that were captured or obtained from foreign countries, often for the purpose of cultural analyses by intelligence agencies, but this has not been an intentional or primary collecting focus for the organization.¹⁶

In other words, the creation of the National Archives was undoubtedly a positive step for film preservation, but its collections focused narrowly on limited historical representations of American society and culture. Most notably, this did not include American entertainment motion pictures, which were within the scope of other nations' developing cinema institutes for reasons discussed further in this dissertation. Logically, since the National Archives collected government records and limited nongovernmental materials of historical value, while the LoC maintained the nation's collection cultural works – many of which were copyrighted and reproducible – it made sense for the collection and maintenance of studio-produced films to fall on the latter. However, the LoC would not reverse its 1912 decision to exclude motion pictures from its collections until the early 1940s, when it began development of a national film collection. This focus

¹⁵ "History's Keeper: The U.S. National Archives," RealScreen, last modified February 1, 2000, <http://realscreen.com/2000/02/01/27900-20000201/>.

¹⁶ The history of NARA's film preservation activities deserve further research and scholarship, but its mission has been fairly straightforward and the government has had an ongoing legal mandate to fund its activities. This lack of engagement with ongoing policy debates has resulted in discussions of NARA's film preservation activities being limited through the rest of this dissertation.

on curating a collection of American films was short lived, and the LoC would not become a major force in film preservation until the founding of the AFI and funding that came with this at the end of the 1960s.¹⁷ Instead, just as the National Archives was building its own collection of films of governmental and historical merit, the Museum of Modern Art (MoMA) stepped up to preserve a large part of the American cinematic heritage, promoting film as a distinctly American art form.

MoMA and the Beginning of a Nationalistic Film Collection

Several authors have argued that MoMA was the first major film archive in the United States to collect theatrical motion pictures and part of a trend in the mid-1930s that also saw film archives develop in various European nations.¹⁸ However, this movement cannot be understood initially as an effort to save cinema, but instead as attempts to make films accessible. MoMA began to collect and exhibit films in the way that it collected and exhibited works of modern painting and sculpture, and it became an essential resource in providing copies of films to clubs, universities, and other organizations that viewed cinema in a similar manner. Initial funds for these activities came from private foundations and copies of films came from the major studios, but the federal government would soon enter as a significant player. The political situation prior to and during World War II would prompt the government to see significant value in MoMA's film expertise, using the Film Library's knowledge of the form to analyze works produced by enemy powers and its distribution network to spread films that promoted ideas that fell in line with national policy needs. The below discusses this

¹⁷ Spehr, "Education of an Archivist," 155-7.

¹⁸ See specifically Wasson, *Museum Movies* and Decherney, *Hollywood and the Culture Elite*.

development of MoMA's activities as influenced by its trustees, the film industry, the public, and the government.

Iris Barry: From British Film Critic to Advocate of American Culture

The beginning of the Film Library at MoMA cannot be separated from its founding curator, Iris Barry. Born in 1895, Barry was a protégé of Ezra Pound, an accomplished poet and novelist, and a well-connected member of London's literary circles before she began to have a direct impact on cinema culture. An avid film fan, Barry was hired by the magazine *The Spectator* as its film critic in 1924.¹⁹ At a time when most writing on cinema in major periodicals was merely promotional, Barry was recognized as the England's first serious film critic. This career expanded as she also began to review films for the newspaper *The Daily Mail* the following year.²⁰ All of this occurred as the British national film industry was in decline, due in no small part to the threat of American film imports. During this period, estimates suggested that for every British movie theatre showing a British production, seventeen were showing American films.

Decherney argues that Barry's writing shows that she was personally concerned about this problem, with her articles for both *The Spectator* and *The Daily Mail* often promoting the value of British cinema in the face of potential American cultural dominance.²¹ However, Barry biographer Robert Sitton suggests that this evidence does not point to Barry's own concerns, but instead to the priorities of her employers. *The*

¹⁹ Sitton, *Iris Barry*, 83-4.

²⁰ Sitton, *Iris Barry*, 105-22.

²¹ Decherney, *Hollywood and the Culture Elite*, 99-114.

Spectator took an interest in publishing serious journalism on cinema as the press and government were becoming increasingly concerned about the potentially negative cultural influence of American cinema on England's citizens.²² The British nationalist owner of the magazine held a meeting specifically about how his publication could help protect the nation's industry at which his son, an acquaintance of Barry who knew of her personal interest in cinema, suggested her for the position. Furthermore, the editor of *The Daily Mail* chose to hire her after reading an article the editorial board of *The Spectator* had commissioned from her on the state of the British film industry and actions it might take to fight back against American dominance.²³ Although Barry usually had no issue with promoting her national motion picture industry, her writing expanded well beyond this singular motivation and she did not always agree with the desires of her editors. In fact, Barry was ultimately terminated from her position at *The Daily Mail* in 1930 when she ran counter to the editor's unofficial – but clearly enforced – policy of not criticizing the national film industry by publishing a negative review of the British production *Knowing Men* and its writer and director, Elinor Glyn.²⁴

Therefore, Sitton argues that as she “began her career as a film critic, Iris faced two formidable challenges: how to define film as an art form and distinguish it from the other arts, and how to acknowledge foreign superiority in filmmaking in the face of rising British nationalism.”²⁵ While editorial oversight prevented Barry from fully addressing the latter of these concerns in her writing, she did express her interest in and approval of

²² Sitton, *Iris Barry*, 84.

²³ Sitton, *Iris Barry*, 119-21.

²⁴ Sitton, *Iris Barry*, 145-7.

²⁵ Sitton, *Iris Barry*, 97.

foreign cinema through her involvement with the London Film Society, which was founded in 1925.²⁶ Barry assisted with the programming and logistics of its screenings and used her published columns to promote the film society's activities, while a board of fiscal supporters including Ivor Montagu, George Bernard Shaw, H.G. Wells, and John Maynard Keynes helped to provide the group with cultural credibility. The organization was based on the London Stage Society, which hosted screenings of new and experimental plays on Sundays.²⁷ Since British theater censorship laws only applied to theatrical performances that were open to the general public with admission being granted by ticket sales, the Stage Society used a subscription model to allow individuals to attend performances, thereby exempting the organization and its performances from any form of censorship. Similarly, the London Film Society presented subscription-based Sunday screenings of various films of artistic merit, many of which had been officially or unofficially censored in the United Kingdom. Most of the works screened by the organization were of foreign origin, including a large number of German and Soviet films, which were largely absent from mainstream British cinemas due to contemporary political difficulties with those nations.²⁸ While these types of works had been previously screened within the country by small cine-clubs, the London Film Society rented out large commercial theatres and successfully cultivated the intellectual and cultural elite as members.

²⁶ Sitton, *Iris Barry*, 106-22.

²⁷ Sitton, *Iris Barry*, 108-9.

²⁸ Sitton, *Iris Barry*, 116-22.

When her career as a film critic ended abruptly in 1930, Barry decided it was the right time to make a significant change in her life and move to the United States.²⁹ While she had limited career prospects at this time, in 1932 she would found the Film Library at MoMA. Her work with cinema in London would later be reflected in her future career in numerous ways. She had actively been involved in using cinema as a means to reinforce national identity and promote national interests. For the most part she willingly complied with these national drives, but Barry still wished to recognize the artistic value of other foreign works, even if those films' national origins made them politically controversial in her nation of residence. Above all of this was a desire to elevate cinema as an art form, allowing the general public and the cultural elite to recognize it as something more than mere entertainment.

The Formation and Programs of the MoMA Film Library

MoMA was formed in New York in 1929, as a place to showcase modernist and contemporary art. The primary funding for the Museum was provided by the Rockefeller Foundation, then headed by John D. Rockefeller, Jr. The Museum's board of trustees selected Alfred H. Barr, Jr. as its first director. Barr had joined the faculty of Wellesley College as an associate professor of art history in 1926, where he had taught the first college-level courses in modern art in the United States. Although Barr had a strong interest in cinema and believed that it should be treated as art, and a specifically modern art that would fit within the Museum's mission, the MoMA's trustees initially dissuaded him from starting motion picture activities in the Museum.

²⁹ Sitton, *Iris Barry*, 150-6.

Barry's initial association with MoMA was more due to personal connections than a relevant skillset. She became the Museum's librarian in 1931, a year after her arrival in New York, after meeting Barr through mutual friends.³⁰ Barry was relatively unqualified for this position, although she attended library science courses at nearby Columbia University to attempt to remedy these deficiencies. Sitton argues, however, that part of Barr's motivation for providing Barry with this position was her past experience with motion pictures, and his desire to start a film program.³¹ Barr was able to overcome the full board of trustees' hesitancy to start a film program by appealing to trustee John Hay Whitney, who had invested much of his fortune in the Hollywood motion picture industry.³² Whitney combined a portion of his own funds with further financial support from the Rockefeller Foundation to incorporate the MoMA Film Library as a separate body from the Museum itself, protecting MoMA's own finances from the considerable costs of the program while appeasing trustees who had not yet been willing to recognize films as art.

Thus the Film Library was formed with Barry as its first curator and her new husband, Wall Street stockbroker John Abbott, as its first director.³³ Although Barry was in a subordinate position to her husband, she had greater artistic control over the films collected and exhibited by MoMA. Prior to the creation of the MoMA film library, museums' relationship with cinema had little to do with the concept of cinema as art.

³⁰ Sitton, *Iris Barry*, 157-68.

³¹ Sitton, *Iris Barry*, 190-1.

³² Wasson, *Museum Movies*, 112-4; Sitton, *Iris Barry*, 190-1; Decherney, *Hollywood and the Culture Elite*, 135.

³³ Wasson, *Museum Movies*, 110-27; Sitton, *Iris Barry*, 190-1; Decherney, *Hollywood and the Culture Elite*, 128-33.

Instead, production equipment was often displayed as part of technology exhibits, and ethnographic and scientific actuality films were used along slides to illustrate museum lectures.³⁴ The decision to have the Museum screen films, first at an off-site theatre it rented before the Museum's new building was constructed with a purpose-built auditorium in 1939, was nothing short of revolutionary in recognizing cinema as an art form.

The Museum went beyond showing films in its own facilities, making copies of motion pictures that could be distributed to cine-clubs and various cultural organizations throughout the nation.³⁵ MoMA's decision to distribute motion pictures widely was in line with other practices pioneered by the institution. The Museum also displayed modern works of art or reproductions thereof in the windows of department stores, movie theatre lobbies, and other locations that attracted mass audiences.³⁶ Materials from the collection were reproduced in various publications and traveling exhibits that could be loaned to local organizations throughout the country. Additionally, the Museum regularly hosted radio and, eventually, television programs about modern art. In other words, MoMA wanted to bring art and art education to the masses beyond the physical Museum, and considering that the organization argued that cinema was deserving of recognition as an art form, the widespread distribution of films was in line with this goal.

MoMA's Film Library ultimately made many movies that had been unavailable for years accessible to audiences, whether through its own screening facilities or loans to other institutions. As discussed in detail in chapter five, some films did experience

³⁴ Wasson, *Museum Movies*, 78-9.

³⁵ MoMA's exhibition activities are discussed in extensive detail in Wasson, *Museum Movies*, 149-84.

³⁶ Wasson, *Museum Movies*, 68-72.

revivals or retrospectives after their original release, but the timing of these were controlled by commercial cinemas. With the advent of the MoMA Film Library, a portion of the studios' films could be requested by cine clubs and film societies, universities, and other cultural organizations for screening, enhancing the ability of the public to evaluate the history, evolution, and artistic achievements of motion pictures. MoMA's prints were screened at more than twenty universities in the first several years, not only for film studies courses, but for "a surprising range of university departments, including visual education, drama, public speaking, art and archaeology, fine arts, economics, and sociology."³⁷ This was particularly facilitated by MoMA's decision to make many of these films available to rent in 16mm format, allowing them to be screened in smaller venues with less expensive equipment. In fact, Barry briefly considered the idea of making projectors and screens for the fairly new 16mm format available to rent by mail through the museum, creating an entire cinema package that was accessible to various American organizations. Before MoMA could provide greater access to films, though, it had to first acquire them.

MoMA and Hollywood

Several factors contributed to the decision to focus the MoMA Film Library's primary collecting concern on studio produced motion pictures. Iris Barry had attempted to engage works of artistic quality as a film critic and member of the London Film Society, the films she reviewed from her native Britain were studio features, and the market had been flooded with Hollywood features, many of which she personally admired. Even foreign works she viewed which had been readily accepted by the public

³⁷ Wasson, *Museum Movies*, 164.

as a higher form of art than most cinema, such as *The Cabinet of Dr. Caligari* and *Battleship Potemkin*, had been produced within studios with large budgets. Her primary interest was in studio produced, narrative cinema, and for the most part it remained as such. Likewise, funding for the Film Library came from John Hay Whitney, who funded studio works and would receive personal benefits from the further legitimization of cinema as an art form. Thus, it follows that Barry and Abbott first worked to obtain motion pictures from the Hollywood studios, then visited Europe to find copies of works representative of other national cinemas.

Barry and Abbott travelled to Hollywood in 1935 in an attempt to obtain prints of films for MoMA's collections.³⁸ This business trip lasted five weeks, and the highlight was a large-scale party that Mary Pickford hosted at her and Douglas Fairbanks' mansion, Pickfair. John Hay Whitney covered the costs of the event. Guests included Pickford, Harold Lloyd, Walt Disney, Mack Sennett, the heads of several studios, and dozens of other individuals from the business and creative sides of the industry. Barry and Abbott programmed a screening of films and excerpts from the beginning of cinema to the present, affecting strong emotions by allowing guests to see younger versions of themselves, or colleagues who had passed away. Much of the creative talent present was convinced of the value of having their motion pictures held and screened by the Museum, making examples of their art more easily available for critical appraisal. Some actors who retained the negatives and rights to their films after production, such as Harold Lloyd and Mary Pickford, eagerly agreed to provide materials for the Film Library.³⁹ At the end of

³⁸ Wasson, *Museum Movies*, 130-6; Sitton, *Iris Barry*, 195-204.

³⁹ Wasson, *Museum Movies*, 136-7.

the trip, though, the studio executives – including those present at Pickfair – had not been convinced to cooperate.

Barry learned soon after her return that the west coast trip was the wrong strategy, since she “recognized that the bulk of control of feature films rested with studio lawyers in New York, primarily concerned with maximizing profit by treating films as legal abstractions rather than complex cultural ones.”⁴⁰ The studios were concerned that releases of their older films would compete with their new releases, and they had no interest in profiting an outside organization at their own expense. Thus, Barry created a legal framework in 1935 under which studio films would be available to MoMA two years after their initial release, at which point they would presumably be gone from theatres. The studios would retain the copyrights to these works, but MoMA could screen the films and lend copies to other institutions on the condition that no profit was derived from these activities. MoMA could limit its own screenings to individuals who had paid admission to the Museum as a whole, however, and in reality this did lead to an increase in attendance. In short, MoMA could promote films as art as long as it was not a direct revenue stream that could detract from the studios, and the Hollywood industry would benefit from its productions being elevated to the level of high art. This framework led to a quick succession of agreements with studios and producers, including Warner Bros., MGM, Twentieth-Century Fox, Paramount, and Disney.⁴¹ Barry selected only certain films, creating a curated collection that conformed to her personal tastes. She specifically focused on gathering silent films that she saw as being at risk for neglect and loss, due to

⁴⁰ Wasson, *Museum Movies*, 137.

⁴¹ Wasson, *Museum Movies*, 138.

decreased perceived value to studios and exhibitors in the wake of the shift to sound. Beyond lending the Film Library negatives for the production of prints, though, the motion picture industry contributed very little financially to MoMA in the ensuing years. With this imperfect agreement in place to bring motion pictures outside of the studios' control, the Film Library moved on to building its international collections.

The MoMA Film Library and International Collaboration

Barry and Abbott traveled throughout Europe and the Soviet Union in 1936 to observe the operations of peer film archives and to negotiate for prints of significant works that they hoped to add to MoMA's collections. These foreign film institutions took various forms, but they were creating film collections that were far more "national" than MoMA or any other American institution could claim to be at the time. The most obvious instance of government influence over film was Germany's national film archive, the Reichsfilmarchiv, opened in 1935 as part of Joseph Gobbel's Ministry of Propaganda, with the preservation of German cinema being seen as means to promote German culture.⁴² Other totalitarian states, such as Italy and Soviet Russia, had not yet created formal national film collections, but they made use of cinema for propaganda purposes. Due to total or near complete government control over these nations' film industries, negotiations for prints in these cases took place between Abbott, Barry, and national government officials.

Other film institutions and industries maintained far more autonomy from their national governments, but still promoted goals that the government saw as beneficial. The British Film Institute was formally founded in 1933 with a primary focus on aiding in the

⁴² Wasson, *Museum Movies*, 115.

circulation of nontheatrical educational films.⁴³ However, by 1936 it was in the midst of a major shift to focusing on building a national film collection consisting of British nontheatrical and studio-produced films, as well as developing a library and its own publications to support cinema as a legitimate art form. The BFI's primary source of funding came from a tax on all Sunday theatrical motion pictures screenings, for both British and foreign films, allowing the government to use public funds to promote British cinema as art and strengthen its national industry. The Cinémathèque Française, meanwhile, was formed in 1936 by private collector and cinephile Henri Langlois, who had run screenings around Paris during the prior years.⁴⁴ The Cinémathèque later survived World War II thanks to Langlois' efforts to hide French films from deliberate Nazi destruction.⁴⁵ Although the organization remained officially private, the French government provided most of its funding following the war, thereby promoting and protecting national film culture.⁴⁶

MoMA would have likely been successful in obtaining prints due to cross-institutional collegiality and its ability to provide access to prints of American films, but the political situation in Europe further facilitated these acquisitions.⁴⁷ The propagandistic mission of the Reichsfilmarchiv made the institution eager to provide examples of German culture to outside audiences and, quite fortuitously, Barry and

⁴³ Geoffrey Nowell-Smith, "Foundation and Early Years," in *The British Film Institute, the Government, and Film Culture, 1933-2000* ed. Geoffrey Nowell-Smith and Christophe Dupin (Manchester: Manchester University Press, 2012), 14-33.

⁴⁴ Richard Roud, *A Passion for Films: Henri Langlois and the Cinémathèque Française* (Baltimore: Johns Hopkins University Press, 1999), 13-28.

⁴⁵ Roud, *A Passion for Films*, 47-57.

⁴⁶ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 44.

⁴⁷ Wasson, *Museum Movies*, 115-17. Decherney, *Hollywood and the Culture Elite*, 134-7.

Abbott arrived before most works by Jewish artists had been destroyed or heavily censored. Only a single film they requested, *The Blue Angel* (1930), was withheld, due to charges of it being pornographic.⁴⁸ Meanwhile, other nations remembered the massive number of European films that had been destroyed during the World War I, many of which were physically deconstructed to reclaim chemicals and other materials that would be of use for the conflict.⁴⁹ As film archives and other associated institutions had recently emerged in these nations, so had a greater awareness of the cultural value of the films that had been lost. This led to contacts in several countries, including France, Belgium, and Italy, being eager to provide prints of significant cultural works to MoMA, which would almost certainly be far from the front lines.

These visits led to the formation of the International Federation of Film Archives, better known by its French acronym of FIAF.⁵⁰ The purpose of the organization was to foster cooperation between institutions that held films, but specifically did not commercially exploit them.⁵¹ Initial members of this organization included MoMA, the BFI, the Reichsfilmarchiv, and the Cinémathèque Française, the last of which acted as the secretariat for the organization. The representatives of these archives remained apolitical and promoted cross-institutional collaboration despite the looming international conflict, meeting in Paris in June 1938 and in New York the following year.⁵² A planned meeting in Berlin in 1939 was cancelled due to the outbreak of the war, and the activities of FIAF

⁴⁸ Decherney, *Hollywood and the Culture Elite*, 137.

⁴⁹ Wasson, *Museum Movies*, 115-7.

⁵⁰ For an overview of FIAF, its members, and relations between different international archives from its founding into the 1990s, see Houston, *Keepers of the Frame*, 60-77.

⁵¹ Houston, *Keepers of the Frame*, 60.

⁵² Houston, *Keepers of the Frame*, 60-1;

were put on hold. The organization resumed its operations after the war, although without the Reichsfilmarchiv, which was dissolved with the fall of Hitler's Germany. FIAF has continued to grow over the ensuing decades. Its stance of political neutrality remained the status quo moving forward, with the organization promoting discussions between members from both sides of the Iron Curtain during the Cold War.⁵³ While the MoMA Film Library may have been able to remain politically neutral prior to the war when dealing with its foreign peers, however, it was far from apolitical in its actions at home.

MoMA, Cinema, and the Promotion of American Policy

Although MoMA was officially a private organization, it became a significant instrument of American public policy from the mid-1930s through the end of World War II. As a whole, "MoMA worked directly for at least twenty-one different government agencies during the war, executing at least thirty-eight contracts for over \$1.5 million."⁵⁴ While the full range of these government-funded or collaborative activities is outside of the scope of this dissertation, Decherney considers the specific activities the Film Library undertook that advanced government policy.⁵⁵ Throughout the war, the staff of the Film Library facilitated the analysis of enemy propaganda films, distributed motion pictures that were designed to advance the nation's policy positions, and worked to bolster American identity through the canonization of cinematic art.

Prior to the war, "the Film Library's first foray into presenting foreign films as *foreign films* rather than as influences on American film came when MoMA was invited

⁵³ Western archives' cordial dealings with Soviet film archives are documented in Houston, *Keepers of the Frame*, 67-8.

⁵⁴ Decherney, *Hollywood and the Culture Elite*, 143.

⁵⁵ Decherney, *Hollywood and the Culture Elite*, 123-60.

to show political documentaries to an audience of diplomats, government officials, and reporters on May 10, 1936, at the Mayflower Hotel in Washington, DC."⁵⁶ This program included clips from Leni Riefenstahl's Nazi propaganda documentary *Triumph of the Will* (1935), the entirety of British public information films *The Face of Britain* (Paul Rotha, 1935) and *The Color Box* (Len Lye, 1935), and Pare Lorentz's 1936 film *The Plow that Broke the Plains*, which was produced by the American government's Resettlement Administration to promote the President's agricultural policies.⁵⁷ John Abbott argued to the audience that Lorentz's film was an outlier, with the overall program demonstrating how other nations were ahead of America in using documentary cinema as an instrument for mass politics. This understanding of propaganda remained a key function of the Film Library into the war. The Mayflower Hotel screening was a major factor in the United States government choosing to provide MoMA with a contract to evaluate foreign propaganda films and provide analyses to Office of War Information and other agencies to facilitate understanding of the enemy and to aid in the production of American documentaries.⁵⁸ The Film Library also received government funding to re-edit existing films for propagandistic purposes, translate films that could promote American policies into other languages for foreign distribution and, in limited and questionably successful cases, use its expertise to produce its own propaganda films for foreign distribution by the government.

Additionally, President Roosevelt appointed the president of MoMA's board of trustees, Nelson Rockefeller, to head the Office of the Coordinator of Inter-American

⁵⁶ Decherney, *Hollywood and the Culture Elite*, 134.

⁵⁷ Wasson, *Museum Movies*, 140; Decherney, *Hollywood and the Culture Elite*, 133-5.

⁵⁸ Decherney, *Hollywood and the Culture Elite*, 146-50.

Affairs (CIAA).⁵⁹ In this position, Rockefeller oversaw various artistic initiatives designed to foster mutual understanding between the peoples and governments of the United States and Latin America, thereby diminishing the allure of Axis influence. A significant part of these activities included producing and distributing films by American filmmakers which showed these foreign nations in a positive light. Some high-profile projects involved well-known filmmakers, such as Walt Disney and Orson Welles, and were distributed by the Hollywood motion picture industry.⁶⁰ However, many of the films produced under these initiatives were short documentaries and other nontheatrical works that were created for distribution to schools and local civic organizations in the United States. Rockefeller arranged for MoMA to receive the government contract to maintain and distribute these films, allowing the Museum to use its preexisting distribution network to spread artistic information that furthered American policy interests.

Likewise, one of MoMA's Rockefeller Foundation funded projects during the war was exiled German scholar Siegfried Kracauer's analysis of German cinema from the Weimar period to Hitler.⁶¹ The prints Kracauer viewed had either been acquired by the Museum before the war or captured by the American military during the conflict. The initial result of this research was a 1942 pamphlet analyzing Nazi cinematic propaganda and the mindset of the German citizenry it influenced, with Kracauer expanding this into the classic film studies text, *From Caligari to Hitler*, in 1947. This latter work used cinema to provide a psychoanalytical assessment of the mindset of the German people and how it could lead to allowing the Nazi government to take power.

⁵⁹ Decherney, *Hollywood and the Culture Elite*, 143-50.

⁶⁰ Decherney, *Hollywood and the Culture Elite*, 144-6.

⁶¹ Decherney, *Hollywood and the Culture Elite*, 150-7; Wasson, *Museum Movies*, 125-45.

The government's film-related wartime activities, including those described above and the government's considerable collaboration with the Hollywood film industry, fostered an understanding of how maintaining a national cinematic record was invaluable in maintaining a culture. Just as the Museum was using German cinema to document how that nation's people could fall to the allure of Nazism, MoMA was in discussions with the LoC about how motion pictures produced in the United States could be used to show positive aspects of the American character. Although MoMA now had a decade of experience in collecting motion pictures for screenings and circulation, the goal of the LoC partnership would be safekeeping films for future generations.

The Library of Congress, a National Film Collection, and Early Preservation Methods

In 1942 Librarian of Congress Archibald MacLeish negotiated with the Rockefeller Foundation to obtain funding to create the first curated national film collection for the United States, charging the staff and affiliates of MoMA's Film Library with viewing and selecting works to be preserved at the LoC.⁶² This included filling in some of the significantly gaps left by the LoC having chosen to not collect films in an ongoing manner since 1912. This process involved many of the techniques used by Kracauer in his analysis of German cinema. Indeed, Kracauer was consulted during the development of this initiative, and Barbara Deming, who oversaw the effort, went on to publish her own psychological history of American cinema, *Running Away from Myself*.⁶³ However, unlike Kracauer's own project, which showed how a nation's cinema

⁶² Decherney, *Hollywood and the Culture Elite*, 153-7; Jones, *The Past is a Moving Picture*, 35-40; Frick, *Saving Cinema*, 43-50.

⁶³ Decherney, *Hollywood and the Culture Elite*, 153.

reflected its decline into immorality, the American collection would reflect the mindset of a resilient people.

Since it was one of the few government agencies equipped to store nitrate film, the LoC further expanded its motion picture activities by becoming the repository for films produced by Axis powers that were seized by the Justice Department's Office of Alien Property.⁶⁴ The LoC then distributed these films or parts of their content to other government agencies that needed the materials for their own research purposes.

MacLeish also changed copyright registration requirements for studio produced feature films, requiring that studios submit a copy of these motion pictures to the LoC. He did not do this for other types of films, including nontheatrical works, since the high cost of making additional prints could be a hardship on the producers of these motion pictures. However, from this point forward the LoC began to collect most of America's annual feature film output.

Therefore, Decherney argues that while MoMA's film exhibition programs "were designed to persuade audiences of the dominance of American culture; the LoC's collection was meant to control the conclusions of future historians about that culture."⁶⁵ The initiators of this program had hoped that it would create a permanent collection and allow the LoC to continue to collect important American cinematic works, but Rockefeller and government funding did not continue past the war. This curated film program of the LoC was shut down in 1947 as the result of its high costs, which were particularly acute due to the expense of properly storing volatile nitrate film.⁶⁶ Support

⁶⁴ Spehr, "Education of an Archivist," 152-3.

⁶⁵ Decherney, *Hollywood and the Culture Elite*, 156.

⁶⁶ Spehr, "Education of an Archivist," 152-3.

for film activities became sporadic after this point, with a short period of storing and providing access to additional foreign, captured films that came into the United States government's possession after the war, as well as inconsistent collection of American-produced motion pictures. The Library continued to use copyright provisions to collect many of the feature films released in the United States each year, but this was no longer a well-curated collection of Hollywood films that involved searching out past works that had previously been neglected. Thus, a global political crisis that forced the nation to reaffirm its identity led to the creation of the LoC's national film collection, while the dissolution of this crisis permitted the decline of this project.

The main motion picture challenge that the LoC was willing to support was the problem of holding thousands of potentially explosive nitrate film reels in its collections. As Paul Spehr noted:

During the 1940s and 1950s, and into the 1960s, the principal duty of the Motion Picture Section was destroying film. And thousands of reels were destroyed in 1958, when the Library received the first appropriation to preserve the collection, one of the justifications was that after being copied to nonflammable acetate, the nitrate originals could be destroyed. In 1958, the meaning of film "preservation" was copy and destroy. We had much to learn.⁶⁷

Remaining nitrate materials were shifted to an off-site facility in nearby Suitland, Maryland, where they would pose less of a threat. Such treatment of nitrate materials at this stage was the rule rather than the exception during this period. The volatility of nitrate stock had been a commonly known problem since the birth of cinema, but its

⁶⁷ Spehr, "Education of an Archivist," 153.

physical instability and seemingly inevitable decomposition gradually became evident over the decades, since materials needed time to disintegrate. Film preservation had primarily been focused on storing and providing access to motion pictures for decades, but the late-1940s and early 1950s saw a shift to institutions that held films taking action to prevent the loss of content as a result of the physical deterioration of films. Although the LoC, MoMA, and others knew that transferring films of one chemical composition to that of another inevitably led to an alteration to the original material and a loss of visual quality, such a shift was seen as the only option. The field was years away from realizing that the life of nitrate could be significantly increased if the material was kept at freezing or near-freezing temperatures, and that while acetate film was not flammable, it was prone to vinegar syndrome and other forms of decomposition.

The LoC continued to fund film preservation, rather than just collecting and storage, each year from 1958 onward, largely as a way to manage its potentially dangerous nitrate collections.⁶⁸ One significant activity that the Library did permit outside of this scope was the transfer of the paper print collection back to film, albeit to 16mm form rather than to more optimal 35mm stock.⁶⁹ Despite some growth in the collection over this time period, the LoC did not have funds to provide access to films to researchers and, therefore, much of the collection would remain largely inaccessible until the provision of greater funding in the late-1960s, with the founding of the AFI.⁷⁰ MoMA would remain the most significant cultural heritage institution offering access to

⁶⁸ Spehr, "Education of an Archivist," 153.

⁶⁹ Spehr, "Education of an Archivist," 151, 163.

⁷⁰ Spehr, "Education of an Archivist," 155-7, 165-8.

historical motion pictures until this time, with one other major organization entering the field in the 1950s.

The George Eastman House Enters the Film Preservation Field

MoMA and the LoC were joined by another American film archive in collecting studio made fiction films in the early 1950s. The George Eastman House (GEH) opened as the International Museum of Photography in Rochester, New York, home of the Eastman Kodak company, in 1949.⁷¹ Although the Museum initially concentrated on still photography, an expansion to include a secondary focus on the other major art form that George Eastman's invention of photographic film facilitated, the motion picture, was a natural progression. James Card, a former Eastman Kodak employee who was hired by the Museum prior to its opening to create educational films about photography, would become its first Curator of Motion Pictures just a few years later. Card had started personally collecting 16mm films as a teenager in 1932, when he was involved with a small film club in his hometown.⁷² In the ensuing years he gathered 16mm and some 35mm prints from distributors, fellow collectors, and other sources, resulting in a collection of 850 titles when he assumed his curatorship. After the Museum used funds donated by relatives of George Eastman to build the Dryden Theatre in 1951, Card initially used his own films for the public screenings he curated, eventually selling his entire collection to the Museum in 1957. Prior to the founding of the AFI, the Museum's film exhibition series in Rochester remained the its primary motion picture related

⁷¹ Herbert Reynolds, "'What Can You Do for Us, Barney?'" Four Decades of Film Collecting: An Interview with James Card," *Image: Journal of Photography and Motion Pictures of the International Museum of Photography at George Eastman House* 20, no. 2 (1977): 13-30.

⁷² Reynolds, "'What Can You Do for Us, Barney,'" 15-9.

activity, with the establishment and considerable expansion of its film archive designed to support this ongoing, locally-focused program.⁷³

GEH developed connections with Hollywood to borrow negatives of films, make a print for the Museum collection using Kodak equipment, and then return the original source material.⁷⁴ Although some films were copied to 16mm stock due to budget restraints, the standard action for the archive soon shifted to making 35mm prints of all borrowed films. Just as Iris Barry's own interests had major implications for the films selected for MoMA, Card had full control over which films GEH requested from the Hollywood studios for copying.⁷⁵ Since nitrate films often deteriorated or were intentionally destroyed for safety reasons, many of GEH's acetate copies have become the best surviving versions of motion picture titles. Card also recognized the inherent flaws in allowing curators' biases to shape a collection and acted to specifically counter some of Barry's decisions, ensuring the GEH would obtain prints of films of artistic merit or interest that had not been to her liking. Since GEH built film vaults that could handle nitrate materials on its facilities, the organization also compensated for MoMA's contemporary lack of adequate storage space by storing some of its materials, allowing GEH to copy many of these rare motion pictures for its own collections.⁷⁶ These types of duplicated materials would form the core of GEH's film collections until the mid-1960s,

⁷³ In 1967 the *Stanford Report*, a document that is described in the next chapter, said of GEH at the time: "As a privately endowed organization, activities tend to be localized," meaning limited to screenings and research on site at the International Museum of Photography. See Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 85.

⁷⁴ Reynolds, "'What Can You Do for Us, Barney'," 19.

⁷⁵ Reynolds, "'What Can You Do for Us, Barney'," 20.

⁷⁶ Reynolds, "'What Can You Do for Us, Barney'," 23.

when collaborations with film studios – as discussed in chapter four – resulted in significant acquisitions of original negatives of studio motion pictures.⁷⁷

Although Card recognized his own subjectivity and attempted to counter the biases of some of his colleagues at other institutions, he willingly admitted that the GEH film collections were actively shaped by his “curatorial preference and prejudice.”⁷⁸ Card had little personal interest in documentaries, and he stated that he was “not too concerned about so-called ‘avant-garde’ films.”⁷⁹ He considered all films to be artistic experiments, and avant-garde works were merely incomplete experiments lacking narratives and other elements that separated them from films produced by studios, which were fully realized artistic works. GEH was not alone in promoting certain biases in its collections, and such actions by archives would shape contemporary understandings of cinema.

⁷⁷ Pierce, *The Survival of American Silent Feature Films*, 1-2, 6-7.

⁷⁸ Reynolds, “‘What Can You Do for Us, Barney’,” 24.

⁷⁹ Reynolds, “‘What Can You Do for Us, Barney’,” 25.

Timeline

1890s - 1912: No federal copyright provisions for motion pictures. The Copyright Office of the LoC receives copies of films printed onto paper, allowing producers to register their works as a series of individual photographs. This creates what is now known as the Paper Print Collection.

1912: Changes to copyright law allows for the copyright of motion pictures. The Copyright Office of the LoC creates new guidelines to allow films to be registered through the submission of scripts, still photographs, and other ancillary materials from the production.

1934: National Archives founded. The preservation of government-produced films is part of its mission from the beginning.

1935: MoMA Film Library begins operations. John Abbott is its first director, and Iris Barry is its first curator.

MoMA negotiates agreements with film studios to allow the Film Library to collect and screen theatrically released motion pictures after their initial run. MoMA is also allowed to distribute 16mm copies of some of the films it acquires to nonprofit institutions around the nation. This is all under the condition that no profit is derived from these activities.

1936: Abbott and Barry visit Europe to collect films from other nations. Collaboration and collegiality between archives leads to the creation of the International Federation of Film Archives, better known by its French acronym of FIAF.

1942: MoMA and the LoC form a partnership to create a curated collection of motion pictures at the latter. While MoMA's collections are selected based on artistic quality, the LoC's collection is meant to reflect culture and history from recent decades.

Librarian of Congress Archibald MacLeish alters copyright deposit requirements for studio produced motion pictures. The LoC begins collecting major releases for each year.

1947: Curated film program at the LoC ends, due to budget cuts. The LoC continues to collect theatrically released films for the current year through copyright deposit requirements.

1951: GEH begins film collection and exhibition programs.

1958: The LoC funds a small number of employees to work with motion pictures, primarily for the purpose of copying nitrate film to acetate stock. Nitrate materials are disposed of after copying, due to their volatility and perceptions that their decay is inevitable.

Forgotten Films: Why Large Archives Ignored Avant-Garde and other Nontheatrical Works

The lack of discussion above about MoMA and LoC's collections of independent, avant-garde, educational, and other non-mainstream films is not an oversight on the part of the author. These types of motion pictures were poorly represented at both institutions. The LoC had collected 188 newsreels and 62 documentaries during the collecting program that had been initiated during World War II, but this was exceeded by the 603 reels of theatrical, narrative film collected in the same program.⁸⁰ The LoC also made an effort to collect documentaries, films that showed technical progress in the form of cinema, cartoons, and other works beyond feature films from the 1940s through 1960s, but the copyright deposit mandate only applied to feature films.⁸¹ The collection of contemporary feature films grew at a much faster rate, since the LoC had to purchase these other works with its limited budget.

MoMA, meanwhile, did collect a limited number of avant-garde works for its circulated programs and exhibited some of these works in occasional curated programs from the 1930s onward. However, Iris Barry admired Hollywood cinema and other, foreign theatrical filmmaking trends, and both she and several of the trustees of the Museum had strong ties to the industry. This led to narrative films comprising a much larger part of the collection and receiving more screen time. Barry also actively blocked several notable avant-garde filmmakers from screening their works at her institution.⁸²

⁸⁰ Spehr, "Education of an Archivist," 152.

⁸¹ Spehr, "Education of an Archivist," 157.

⁸² Decherney, *Hollywood and the Culture Elite*, 169-76. This is not an overstatement. Decherney notes that Barry not only prevented acclaimed avant-garde filmmaker Maya Deren from accessing the Museum as a

Therefore, Decherney argues that “in the United States, MoMA worked with the National Endowment for the Arts, the American Film Institute, and private arts foundations to preserve the impression that Hollywood was the source of American film art, actively discouraging alternatives.”⁸³ This included the curators and trustees of MoMA – some of whom were consultants in the establishment of the NEA – taking actions to exclude independent filmmakers such as Jerome Hill and Jonas Mekas from being a part of the initial film plans of the endowment.⁸⁴ This exclusion from desired government support led to Hill using his own wealth to establish Anthology Film Archives in New York in 1969 as a home for avant-garde cinema.

Beyond the established connections between the government, the film industry, and arts administrators, it appears that avant-garde film “was excluded from government funding out of hand, for ideological reasons: it was stridently anticapitalist and appeared, to the relevant arts administrators anyway, to be un-American.”⁸⁵ Painting, sculpture, and other artistic works worthy of display and preservation had established histories of being created by sole geniuses with relatively profit and distribution potential when compared to mainstream films, but in contrast, Hollywood had spent decades legitimizing commercially-produced cinema as a legitimate, artistic form. Therefore, “while the NEA, MoMA, the Rockefeller Foundation, and other institutions devoted themselves to funding avant-garde art in every other medium, they supported Hollywood film.”⁸⁶

screening venue, but that she also worked to block her from receiving funding from various arts foundations.

⁸³ Decherney, *Hollywood and the Culture Elite*, 206.

⁸⁴ Decherney, *Hollywood and the Culture Elite*, 162-3.

⁸⁵ Decherney, *Hollywood and the Culture Elite*, 168.

⁸⁶ Decherney, *Hollywood and the Culture Elite*, 162.

Just as the CIA, the United States Information Agency, and other government agencies funded foreign tours of abstract painting and sculpture during the Cold War to convey concepts of American exceptionalism and the importance of individual expression – which was rather important in the face of the Communist threat, seen as dependent on conformity – the government assisted the Hollywood industry with the export of films for largely the same reason. This paradox continued to impact government support for film preservation, with this funding primarily helping to save American studio films and their antecedents, such as early cinema fiction films and silent features that preceded the studio system. As discussed in detail in chapter four, avant-garde works, educational films, home movies, and other nontheatrical motion pictures received only a small fraction of the federal government dollars spent on film preservation until the 1990s.

Conclusion

MoMA, the federal government, and the film industry collaborated to foster trends that shaped the beginnings of film preservation in the United States. Hollywood cinema had been promoted as the pinnacle of American motion picture art due to the taste of curators such as Iris Barry and James Card, financial benefits from legitimization as perceived by studio heads and Museum trustees who had invested in the film industry, and government officials who saw these works as being capable of conveying and reinforcing American values and culture. This advancement of popular cinema as art led to increased scholarly interest, as well as a greater desire to preserve these works and make them available for study and public viewing. However, funding for projects that would promote access and preservation were highly inconsistent, leading to the neglect of

much of America's cinematic record. Even when cultural heritage institutions were able to acquire certain films, access to these works were often limited or nonexistent.

Additionally, other nations had greater motivations to form collaborations between their film industries and governments, including the primary motivator needing to prevent United States film exports from suppressing these industries and the cultural reinforcing aspects of nation's film output. Since the United States did not face such threats, it lagged behind other nations in institutionalizing activities meant to promote cinema as cultural heritage and art.

Considering this situation, various stakeholders took an interest in creating a formal organization that would, among other activities, promote the preservation of and greater access to American motion pictures that were perceived as having cultural and artistic value. The next chapter discusses three proposals to provide institutional support for these activities, with the plan for the National Endowment for the Arts to create an American Film Institute in 1967 being the only one that came to fruition. Since the AFI was founded as a government-funded organization, it is logical that its formation followed past trends described above, promoting a bias towards Hollywood cinema and attempting to further the three-way collaboration between the government, major film studios, and cultural heritage institutions. The continuation of these trends would alienate and upset certain stakeholders, including independent filmmakers and academics who saw value in motion pictures produced outside of the studio system.

Chapter 3: Before the AFI: Proposed Plans for the Promotion of American Film Heritage

Introduction

Decades of interaction between cultural heritage institutions, film studios, and the government furthered the legitimization of cinema. Other art forms such as painting and sculpture had reached the status of high art through development in Europe, and many of the oldest and most enduring masterpieces of literature in America's dominant language were written in England. Cinema, on the other hand, largely developed in the United States and many of its greatest works were distinctly American. As discussed in the previous chapter, recognition of films as carriers of American values and exceptionalism fell in line with the needs of the federal government, which perceived the benefits from the export of these films to foreign audiences and their preservation as artifacts of national culture and history. Despite this perhaps contestable claim to ownership over much of cinema's development, however, the United States differed from most European nations and the Soviet Union in that it did not have an official government-funded organization that was tasked with promoting or preserving American motion picture art as its primary purpose.

The federal government moved to remedy this inequity with its international counterparts in 1965. The same legislation that authorized the National Endowment for the Arts (NEA) also contained provisions that would allow the organization to found an American Film Institute (AFI) as a nongovernmental nonprofit that would receive part of its annual funding from the NEA. This organization ultimately attempted to enact

numerous activities to promote cinema as an art form, with the training of American filmmakers being the primary means of elevating motion picture art. Cinematic masterpieces would be preserved as reference material for developing filmmakers and materials for scholars to use in writing about the art of cinema, while screenings of these films would cultivate more discerning audiences. The planning document for this organization, developed by the Stanford Research Institute, is discussed in detail in the final part of this chapter.

However, the formation of the AFI in its eventual form as a private but government-funded organization was never definite, nor was the placement of its eventual activities within its purview. The academic community attempted to start their own AFI several years before the NEA took its actions to do so, and a government agency created plans to fill many of the roles the AFI eventually took on well before the Institute was founded. An academic proposal by film scholar Colin Young for a private, nonprofit AFI in 1961 would have formed an organization that would not have trained filmmakers, but instead would have preserved motion pictures for the purpose of scholarly research and aided in the distribution of non-Hollywood films of artistic merit throughout the United States. On the other end of the spectrum, the director of the Motion Picture Service of the United States Information Agency, George Stevens Jr., proposed an expansion of the activities of his office to better use Hollywood films as tools for international diplomacy. His plans included many of the tasks of the eventual NEA AFI, including training filmmakers and preserving classic motion pictures, but the purpose of such actions would have been to use cinematic art to show America in a positive light.

Both of these plans would fail to materialize, but Stevens would ultimately transition to becoming the founding director of the NEA-funded AFI.

The various, sometimes conflicting ideas in these plans for an AFI or greater government interaction with cinema all had precedents. Foreign film institutions varied greatly in their level of government oversight and funding, collaboration with the national film industry, nature of the films they chose to preserve and screen, and their balance between artistic and policy purposes. Government-funded activities for promoting cinema as art in some countries were overseen by the same organization that ran national film production training schools, while other nations kept such institutions separate or did not have any form of government-funded film training. Considering the difference in stakeholders and their needs in the American context, the following comparison of Young's academic proposal, Stevens' plans to expand USIA film activities, and the eventual report that would lead to the founding of the NEA AFI provides an essential context for understanding the reasons for the Institute forming in the way it did and stakeholders' reactions to its activities over the ensuing decades.

A Proposal for an Academically Driven and Nongovernmental AFI

In 1961, Colin Young published an article entitled "The American Film Institute: A Proposal" in *Film Quarterly*, an academic journal for which he was the Los Angeles editor.¹ Young formulated his ideas by speaking to numerous film scholars, critics, independent filmmakers, and other stakeholders at a conference that was held at Antioch College and co-sponsored by the Art Theatre Guild in 1960. Despite the shared name between Young's proposed organization and the eponymous institute that would be

¹ Colin Young, "An American Film Institute: A Proposal," *Film Quarterly* 14, no. 4 (1961): 37-50.

founded in 1967, the link is not as direct as one might assume. The name "American Film Institute" is an obvious variant on the long established British Film Institute, so this connection alone does not suggest that the founders of the eventual organization followed Young's lead. When George Stevens Jr. approached the legislators and other policymakers who were forming the NEA about including cinema in its activities through a semi-autonomous institute, he was unaware of Young's proposal.² He did learn of it later and acknowledged it had some good ideas, but much of the form of the AFI had already been planned out at this point. In 1966 President Johnson's subcommittee on the formation of an AFI met with Young informally to discuss his ideas, demonstrating that the planners knew of the proposal.³ However, he was not included in the formal planning stages of the NEA AFI, and the founders of the Institute were not beholden to his plans.

With this said, an analysis of Young's proposal is important to this history for two reasons. First, Young provided an analysis of the state of American film archives and access to motion pictures in 1961, which is useful in understanding the value of the role the AFI could play in improving the contemporary situation. Second, as discussed in detail in the next chapter, other academics would later cite Young's proposal when criticizing the AFI, chastising the organization for not fully following the spirit of his ideas. The proposal demonstrates that a significant number of stakeholders were interested in elevating appreciation of cinema as an art form within the United States, and they believed the most effective ways to do that were through facilitating the production

² George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

³ "Rootie-Toot, Film Institute!" *Variety*, February 9, 1966, 3, 22.

of better films and making it easier for as many people as possible to view films of artistic merit.

The Art House Scene and Contemporary Films of Artistic Merit

Young's study began under the auspices of the Art Theatre Guild, so his core arguments for the need for an AFI focused on several access issues for motion pictures that were produced in the United States outside of the Hollywood studio system. For recent foreign films and American independents, the two main means of seeing these works were through the limited number of art house cinemas in the United States or film societies and clubs that were usually associated with universities and student groups.⁴ Art houses generally had good projection, but theatres in most of the country lacked significant variety, following the lead of exhibitors in New York and Los Angeles. If a quality film was not first discovered and played in one of these major urban centers then it had little chance for broader American distribution. Film societies, meanwhile tended to have low-quality projection, but presented a greater variety of films. Since members of societies commonly joined on a subscription basis or attended screenings more out of loyalty to the club than interest in individual films, programmers could take more risks with content. Furthermore, since these groups were often formed by students and other individuals whose enthusiasm was often stronger than their long-term planning ability, these clubs would often dissolve as a result of a loss of or change in leadership.

Therefore, the primary function of Young's AFI would be to improve the state of American distribution for "uncompromising film[s] of international acclaim", allowing

⁴ Young, "An American Film Institute," 37-40.

these works to be distributed in proper movie theatres throughout the United States.⁵ This would be done by providing a clearinghouse of information on films, connecting various distributors to each other and providing publicity of films the AFI has determined to be of merit.⁶ In many cases these films would be circulated by established distributors, with the AFI providing additional promotional support to ensure that exhibitors could find the distributors and the screenings would be successful. However, in cases where a quality film could not find distribution, the AFI would act as a distributor itself. Likewise, while the AFI would not train filmmakers – Young would emphasize throughout the ensuing years he felt this task would be better left to established film schools – his organization would provide production funds for independent filmmakers who could not find support elsewhere.⁷ Under Young's plan, the primary means of financing for exhibitor support, filmmaking grants, and virtually all other activities would be the profits made from its own distribution activities.⁸ Considering that his plan focused on his AFI primarily distributing motion pictures that could not find a for-profit distributor and the organization would be giving grants to filmmakers that could not obtain backing from producers who expected to turn a profit, this fiscal model was highly optimistic and not grounded in market realities.

⁵ Young, "An American Film Institute," 37.

⁶ Young, "An American Film Institute," 38-9.

⁷ Young, "An American Film Institute," 49-50; "Secret Treaties (So Negotiated) Loom as Fear Re Film Institute; Say Decision Should Follow Debate," *Variety*, March 16, 1966, 11.

⁸ Young, "An American Film Institute," 49-50.

Barriers to Creating Film History

The proposed AFI would not only focus on contemporary motion pictures, but also enhance the appreciation of film as an art by improving access to cinematic classics. Beyond dealing with distribution problems for contemporary films, Young addressed past works by noting, “It has long been recognized, both inside and outside the industry, that a major reason for the paucity and unreliability of film scholarship has been the unavailability of the materials of study – the films themselves.”⁹ The Museum of Modern Art still circulated films to various organizations for a fee, but this form of access was impractical for individual researchers, who had to pay between \$15 and \$20, a considerable cost in 1961, for an individual viewing session of a single film. The George Eastman House provided access for a lower but unspecified cost, but the lack of a circulation program mostly limited access to the Rochester area. As for the major national institutions, “the Library of Congress and the National Archive[s] in Washington both have considerable archival responsibilities, but the film services are poorly supported by Congress, and the library staff is able to provide little more than a place for deposit.”¹⁰ In other words, prints of a large number of films existed at various archives, but they were either completely inaccessible or only available if scholars could afford considerable viewing fees or travel costs.

Since there were already several established film archives in the United States, Young saw no reason for his AFI to establish itself as a national film archive, as the BFI

⁹ Young, “An American Film Institute,” 41.

¹⁰ Young, “An American Film Institute,” 42.

and other foreign film institutes had done.¹¹ Additionally, the planners of the proposed Hollywood Museum – a project that would never materialize, with the organizers disbanding within a few years of Young’s proposal – had made an agreement to make duplicate prints of films held by MoMA, providing access to these materials on the west coast. Therefore, the best course of action for Young’s AFI would be to help existing archives to acquire films and determine their legal status. The organization would then provide ongoing support to enhance access to these materials. This would include the AFI using its distribution network to allow archival holdings to be screened throughout the country and provide resources, funding or otherwise, that would better allow researchers to access films. Like much of the proposal, the logistics of this plan were not fully addressed, nor were funding plans. However, Young clearly argued that the already established film archives in the United States were not achieving their full potential in terms of serving their constituents, and an outside organization could be designed to address these deficiencies.

Another considerable barrier to the study of cinema that the proposed AFI would address was the difficulty involved in finding information that went beyond the actual motion pictures. Young was concerned about the lack of available metadata about films, as well as an absence of catalogs to help researchers find related materials, such as scripts, stills, and other production materials.¹² On the former point, the Library of Congress provided information about films it held, including cast and crew information, but this type of metadata was not as well organized for the collections of other

¹¹ Young, “An American Film Institute,” 44-5.

¹² Young, “An American Film Institute,” 45-6.

repositories. Worse yet, such information was virtually inaccessible to researchers for many films that were only held by major studios as well as materials that were not known to exist in any collection. Fragments of information could be found, but a significant barrier to writing the history of American cinema was scholars' inability to verify the existence of a large number of films or find accurate data on the cast, crew, and release dates for particular titles. Likewise, related production materials had spread to various libraries and archives throughout the country, and while these repositories retained their own information about these holdings, no published union catalog of such materials existed. In the pre-digital age, before an Internet search could reveal the location of such materials, union catalogs were essential to the advancement of fields of historical research.¹³ Such cataloging systems did not ultimately materialize under Young's group, but the AFI that eventually formed under the NEA did pick up on these concerns. Furthermore, considering that a significant motivation for preserving cultural heritage works is to provide access to future scholars, the scholarly community and other stakeholders would regularly frame the better access provided by cataloging as a concern that went hand-in-hand with preservation activities.

Obstacles to Implementation and Competing Plans

Although Young was optimistic about his plan, he recognized key obstacles that he believed would be unique to the American situation, leading him to question how much his AFI could be compared to foreign film institutes. The first key issue was that "the institutes abroad are subsidized by the government and also sometimes by the trade,

¹³ The development of union catalogs was primarily an early 20th century phenomenon. For a history of the development of such collaborative catalogs, see Robert B. Downs, "American Library Cooperation in Review," *College & Research Libraries* 6, no. 2 (1945): 407-15.

and they were formed at a time when little else was being done in these countries of a similar nature.”¹⁴ Although Young did not expand on this, the context to which he was alluding is that smaller film industries in nations other than the United States faced challenges from American exports, prompting these national governments and industries to create film institutes as a means to promote national cinema culture, which would in turn keep national film production fiscally viable.¹⁵ Additionally, the author noted that, “these countries have entirely different geographic characteristics from the United States. The population of cinéastes and intellectuals has been more predictably centered around the capital – London, Paris, Brussels, Copenhagen, et cetera. Thus it had been possible to establish the institutes and give them a semblance of national authority.”¹⁶ For the AFI to be a truly national organization, it would need to reach beyond major urban centers such as New York that already had greater access to cinema broadly defined, instead tailoring its programs to the size and diversity of the United States. Young’s assertions that the need for an AFI was not as self-evident as it was in other nations and that its geographic scope needed to be ambitious would prove to be prescient, since the AFI would face the former issue as a barrier to funding and its inability to achieve the latter would become a regular source of criticism.¹⁷

¹⁴ Young, “An American Film Institute,” 43.

¹⁵ This problem was discussed explicitly in the planning stages of the AFI that was eventually founded by the NEA. See Peter D. Tilton, Charles K. Martin, Jr., and Carleton Green, *Organization and Location of the American Film Institute* (Stanford: Stanford Research Institute, 1967), 21-3, 41-4.

¹⁶ Young, “An American Film Institute,” 44.

¹⁷ Much of this criticism is discussed in the next chapter, but one of the most concise and pointed critiques of the AFI’s early years can be found in Ernest Callenbach, “The Unloved One: Crisis at the AFI,” *Film Quarterly* 24, no. 4 (1971): 42-54.

Considering these barriers and a lack of a realistic, well-formed funding plan, Young's ideas did not develop beyond a published proposal over the next several years. When *Variety* featured the front-page headline "Rootie-Toot, Film Institute!" on February 9, 1966, announcing that the NEA was supporting the formation of an AFI, the subheadline read "Born 1960 but Never Baptized."¹⁸ Young's organization was formed with a charter in 1963, but in the intervening years it had not been able to acquire funds for a basic staff or to support any of its planned activities. In 1966, the National Council on the Arts had allocated a budget of \$80,000 to a subcommittee to create its own proposal, to be executed by the Stanford Research Institute, on the founding of a new, government-funded AFI that would be completely separate from Young's organization. Although Young had not been asked to join this group, the committee was planning to meet with him and it was assumed that his previous ideas would be taken under serious consideration. Likewise, the director of the American Federation of Film Societies suggested that Young's previous proposal was still valid enough that the commission of a new proposal would be unnecessary. However, an unsigned follow-up article in *Variety* from five weeks later noted that the operations of the NEA's planning committee had "become a matter of increasingly deep concern to many knowledgeable film authorities who were initial endorsers of an already-incorporated body of the same name."¹⁹ Not only were Young and others being effectively excluded from the planning process, but the article accused the Stanford Research Institute of limiting its study to "a few private and secret consultations,"²⁰ rather than public debate that would draw in the film

¹⁸ "Rootie-Toot, Film Institute!" *Variety*, February 9, 1966, 3, 22.

¹⁹ "Secret Treaties (So Negotiated)," 11.

²⁰ "Secret Treaties (So Negotiated)," 11.

community as a whole. The *Stanford Report* ultimately engaged a larger range of individuals than these accusations implied, but suspicions that the committee was largely discarding the Young proposal in order to build on other plans were far from paranoia. The founding director of the AFI, George Stevens Jr., was active in these planning stages, and he had already formed ideas for the new Institute years before the NEA received permission to form the AFI.

George Stevens Jr., the USIA, and the Pre-Planning of the AFI

The selection of George Stevens Jr. as the founding director of the AFI is not surprising, and this choice was in place well before it was officially announced. Both Stevens and his acclaimed Hollywood director father had a history of government service, with the father making documentaries for the United States Army Signal Core during World War II and the son serving as a first lieutenant in the Army's 1365th Photographic Squadron from 1954 to 1956.²¹ After his Air Force service, Stevens worked as a producer and assistant director on several films by his father and other Hollywood directors. When newly inaugurated President John F. Kennedy appointed Edward R. Murrow to head the United States Information Agency (USIA) in 1961, the latter recognized that Stevens' professional and government service experience, combined with his support for Kennedy, made him an ideal candidate to oversee the agency's Motion Picture Service.²² Although Stevens initially intended to stay in this service role for only

²¹ MacCann, "Film and Foreign Policy," 30. Stevens Sr.'s military service is documented in detail in Mark Harris, *Five Came Back: A Story of Hollywood and the Second World War* (New York: Penguin, 2014).

²² MacCann, "Film and Foreign Policy," 29-30.

a short period before pursuing a career as a film director, he remained with the USIA until transitioning to the AFI in 1967.²³

Previous analyses of the development of the AFI have only mentioned Stevens' work with the USIA in passing, not linking this experience to his future work beyond establishing a connection to the federal government and a history of service.²⁴ An exception to this is Gracia Ramirez's research on the AFI's filmmaking activities, in which the author adeptly argues that Stevens' work for the agency significantly contributed to his ability to promote filmmaking of artistic quality within the AFI.²⁵ Ramirez did not, however, connect his time with the agency to his future work in film preservation and distribution, nor have other authors. With this said, a discussion of Stevens' work with this agency is essential to understanding the AFI for two reasons. First, these years at the USIA shaped perceptions of Stevens as a public servant and administrator, creating expectations for his later actions at the AFI. Some of the harshest criticisms of Stevens' activities at the AFI can be seen as reactions to these efforts not being similar enough to the initiatives he successfully oversaw at the USIA. Second, previously uncited archival documents demonstrate that by 1963 Stevens had already

²³ Stevens discussed his intentions to leave the USIA relatively early into his time with the Agency in a 1963 letter to Fred Zinnemann. He noted that he had never intended to remain in government service long-term, and hoped to return to producing in Hollywood or shift to directing. George Stevens Jr. to Fred Zinnemann, 22 September 1963, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

²⁴ For a typical example of these types of analyses, see Caroline Frick, *Saving Cinema: The Politics of Preservation* (Oxford: Oxford University Press, 2010), 75-6. Frick notes that "As the former chief of the United States Information Agency's film program, a 'Kennedy Pal,' and the namesake of an esteemed Hollywood director, George Stevens Jr. navigated both Washington and Los Angeles political circles." While this is technically accurate, and connections to his father and Kennedy undoubtedly helped Stevens in some ways, the archival documents discussed in this section and the author's personal interview with Stevens suggest that he was far more instrumental to shaping the AFI than previously acknowledged.

²⁵ Gracia Ramirez, "In the Best Interests of the Country': The American Film Institute and Philanthropic Support for American Experimental and Independent Cinema in the 1960s" (PhD diss., Edinburgh Napier University, 2013), 146-51.

formed ideas and projects that are similar to what would become the AFI's primary goals and activities. His plan was for these activities to be executed by the USIA Motion Picture Service. The similarity of these planned, but ultimately unexecuted, initiatives by the USIA, a government agency that was formed for public diplomacy purposes, and the activities that would ultimately form the core of the AFI's efforts aid in the discussion of the political implications of the AFI as an instrument of American public policy. To understand why Stevens felt that these activities would fit within the purview of the USIA, though, it is first essential to understand the nature of the agency's film-related activities.

The USIA's Motion Picture Activities

The USIA was an outgrowth of American information dissemination efforts during World War II.²⁶ The United States needed to reach the hearts and minds of foreign peoples throughout the war, while also countering enemy propaganda. The government established the Office of War Information (OWI) to perform this task. With the Soviet threat looming after the end of hostilities, the government saw value in maintaining controlled, foreign messaging. Since the OWI was a temporary agency designed to be dissolved after the war, the State Department took over this role until Congress established the USIA as an independent government agency in 1953.²⁷ The USIA acted as the government's public diplomacy arm from its founding until it was dissolved in 1998, due to a perceived lack of relevancy in a post-Cold War age.²⁸ A full discussion of

²⁶ The long, complex history of American public diplomacy, from World War II to the founding of the USIA, is discussed in Cull, *The Cold War and the United States Information Agency*, 1-80.

²⁷ Cull, *The Cold War and the United States Information Agency*, 93-6.

²⁸ Cull, *The Cold War and the United States Information Agency*, 482-5.

the difference between public diplomacy and propaganda as it pertains to the USIA is outside of the scope of this dissertation, but many of the agency's efforts to convey American ideals transcend the pejorative use of the latter term. The agency attempted to promote balanced and truthful news coverage through its Voice of America radio network, and it fostered international scholarly understanding through its administration of the Fulbright Program. Beyond these better known programs, though, the USIA also made a significant use of film to convey its public diplomacy message abroad.

Stevens oversaw the production and distribution of approximately three hundred motion pictures – mostly short documentaries – during his tenure.²⁹ These were primarily produced by filmmakers who were under contract to the government. Stevens' time with the agency was particularly notable for his efforts to elevate the agency's films from mere carriers of American policy messages to works of cinematic art. To achieve this, Stevens convinced those who oversaw the unit's budget that instead of following his predecessor's lead by attempting to find the lowest bid for a film project, he should be allowed to select filmmakers based on their abilities.³⁰ This resulted in a notable increase in quality for USIA films, with the agency supporting the early work of future notable filmmakers such as James Blue and Charles Guggenheim.³¹ As a result of this focus on quality, USIA films won numerous significant awards at foreign film festivals.

Additionally, the agency's films were generally not allowed to be shown in the United States, since federal law prevents the American government from propagandizing its own

²⁹ "George Stevens, Jr.," Academy of Motion Picture Arts and Sciences, accessed June 20, 2015, <http://www.oscars.org/governors-awards/ceremonies/honoree-bio/george-stevens-jr>.

³⁰ MacCann, "Film and Foreign Policy," 30-3.

³¹ MacCann, "Film and Foreign Policy," 33-9.

people.³² In several cases, though, Stevens received Congressional exemptions to this rule so that he could submit USIA films to the Academy Awards. In total, four of these films received Oscar nominations, one of which took home the award for best documentary.³³

The USIA also sought out other nontheatrical works, including works by other government agencies, which could be sent to its diplomatic posts abroad. With posts in over 100 countries, the USIA would screen these films in their cultural centers, loan them to film clubs, arrange for them to be shown before the main program at commercial cinemas, and even set up travelling exhibition vans in rural areas.³⁴ Just as MoMA became a major distributor of studio films throughout the United States, the USIA acted as a major distributor of American nontheatrical films throughout the world. Prior to the start of Stevens' tenure, the agency was also influential in creating the Council on International Nontheatrical Events, or CINE, in 1957.³⁵ This partnership between government and private industry selected nontheatrical films of merit that deserved to be sent to foreign film festivals, and the organization chose which films would be submitted to which festivals. The primary goal was to keep a glut of American nontheatrical films

³² This was established through the Smith-Mundt Act of 1948. Cull, *The Cold War and the United States Information Agency*, 40.

³³ MacCann, "Film and Foreign Policy," 39. Counting the total number of awards USIA films received would be arduous task, considering that these works regularly received awards at smaller festivals throughout the world. Furthermore, such an account would be outside of the scope of this dissertation. However, MacCann has noted some of the more important awards and nominations received during Stevens' tenure: "An Academy Award went to *Nine From Little Rock* in 1964 and a nomination to *Five Cities of June* (1963), *Cowboy* (1966), and *Harvest*, the Carroll Ballard film (1967), for best documentary. *The March* won first prize at the Bilbao documentary festival (1964) and the Cannes Youth Festival (1966). At Venice, *The School at Rincon Santo* won a first prize for human relations and *Letter from Colombia* won a Lion of St. Mark for documentary (1963)."

³⁴ Jennifer Horne, "Experiments in Propaganda: Reintroducing James Blue's Colombia Trilogy," *The Moving Image* 9, no. 1 (2009): 189.

³⁵ Anna L. Hyer to R.J. Stakem, 2 October 1964, Box 1, Folder 2, Records Relating to the Council on International Nontheatrical Events, 1961 - 1971, Records of the U.S. Information Agency, Record Group 306, National Archives at College Park, MD.

from all being submitted to the same film festivals, but a major side benefit was that the USIA and other government agencies could control America's image through the distribution of films to international festivals. While CINE was officially an independent organization housed in the National Education Association headquarters, a notable part of its budget came from the USIA and a significant number of the organization's board and jury members were current or former government employees.

Not only did CINE's operations continue under Stevens' tenure, but he also oversaw the formation of another short-lived organization, the Council on International Film Events. Under this program, representatives from the Motion Picture Association of America, the USIA, the Hollywood Guilds Festival Committee, the Association of Motion Picture Producers, and the Motion Picture Export Association selected American studio-produced feature films of merit to send to foreign film festivals such as Cannes and the Venice Biennale.³⁶ This organization was short lived, not because of a lack of interest on the part of the Hollywood creative community, but because of a failure of its business leaders. Studios often lagged in providing films to the selection committee, making it so that the members could not see films far enough in advance of major festivals to make recommendations.³⁷ The frustration resulting from this led to the members of the Council on International Film Events dissolving the group and

³⁶ George Stevens Jr. to Eric Johnston, 26 April 1963, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences. The Hollywood Guilds is an organization comprised of representatives from the various motion picture creative guilds, such as the Screen Actors Guild and the Directors Guild of America, allowing for collaboration between these organizations.

³⁷ Fred Zinnemann to George Stevens Jr., 30 May 1964, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

discontinuing its activities.³⁸ It may seem odd for the government to select films for foreign festivals, but this was the norm for other nations. As discussed later in this chapter, most European nations had much closer ties to their film industries, with government funding often being responsible for the survival of the studios and the existence of major national festival events.

Expanded USIA Film Plans and the Secret Origin of the AFI's Activities

Stevens himself noted that his interest in film preservation began in 1963, early into his tenure at the USIA. This was prompted by a chance meeting with Henri Langlois, founder and head of the Cinémathèque Française, when Stevens attended the Cannes Film Festival in an official government capacity in May 1963:

Henri Langlois accosted me, sat down and started this tirade about the failure of America to preserve its films. I was very ignorant of those circumstances and he was a missionary preserving films in Europe, but he also had this great love and affection for American films and it was provocative and stimulating. In the immediately ensuing years when we were planning the American Film Institute, it certainly put preservation at the forefront of my mind and made it a cornerstone when the AFI was founded.³⁹

One notable inaccuracy in this account is that Stevens did not wait for the ensuing years and the planning stages of the AFI to take action. Instead, previously unanalyzed archival

³⁸ Fred Zinnemann to Anthony Guarco, 8 October 1964, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

³⁹ McGreevey and Yeck, *Our Movie Heritage*, 68-9.

documents show that less than six months later, Stevens had leveraged his government position to receive direct, Presidential support for motion picture preservation.

On November 12, 1963, Stevens sent a letter to director Fred Zinnemann, detailing an initiative he planned to execute with the support of the Kennedy administration:

The President has agreed to have a luncheon at which he will call together the leaders of the motion picture community. This is something we have been working on for some time and I am very excited about it since it will accomplish two things. First, it will be the first time that the White House has come forth and recognized the motion picture as a major art, an important economic factor, and a primary psychological force in American life. The President will say as much to those present.⁴⁰

Stevens went on to explain that the White House intended to involve the Hollywood community in several projects. Anticipating the AFI's preservation activities by several years, he noted that the first of these projects "has to do with recognizing the crisis that exists with respect to the preservation of American cinema classics. I imagine you are aware of the rapid rate at which the early films are disappearing. A recent example – MGM is unable to find either a print or a negative of my father's film 'Woman of the Year,'" a film that had been produced in 1942, just twenty-one years earlier.⁴¹

⁴⁰ George Stevens Jr. to Fred Zinnemann, 12 November 1963, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

⁴¹ George Stevens Jr. to Fred Zinnemann, 12 November 1963. A print of this film has since been recovered and it is available on DVD.

Stevens went on to outline further initiatives that would be promoted at the gathering, stating that "another project is an exhibit of great American films which will be put together to travel around the world promoting American ideas and art as well as American films. The President will also speak in favor of bringing foreign students to this country to learn motion picture techniques (because USIA initiated all of this, his remarks will be limited to foreign students)."⁴² The focus on foreign students for filmmaking training was in line with the USIA's activities, including educational exchanges like the Fulbright program, which were designed to promote American values to foreign nationals. Additionally, the remaining goal of the luncheon was "to set up a committee to assist and coordinate whatever use might be made of leading film figures overseas."⁴³

Activities such as film preservation, the exhibition of motion picture classics, and training filmmakers would become the core activities of the AFI. However, the AFI's efforts would mainly focus on domestic audiences, rather than primarily targeting the nation's international public diplomacy needs. Most of the activities Stevens outlined for the White House luncheon clearly fell in line with the USIA's foreign public diplomacy mission, but there is no direct explanation of how film preservation efforts would be pertinent to the goals of the agency. Stevens listed this activity as he first of several in his letter, and he personally considered it highly important. In this single instance, Stevens' did not specifically plan for the discussions at the lunch to lead to an enhancement of the USIA's activities, but instead he hoped that the prestige of the Kennedy administration would spur Hollywood to action in the field of preservation.⁴⁴ Likewise, the goodwill

⁴² George Stevens Jr. to Fred Zinnemann, 12 November 1963.

⁴³ George Stevens Jr. to Fred Zinnemann, 12 November 1963.

⁴⁴ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

Stevens had built with the administration through the quality of films produced by his office provided him with the personal support of the President, creating expectations that the federal government would provide the resources needed to make the preservation of studio films happen.

In short, this proposed luncheon would have laid the groundwork for earlier initiation of variants of the AFI's core activities, putting these efforts under direct control of a government agency rather than a government-supported but autonomous, private nonprofit organization, as the AFI would be upon its founding. However, the White House luncheon never occurred. In a letter to Zinnemann dated December 21, 1963, Stevens stated that "I won't go into the feelings here over the President's assassination," continuing to note that "ironic and particularly sad was the fact that the invitations for the President's luncheon for the film community had been mailed the night before the assassination."⁴⁵ Despite this delay and shift of these plans from the USIA to the development of the AFI that would occur in the following years, it is clear that proposed activities such as film preservation and exhibition were seen as instruments supporting American policy objectives in a Cold War setting. Although this context would become less explicit moving forward, the United States government's perceived Cold War era needs would facilitate the shift of Stevens' ideas from the USIA to the NEA.

⁴⁵ George Stevens Jr. to Fred Zinnemann, 21 December 1963, Box 124, Folder 6, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

The NEA and the Stanford Research Institute

In 1965, the federal government passed legislation to create the National Endowment for the Arts, which was designed to promote American culture at home and abroad. This would be the first time that the United States took major action to support the arts since the 1930s and early 1940s, at which point the government saw these projects as a means to reduce unemployment among artists in the wake of the Great Depression.⁴⁶ The NEA, in contrast, was formulated in a time of national fiscal excess and low unemployment. The arts and this contemporary economic strength were combined to face a new challenge, since “in the context of the Cold War and the call to counter communism with something other than materialism, the spiritual and emotional effects of the arts potentially provide more than an individual benefit.”⁴⁷ Therefore, while the concept of offering the public entertainment and enlightenment through the arts was valued as an end in itself, such activities received government funding because they showed the ability of a capitalist system to enrich a national culture. Meanwhile, the founders of the NEA believed that the works of American artists would display a strong sense of individualism, providing a clear contrast to the conformity and censorship they saw as inherent in communist culture.⁴⁸

Since this was a program designed to highlight individuality and benefit all Americans, rather than just those in major urban areas who already had greater access to the arts, most of the funding distributed by the Endowment would go to support

⁴⁶ Shauna Saunders, “The Case for the National Endowment for the Arts: Federal Funding for the Arts in America in the 1960s and 1970s,” *Political Economy* 37, no. 3 (2005): 594.

⁴⁷ Saunders, “The Case for the National Endowment for the Arts,” 603.

⁴⁸ Saunders, “The Case for the National Endowment for the Arts,” 603-4.

individual artists and community art projects, such as local concert and theater programs.⁴⁹ Cinema was not initially included in the purview of the NEA, but Stevens used his position and connections in the government to urge the authors of the legislation that created the Endowment to include it, and for the White House to support such actions.⁵⁰ Following his ideas, the government directed the NEA to support this new art form by creating and providing funding to a newly formed, nongovernmental organization.⁵¹ The goal was to allow the AFI to maintain stability through annual government funding and achieve greater impacts through support from the major Hollywood studios, whose films were perceived as promoting individuality as competently as works of individual artists in other media.

The National Council on the Arts formed a Committee on Film to oversee the research that preceded the creation of the AFI. The National Council was formed prior to the creation of the NEA to advise the director of the latter on the nature of the Endowment's programs, and it continues to serve in this advisory role to date.⁵² George Stevens Sr. chaired the Committee on Film during this research phase, with the rest of its membership consisting of various Hollywood notables. Stevens Sr.'s placement on the Committee was a surprise to his son, and almost became an awkward situation when the AFI was being founded.⁵³ Prior to the creation of the Committee in 1965, Stevens Jr. reached out to Jack Valenti, then special assistant to President Johnson who would

⁴⁹ Saunders, "The Case for the National Endowment for the Arts," 607.

⁵⁰ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁵¹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 3-9.

⁵² "National Council on the Arts: History and Purpose," National Endowment for the Arts, accessed May 13, 2015, <http://arts.gov/about/national-council-arts>.

⁵³ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

become the president of the Motion Picture Association of America a year later in 1966, to urge him to include an explicit mention of the AFI in the President's speech announcing the NEA. Valenti agreed to this, and he asked Stevens for suggestions for candidates for the Committee on Film. Stevens suggested several individuals, including Gregory Peck, but he did not put forth his father's name. However, Stevens Sr. was ultimately chosen due to Valenti's respect for him, his past government service, and his prior organizational work as president of the Director's Guild. Although Stevens Sr. oversaw the initial planning of the AFI as chair of the Committee, he yielded this position to Peck out of recognition that his son was the presumptive appointee for the position of director, thereby avoiding the appearance of a conflict of interest.

The Committee on Film commissioned the Stanford Research Institute to create a planning and feasibility report on the creation of the AFI, which was funded by the NEA shortly after its creation in 1965. The resulting document was entitled *Organization and Location of the American Film Institute*, referred to henceforth as the *Stanford Report*.⁵⁴ The authors of the report, all researchers with the Stanford University's Stanford Research Institute, were tasked with initiating ideas for the best way to structure an organization that would, quite broadly, promote American cinema as an art form in the United States. They generated their suggestions for the formation of the AFI by consulting members of the advisory committee, other filmmakers and executives from the Hollywood film industry, staff at already established film institutions in other nations, faculty at various American universities, staff from American film archives, and more.⁵⁵

⁵⁴ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 3-4.

⁵⁵ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 4-5, Appendix A.

Despite this seemingly broad mandate and outreach to various constituencies, the research team followed certain preconceived guidelines. The Institute's ultimate combined focus on training filmmakers, preserving films, and exhibiting films were influenced by ideas formulated by George Stevens Jr. during his time with the USIA. The advisory board was also aware of the ideas put forth by Young in 1960 and likely borrowed from some of his concepts, but supporters of that plan felt somewhat sidelined in the process.⁵⁶ The inclusion of a filmmaking school explicitly went against their wishes. Likewise, when discussing attempts by filmmakers from the avant-garde and independent film communities to obtain part of the funding that was to be doled out once the AFI was founded, Decherney notes that "Lyndon Johnson had definitively made clear that government support for film [from NEA funds] would go to Hollywood,"⁵⁷ or at least to activities that followed the foregone conclusion that Hollywood cinema was the pinnacle of motion picture art. A primary or even strong secondary focus on independent and avant-garde cinema was not promoted in the *Stanford Report*. Once again, in developing programs to support the arts as a means to show America in a positive light abroad and reinforce both domestic and foreign policies, films produced with corporate oversight by a profitable industry were promoted alongside artistic works and performances that were created with little or no profit potential.

During discussions between authors of the *Stanford Report* and the advisory committee, "it was clearly established that the study could focus most appropriately on

⁵⁶ "Secret Treaties (So Negotiated)," 11.

⁵⁷ Decherney, *Hollywood and the Culture Elite*, 181.

the development of new, talented film makers – the people concerned with creating film art.”⁵⁸ The public would benefit through this process in a somewhat cyclical process:

Instilling standards of excellence in film makers ultimately will effect an improvement in the quality of films and the enjoyment of audiences who view them. The oft quoted expression that “great art requires great audiences” has thus been supplemented by the concept that great film makers who can create great films will provide the most direct and positive progress in film art. Film audiences will benefit and will become better informed and more appreciative in the process.⁵⁹

Therefore, even though this dissertation is primarily concerned with analyzing the AFI in relation to its film preservation activities, these programs must be considered within the mutually reinforcing objectives of cultivating better audiences and better filmmakers. In fact, many of the AFI’s other activities were framed as being able to support these goals. Preserving films would allow filmmakers to study and learn from cinematic classics, thereby enhancing their art.⁶⁰ Meanwhile, screening these preserved classics throughout the United States would cultivate more refined film audiences, which in turn would make filmgoers more receptive to the new films created by AFI filmmaking trainees. In other words, it is impossible to fully disentangle the AFI’s film preservation efforts from its other activities.

It is also important to note that George Stevens Jr.’s own ideas did not necessarily match up with those of the *Stanford Report* and although he attempted to provide

⁵⁸ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 9.

⁵⁹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 10.

⁶⁰ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 28.

feedback to fix some of problems he perceived, he still had issues with the resulting document.⁶¹ He was uncertain as to whether he would be able to meet some of the budget expectations in the report, leading to concerns that he would be criticized for not adequately supporting certain activities. He also took issue with the stated preference for Hollywood cinema. Although Stevens wanted to build strong connections to the Hollywood industry, he also hoped to support independent filmmakers, as he had done in his role with the USIA. In short, he was concerned about being limited and judged by the content of the *Stanford Report*.

What follows is brief discussions of the elements of the *Stanford Report* that most directly addressed AFI's film preservation activities, as well as brief discussions of plans for the Institute's other core activities. Many of the AFI's eventual actions would follow the suggestions outlined in the document. In other cases, Stevens deviated from the report in ways that should have appeased key stakeholders, such as independent filmmakers, but he still received criticism in part due to the expectations and biases set forth in the *Stanford Report*.

Filmmaking at the AFI

The authors of the *Stanford Report* recognized that there were a considerable number of film production education programs at American universities, which were granting degrees to between 330 and 460 graduate and undergraduate students each year.⁶² However, the authors perceived several problems with the existing landscape that they believed to be barriers to the promotion of film as art. The majority of graduates

⁶¹ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁶² Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 70.

from production courses went on to focus on educational, industry, and other nontheatrical forms of filmmaking, with television production activities being the second most common field. The authors of the report found that only between five and ten graduates from film schools entered the theatrical motion picture industry following the completion of their degrees each year, although they provided no information as to how many students entered the theatrical film industry in the years following their first placements.⁶³ Most Hollywood filmmakers, meanwhile, gained their positions by entering studios in lower-level positions and working their way up. In fact, for the Hollywood studios, the authors noted that “much has been left to individual initiative and connections, since there are no standard criteria for personnel selection on the basis of talent or qualifications.”⁶⁴ Therefore, the best course of action that AFI could take to elevate film art in the United States would be to focus on training filmmakers who would enter the Hollywood industry.

The report argued that a significant flaw with American filmmaking training was that universities focused on classroom theory and practicum that took place outside of studio settings, while industry apprentices did not receive the training necessary to elevate their artistic capabilities. American film schools also had weak links to the feature filmmaking industry, since virtually no faculty came from within the industry.⁶⁵ This was in stark contrast to state-sponsored film schools in some countries, such as France, Italy, and the Soviet Union, where at least some courses were taught by feature industry

⁶³ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 70. This information comes from a table entitled “Estimated Placement of U.S. Film School Graduates, By Industry Sector.”

⁶⁴ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 72.

⁶⁵ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 23-4.

professionals and practical experience often was gained on set in major film studios.⁶⁶ Achieving this type of arrangement would not be as easy in the United States as in some other nations, since governments that provided significant funding to national film studios and film production schools could mandate collaboration between these entities. Despite these obstacles, the authors of the report still found this foreign model useful and suggested that the AFI design an innovative program that would balance theoretical knowledge and professional practice within the Hollywood film industry, bringing studio film professionals to the front of the classroom and placing students on sets. To achieve these goals, the AFI's filmmaker training activities would be centralized in Los Angeles, near the center of the American feature production industry.

Considering these goals, the authors argued that "the Study Center would not attempt to duplicate or bypass the existing educational system, but rather would include a further step in that process."⁶⁷ What would eventually become the Center for Advanced Film Studies would build on previous undergraduate, graduate, or other training that students had received and "would not be directly competitive with those schools"⁶⁸ that were already providing filmmaking education. Students would enhance their prior knowledge, which presumably focused on nontheatrical filmmaking and with little field experience, through direct interaction with Hollywood professionals and greater opportunity to actually work studio settings. This plan would presumably lead to the AFI filling a unique niche and help enhance national film production education. However, although the authors recognized that "the three largest U.S. film schools (USC, UCLA,

⁶⁶ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 73.

⁶⁷ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 75.

⁶⁸ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 76.

and NYU) currently are in a state of flux in their educational methodology,” they did not foresee the disruption this would cause in their plans for forming a training program that would not overlap those that were already established.⁶⁹ As discussed in the next chapter of this dissertation, these major film schools would reconfigure their programs to focus more on feature filmmaking and create better partnerships with the Hollywood industry.⁷⁰ Since the AFI was built on fulfilling national needs that had previously gone unmet in the American film community, the fact that its filmmaker training activities were ultimately similar to and competitive with those of established universities would be a cause for criticism moving forward.

Plans for Preserving, Exhibiting, and Providing Access to American Film Culture

During the Stanford Research Institute authors’ survey of preexisting institutions related to American cinema, it became apparent that there were already several notable organizations preserving feature films throughout the United States, including LoC, MoMA, and GEH.⁷¹ Considering that the LoC already received a small amount of annual federal funding for the purposes of motion picture preservation, diverting government funds to a separate effort by the AFI, a federally-funded nongovernmental organization, would be inefficient and redundant. Therefore, the research team decided that rather than creating its own film archive and competing with established organizations, the AFI could better use its resources to cooperate with America’s motion picture archives:

⁶⁹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 24. The three film programs mentioned are University of Southern California, University of California, Los Angeles, and New York University.

⁷⁰ Callenbach, “The Unloved One,” 46-9.

⁷¹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 27-30.

With such overall guidance, functions for the physical storage, preservation, and restoration of film can probably be carried out by those existing organizations qualified to process and hold archival films. There do not appear to be any outstanding advantages for the AFI itself to engage in the physical storage and preservation of film. Rather, it appears more important, at least initially, to concentrate the prestige and influence of the institute on increasing the size and comprehensiveness of collections, providing for more comprehensive acquisitions and wider availability, and developing information for coordinating the national stock of archival footage.⁷²

The AFI was meant to be a national rather than centralized organization, so having America's national film collection spread throughout the country in multiple institutions already made sense. The goal would be to leverage federal funds and the AFI's reputation to expand collections and help the field of film preservation to mature.

At this stage, the AFI's primary concern for supporting film archives was more centered on access than preservation and restoration. Stability issues with nitrate film had become evident by this time and the *Stanford Report* acknowledged the need to address this problem, and "preservation" still primarily meant copying nitrate film to acetate stock.⁷³ Likewise, the report noted that additional prints of films should be collected by archives, allowing the American archives to follow the general European practice of keeping the best-quality print and, if available, the negative separate from distribution copies to protect the source material.⁷⁴ However, the authors were more concerned with

⁷² Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 33.

⁷³ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 85-6.

⁷⁴ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 89.

allowing films to be seen by the current generation and acquiring films that were believed to be lost than they were about saving these works for future generations. By choosing to support the major film archives, “a corollary objective would be to increase the availability and accessibility of films, especially for education and research as well as for appreciation.”⁷⁵ Therefore, the major constituencies for archival materials would be filmmakers who could learn their craft from watching films of artistic merit, film scholars and historians who needed greater access to historical motion pictures for their research, and the general public, who would become more discerning consumers of motion picture art through interaction with cinematic masterpieces. The AFI would ultimately pursue these goals through a variety of means, including providing archives with funds for on-site viewing equipment for researchers, but the primary actions discussed in the *Stanford Report* were helping to increase the number of films available through non-studio archives, supporting cross-institutional cataloging efforts, and exhibiting films throughout the country.⁷⁶

Perhaps the AFI’s most impactful contribution to film preservation would be its actions to collect films of significance that were not already held by the major film archives. The authors of the *Stanford Report* noted that the LoC had already found, through an informal survey of its own collections and those of peer institutions, that certain time periods were considerably underrepresented in both studio and cultural heritage institution collections.⁷⁷ The span for which the most films were missing was 1912 through 1934, or from the approximate end of paper print deposits to the LoC

⁷⁵ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 28.

⁷⁶ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*.

⁷⁷ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 87.

through the year before MoMA started to work with the Hollywood studios to protect films. Under the proposal and in practice, the AFI would reach out to film studios and private collectors to have materials transferred to the major, established film archives, which could provide proper preservation.

Through its library and cataloging services, the AFI could provide information services to coordinate the activities and holdings of various film archives, offering “a central clearing-house for information about films, film use, and their availability.”⁷⁸ Reiterating that there was no need for the AFI to maintain its own film collections, the authors of the *Stanford Report* noted that “the essential requirement is for a centralized information system, and not necessarily for centralized physical storage of materials. This, an initial key provision would be to incorporate all cataloging, indexing, and similar information-processing into an integrated system.”⁷⁹ Beyond the obvious benefit of allowing researchers to find films more easily and facilitating the ability of museums and other retrospective exhibitors to borrow films to screen, centralized cataloging systems would allow archives to determine what other institutions already held copies of particular films. Since multiple prints are often used in a single restoration process, this would substantially aid in the restoration of significant film works.

One area where the authors saw potential was computer-based database development for documenting archival film assets, since the contemporary high costs of designing such systems would be justified by the ability to easily access, copy, and update information about holdings.⁸⁰ As the Institute developed over the following

⁷⁸ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 33.

⁷⁹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 30.

⁸⁰ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 97-8.

decades, it would follow through on these ideas by creating general catalogs of theatrically released fiction films as well as attempting to establish integrated database systems that detailed the holdings and active preservation and restoration programs of various film archives.⁸¹ As discussed in subsequent chapters, although these projects became useful tools for the film archives community and researchers of various types, inconsistent funding and logistical support for these activities prevented them from reaching their full potential.

Once more screening copies of films were available and findable through catalogs, it would be easier to provide more screenings of these materials. The authors of the Stanford Report recognized that New York already had ongoing retrospective film screening series at both MoMA and Lincoln Center, so there was little need to add more to that city.⁸² However, a screening facility and program in Los Angeles at the AFI's proposed Advanced Study Center would be highly desirable, to support film production students at the Institute as well as those at nearby UCLA and USC. Beyond Los Angeles and New York, the authors noted that "similar cinemathèques could be encouraged and supported in other major cities as well, perhaps leading eventually to a national system of repertory and classic film exhibition to broaden the exposure of film as an art form."⁸³ Likewise, the researchers acknowledged that a large number of secondary schools, public libraries, and other institutions screened small gauge films and offered classes in film

⁸¹ The ultimate effectiveness of the digital cataloging system, known as NAMID, was questioned by the film archives community in the early 1990s, after its implementation. For a concise overview of the AFI's cataloging activities and NAMID, see Annette Melville and Scott Simmon, *Film Preservation 1993: A Study of the Current State of American Film Preservation* vol. 1 (Washington: Library of Congress, 1993), 42-3.

⁸² Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 21.

⁸³ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 21.

appreciation.⁸⁴ A series of bullet points offered ideas of how the AFI could support these activities nationally, including offering teacher training, distributing films to various organizations, and providing print resources for the study of film, but specific details on how these activities would be achieved were missing. This lack of detail in regard to planning for nationwide exhibition and education services is somewhat odd, considering that the NEA placed a significant amount of emphasis on providing funding for arts programs that impacted smaller communities.⁸⁵ As discussed in the next chapter, the AFI would eventually receive significant criticism for its lack of impact in a broad, national sense and high level of concentration in Los Angeles and Washington, DC.⁸⁶

A major obstacle to access was the cost of reproducing films, since duplicating works onto 35mm or 16mm films entailed considerable expenses.⁸⁷ Even if the upfront costs were overcome, there was still the major issue that custom space, equipment, and trained projectionists were needed to properly screen these works, especially in the case of 35mm works. The researchers at the Stanford Research Institute discussed ways that this problem could be overcome, including the possibilities of using new and still expensive videotape formats or 16mm film cartridge formats, the latter of which were commonly used at the time to show in-flight movies on airplanes.⁸⁸ The authors envisioned an ideal time in the future where new, easy to use formats would combine with computerized indexing systems to provide simple and almost instantaneous access

⁸⁴ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 19-20.

⁸⁵ Saunders, "The Case for the National Endowment for the Arts," 605.

⁸⁶ Callenbach, "The Unloved One," 49-50.

⁸⁷ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 94.

⁸⁸ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 97-8.

to a wealth of films from the history of cinema. Motion pictures eventually began to be accessible by such means in the 1980s, as discussed in chapter five, but these innovations came from the private sector rather than from cultural heritage organizations.

In short, the Stanford Research Institute had determined the shortcomings of major film archives throughout the United States. Rather than competing with these established organizations, the AFI would help them reach their full potential and better serve filmmakers, scholars, and the public. Cataloging films and arranging screenings may not be directly related to the physical preservation of motion pictures, but considering that these ancillary activities justified the collection and conservation of films, the AFI would frame these activities as going hand-in-hand with motion picture preservation over the ensuing decades. However, while many of the proposed actions described to achieve these various preservation-related goals were sound, the funding plans to support and sustain these activities were far less grounded in reality.

Ambitious Goals and Vague Funding Plans

The *Stanford Report* provided a basic outline of the ideal functions of the AFI, but the authors did not include precise information on how limited or expansive each type of activity should be. Instead, the authors noted that “certain functions – such as archives, research, training productions, support for existing film education schools – could be extended and expanded almost indefinitely,”⁸⁹ suggesting that the Institute staff initially use their discretion in limiting the scope of these activities while planning for what the authors saw as desired expansion. In fact, the authors noted that “while it is usually desirable to specify budgets at relatively low levels to encourage efficiency and economy,

⁸⁹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 34.

it appears more important in this instance that the American Film Institute should not be constrained to the point of jeopardizing the quality of its efforts or the significance of its results.”⁹⁰ In a footnote to this remark, the research team argued that the BFI had been unable to reach “respectable stature” in its early years due to a lack of financial resources, suggesting that the AFI could not be financially austere if it wanted to be successful. Although there may have been some merit to this recommendation, a significant flaw with the *Stanford Report* is its lack of a plan to allow the AFI meet these perceived financial needs.

In a rather vague statement, the *Stanford Report* researchers noted that for the AFI to achieve its goals, the Institute “will probably require both public and private financial resources.”⁹¹ The authors did provide several potential sources of funding, but in each instance, they also countered their own statements about these being realistic possibilities with arguments for why these sources could fail to materialize. Personal donations would be helpful but insufficient, while grants from the film industry and foundations would be “both uncertain and burdensome to solicit.”⁹² Other ideas included raising funds through general taxation, box office levies, and taxes on raw film stock, but these measures would be respectively opposed by the general population and politicians, motion picture exhibitors, and film producers. Considering the inherent flaws in each source of potential funding, the research team concluded that “it is impossible to define, on the basis of this study alone, a complete financial plan.”⁹³

⁹⁰ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 35.

⁹¹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 35.

⁹² Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 35.

⁹³ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 36.

Despite this clear concession that they failed to identify a reliable, sustainable funding stream, the authors still argued that “it appears mandatory that a financing formula be found that will ensure the permanence and excellence of the AFI.”⁹⁴ In fact, they estimated this funding need to be approximately \$8.5 million annually, which they argued was comparable to the average expenditures of foreign film institutes with a similar scope of programs.⁹⁵ By comparison, federal funding for the entire NEA remained between \$7 million and \$8 million each year from 1967 through 1969, increased to \$8.25 million in 1970, and surpassed the proposed AFI budget for the first time in 1971, climbing slightly past \$15 million.⁹⁶

The *Stanford Report*’s \$8.5 million included a rough estimate of a million dollars each year for “archives (acquisitions, laboratory services, and the like)” and another million annually for “library and information services programs (prints, distribution, data processing, and the like).”⁹⁷ The justification for this level of spending on archival activities, which would include generating catalogs of motion pictures produced in the United States, was that it was approximately the same amount that the Soviet film archive Gosfilmofond was “reported” to have spent each year, while the amount for library services was chosen because it was the same amount as was provided for archival support.⁹⁸ Although these estimates were already high, the authors noted that “the

⁹⁴ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 37.

⁹⁵ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 35.

⁹⁶ National Endowment for the Arts and National Council on the Arts, *1971 Annual Report* (Washington: National Endowment for the Arts, 1971), 97-8. Accessible at <http://arts.gov/sites/default/files/NEA-Annual-Report-1971.pdf>.

⁹⁷ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 113-4.

⁹⁸ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 114. The exact footnote justifying archival expenditures simply states, “Comparable to reported scale of operations of

amounts allocated in the budget for archives and library and information services are not necessarily indicative of the magnitude of expenditure which could be devoted to such types of programs.”⁹⁹ In other words, at this early stage it was already acknowledged that no matter how much the AFI did or spent in terms of saving films and enhancing available cataloging data, there would always be much left undone.

The report also acknowledged that the AFI would not have as strong of a *raison d'être* as its European counterparts, nor would it be as easy to justify dedicating government funding to its operation. Echoing Young's proposal, the authors noted that European nations provided considerable funding to its nation's filmmaking schools, production companies, and preservation programs in response to the threat to their film culture that was primarily posed by the box office strength of American motion picture exports.¹⁰⁰ Without government intervention, these nations' film industries would not be able to remain financially solvent, denying the people of these countries access to important artistic representations of their culture.¹⁰¹ Likewise, governmental investment in these national film industries created and sustained jobs that would not be able to exist otherwise. The structures of these European national film organizations varied, with some nations housing their preservation programs in institutions that were separate from their government-funded film schools. Additionally, although several of these national film institutions were officially separate from the government, the researchers found that the

USSR Gosfilmofond,” while the footnote explaining the funding level decision for library activities says, “Amount to match archival expenditures.” No information is provided as to the source of the Gosfilmofond figure, nor do the authors explain why library and information services funding should match that of archival activities.

⁹⁹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 115.

¹⁰⁰ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 21-3.

¹⁰¹ Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 41-4.

lowest level of governmental support for any governmental or nongovernmental film institution in Europe that acted as the primary repository of its nation's cinematic record was sixty percent of its operating budget.¹⁰² In short, while Europe's film institutions were created to protect their relatively weak motion picture industries from the cultural hegemony that could be promoted by American films, the United States' strong film industry needed no such defensive interventions. This would limit justifications for governmental and industry investments in the AFI.

The *Stanford Report* authors' level of ambition and contrasting lack of concrete, realistic financial planning are, in hindsight, extremely problematic. In the early years of the organization, Stevens and the administrators of the AFI pursued the goals put forth in the report, providing varying levels of resources to each course of action. However, as the organization attempted to move forward, this created two interrelated problems. The first is that as funding fell short of administrators' desires, some programs needed to be scaled back or suspended, with this negatively affecting staffing levels and morale. Secondly, since the AFI did not explicitly define or limit the scope of their programs, outside stakeholders were upset when they felt it did not provide adequate support for the activities they personally believed to be the most important organizational programs. Both of these problems are discussed in detail in the next chapter.

Conclusion

The three proposals outlined above illustrate different issues that lay the groundwork for further discussion of the AFI. The Young proposal established the academic community's perceived need for certain services, including film distribution

¹⁰² Tilton, Martin, and Green, *Organization and Location of the American Film Institute*, 44.

that would be supported by archives. This also clearly established the academic community's position as a major stakeholder in the AFI's eventual activities. Meanwhile, Stevens' plan to start many of the AFI's activities under a pro-American public diplomacy agency shows that the preservation of cinema was far from a politically neutral activity. Stevens' shift from the USIA to the AFI suggests that these political motivations were carried with him, and his personal correspondence and discussions with the author also show he had a greater role in shaping the organization than previously documented. Finally, the *Stanford Report* laid out broad, ambitious goals that were designed to appeal to a wide range of stakeholders.

The issue with all of the conceptions for the AFI or a similar operational body is that no party was able to articulate a functional fiscal plan. Young planned to fund his activities through money earned by distributing films that commercial distributors had rejected, due to their perceived inability to generate a profit. Stevens did not discuss how he would finance his enhanced collaborations between Hollywood and the USIA, but budgeting would have been largely out of his hands, instead being determined by Congressional appropriations in reaction to perceived public diplomacy needs in a 1960s Cold War climate. The researchers at the Stanford Research Institute, meanwhile, presented several potential sources of ongoing funding, but also explained why every source they discussed was unreliable. Considering this lack of realistic financial planning, the AFI would face numerous budget problems throughout the ensuing decades, as discussed in the next chapter.

The AFI's financial problems would be one of the numerous factors that would lead to continued conflicts with and criticism from various stakeholder communities.

Funding shortfalls led to prioritizing of certain activities over others and, considering its wide range of activities and intended national scope, any reduction in the scale of any program detailed in the *Stanford Report* would be met with contempt from a corresponding stakeholder group. Furthermore, since the AFI was accused of supporting Hollywood cinema over independent films and it start its own film production school, in direct contrast to the wishes of Young and his colleagues, the academic community and independent filmmakers would repeatedly criticize the Institute's choice of priorities and nature of its activities. Likewise, during the AFI's early years, various stakeholders criticized the Institute's level of monetary and staffing support for activities that it linked to film preservation, such as cataloging historical films and providing access to rediscovered and preserved works throughout the nation, beyond a small number of major urban centers. However, its direct activities regarding the collection of films for deposit at film archives and fiscal support for these repositories was one of the few areas that did not provide a significant source of stakeholder dissatisfaction. This would, unfortunately, not remain the status quo, as the AFI's film preservation actions, especially its decisions regarding funding activities, would become a major cause for criticism from its constituencies.

Chapter 4: The AFI in Action: Years of Growth, Years of Controversy

Introduction

Paul Spehr, retired former assistant chief of the Motion Picture, Broadcasting, and Recorded Sound Division of the Library of Congress, notes that, “these days, the moving image archive community has a negative opinion of the AFI’s contribution to film preservation, but the deterioration of AFI’s program came later. AFI launched the preservation program with enthusiasm and imagination.”¹ This chapter documents the reasons for these contradictory views, discussing the significant successes of the AFI’s film preservation program as well as the actions that led to the Institute alienating the film archives community and other key stakeholders. Successes in film preservation were because of the efforts of dedicated staff members who found ways to negotiate with film studios and collectors to place motion pictures in the care of the LoC, prompting a sea change in the preservation of and access to America’s cinematic record.

The diminishing of the AFI’s reputation, however, was an outgrowth of mandates put forth by the *Stanford Report*. Attempts to offer a wide range of activities for a variety of constituencies were incompatible with the fact that no realistic, stable, ongoing funding plan had been developed for the Institute. For film preservation and other activities, this led to criticism over the AFI’s inability or unwillingness to support programs that specific stakeholder groups found important, questions about its financial

¹ Spehr, “Education of an Archivist,” 156.

decisions, and frustration over publicity that some constituencies believed to exaggerate the Institute's activities and dedication to certain causes.

This chapter analyzes the actions of this complex organization, from its founding into the 1990s. Beginning with a brief overview of the Institute's overall activities, the chapter then discusses the design and creation of its film preservation programs, focusing primarily on the period from the founding of the AFI through 1980, when George Stevens Jr. resigned as its director. Although discussions of the Institute's film preservation efforts are mostly positive, the following section covers some of the problems the AFI faced during the same time period, including repeated funding crises and the alienation of certain stakeholder groups, such as independent filmmakers and the academic community. These funding issues and difficulties in maintaining support from certain publics hindered the growth and development of film preservation activities. This leads to a discussion of the AFI's second director, Jean Firstenberg, and her attempt to rejuvenate the organization by publicizing its dedication to film preservation from the early 1980s into the 1990s. Despite this stated dedication, an analysis of the AFI's finances suggests that its preservation expenditures did not greatly exceed federal allocations for this purpose. This led to negative reactions from the heads of the nation's major film archives, who did not appreciate what they saw as the Institute's decision to publicly exaggerate its film preservation efforts, are considered.

The AFI ultimately lost nearly all of its ongoing federal funding, including monies earmarked for film preservation activities, in 1995. Its esteem among the film preservation community declined and has not recovered since. This happened to an organization that, earlier in its history, made some of the most significant contributions to

film archives and the development of the field of motion picture preservation. How this occurred is a cautionary tale in cultural heritage organization management.

The AFI's Initial Structure, Funding, and Activities

George Stevens Jr. was sworn in as the founding director of the American Film Institute on June 6, 1967.² For its initial three years, the AFI received a total of \$1.3 million from the NEA, \$1.3 million in a non-required match from the major film studios, and an additional \$1.3 million in seed funds from the Ford Foundation that was specifically earmarked for its film production school. Funding beyond this initial three year plan was far less certain, considering the Institute's odd placement within the government's arts activities. The AFI was a privately incorporated, nonprofit, nongovernmental organization, so the NEA and the federal government did not have a legal obligation to provide it with continuing funding.

Despite this lack of formal funding plans, certain expectations were in place. In a February 16, 1967 letter to Gregory Peck, NEA chair Roger Stevens – no relation to George Stevens Jr. – wrote that assuming the AFI was successful in achieving its initial goals, "it is reasonable to expect that approximately 10 per cent of the available Endowment funds would be available to aid the Film Institute."³ George Stevens Jr. understood from Roger Stevens that this was an ongoing agreement, and if the Endowment was able to increase its funding in subsequent years, the dollar value of this ten percent would increase with it.⁴ The two of them also agreed, informally, that the

² George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

³ Roger Stevens to Gregory Peck, 16 February 1967, George Stevens Jr. Personal Papers, Private Collection.

⁴ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

Institute would oversee virtually all film-related activities for the NEA. The lack of formal guarantees for these agreements would become a problem moving forward, after Roger Stevens left the NEA at the end of the Johnson presidency. In the early years of the AFI, though, the organization was able to establish numerous programs with an eye towards future growth.

The AFI established offices and programs in both Washington, DC and Los Angeles, even though it remained unified under the same management. For simplicity, these geographic operational areas are referred to as AFI East and AFI West, respectively. Stevens established the Center for Advanced Film Studies in Los Angeles, placing the film school close to Hollywood talent who could help train students.⁵ The AFI established west coast operations at the historic Greystone Mansion, which the city leased to the Institute on the condition that it cover the cost of maintaining it. The mansion was also home to the several members of the Institution's research staff, who assisted scholarly fellows whom the AFI supported in its early years.⁶ Independent filmmakers and other stakeholders would argue that this placement in California represented part of the Institute's bias towards the Hollywood industry and a rejection of other forms of American cinema. However, the AFI took early action to support filmmakers outside of the studio system, initiating a NEA-supported grant program that

⁵ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁶ Paul Schrader, Tim Hunter, Greg Ford, Steve Mamber, and Robert Mundy, "An Appeal to our Fellow Fellows," January 1971, Box 112, Folder 5, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

handed out hundreds of thousands of dollars to these independent directors each year through the mid-1990s.⁷

In Washington, DC, the AFI established a film exhibition program that was meant to be a pilot program for eventual collaborative expansions to other cities throughout the country.⁸ This initially operated out of the National Gallery of Art, moving to a previously built theatre in a shopping center at L'Enfant Plaza in 1970 and to a theatre in the newly built Kennedy Center in 1973. Although educational activities were not fully defined in the early years of the Institute, an educational director worked out of the AFI's offices on H Street to find ways to support secondary and college level education in film studies, collaborating with the research staff at AFI West to achieve this.⁹ AFI East was also the home of the researchers who conducted the AFI's Catalog activities and its preservation staff, since these individuals worked closely with the LoC the Library as a secondary office.

Stevens recognized that, as Young and the *Stanford Report* had suggested, there was no reason to duplicate the efforts of previously established film archives. He recalls that in 1967 he "went to the Librarian of Congress and saw the Librarian, L. Quincy Mumford, and he had no interest whatsoever in film. He was very much from another world."¹⁰ Despite this lack of interest in developing a large film program, the LoC did

⁷ The funding amounts for the independent film grants each year can be found in the NEA's annual reports. See "About the NEA: Annual Reports," National Endowment for the Arts, accessed July 5, 2015, <http://arts.gov/about/annual-reports>.

⁸ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁹ Jim Kitses and Ron Sutton to the Educational and Critical Community at Large, 29 January 1971, Box 112, Folder 5, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

¹⁰ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

have a collection of films at this time, as discussed in chapter two. Since at least a partial foundation was already in place, Stevens was able to convince Mumford to dedicate some of the Library's resources to this endeavor, under the condition that the AFI would also help by providing seed funds for these activities. In the ensuing years, the success of these activities led to motion picture preservation becoming a stable, ongoing focus of the LoC.

Saving the Cinematic Record: The Early Years of the AFI Film Preservation Program

Stevens made good on his agreement with Mumford, dedicating \$345,000 of its initial \$3.9 million in funding to the LoC to enhance its film preservation activities.¹¹ These funds contributed to the establishment of the Library's film processing lab, the creation of several new staff positions, and the purchase of Steenbeck editing tables that could be used by researchers for viewing motion pictures. These expansions not only prepared the Library to receive and store the films collected by the AFI, but it made films available to researchers, ending one of the ongoing deficiencies of the LoC's previously limited film activities.

Beyond this financial investment in the Library, the AFI used an additional portion of its budget to support its own experts in film preservation. One of the AFI's earliest recruits was its assistant director, Richard Kahlenberg, who had served under Stevens at the USIA.¹² Kahlenberg had also studied in London and completed a dissertation on the British Film Institute at Northwestern University. Kahlenberg remained at AFI West in his upper-management position, but was influential in

¹¹ Spehr, "Education of an Archivist," 156-7.

¹² Frick, *Saving Cinema*, 76; Slide, *Nitrate Won't Wait*, 76.

developing the archival activities, which would be located at AFI East.¹³ He recruited Sam Kula, a Canadian who had been with the BFI since 1958 and had most recently served as Deputy Curator, for the position of Archivist in the middle of 1968.¹⁴ Kahlenberg then recruited David Shepard, a film collector who was then employed by the University Film and Video Association, as Associate Archivist.¹⁵ In both of these cases, “archivist” is not a precise term. Neither Kula nor Shepard directly oversaw a film archive, but instead provided support to such institutions by acquiring films from film studios and private collectors to be deposited at archival institutions, overseeing the AFI Catalog program and other activities that would enable access, and researching innovations in the field of preservation. The activities of the AFI’s archival staff and their collaboration with the LoC would have a lasting, positive impact on American film preservation.

Building a Preservation Program and a National Film Collection

The AFI deposited the motion pictures it acquired at the LoC. This collection was initially called the National Film Collection, but in 1969 the AFI changed its name to the American Film Institute Collection at the Library of Congress to help to ensure that the Institute’s contribution to film preservation and collecting would be known to relevant stakeholders.¹⁶ The initial focus of this collecting effort was a “rescue list” of 250 films

¹³ David Shepard, telephone interview with the author, June 19, 2015.

¹⁴ Slide, *Nitrate Won’t Wait*, 77.

¹⁵ David Shepard, telephone interview with the author, June 19, 2015.

¹⁶ Slide, *Nitrate Won’t Wait*, 77.

that were either completely lost or only available in inferior forms.¹⁷ These titles were selected by representatives from MoMA, GEH, the LoC, and film historian William K. Everson.¹⁸ However, the AFI's film preservation staff chose to expand beyond the list to include "a wholesale sweep of the country looking for early films that hadn't been anointed 'classics' because they hadn't been found in other archives."¹⁹ This large-scale search resulted in the AFI Collection expanding to more than 8,000 films by the end of 1971, and approximately 15,000 films at the end of George Stevens Jr.'s tenure with the AFI in 1980.²⁰ This included films produced by the major production companies from before the 1950s, including most of the surviving classics of cinema from this time period.

The AFI's collecting efforts were primarily focused on motion pictures that were recorded on nitrate-based film stock, which the film industry had stopped using in favor of nonflammable acetate based safety film stock by the early 1950s.²¹ This was because it was well known that nitrate decomposed over time, but it was not yet known that acetate decomposes as well, since it takes decades for the evidence of this to become apparent. David Shepard recalled that, "What we used to tell people was that once the film was

¹⁷ David Shepard, telephone interview with the author, June 19, 2015.

¹⁸ George Stevens Jr., "About the American Film Institute," *Film Quarterly* 25, no. 2 (1971-1972): 38-9.

¹⁹ Austin Lamont, "The Search for Lost Films: David Shepard Discusses the Importance, Methods, Costs and Confusions of Film Archive Work," *Film Comment* (Winter 1971-1972): 59.

²⁰ Lawrence F. Karr, "The American Film Institute and the Library of Congress: A Twelve Year Perspective," *Quarterly Journal of the Library of Congress* 37, no. 3/4 (1980): 65.

²¹ Acetate film formats had been used for small-gauge film formats since the 1920s, but the industry was slow in converting for a variety of reasons. For a detailed analysis of the studio film industry's hesitancy to adopt acetate film as its standard and change of position in the late 1940s, see Leo Enticknap, "The Film Industry's Conversion from Nitrate to Safety Film in the Late 1940s: A Discussion of the Reasons and Consequences," in *This Film is Dangerous: A Celebration of Nitrate Film*, eds. Roger Smither and Catherine A Surowiec (Brussels: FIAF, 2002), 202-12.

copied onto safety film, it would last as long as the best book paper. The figure we used was four-hundred years. Nobody knew anything about vinegar syndrome, we never heard of it. Nobody realized that if you got the temperature and humidity low enough [...] that nitrate will last indefinitely.”²² For this reason, “preservation” at the time effectively meant duplicating nitrate films onto acetate stock, since the decomposition of the nitrate was seen as inevitable. However, although the LoC had previously disposed of nitrate once it had been copied to safety film, the AFI support allowed it to keep these materials while they survived, allowing for future duplication from the best-surviving sources.

Negotiating with the Film Studios

The preservation staff of the AFI was able to leverage several factors in convincing the studios to donate their collections of nitrate negatives and prints to the LoC. Storage costs for nitrate were high, due to the need for advanced fire protection systems and increased insurance rates. The risks posed by these materials were not an abstract consideration, since several of the studios had major nitrate fires on their lots. Meanwhile, the state of California taxed studios films held in the state annually as assets.²³ Transferring ownership of these physical materials to the Library would relieve the studios of these costs, and since Universal and Paramount already kept their negatives in New Jersey to avoid these taxes, moving these materials to another east coast location would not be a greater hindrance to accessibility.²⁴ In fact, the studios were allowed to deduct these transfers as charitable donations to the LoC, which would appraise these

²² David Shepard, telephone interview with the author, June 19, 2015.

²³ Lamont, *The Search for Lost Films*, 60.

²⁴ David Shepard, telephone interview with the author, June 19, 2015.

materials and provide documentation of their value for this purpose. Most importantly, the studios were not required to transfer copyrights to the AFI or the Library to receive a tax credit, and they were still allowed to access the materials – which were being well cared for – if they needed to create new elements. Shepard believes that these terms and the fact that the government was providing this much support to save the studios’ assets would likely cause a scandal today, due to tax dollars going to preserve privately owned works, but at the time so much of cinema had gone missing that the situation was considered acceptable.²⁵

In the years before the creation of the AFI, various firms bought the rights to studios’ back catalogs in order to make a profit from television distribution.²⁶ These sales are discussed in detail in the next chapter, but the result was that understanding the ownership status of films was frequently a complex matter, and titles produced by one studio were often owned by another. The AFI’s first acquisition, the RKO library, was a particularly complicated situation. In ideal circumstances, a single company will own films and their copyrights, arranging any foreign distribution or domestic distribution in specific media formats through licensing agreements, leaving the long-term care of the films as the responsibility of a single company. For RKO, however, the studio had been dissolved, but the legal successor of the company, General Tire and Rubber, kept television distribution rights for major American markets and sold off other distribution

²⁵ David Shepard, telephone interview with the author, June 19, 2015.

²⁶ For a comprehensive “genealogy” of shifts in the ownership of major studios and their film libraries, see Gracy, *Film Preservation*” 251-7. The impact of television distribution on the ownership of studio film libraries is discussed in detail in Eric Hoyt, *Hollywood Vault: Film Libraries before Home Video* (Berkeley: University of California Press, 2014), 142-94.

rights, especially for foreign territories, to other entities.²⁷ The responsibility of paying for the storage of RKO's surviving nitrate negatives had somehow fallen on a French firm that owned partial European rights, the Compagnie d'Enterprises et de Gestion, which was storing the films in a Long Island facility. For the most part, the titles in the collection were being distributed through 16mm copies that had been struck years before or derivatives of these copies. However, any of the companies that had partial ownership of the rights could access the Long Island vaults and remove the best surviving elements of films if they needed new copies, often resulting in the mishandling of the films. Considering the general chaos and costs entailed in this situation, Compagnie d'Enterprises et de Gestion was happy to yield physical ownership of the materials and the cost of storing them to the LoC. This resulted in a donation of the negatives to 740 feature films and 900 shorts that had been produced between 1929 and 1952.

Dealings with studios that still survived were far less complicated. When discussing negotiations with studios in a 1970 interview, Shepard noted that “we have found in many instances that we can’t get film by appealing to the long range cultural interests or the altruism of the people in the company who are genuinely concerned with the art of film.”²⁸ Instead, just as Iris Barry had learned decades before, Shepard found that the most effective way to arrange for transfers was to deal with “mid-level legal people” who would easily see the fiscal benefits offered by a deposit of their films to the AFI Collection.²⁹ Paramount donated a collection of seventy silent feature films in

²⁷ Lamont, *The Search for Lost Films*, 59-60; David Shepard, telephone interview with the author, June 19, 2015.

²⁸ Lamont, *The Search for Lost Films*, 60.

²⁹ David Shepard, telephone interview with the author, June 19, 2015.

November 1968, insisting that was all that remained from the period, only to have thirteen of these titles deteriorate before they shipped them in the following year.³⁰ Thankfully, the discovery of two overlooked caches of films in the following years resulted in another one hundred and forty Paramount titles ending up in the AFI collection. United Artists donated its own collections, which were somewhat limited since the company's long-term role as distributor of independently produced films meant that the original producers often held the negatives.³¹ However, the company also donated the negatives of surviving pre-1948 Warner Bros. features and short subjects, which it had acquired several years before.

Some smaller producers also transferred their collections to the Library. The Hal Roach studios donated more than five hundred short films and thirty features to the AFI Collection.³² Mary Pickford donated her later films, which she had produced herself, along with a collection of Biograph films from the 1910s. MGM differed from the other studios in that it had already been actively preserving its films, and it had made deposit agreements with an archive before the AFI fully launched its operations.³³ An executive in charge of studio facilities by the name of Roger Mayer – who would remain a major force in the development of American film preservation film preservation, as discussed in the next two chapters – had recognized the value of his company's films as assets and was using any of its film lab's downtime between productions to copy nitrate to acetate.

³⁰ Lamont, *The Search for Lost Films*, 60-1.

³¹ Slide, *Nitrate Won't Wait*, 78; Karr, *The American Film Institute and the Library of Congress*, 361.

³² Karr, *The American Film Institute and the Library of Congress*, 359-60.

³³ David Shepard, telephone interview with the author, June 19, 2015.

As of 1967, MGM began to donate the physical nitrate originals to GEH while retaining the rights to these works.

Connecting with Collectors

In the time span from the founding of the AFI through 1980, donations from the studios represented only about half of the Institute's acquisitions.³⁴ In fact, many of the studios did not have copies of the films for which they owned the rights, due to general neglect or fires, such as the 1933 nitrate vault fire that destroyed most of Warner Bros. silent era output and many of the early Vitaphone sound films.³⁵ Thus, many of these collections were filled in through dealings with private film collectors. A full discussion of the varying motivations and idiosyncratic nature of film collectors would entail an entire, separate dissertation. Most of these individuals were film enthusiasts who built on this interest by purchasing materials to own, in the days before home media formats were ubiquitous. The collectors often traded with each other, bartering away duplicates or swapping films they had already viewed for something of greater interest. As studio collections deteriorated, were misplaced, or were deliberately destroyed, collectors' copies became the only surviving records of many motion pictures.

Shepard, a film collector himself, was able to navigate this community and find valuable materials. As Richard Kahlenberg explained to Anthony Slide, "David Shepard was to the film collectors what George and I were to the industry and government."³⁶ His status as a fellow collector was evident in how he interacted on behalf of the AFI with

³⁴ Karr, *The American Film Institute and the Library of Congress*, 361.

³⁵ David Shepard, telephone interview with the author, June 19, 2015.

³⁶ Slide, *Nitrate Won't Wait*, 77.

other collectors. For smaller acquisitions, the AFI and LoC would often agree to make a copy of donated films for a collector, usually reducing 35mm prints to 16mm.³⁷ Since most collectors realized the dangers of nitrate stock, and acetate was thought to have near-indefinite permanence, they were happy to receive a more stable and more easily screenable copy of works they held. In some cases the collectors were even allowed to barter one film for a copy of a film the AFI had acquired from another collector. The AFI would also pay many collectors for the materials they held, willingly offering smaller, token sums for materials. However, in some instances collectors were unwilling to part for films for reasonable fees.³⁸ The AFI met these collectors' terms in some cases or talked them down on their prices in others, but it was not uncommon for films to decompose over months or years of negotiations. In some cases, the AFI worked with Blackhawk Films, a distributor of classic motion pictures that mainly sold 16mm prints to collectors, to finance the purchase of materials.³⁹ Blackhawk would copy the materials it needed for its purposes and then allow the prints or negatives to stay with the LoC. Additionally, the AFI normally paid for the shipping costs of films from collectors, which was expensive due to the difficulties of shipping nitrate and the preference for air transportation so that the films would have less time to decompose further.⁴⁰

Beyond Shepard's natural rapport with collectors, the AFI was in an optimal legal position to deal with these individuals. Many of the films owned by collectors were

³⁷ Karr, *The American Film Institute and the Library of Congress*, 361-2; David Shepard, telephone interview with the author, June 19, 2015.

³⁸ Karr, *The American Film Institute and the Library of Congress*, 364-6.

³⁹ Slide, *Nitrate Won't Wait*, 80-81; Lamont, *The Search for Lost Films*, 63-4.

⁴⁰ Karr, *The American Film Institute and the Library of Congress*, 365.

obtained and held legally, often because the materials no longer fell under copyright. However, in some cases the copyright status of a film was unclear or a collector clearly had no legal right to own a print, especially in instances where the films had been pirated. If a studio were to deal directly with a collector in such a case, it could set a precedent that could pose a problem in using legal force against collectors – including film pirates – in future instances.⁴¹ The LoC, meanwhile, also oversaw the nation's Copyright Office, so any action attempting to acquire materials that were held in violation of copyright could cause problems for the institution as a whole. The AFI thus held a valuable role as an intermediary between collectors and both the studios and the LoC, allowing it to take actions that neither organization would not have been able to do on their own.

Despite concerns by collectors that the film studios would pursue them legally, for the most part this was not an issue and the studios tolerated the AFI's dealings with these individuals. Collectors usually understood when a film was under copyright, and did not ask for an acetate duplicate in these instances.⁴² In individual cases, however, both Columbia Pictures and 20th Century Fox agreed to allow the AFI to provide collectors with copies of features that were previously believed to be lost, on the condition that the collectors signed agreements promising not to use the prints in any commercial way. A notable exception to this general tolerance on the part of the studios, though, occurred after Kula learned in the early 1970s that a collector in London had a copy of the lost Paramount film *King of Jazz* (1930), the rights to which were then owned by Universal.⁴³ The AFI acquired the film, producing an acetate copy for the collector.

⁴¹ Karr, *The American Film Institute and the Library of Congress*, 363-4.

⁴² Karr, *The American Film Institute and the Library of Congress*, 363-4.

⁴³ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

Universal president Lew Wasserman learned of this and called George Stevens Jr., berating him for cooperating with a person he viewed as a film pirate and threatening to press charges against the collector. Stevens did not yield, explaining that the collector had no intention of distributing the film in any commercial way, and that the studio benefited by now having access to a film that was previously lost. Universal ultimately did not take any legal action, but it also did not provide funding to the AFI in any way in the subsequent decades.

The AFI's collecting activities continued over the ensuing decades, although the results of these efforts declined with each passing year. The archivists had negotiated with the major studios and some of the best-known collectors in the early years of the Institute, so with these major collections already transferred to the LoC, a drop in the robust level of collecting was inevitable. Another hindrance, discussed in detail below, was that the AFI's funding became unstable after its initial three years, and this affected the continued operation and expansion of many of the Institute's activities. Despite this, the number of American motion pictures that were preserved because of the AFI continued to grow. Kula departed the Institute in 1973 to join the National Archives of Canada, and David Shepard shifted to operating the AFI's L'Enfant Plaza theatre in 1972 before leaving the AFI in 1973.⁴⁴ Larry Karr ran the archives from this time until 1983, successfully continuing the programs initiated by his predecessors and continuing to recover and secure America's motion picture heritage.

⁴⁴ David Shepard, telephone interview with the author, June 19, 2015; Slide, *Nitrate Won't Wait*, 79.

Reasons for the Exclusion of Nontheatrical Works

The AFI focused primarily on theatrically released motion pictures, mostly excluding nontheatrical works such as avant-garde, educational, industrial, and amateur films. This occurred for a variety of reasons.⁴⁵ In the case of avant-garde films, David Shepard was unaware of earlier attempts by Jerome Hill and Jonas Mekas to secure funding from the NEA for the preservation and promotion of these works, nor did he have instructions to exclude avant-garde films from his collecting activities. Instead, he knew that Hill and Mekas were collecting films in anticipation of the 1970 opening of Anthology Film Archives, so he yielded this collecting area to them. Additionally, films produced in 16mm or other small gauge film stocks had mostly been printed on acetate since 1923, due to their common usage outside of purpose built, fireproofed projection booths, so this led to a belief that nontheatrical films were not at risk.⁴⁶ Many of Anthology's eventual collections were in small gauge formats or were produced after the industry shifted to acetate in the late 1940s and early 1950s, making these works seem like a lesser priority for preservation interventions.⁴⁷

Nontheatrical films were often produced in limited print runs that were held by their creators, making the collection of such works time consuming. Meanwhile, the studios, corporations that had bought the rights to films, and collectors held large number of films that could be acquired for the LoC in a single negotiation. As a result, the most effective course of action was to initially focus on more mainstream materials and save a large sampling of American cinema, primarily created on at-risk nitrate film stock. Since

⁴⁵ David Shepard, telephone interview with the author, June 19, 2015

⁴⁶ Enticknap, "The Film Industry's Conversion from Nitrate to Safety Film in the Late 1940s," 202-12.

⁴⁷ Spehr, "Education of an Archivist," 170.

the AFI reduced the budget for its film archives activities in the early 1970s, thereby hindering its ability to expand into other areas, it is impossible to know if the archives program would have expanded the scope of its collecting activities

The AFI Catalog

Sam Kula also worked with the staff of the AFI Catalog project, which predominantly used the film and print resources of the LoC to publish its first volume, the *AFI Catalog of Feature Films 1921-1930*, in 1971.⁴⁸ In a post IMDb era, it is difficult to understand just how significant this project was. Up to this point there was no central, comprehensive filmography of American cinema available. Obtaining this information was difficult because it required access to the films – which, prior to home media, meant difficult to find prints – or paper materials. Of the 6,606 films documented in this first volume, only fifteen percent were known at the time to have survived past the sound era, meaning that most of the material in this book was gathered from information submitted to the Copyright Office, studio records, fan magazines, newspaper reviews, and other reference sources.

The goal of this project was not to create a critical guide to motion pictures, but instead provide an objective guide to films and their casts, crews, and production companies.⁴⁹ Synopses of plots avoided commenting on the quality of the films, even if this information was taken from subjective critical reviews. These publications were meant to facilitate further research, allowing scholars to avoid spending time verifying

⁴⁸ Frances Jones, Sam Kula, and Steve Zito, “Facts, Fancies and the American Film Institute Catalog,” *Film Quarterly* 25, no. 4 (1972): 44-6.

⁴⁹ Jones, Kula, and Zito, “Facts, Fancies and the American Film Institute Catalog,” 44-6.

basic facts. This also helped to provide researchers with guidance in selecting films to view and study from the LoC's collections, and it provided film archives with a guide to materials that still needed to be uncovered. Moving forward, the greatest criticism of this project did not focus on the quality of the work presented, but instead with the AFI's management of the project. Due to budget cuts and reductions in the staff of the Catalog staff, the project temporarily ceased production after the publication of its second volume in 1976, documenting the years 1961 through 1970.⁵⁰ It would not resume production again until 1982, and this slow publication schedule due to the sporadic nature of its support would prevent the Catalog from becoming the comprehensive project it was designed to be.⁵¹

Film Preservation Grants and the Archives Advisory Committee

In December 1967, the AFI convened the first meeting of the Archives Advisory Committee (AAC).⁵² The core members of this group were at least one representative each from the AFI, the LoC, GEH, and MoMA. This group also included several film historians in its early years, but membership in the AAC was soon limited to just representatives of the major archives and the AFI. Academics and archivists from institutions that were not part of the group were allowed to occasionally attend meetings and present ideas. The purpose of this organization was initially to provide the AFI with guidance in its archives-related activities, which included the development of the original

⁵⁰ American Film Institute, *The American Film Institute Catalog of Motion Pictures Produced in the United States: Feature Films, 1961-1971* (Berkeley: University of California Press, 1976).

⁵¹ Jean Firstenberg, "The AFI and Film Education II: Jean Firstenberg Responds to E. Ann Kaplan's Editorial Statement," *Cinema Journal* 23, no. 1 (1983): 60-1.

⁵² Stevens, "About the American Film Institute," 36-44.

rescue list of films that they hoped the AFI staff would be able to find. Through this organization, the AFI was able to keep in touch with archives beyond the LoC and provide them with various forms of support. In the ensuing years, the AAC would grow considerably and become a major force in the film preservation field.

The AAC's role expanded from discussing preservation priorities to determining how funds would be spent on specific projects. The AFI worked with the NEA to alter its film preservation activities in 1972, a year after the Institute's initial three year funding had ended.⁵³ As discussed later in this chapter, the NEA had become hesitant to fund many of the AFI's activities, especially if the Institute could not match the funds provided. The Endowment was willing to provide the AFI with funding to be distributed to the major archives for the express purpose of film preservation, on the condition that the archives raised enough of their own funds to match these monies. Between 1972 and 1977, the annual funding amounts for these activities ranged from \$390,000 to \$679,336.⁵⁴ The primary purpose of these grants was nitrate-to-acetate copying. The majority of these funds went to the LoC, GEH, MoMA, and once these members allowed it to join in 1976, UCLA.

The AAC met once or twice a year, to discuss the overall needs of the film preservation community and to come to agreement on what projects proposed by the member archives should be funded. Paul Spehr notes that expansion of the AAC was limited because "new membership would bring new perspectives and different interests, but there was concern that it would affect the limited funds available for preservation.

⁵³ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁵⁴ This information is compiled from the NEA's annual reports. See "About the NEA: Annual Reports," National Endowment for the Arts, accessed July 5, 2015, <http://arts.gov/about/annual-reports>.

The AFI-NEA program was committed to preserving nitrate, and the prospects of expanding funding were very dim.”⁵⁵ During the course of its meetings in the 1970s, the AAC discussed matters including improving storage facilities, problems with color fading, increasing the collecting scope of the archives to focus more on nontheatrical film, the purchase of non-filmic materials to supplement motion picture collections. P. Adams Sitney of Anthology Film Archives was invited to speak in 1974 about issues he faced in preserving his institution’s collection of avant-garde films, including that the small number of copies produced of these works tended to be damaged through heavy usage. However, since his holdings were primarily acetate and the group’s preservation funds were still limited versus the archives needs, Anthology was not invited to join the AAC at this time.

The NEA considerably altered its grant making arrangement in 1977. New funding guidelines barred government agencies from receiving Endowment money.⁵⁶ This blocked the LoC from these preservation funds from 1978 onward, but the Library had already acknowledged the value of the Motion Picture Division and was providing ongoing funding for these activities. The AFI and members of the AAC decided this was a good moment to reevaluate its composition and purpose, and it split into two groups with overlapping membership.⁵⁷ The original group of members would continue to have input into the distribution of NEA-AFI preservation grant funds, but this was expanded to

⁵⁵ Spehr, “Education of an Archivist,” 170.

⁵⁶ Spehr, “Education of an Archivist,” 171.

⁵⁷ William T. Murphy, “Genesis of a Profession: Origins of the Film and Television Archives Advisory Committees,” *The Moving Image* 11, no. 1 (2011): 103-5.

allow other film archives to apply for a portion of this funding, regardless of whether their projects focused on nitrate. This peer review process would be overseen by the AFI.

Meanwhile, the AAC allowed archives from throughout the United States and Canada to join its ranks.⁵⁸ Following the end of its grant making function, this organization acted primarily as a means for archivists from different institutions to meet and discuss mutual concerns for the field. This expanded AAC soon became the Film Archives Advisory Committee (FAAC) in response to the LoC and AFI fostering the creation of a separate, similar organization. Interest in television preservation had been growing among various archives, and the LoC facilitated discussions between these organizations by hosting a conference on this topic in 1978.⁵⁹ The following year, the AFI sponsored the first meeting of the Television Archives Advisory Committee (TAAC) in Washington, DC. These organizations cooperated regularly and in 1990 they formally merged to create the Association of Moving Image Archivists (AMIA). AMIA is now the largest professional organization for the field of motion picture preservation.

While it is impossible to document all of the AFI's contributions to motion picture preservation during George Stevens Jr.'s tenure, the significance of this impact is clear. 15,000 motion pictures – including feature film collections of the major studios – were placed in publicly accessible archives for safe keeping while he ran the Institute. The AFI also worked with the NEA to fund the preservation of the Institute's own collections at the LoC and materials gathered by other archives. The nature of preservation activities may not have been ideal during much of this time, due to limited

⁵⁸ Murphy, "Genesis of a Profession," 105.

⁵⁹ Murphy, "Genesis of a Profession," 105-8, 112.

technical knowledge of what could be done and a lack of standards between archives. However, the AFI fostered collaboration between archives that led to advances in preservation practices. The AFI's cataloging efforts enhanced access to these materials, creating a knowledge base that helped to redefine film history. In other words, the AFI did not create the field of motion picture preservation, but it helped it to mature and become more successful.

Despite these successes, the Institute had continued difficulties during Stevens' tenure, including repeated budget shortfalls and conflicts with stakeholder communities. What follows is a discussion of some of these challenges, which prevented the AFI from expanding the scope of its activities – including film preservation – to the degree it desired.

Funding Crises and Alienation of the Academic Community

The AFI developed its initial programs with an eye towards an increased budget, which would allow them to expand these activities. However, by late 1970 it was abundantly clear that such funding was not coming. Richard Nixon appointed Nancy Hanks as the new director of the NEA in early 1969, but since the Endowment had initially provided the AFI with funding in a lump sum for three years (1967 – 1970), she did not oversee the NEA's allowance to the Institute until fiscal year 1971.⁶⁰ In this year, the NEA formed a committee to oversee Public Media Programs to provide grants to artistic activities in radio, television, and film, beginning a shift to have the Endowment

⁶⁰ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

directly oversee some cinema-related activities rather than yield such efforts to the AFI.⁶¹ The AFI received about \$1.1 million of the Public Media funds for this year, leaving less than \$180,000 for other media related activities. The AFI received significantly less federal funds than Stevens expected, considering that the Endowment's overall budget was in excess of \$20 million and previous NEA chair Roger Stevens had promised the Institute approximately 10 percent of its annual funds.⁶² Other funding lagged behind, as film industry and foundation support did not make up for the shortfall. The AFI found itself in a situation in which its funding was entirely uncertain year-to-year, significantly hindering its present activities and its ability to plan long-term programs.

The management of the AFI initially remained optimistic that they would find a way to make up the shortfalls when the NEA budget was announced in summer 1970, limiting the actions they took to alter the scope of their activities to compensate for this.⁶³ This resulted in sharper, more abrupt action at a later point. In January 1971, Stevens and other members of the AFI management reacted to shortfalls by terminating the entire Research Department and Critical Studies staff – four individuals in total – of the AFI West. This was done abruptly, at the end of the business day on a Friday. Ron Sutton, the Education Department manager based in Washington, was not informed of this planned action in advance, nor were the research fellows at the Center for Advanced Film

⁶¹ National Endowment for the Arts and National Council on the Arts, *1971 Annual Report* (Washington: National Endowment for the Arts, 1971). Accessible at <http://arts.gov/sites/default/files/NEA-Annual-Report-1971.pdf>

⁶² George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015; Details of the NEA's overall budget for this year can be found in National Endowment for the Arts and National Council on the Arts, *1972 Annual Report* (Washington: National Endowment for the Arts, 1972). Accessible at <http://arts.gov/sites/default/files/NEA-Annual-Report-1972.pdf>.

⁶³ Kay Loveland to the Management of the American Film Institute and the Faculty of the Center for Advanced Film Studies, 25 January 1971, Box 112, Folder 5, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

Studies.⁶⁴ Sutton and several other staff members resigned in response to this, and thirty-five employees signed a letter expressing solidarity with those who had been fired or resigned.⁶⁵ The leadership of the Society of Cinema Studies (SCS), the nation's primary academic organization for film studies, considered censuring Stevens in absentia at its 1972 meeting for allowing this situation to occur.⁶⁶ Instead of this moving forward and possibly escalating the conflict between the academic community and the Institute, SCS published an open letter in its academic journal, *Cinema Journal*, asking the AFI to make adjustments to its operations.⁶⁷ These requests included releasing detailed financial statements, putting more members of the academic community on its board of trustees, and better articulating its overall goals and intended relationship with the academic community. Other academic responses, however, would be far harsher.

“The Unloved One:” The Academic Community’s Challenge to the AFI

In summer 1971, *Film Quarterly* editor Ernest Callenbach published an article in the journal entitled, “*The Unloved One: Crisis at the American Film Institute*,” critiquing the AFI’s activities to date. He wrote this article using information he gathered from “extensive conversations with dozens of AFI critics and supporters, including many people who have been in positions to observe AFI operations, and also with the director

⁶⁴ Jim Kitses and Ron Sutton to the Educational and Critical Community at Large, 29 January 1971, Box 112, Folder 5, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

⁶⁵ Staff of the AFI to the Management and Board of Trustees of the American Film Institute, 26 January 1971, Box 112, Folder 5, Fred Zinnemann Papers 1923-1996, The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.

⁶⁶ Society of Cinema Studies, “Annual Meeting,” *Cinema Journal* 11, no. 1 (1971): 1.

⁶⁷ Society of Cinema Studies, “An Open Letter to the Board of Trustees of the American Film Institute,” *Cinema Journal* 11, no. 1 (1971): 72.

of AFI, George Stevens, Jr., who discussed AFI policies with [him] and provided other useful information.”⁶⁸ *Film Quarterly* published Stevens’ response to this in its winter 1971 – 1972 issue.⁶⁹

Callenbach states that “while it seems that no actual malfeasance has occurred, the AFI has evidently been run by the loose standards usual in the big-money world of foundation grants, where ‘image,’ plentiful assistants, and insulation from accountability are the rule, and count for more than mere humdrum work.”⁷⁰ He repeatedly argued that that the management of the Institute was elitist and out of touch, suggesting what he believed were more practical ideas for the Institute’s operations. Callenbach recounted the firings and resignations of the Institute’s educational and research staff, suggesting that the Institute should rehire these individuals or bring on new staff to resume collaboration with educators.⁷¹ Its theatre in Washington, DC – then in L’Enfant Plaza – was poorly placed in a city with “cultural disadvantages” and reinforced a bias towards limited geographical areas.⁷² Instead of continuing this as a pilot program for repertory and independent cinema distribution across the nation, which was its intended purpose, the AFI’s exhibition activities should be reduced and instead the Institute should focus on distributing films by independent filmmakers.⁷³ A publications department needed to be

⁶⁸ Callenbach, “The Unloved One,” 42.

⁶⁹ Stevens, “About the American Film Institute,” 36-44.

⁷⁰ Callenbach, “The Unloved One,” 51.

⁷¹ Callenbach, “The Unloved One,” 42, 50-4.

⁷² Callenbach, “The Unloved One,” 50.

⁷³ Callenbach, “The Unloved One,” 44-6, 50.

established, and its main focus should be on printing niche materials that could not find a commercial publisher.

Most importantly, the Center for Advanced Film Studies was a financial burden that hindered the rest of the Institute's activities, and the government should never been involved in training filmmakers at any point.⁷⁴ As a result, Callenbach explained that the Center should be spun off with Stevens as its director, allowing the AFI to resume other activities. Despite all of these suggestions for the expansion and refocusing activities, the only idea Callenbach put forth regarding a funding source was for nitrate copying, which could be expanded by lobbying Congress for funds.⁷⁵ After this funding was secured, Callenbach believed that the archival activities of the AFI should be discontinued and absorbed into the LoC's workflow.

It is difficult to properly assess the merits of Callenbach's critiques, since he was a biased author. The first sentence of his article mentioned Colin Young's 1961 proposal from the same journal for an organization to be called the American Film Institute, while the next sentence began, "In 1966 the AFI actually came into existence."⁷⁶ This falsely suggested that the founding of the AFI was spurred by this proposal, written by a previous *Film Quarterly* editor. Many of Callenbach's suggestions were effectively repeating Young's proposal, in fact, including the distribution of independent films. Stevens addressed this implication in his rebuttal, and Callenbach was forced to acknowledge the lack of Young's influence.⁷⁷ Callenbach also noted that if Young's

⁷⁴ Callenbach, "The Unloved One," 53.

⁷⁵ Callenbach, "The Unloved One," 44-5.

⁷⁶ Callenbach, "The Unloved One," 42.

⁷⁷ Stevens, "About the American Film Institute," 38, 44.

proposal had been followed he would have far less reason to criticize the Institute, since this adherence would have resulted in it not training filmmakers and its Center for Advanced Film Studies would not exist. Young had, ironically, left his position at UCLA in 1970 to become the founding director of the United Kingdom's National Film School, which had been created with government support to help revive and sustain the nation's film industry.⁷⁸ However, as discussed in the previous chapter, when the AFI was being founded, members of the academic community believed that Young's plan had been unfairly dismissed and that the AFI should not undertake film production training activities. It did not seem that the resentment over these matters had dissipated in the ensuing years.

The academic community would continue to provide some of the most vocal critiques of the AFI. Regardless of whether these arguments were justified or balanced, they had a significant impact on the AFI's operations. As an organization that needed a positive public image if it wished to maintain and expand its financial support from outside sources, publicly stated critiques from relevant stakeholder groups would prove to be a hindrance. This was the case in 1974, when the AFI attempted to renegotiate its relationship with the federal government to guarantee it more stable funding.

The AFI's Attempted Divorce from the NEA

The AFI attempted to remedy some of its core problems, especially its financial issues, through federal legislative that it lobbied Congress to adopt. On October 7, 1974, Congressman John Brademas of Indiana convened two days of hearings on House

⁷⁸ For an overview of Young's time with the National Film School, later the National Film and Television School, see Duncan Petrie, "British Film Education and the Career of Colin Young," *Journal of British Cinema & Television* 1, no. 1 (2004): 78-92.

Resolution 17021, entitled “A Bill to Amend the National Foundation on the Arts and the Humanities Act of 1965 to Create the American Film Institute as an Independent Agency.”⁷⁹ Brademas chaired the Committee on Education and Labor’s Subcommittee on Education, which oversaw the testimony for the bill. The proposed legislation’s central purpose was to allow the AFI to better enhance film education nationally by providing the organization with increased, more stable funding and greater autonomy.

Perhaps the most significant element of the legislation was its requirement that the federal government directly provide the AFI with two-thirds of its annual funding, leaving the Institute responsible for raising outside funds to cover a partial match of at least one-third.⁸⁰ This attempt on the part of the AFI to restructure its financial support was in response to the difficulties it had faced in maintaining adequate funding, especially considering that film studio funding had not been as strong as anticipated. Although the legislation failed, the content of the testimony is important for numerous reasons. George Stevens Jr. and other supporters of the AFI had an opportunity to explain what they saw to be the positive actions and growth of the organization, providing a snapshot of the Institute’s activities at the time. NEA chair Nancy Hanks described the nature of her organization’s relationship – and thus, the government’s relationship – with the AFI, and she described structural problems she saw with the Institute that would eventually lead to difficulties in dealing with film archives. Meanwhile, critics from the academic and independent film communities offered scathing testimony, derailing the legislation.

⁷⁹ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency: Hearings on H.R. 17021*, 93rd Cong., 2nd sess., May 7-8, 1974.

⁸⁰ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 3.

The AFI's Progress to Date

Before the testimony had begun, Brademas was able to state several of the AFI's notable achievements to date. 9,500 films had been acquired for the AFI Collection at the Library of Congress, the second volume of the AFI Catalog had been completed and was awaiting publication, the Center for Advanced Film Studies was actively training future filmmakers, and the Institute's theatre in the Kennedy Center was operational and regularly screening cinema classics.⁸¹ Terrence Mallick testified about his training at the Center for Advanced Film Studies and crediting this for his subsequent ability to break into the industry and gain funding for his first feature film, *Badlands* (1973). Maya Angelou and Ellen Burstyn provided positive testimony about their recent participation in the AFI's film directing workshop for women, which had been launched as a way to help diminish Hollywood's gender imbalance.⁸² This program, which the AFI made an annual activity, was separate from the Center for Advanced Film Studies' primary training activities because rather than focusing only on young novices, women with previous connections to and other careers in Hollywood were encouraged to participate. Despite all of these positive statements, however, Stevens and the chair of the AFI's board of trustees, Charlton Heston, testified that without greater government support, the Institute would not be able to maintain or expand its positive activities. This level of support was not coming from the NEA.

⁸¹ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 4.

⁸² House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 81-6.

The NEA's Relationship to the AFI

NEA chair Nancy Hanks described the NEA's support of the AFI as an unusual situation when compared to the rest of the Endowment's support activities. While virtually all of the funds that the NEA distributed went to directly support artistic activities by individuals and organizations, focusing on specific projects, the AFI was the only organization to receive ongoing funding for administrative and operations expenses.⁸³ Most of the grants distributed by the NEA were matching funds and although the minimally required match was fifty percent on these monies, virtually all recipients significantly exceeded this amount. The AFI, in contrast, had received more than half of its annual funding from the NEA in recent years. Congress allowed the NEA to distribute up to twenty percent of its funds without matching requirements, and the Endowment repeatedly used much of this allotment to provide the AFI with an exemption from the match. Brademas challenged Hanks on this criticism, noting that the NEA had received a Presidential mandate to form the AFI, and it needed to be treated as a unique case rather than just "another program."⁸⁴ Hanks accepted this, noting that it was "unique in its accomplishments," before retorting, "it is also unique in the fact that, in terms of funding, it has not worked out as everybody who began it thought it would."⁸⁵ Additionally, Hanks suggested that the amount of funding the AFI had expected to receive had been unrealistic from the start, specifically noting that the \$8.5 million annual budget

⁸³ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 27.

⁸⁴ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 40.

⁸⁵ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 40.

suggested by the *Stanford Report* exceeded the entire NEA budget, to support all of the arts, in its first year.⁸⁶

Due to these funding issues, Hanks initially supported the separation of the NEA and the AFI. She facilitated talks between the Institute and the Smithsonian, which were ultimately unfruitful, to see if the latter would be interested in taking partial control of the AFI and providing it with ongoing financial stability.⁸⁷ However, she was less receptive to it being a peer agency, especially if that meant the Institute would have its own grant making powers. The NEA distributed more than \$4.82 million in support of public media programs in 1974, which were artistic activities in the fields of film, television, and radio. This included \$1.1 million for the AFI's general activities, \$390,000 for the Institute to distribute as subgrants for film preservation, and \$260,000 in AFI subgrants for independent filmmakers. The remaining \$3.07 million that did not go to the AFI went to educational workshops and programs, curriculum development for secondary schools and colleges, the production of programs for public television, film series and festivals, and more. Hanks was concerned that the creation of an independent AFI would result in such grant making activities being shifted to this other agency, even though Stevens insisted in his own testimony that this would not be the case.⁸⁸ Since the NEA's purpose was to act as a national endowment for all of the arts, Hanks felt that making an exception and removing one form from its purview would limit its scope and set a potentially dangerous

⁸⁶ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 26.

⁸⁷ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 40, 44, 51.

⁸⁸ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 33-37.

precedent. As discussed above, Roger Stevens had discussed with George Stevens, Jr. that this exception had already been made years before, and that the AFI was supposed to effectively be the executor of motion picture related activities for the NEA.⁸⁹

Hanks also noted that the NEA primarily oversaw grant-making activities, and that it did not directly make artistic works or train artists. She argued that an organization that conducted the same types of activities as its grantees potentially faced a conflict of interest:

Any organization expending public funds should not seek to carry on its extensive operations, and at the same time function as a grant-making agency for other institutions. For, experience suggests, in time of financial stringency, the pressure to maintain direct operations at the expense of funds assigned to others will be strong and may be irresistible; and the presence of this pressure, whether or not it is resisted, will be a source of friction between the institution and the constituency it is created to serve.⁹⁰

These comments were not merely a convenient defense to prevent the AFI from being able to usurp the NEA's film related grant making activities, but instead a prescient analysis of a problem in the AFI's structure. During the following decades the AFI continued its own activities to support various motion picture related constituencies while also distributing grant funds to organizations with connected or overlapping goals. As discussed later in this chapter and further in this dissertation, this would become a major source of tension, as numerous film archives and other organizations would accuse the

⁸⁹ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁹⁰ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 29.

AFI of inappropriately using federal grant funds meant for outside organizations for its own activities.

Likewise, Hanks noted that “the National Endowment for the Arts, within its present budget levels, does not have the funds that the entire profession believes to be important to save the film of this country. This is the view of the Library of Congress, the Museum of Modern Art, and the George Eastman House.”⁹¹ The grants that the AFI distributed to these institutions through contract with the NEA certainly helped, but moving forward, the film archives needed an organization that could raise additional funds to meet this need and prevent the films already in their possession from being lost to decay. As discussed later in this chapter, it seemed at times that the AFI was poised to act to meet this need, but it ultimately proved unable or unwilling to achieve this.

Criticism from the Academic Community and Independent Filmmakers

Nancy Hanks was critical of some of the AFI’s actions and hesitant to see it receive greater government support, but the testimony from a panel of media educators was far more severe. This group, led by Gerald O’Grady, Director of Media Studies at the State University of New York at Buffalo, recounted the termination and resignation of the Institute’s educational and research staff.⁹² They echoed some of Callenbach’s attacks, including charges of regionalism and questions of why the Center for Advanced Film Studies should remain part of an Institution with other broad mandates. Perhaps most significantly, these media educators submitted numerous documents in support of the

⁹¹ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 32.

⁹² House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 96-103.

positions of their field against the AFI, including the aforementioned remarks from SCS in *Cinema Journal* and the entirety of Callenbach's article, "The Unloved One."

Several independent filmmakers also expressed concern at the separation of the AFI from the NEA.⁹³ Ed Emshwiller, an independent filmmaker who had previously made films under Stevens for the USIA, complained of a bias towards Hollywood:

The AFI board, presently dominated by executives from the industry, gives the lion's share of the AFI budget (other than administrative overhead) to the film school at Greystone, a trade school and admittedly a good one. That may be good for the industry, but I doubt it is the best way to funnel most of the taxpayer's money in support of the art of film.⁹⁴

In addition to this, he expressed concerns about a greater reliance on federal funds leading to potential government interference in or censorship of film productions funded by the AFI. Emshwiller noted that he had recently joined the board of directors for the AFI, and relationships with independent filmmakers had improved, but he felt the Hollywood bias had not been adequately diminished. Echoing these concerns of the independent film community, Ed Lynch, President of the newly formed Association of Independent Video and Filmmakers, testified on behalf of his organization that "we feel that the effect of this proposal would be to give the new institute a favored position in the field without evidence that it has the support of the people in the field."⁹⁵ In his view,

⁹³ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 87-92.

⁹⁴ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 88.

⁹⁵ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency*, 67.

allowing the organization to operate without the oversight of the NEA or another organization would be a mistake.

Considering this level of hostility from film educators and independent filmmakers, the legislation died in committee. Sentiments among the former group that the government should not fund a film production school, and assertions from the latter that tax dollars would be better spent supporting independent filmmakers instead of the lucrative Hollywood industry, derailed the AFI's attempt at independence and greater government support. The American Film Institute would remain tied to the NEA for the foreseeable future.

"Détente" and the End of George Stevens Jr.'s Tenure

In December 1975, the Los Angeles Times published an article entitled, "AFI – The Battles Give Way to Détente," detailing the de-escalation of the conflicts that came to a head the year before.⁹⁶ The NEA was still not as generous with funding as Stevens had hoped, but members of Congress had made it clear that the agency was expected to continue its support for the organization at a reasonable level. The AFI's own fundraising had improved, and adjustments to new budget expectations had eased some staff tensions. Members of the academic community were still frustrated at the direction of the Institute, but their ongoing attacks had ceased. Moving forward, Stevens felt that the lack of a vote of confidence from the NEA early into the life of the AFI hampered its ability to raise private funds.⁹⁷

⁹⁶ Gregg Kilday, "AFI - The Battle Gives Way to Detente," *Los Angeles Times*, December 7, 1975, O1.

⁹⁷ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

In between the AFI's conflict with the educational community and its attempted divorce from the NEA, Stevens started what would become one of the Institute's most fiscally successful programs. Nancy Hanks had offered the AFI challenge grant support for its activities in fiscal year 1973 in the amount of \$500,000, offering a greater contribution to its general funding if the Institute could increase the total it raised on its own.⁹⁸ Stevens considered the idea of a television program that would honor a notable contributor to the art of film, which would eventually turn into the AFI Lifetime Achievement Award program. Cary Grant was considered as the first honoree – a Grant for a grant – but due to his distaste for appearing on a television program rather than on film, the concept was briefly delayed. John Ford was ultimately the first honoree, and the black tie dinner celebrating his work was aired on CBS in 1973. Beyond publicizing the AFI's activities and cinema as an art form to a broad audience, the amount raised from tickets to the event and broadcasting rights allowed the Institute to meet its matching requirements.

The Lifetime Achievement Award became an annual event. Some critics, especially within academia, found the program to be further evidence of the AFI's overly strong connections to Hollywood and its focus on show over substance.⁹⁹ However, given its annual funding value, the series has helped to support the AFI's general activities. Likewise, in 1977 the AFI celebrated its tenth anniversary with a reception at the White House, with President Carter in attendance, followed by a formal event at the Kennedy Center Opera House. Beyond showing formal, presidential approval of motion pictures as

⁹⁸ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

⁹⁹ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

an art, the event raised additional funds for the Institute. Stevens met with Roger Stevens after the event to thank him for allowing the AFI use of the Opera House, and the two began discussions about hosting a similar, annual gala event for the Kennedy Center. This was the start of the Kennedy Center Honors. Stevens took a three-month leave of absence from the AFI in 1978 to run the first Honors event, and realized soon after that this was the right time for his departure from the AFI. He subsequently organized the Kennedy Center Honors program each year through 2014.

Stevens' had the Institute begin the search for his replacement, and he agreed to stay involved with the AFI as co-chair of the board with Charlton Heston.¹⁰⁰ Although his legacy was mixed, Stevens established the groundwork for greater recognition of film as an art by the government, and his efforts to ensure that film preservation was part of this facilitated the preservation of tens of thousands of American motion pictures.

The Firstenberg Era: New Challenges in Preservation

The AFI went through several notable changes beginning in 1980, following Stevens' departure as its director. The Institute received a small number of applicants for Stevens' position, ultimately selecting Jean Picker Firstenberg as the new director.¹⁰¹ Firstenberg was a former sportscaster who had been heavily involved in Democratic campaign organizing in the 1960s.¹⁰² She had also organized United States participation in the Moscow Film Festival in 1965, on behalf of the USIA. During the 1970s she

¹⁰⁰ George Stevens Jr. to the Board of Trustees of the American Film Institute, 7 June 1979, George Stevens Jr. Personal Papers, Private Collection.

¹⁰¹ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

¹⁰² Louise Sweeney, "American Film Institute's Jean Firstenberg; From Would-be Sports Announcer to President," *Christian Science Monitor*, June 26, 1980, <http://www.csmonitor.com/1980/0626/062654.html>.

worked for Princeton University's communication office, eventually becoming its director, before becoming an executive in charge of media-related projects at the Markle Foundation. In this latter position, Firstenberg helped to fund and provided input into the AFI's directing workshops for women. Beyond this valuable experience in nonprofit management and communication, Firstenberg had strong family connections to the motion picture industry. Her father Eugene had been the president of Loew's Movie Theatres, her brother David was a vice president at Lorimar Films, and her uncle, Arnold Picker, had been an executive in charge of international distribution at United Artists.

Firstenberg chose to move AFI West out of the Greystone Mansion in 1980, relocating to the former campus of Sacred Heart College in Los Angeles. Although many critics suggested that the mansion had been a significant burden on the Institute, Stevens argues that the cost of maintaining this property was reasonable, and the greater reason for the move was expanding enrollment in the film production programs of the Center for Advanced Film Studies.¹⁰³ Firstenberg also attempted to restore relationships with the academic community by restarting the Institute's educational activities.¹⁰⁴ She began this process by hiring an Education Services Director and reaching out to SCS in 1982, asking the latter for input on developing the AFI's educational partnerships. Unfortunately, history repeated itself and in 1983 budget cuts resulted in a series of layoffs at the AFI, and the Education Services Director position was eliminated. SCS continued to work with the AFI on developing educational guidelines for it to enact, publishing these in a

¹⁰³ George Stevens Jr., personal interview with the author, Washington, D.C., July 1, 2015.

¹⁰⁴ E. Ann Kaplan, "Professional Notes," *Cinema Journal* 22, no. 4 (1983): 74; Bill Nichols, "Report from the President," *Cinema Journal* 23, no. 1 (1983): 4-6; Gerald Mast, "The AFI and Film Education I: Jean Firstenberg Responds to E. Ann Kaplan's Editorial Statement on the Closing of the AFI Education Services," *Cinema Journal* 23, no. 1 (1983): 57-59; Jean Firstenberg, "The AFI and Film Education," 60-1.

1985 issue of *Cinema Journal*, but the Institute did not follow through on these suggested activities.¹⁰⁵

Some of Firstenberg's most significant actions, however, related to film preservation. In 1982 she instigated the recommencement of work on the AFI Catalog of Feature Films, which had not seen a new volume published since 1976.¹⁰⁶ The Catalog activities are still active today. In 1984, the AFI worked with the NEA to create the National Center for Film and Video Preservation (NCFVP) to oversee preservation activities. NEA director Frank Hodsoll, who had replaced Nancy Hanks as chair of the NEA in 1980, planned for the NCFVP to be "the first permanent independent agency for establishing, coordinating and implementing comprehensive moving-image preservation policies on a national level."¹⁰⁷ He hoped that the center would foster "cooperation among independent film and video producers, educators, scholars and individuals; among various and diverse archives spread across this country and among the commercial film and video industry." Seemingly acknowledging the AFI's past difficulties with some of these stakeholders, Hodsoll stated that "there is now no room for mutual distrust, which too often characterized these relationships in the past." Although the NCFVP was supposedly a semiautonomous organization controlled in equal parts by the NEA and AFI, in practice its administration was overseen by the AFI and the NEA provided a significant part of its funding.¹⁰⁸ On the surface, the AFI appeared to place a greater

¹⁰⁵ Bill Nichols, "Report on the American Film Institute Education Services," *Cinema Journal* 24, no. 4 (1984): 59-71.

¹⁰⁶ Jean Firstenberg, "The AFI and Film Education," 60-1.

¹⁰⁷ Clarke Taylor, "Cooperation Urged in Film Preservation," *Los Angeles Times*, May 1, 1985, http://articles.latimes.com/1985-05-01/entertainment/ca-11806_1_film-preservation.

¹⁰⁸ Slide, *Nitrate Won't Wait*, 85-6.

emphasis on preservation, but the actual results of the establishment of the NCFVP are questionable.

Greater Visibility for Film Preservation

The goals of the NCFVP were not much different than the archives activities the AFI had conducted since its founding.¹⁰⁹ The new Center would still be responsible acquiring films for the AFI Collection, it would still oversee the distribution of NEA film preservation grant funds to archives, and it would still work with the AFI to promote the importance of film preservation. The AFI remained the secretariat for FAAC and TAAC, and continued in this position for two years after the two organizations merged into the AMIA in 1990. The Catalog project had resumed, and just as it was seen as an important complement to the AFI's film preservation activities before, it would now resume under the NCFVP. A notable addition to these activities was the development of the National Moving Image Database (NAMID), which would expand on the Catalog by digitizing its records so that they could be accessed by other institutions that dialed into the AFI's network. This system would also include information about where copies of films were held and, to prevent archives from duplicating each other's efforts, it would contain information about ongoing preservation projects at various institutions.

The NCFVP's preservation mandate expanded beyond the limited, nitrate-focused scope of the AFI in the past. Although the Institute had considered projects that would lead to support of television preservation in the past and supported organizations like

¹⁰⁹ Clarke Taylor, "Cooperation Urged in Film Preservation," *Los Angeles Times*, May 1, 1985, http://articles.latimes.com/1985-05-01/entertainment/ca-11806_1_film-preservation.

TAAC, the establishment of the NCFVP made this an official part of its mission.¹¹⁰ The problems of film preservation, meanwhile, had expanded significantly. MoMA had discovered an odd odor coming from some of its acetate films in 1978, and further investigation revealed this to be the result of chemical decomposition of these materials.¹¹¹ This phenomenon, known as vinegar syndrome due to the acidic nature of the odor released, began to be discovered in other film collections, as did the shrinkage and eventual fusing together of these materials that made them unusable. In other words, while only nitrate was seen as being at risk before, all motion pictures were now known to be in danger.

Meanwhile, a 1979 article in *Film Comment* by Bill O'Connell on color fading in motion pictures publicized the fact that virtually all color motion pictures produced from the 1950s onward were subject to picture decomposition, even if the film base remained stable, degrading the image to a pinkish hue.¹¹² Martin Scorsese had noticed this on individual prints, but realizing that this was a widespread phenomenon that affected even films he had directed a few years before, he started a publicity campaign to encourage Eastman Kodak to fix the chemical composition of its film stock.¹¹³ Kodak had already created a more expensive, low-fade stock and made it the company and industry standard in 1981, but a new preservation crisis was in place for previously produced color films. The AFI held a film archives conference in 1980 on the use of cold, low humidity storage

¹¹⁰ Clarke Taylor, "Cooperation Urged in Film Preservation."

¹¹¹ Spehr, "Education of an Archivist," 173.

¹¹² Bill O'Connell, "Fade Out," *Film Comment* 15, no. 5 (1979): 11-8, 72.

¹¹³ Michael Binder, *A Light Affliction: A History of Film Preservation and Restoration* (Raleigh, NC: Lulu.com, 2014), 154-62.

to slow or halt virtually all forms of motion picture deterioration, including nitrate decomposition, vinegar syndrome, and color fading. This method proved successful and became standard practice for larger archives in the coming years, making it so that preservation no longer primarily meant copying nitrate, but now entailed proper storage conditions. This expansion of the scope of what needed to be preserved and the methods available for doing so would be costly.

Firstenberg built on the establishment of the NCFVP through the publicity activities of the AFI. This included increasing its use of the concept of film preservation as a core part of fundraising appeals, primarily through a campaign called the “Decade of Preservation,” which began in 1983 and lasted through 1993.¹¹⁴ The campaign involved regularly including discussions of preservation at public events, in fundraising literature, and other promotional activities. The most high profile event of the “Decade of Preservation” was the AFI’s Preservation Ball on May 23, 1988 in Washington, DC. Over 700 guests attended this event, including President Ronald Reagan and First Lady Nancy Reagan, as well as other distinguished individuals from Hollywood and the Washington political establishment.¹¹⁵ At \$250 a plate, the media covered this event as a resounding success for raising both publicity and money for film preservation. The total amount reported to have been raised for film preservation was \$175,000.¹¹⁶

In other words, anyone looking at the AFI’s marketing and publicity activities from the early 1980s into the 1990s would have believed that the organization was at the

¹¹⁴ Slide, *Nitrate Won’t Wait*, 86-7.

¹¹⁵ Barbara Feinman, “Reagan, Saving the Shows: With Baryshnikov at AFI’s Preservation Ball,” *Washington Post*, May 23, 1988, C1, C4.

¹¹⁶ Slide, *Nitrate Won’t Wait*, 87.

absolute forefront of film preservation activities in the United States. This may have been the case in terms of its image, but in terms of actual financial support for film preservation, things were not what they seemed.

The AFI's Film Preservation Finances

When analyzing the AFI's finances, it is important to remember that although the Institute was established by the federal government through the NEA, it was an autonomous organization. The previous chair of its funding agency, Nancy Hanks, had argued she did not believe it should primarily supported by the federal government. Motion pictures were, and continue to be, a major business in the United States, and Hanks and others assumed that the industry would be willing to provide considerable monetary support to an organization that promoted cinema as a major American art form. Even if Stevens had been caught off guard by Hanks' funding demands and the insistence that the AFI raise most of its funds from the highly profitable film industry or other sources, this expectation should have been clear to Firstenberg upon taking the position of director of the AFI.

What follows is an analysis of government funding provided to the AFI through the NEA, with a specific focus on repeated, annual funding programs. The information presented in these tables has been compiled from NEA annual reports and a large-scale study of American film archives, *Film Preservation 1993*.¹¹⁷ Funding for one-time projects, such as challenge grants to support the renovation of the AFI's newly acquired

¹¹⁷ NEA funding information can be found at "About the NEA: Annual Reports," National Endowment for the Arts, accessed July 5, 2015, <http://arts.gov/about/annual-reports>. Breakdowns of how the AFI distributed these funds can be found in Annette Melville and Scott Simmon, *Film Preservation 1993* vol. 1, 32-37.

Los Angeles campus in the 1980s, are excluded from the following data. During the 1980s, the Institute received direct funding for its general operations and for the operation of the NCFVP. The NEA also contracted with the AFI to have the organization administer grant programs to support independent filmmaking, and it continued its grant program to support film preservation at American film archives.

Table 1: NEA Film Preservation Grant Distributions, in Dollars

Fiscal Year	GEH	MoMA	UCLA	Other	AFI	Grant Total
1979	100,000	150,000	85,000	118,000	34,500	487,500
1980	190,697	115,349	107,349	100,820	-26,715	487,500
1981	112,220	175,000	150,000	50,280	243,500	731,000
1982	113,700	131,190	131,190	50,295	73,625	500,000
1983	90,500	96,185	121,190	50,000	142,125	500,000
1984	92,640	113,670	113,670	43,500	156,520	520,000
1985	100,000	118,637	118,637	55,600	107,126	500,000
1986	91,600	110,000	110,000	44,000	144,400	500,000
1987	97,600	113,000	111,000	42,600	135,800	500,000
1988	97,000	112,500	109,500	43,600	137,400	500,000
1989	95,000	110,000	110,000	45,100	139,900	500,000
1990	110,000	110,000	110,000	35,600	134,400	500,000
1991	90,000	100,000	100,000	55,600	404,400	750,000*
1992	101,000	101,000	101,000	52,600	394,400	750,000*
Total	1,481,957	1,656,531	1,578,536	787,595	2,221,381	7,726,000

*Preservation grant funds and NCFVP operational funds were not separated from each other in these years.

As detailed in Table 1, the AFI received about half a million dollars each year from the NEA under the contract project to distribute funds to American film archives. The Institute kept a significant portion of this funding each year during the 1980s and into the 1990s, to cover the costs of administering these grants through the NCFVP. The AFI's decision to keep much of this funding to itself may have seemed reasonable if the Institute were not receiving NEA funding for its general operations, or if it were not

receiving adequate funding for the NCFVP, which was considered to be a joint project between the NEA and AFI. However, this was certainly not the case.

Table 2: NEA Funding to the AFI for Ongoing Activities, in Dollars

Fiscal Year	General Operations	NCFVP Operations Funds	Film Preservation Grants	Independent Filmmaker Grants	Total
1983	1,600,000	230,000	500,000	400,000	2,730,000
1984	1,540,000	--	520,000	400,000	2,460,000
1985	1,600,000	240,000	500,000	400,000	2,740,000
1986	1,450,000	300,000*	500,000	400,000	2,650,000
1987	1,500,000	300,000	500,000	400,000	2,700,000
1988	1,500,000	325,200	500,000	400,000	2,725,200
1989	1,500,000	364,800*	500,000	400,000	2,764,800
1990	1,500,000	300,000	500,000	400,000	2,700,000
Total	12,190,000	2,060,000	4,020,000	3,200,000	21,470,000

*Funds for this year were distributed the following fiscal year.

Table 2 shows that from the founding of the NCFVP in 1983 through 1990, the AFI received funding from the NEA for its National Center as a separate line item from both its general operational funds and its grant making program for the purposes of film preservation. Rather than using the NCFVP's own direct NEA funding to cover the cost of administering the NEA film preservation grants, the organization chose to take the administration costs out of the grant allowance, decreasing the number of films that could be preserved with these monies in the process.

Table 3: Distribution of NEA Film Preservation Grants to Film Archives other than MoMA, GEH, and UCLA, in Dollars

Fiscal Year	Anthology	NCJF	NYPL Dance	Other	Total
1979	15,000	30,000	0	73,000	118,000
1980	25,000	0	6,600	69,220	100,820
1981	29,000	0	8,680	12,600	50,280
1982	25,365	13,120	7,435	4,375	50,295
1983	27,100	5,000	7,500	10,400	50,000
1984	20,000	15,000	5,000	3,500	43,500
1985	20,000	15,000	9,000	11,600	55,600
1986	10,000	15,000	9,000	10,000	44,000
1987	12,500	12,500	5,000	12,600	42,600
1988	12,500	9,000	7,000	15,100	43,600
1989	12,500	9,000	7,000	16,600	45,100
1990	12,000	7,500	6,500	9,600	35,600
1991	17,000	10,000	10,000	18,600	55,600
1992	12,200	11,000	6,000	23,400	52,600
Total	250,165	152,120	94,715	290,595	787,595

Table 1 above shows that of the annual film preservation funds the AFI actually distributed each year from 1979 through 1992, more than 85 percent went to just three institutions. These were MoMA, UCLA, and GEH. Less than 15 percent of preservation grant funding that went to other, smaller institutions, and even this distribution of funds shows a lack of diversity in the NCFVP's grant making decisions, as detailed in Table 3. More than 63 percent of these funds went to Anthology Film Archives, the National Center for Jewish Film, and the New York Public Library Dance Collection, leaving less than 37 percent for archives beyond these three smaller organizations. For total grant funds distributed during these years, just above 5 percent of were distributed to institutions other than the six aforementioned archives.

It is difficult to understand why nearly a third of the funds specifically designated by the NEA to be distributed for grants to support film preservation was absorbed into the AFI budget each year. These budget questions would not have been a major issue if the

AFI had also been raising a significant amount of funds from non-governmental entities and then providing this to film archives. After all, considering that money is fungible, the film archives would likely not have cared what the AFI did with the government grant funds, as long as the AFI had provided them with more than the total amount the NEA had allocated for film preservation to do the actual work required to preserve films in their care. However, as discussed in the following section, the AFI was not providing considerable financial support to film archives, and these organizations were not pleased.

The Film Archives Revolt

Some of the AFI's questionable financial decisions in regard to funding the actual, physical preservation of motion picture films and its inflated public image in this domain led to tension between the Institute and the heads of some of the most significant American film archives. In 1990, Martin Scorsese and several other notable members of the filmmaking establishment launched the Film Foundation, a private, nonprofit enterprise created to lobby film studios to invest in preserving their own films.¹¹⁸ This was largely prompted by the color fading issues that had been discovered in prior years. To achieve the organization's goals, Scorsese formed the Film Foundation's own Archival Advisory Committee, which recreated the pre-FAAC AAC by consisting of representatives from the LoC, GEH, MoMA, and UCLA.

In an August 30, 1991 letter to the members of his AAC, Scorsese provided an update of the Film Foundation's activities and solicited feedback on what the

¹¹⁸ Susan King, "Foundation Set to Preserve American Film," *Los Angeles Times*, May 2, 1990, OCF6.

organization could do to benefit archives further.¹¹⁹ He also noted the success of the Foundation's collaboration with the AFI on a 1991 re-release of the 1960 classic *Spartacus* as a fundraising effort for film preservation. The original plan was for the organizations to split the proceeds from this effort equally, but the Film Foundation had decided to yield its portion to the AFI. This split of the *Spartacus* revenues became a point of contention to some members of the film archives community. In a response dated September 9, Jan-Christopher Horak of the GEH expressed pessimism at studios properly preserving their own films, arguing that the Film Foundation should actively raise funds for preservation activities.¹²⁰

When speaking of these studio films, Horak wrote, "Who will rescue these films? Certainly not the American Film Institute, which in the twenty-five years of [its] existence has not financed the preservation of a single film, but has in fact only siphoned off millions of dollars of NEA funding, earmarked for film preservation, for its overhead and its administration of NEA funded film preservation."¹²¹ Horak suggested that the AFI's distribution of NEA funds for preservation could not be considered an action to save films, but merely a dispersal of outside money that would be more effective if directly allocated to archives rather than funneled through an intermediary organization. Furthermore, he expressed disappointment that the Film Foundation yielded its *Spartacus*

¹¹⁹ Martin Scorsese to the Archivists Advisory Council, 30 August 1991, Box RF13, Folder 5, Anthony Slide Papers 1964-Present, Center for Archival Collections, Bowling Green State University Libraries.

¹²⁰ Jan-Christopher Horak to Martin Scorsese and the Archivists Advisory Council, 9 September 1991, Box RF13, Folder 5, Anthony Slide Papers 1964-Present, Center for Archival Collections, Bowling Green State University Libraries.

¹²¹ Jan-Christopher Horak to Martin Scorsese and the Archivists Advisory Council, 9 September 1991.

proceeds to the AFI, suggesting that these funds could have been put to better use if distributed to archives or retained for the Film Foundation's own research committee.

Firstenberg and the current director of the NCFVP, Gregory Lukow, responded to Horak's accusations in a letter a month later, sending copies to Scorsese and members of the AAC.¹²² Their defense consisted of a recap of the AFI's early work to find and acquire films for archives in the late 1960s and early 1970s, as well as brief notes on recent efforts the organization had made to repatriate American films from foreign archives. They also noted that the AFI had used funds other than NEA money to finance all or some of the preservation for certain films, providing a list of twenty titles. These arguments were complicated, however, by Firstenberg and Lukow's accounting of the AFI's use of NEA funds, which reflects the information presented in Tables 1 through 3. The AFI received \$500,000 annually from the NEA for the film preservation grants and the authors stated that about \$355,000 per year was distributed to archives. The remaining \$145,000 covered the administration of the grants, the AFI's research work with other archives, the salary of the Institute's own archivist, and other activities, such as the catalog of American feature films. Firstenberg and Lukow argued that the AFI also raised funds each year to support what it considered to be preservation activities, with the Institute providing the NCFVP with a minimum of \$300,000 from its own budget each year, matching the NEA's average allotment. However, these funds were also used for overhead, paying staff, and research activities, such as the catalog of American feature films. Thus only a small portion of the funding that the AFI raised or received for

¹²² Jean Firstenberg and Gregory Lukow to Jan-Christopher Horak and the Archivists Advisory Council, 16 October 1991, Box RF13, Folder 5, Anthony Slide Papers 1964-Present, Center for Archival Collections, Bowling Green State University Libraries.

distribution for “preservation” activities directly went towards the physical preservation of motion pictures.

Film curator Edward Richmond of the UCLA Film and Television Archive entered the conversation with two letters. In his response to Firstenberg and Lukow, he acknowledged the importance of the NCFVP’s efforts in repatriation, cataloging, the development of NAMID, and other areas.¹²³ However, he also pointed out that most of the twenty films that Firstenberg and Lukow listed as having been saved by the NCFVP with non-NEA funds were preserved using money from a single donation in 1984. Specifically, a dozen of the titles were saved with a grant of \$100,000 from Hiram Walker Liqueurs.¹²⁴ Considering the lack of evidence of the AFI raising funding beyond NEA dollars for film preservation, Richmond asked in an underlined sentence, “Does the AFI/NCFVP intend, or not, to raise funds in direct support of preservation work by the archives?”¹²⁵

Richmond argued that he and other archivists initially supported the NCFVP because they believed it was designed to increase direct fiscal support for the actual, physical preservation of films held by archives. Considering that it had not acted in this capacity, he argued that the situation contributed “to an overall impression that the AFI is disingenuous – claiming to function as the leader in the field, while abdicating those leadership responsibilities.” Richmond ended this letter by stating, “I hope you will make

¹²³ Edward Richmond to Jean Firstenberg, Gregory Lukow, and the Archivists Advisory Council, 31 October 1991, Box RF13, Folder 5, Anthony Slide Papers 1964-Present, Center for Archival Collections, Bowling Green State University Libraries.

¹²⁴ Slide, *Nitrate Won’t Wait*, 84.

¹²⁵ Edward Richmond to Jean Firstenberg, Gregory Lukow, and the Archivists Advisory Council, 31 October 1991.

clear...the role the AFI/NCFVP is committed to playing [in regards to supporting motion picture preservation]. If you do nothing more than that, you will be performing a much needed service for all concerned.” Following up on this, in a letter to Scorsese, Richmond addressed how funds for preservation should be raised, stating that, “only an organization with a high profile and national scope can help generate the level of support required. And, only two organizations with that stature exist: the Film Foundation and the American Film Institute.”¹²⁶ In other words, Richmond believed that if the AFI and its NCFVP would not raise funds for film preservation at the archives, another organization needed to step in and take over this leadership role.

None of this implies that the activities of the NCFVP and its staff were unimportant. Although some of the archivists’ comments were pointed, they should not be perceived an attack on the core staff of the NCFVP. Richmond willingly conceded the value of these programs, and Horak expressed frustration at a perceived lack of progress on the AFI Catalog project, demonstrating his appreciation of the Center’s goals even if he questioned whether they were being achieved. Instead, the problem was that the archives had more deteriorating films in their possession than they could afford to preserve, and they needed increased funding to take action. The AFI had used its resources to increase awareness about film preservation, collaborated with high-profile individuals to make public statements in support of saving cinema, and convinced the public that the Institute was dedicated to this cause. However, this increase in clout did not result in a corresponding increase in the number of films the archives could save. Its

¹²⁶ Edward Richmond to Martin Scorsese and the Archivists Advisory Council, 4 November 1991, Box RF13, Folder 5, Anthony Slide Papers 1964-Present, Center for Archival Collections, Bowling Green State University Libraries.

support for the people who were actually doing the work entailed in preserving motion pictures fell far short of the publicity presented through black tie events, or the “Decade of Preservation” publicity campaign that would quietly conclude two years after this series of letters. Considering Firstenberg and Lukow’s own accounting of the Institute’s investments in film preservation, it was evident that revenue from events such as the 1988 Film Preservation Ball were not considerably increasing the number of films saved each year.

The End of the AFI’s Preservation Activities and Ongoing Federal Support

The AFI lost virtually all of its federal government funding, for film preservation and other activities, within five years of the exchanges discussed above. As detailed in chapter six, it appears that the NEA ceased this support due primarily to massive funding cuts to the Endowment in 1995, rather than as a rebuke of the AFI’s actions. However, the issues that the film archives had with the AFI had not been resolved at this time, as can be seen in through their support of changes in how the federal government supported film preservation. This change came in 1996, when Congress chose to start a new nonprofit organization, the National Film Preservation Foundation, to distribute federal grant monies to film archives for the purpose of film preservation. The AFI’s film preservation activities continued in some capacity until 2008, when its preservation offices were shut down with little notice or fanfare, but any pretense of having a leadership position in this field or any sense of authority was gone by the mid-1990s.

Two years after the NEA ended its support for film preservation activities through the AFI, the Institute worked with the editors of *Variety* to publish a special supplement to the June 16-22, 1997 issue entitled “AFI at Thirty: Advancing the 20th Century

Artform.”¹²⁷ This supplement did not shy away from recognizing that the AFI had lost its federal funding, but instead noted its plans to refine “its role from a grant-dependent org[anization] to an entrepreneurial, nonprofit model for the 21st century.”¹²⁸ The first article of the supplement carried the headline, “Going Public: Nonprofit AFI Reaches Beyond Big Donors, Gov’t in its Mission,” suggesting that smaller donations would constitute actions comparative to buying stock in a company.¹²⁹ This also ignored the irony that federal support it had received over the years were *public* funds, meant to support activities that benefitted a wide constituency of the American populace. The first piece of evidence suggesting a greater dedication to the public and entrepreneurial spirit was a description of the new AFI exhibit at Disney World, featuring memorabilia from the history of cinema.

This same supplement carried a page and a half long article on the AFI’s preservation activities over the years, using the recent restoration of the 1912 version of *Richard III* as the centerpiece of these discussions.¹³⁰ The AFI funded this restoration on its own, its staff recovered the previously lost materials, and it contracted with a private lab to complete the project. In discussing the history of the AFI’s preservation activities, though, no mention was made of the Library of Congress or any of the other major archives. The restoration of *Spartacus* was specifically mentioned, but the Film

¹²⁷ “AFI at 30: Advancing the 20th Century Artform,” Special Supplement to *Variety*, June 16-22, 1997, cover-30. While this supplement appears to have been sponsored by or otherwise paid for by the AFI, this is not clearly disclosed in the publication.

¹²⁸ “AFI at 30: Advancing the 20th Century Artform,” cover.

¹²⁹ Ted Johnson, “Going Public: Nonprofit AFI Reaches Beyond Big Donors, Gov’t in its Mission,” in “AFI at 30: Advancing the 20th Century Artform,” Special Supplement to *Variety*, June 16-22, 1997, 1.

¹³⁰ Jon Silberg, “Preservation: To Protect and Preserve,” in “AFI at 30: Advancing the 20th Century Artform,” Special Supplement to *Variety*, June 16-22, 1997, 6, 22.

Foundation was not, leading the reader to assume this project was primarily overseen by the Institute. A timeline of the AFI's activities over the years also mentioned specific preservation efforts, but not any of the archives.¹³¹ In short, anyone reading the supplement without prior knowledge of the situation would have had reason to believe that the AFI had acted on film preservation during the prior decades on its own, rather than collaborating with cultural heritage institutions that actively oversaw the work needed to actually preserve films.

In contrast to this optimism about the future and stated dedication to film preservation, the Los Angeles times published an article about the AFI on October 4, 1998 entitled "To Preserve and (Self-) Protect?"¹³² Directly below the headline the article stated, "Some of the nation's foremost archivists say that the AFI is more interested in hyping itself than in rescuing works on decaying celluloid." Edward Richmond and Jan-Christopher Horak were quoted as repeating some of their aforementioned criticisms. Paul Spehr, who had recently retired from his position as assistant chief of the Motion Picture, Broadcasting, and Recorded Sound Division of the LoC, stated that although the AFI promoted its preservation activities heavily, "what we've seen very often is money going elsewhere." The chair of the AFI's board of trustees, former Universal Pictures studio head Tom Pollock, spoke of the loss of NEA support, stating "It has been terrible. We were, in effect, created through the NEA. [...] Obviously, it's been a difficult time for us financially." Firstenberg argued that the AFI still did significant work in film preservation, including funding the preservation of thirty-seven features in the past two

¹³¹ "Timeline," in "AFI at 30: Advancing the 20th Century Artform," Special Supplement to *Variety*, June 16-22, 1997, 26, 28.

¹³² Robert W. Welkos, "To Preserve and (Self-) Protect?: The State of the American Film Institute," *Los Angeles Times*, October 4, 1998, <http://articles.latimes.com/1998/oct/04/entertainment/ca-29022>.

years. However, the article also noted that among the waves of layoffs and program cuts that occurred in the wake of budget shortfalls, Gregory Lukow and his assistant at the NCFVP had been laid off in June of 1998. Even if the AFI maintained some form of connection to film preservation, it clearly did not have the national standing its publicity implied or any meaningful relationship with the major film archives.

The AFI still operates today and conducts a wide range of film-related activities under the guidance of president and CEO Bob Gazzale, who took over from Jean Firstenberg in 2007.¹³³ The AFI Catalog of Feature Films is still expanding. The project published its last printed volume in 1997, with a book on films produced between 1941 and 1950 containing more than 4,300 entries.¹³⁴ However, the Catalog is now more accessible than ever as a free online database.¹³⁵ In 2014 *The Hollywood Reporter* rated the Institute's film school as the fourth best in the nation, placing it behind University of Southern California, New York University, and University of California, Los Angeles.¹³⁶ Additionally, the AFI restored and expanded the historic Silver Theatre in Silver Spring, Maryland, reopening this historic 1938 movie house in 2003. This venue replaced the AFI's theatre in the Kennedy Center as the organization's national venue, and the author of this dissertation has seen literally hundreds of retrospective films there since its reopening. Likewise, each summer the AFI Docs film festival shows dozens of

¹³³ "AFI Board of Trustees Unanimously Select Bob Gazzale as New President and CEO," *PR Newswire*, last modified June 26, 2007, <http://www.prnewswire.com/news-releases/afi-board-of-trustees-unanimously-select-bob-gazzale-as-new-president-and-ceo-58340292.html>.

¹³⁴ American Film Institute, *The American Film Institute Catalog of Motion Pictures Produced in the United States: Feature Films, 1941-1950* (Berkeley: University of California Press, 1997).

¹³⁵ "AFI Catalog of Feature Films," American Film Institute, accessed June 27, 2015, <http://www.afi.com/members/catalog/default.aspx?s=>.

¹³⁶ "These Are the Top 25 Film Schools in the United States," *Hollywood Reporter*, last modified July 30, 2014, <http://www.hollywoodreporter.com/news/top-25-film-schools-united-721649>.

documentary features and shorts throughout Washington, DC.¹³⁷ A thorough listing of all of the AFI's activities is outside of the scope of this dissertation, but the organization is still active and successful in many of its endeavors.

One thing that the AFI does not do, at least in an ongoing, sustained manner, is preserve motion pictures or actively raise and provide fiscal support for such activities. However, it is difficult to discern this fact when looking at the Institute's own publicity. As of this writing, the first sentence of the "About Us" section on the AFI's website is, "AFI is America's promise to preserve the heritage of the motion picture, to honor the artists and their work and to educate the next generation of storytellers."¹³⁸ The last sentence of this page, in bold text, is "AFI relies on the generous financial support from people like you to provide funding for AFI programs and initiatives." This is the norm for the AFI's publicity materials, as the word "preserve" and fundraising appeals appear near each other throughout its website and in numerous print publications.

The AFI may be able to argue that its continuation of its motion picture catalog and continued efforts to promote cinema as an art aid the cause of film preservation, or that to "preserve the heritage of the motion picture" does not necessarily imply the physical preservation of motion picture films. However, considering that the AFI was previously much more heavily involved in film preservation, and that several major film archives criticized the Institute for taking attention away from their actual work of physically preserving motion picture films, it is hard to look at the AFI's use of the word

¹³⁷ "About AFI Docs," AFI Docs, accessed June 27, 2015, <http://afi.com/afidocs/about.aspx>.

¹³⁸ "About the American Film Institute," American Film Institute, accessed June 27, 2015, <http://www.afi.com/about/whatis.aspx>.

“preservation” for the purpose of promotion and fundraising as anything other than misleading.

Conclusion

The AFI made important contributions to both the survival of the American cinematic record and the maturation of the field of motion picture preservation. However, its directors faced constant questions about their financial decisions and the efficacy of the organization in regards to preserving motion pictures. George Stevens Jr. was accused of not operating the Institute on a proper national scale, and questions of his financial decisions showed that the organization lacked clear goals and financial transparency. Likewise, the AFI continued to lack financial transparency under Jean Firstenberg's leadership. While the organization certainly raised public awareness of the need for motion picture preservation during this period, it also failed to increase actual preservation actions in a way that appeased film archives. This disconnect between the AFI's preservation image and its preservation actions indirectly resulted in another organization, the National Film Preservation Foundation (NFPF), taking the AFI's place as the primary distributor of government funds for film preservation. A discussion of the National Film Preservation Act of 1988, which circuitously led to the creation of the NFPF, follows in the next chapter. This is followed in chapter six by a discussion of the birth of the NFPF and the end of all NEA funding for the AFI.

Chapter 5: Films as Exploitable Commercial Assets: Private Ownership versus Public Interest

Introduction

By the end of the 1980s, cinema was accepted by the public as a major art form with distinct ties to American culture, largely due to efforts initiated by MoMA, the LoC, the AFI, and other organizations throughout the prior decades. Janna Jones points to other legitimizing factors not previously mentioned in this dissertation, such as the proliferation of college-level film studies programs in the United States and the popularization of auteur theory.¹ This line of theory was originally formed by French film critics in the late 1950s and early 1960s who elevated certain films above others in the canon of great cinematic works and argued for the appreciation of specific directors as the primary authors of their motion pictures. Just as archival institutions in the United States had helped to legitimize motion pictures as art, auteur theory had developed in France as a result of film critics, scholars, and filmmakers viewing motion pictures – including many American films – curated by Henri Langlois at the Cinémathèque Française.

Film archives had taken action to collect these films in response to film studios – and American studios in particular – not taking adequate action to preserve the works they owned. The promotion of cinema as art helped archives to gain public support for preservation activities. These various, deliberate actions to legitimize cinema led to the American public feeling a sense of figurative ownership over certain motion pictures, which they believed to be the creations of visionary artists. Although these sentiments

¹ Jones, *The Past is a Moving Picture*, 72, 77-8.

have considerable merit, from a legal standpoint these cinematic works were created by corporate film studios and were either owned by these entities or other distributors that had purchased them.

The differences between these public and corporate perceptions of cinema led to conflict, fueled by changes in the media industry and the proliferation of new technologies. New computer systems allowed black and white films that had been transferred to video to be colorized, creating significant alterations that proved popular among some audiences, yet significantly upset many viewers and a large number of the artistic creators of these works. This resulted in the formation of the National Film Preservation Act (NFPA) of 1988, which focused on protecting the content of motion pictures from alteration, rather than physically protecting actual films. Meanwhile, Japanese electronics manufacturer Sony was seeking content that it could release in a future home video format, allowing it move past the recent failure of its Betamax format and establish a foothold in this lucrative market. The company attempted to purchase Columbia Pictures in 1989 and its film library for this purpose, but this resulted in almost jingoistic backlash from parts of the media and federal legislators. The end results of Congress acting as a referee in these cases and how these instances shaped American film preservation moving forward are discussed at length below.

Both of these cases are particularly ironic, considering that companies that were colorizing classic motion pictures and buying materials for cable programming and video sales saw film preservation as essential to their business models. These companies were reacting to new market conditions, such as greater consumer adoption of cable and video, which allowed them to profit by providing consumers with a wide range of motion

pictures for an increasingly longer time period after the films' initial theatrical releases. Protecting original negatives and high quality prints was necessary if they wanted to continue to exploit these films as assets. In other words, just as portions of the public, creative communities, and elected officials were accusing media companies of mistreating American motion pictures and denigrating American culture, these corporations not only had more motivation than ever to physically preserve the films they owned and make them easily available to American consumers, but were actually taking actions to do so. Thus, media companies needed to navigate conflicting conceptions of film preservation and control their public images in regard to their treatment of films in order to alleviate public and government pressure.

Films Become Assets: Changes in Media Ownership and Corporate Preservation

Strategies

The market conditions and technologies that now allow film studios to profit from releasing tens of thousands of motion pictures in various physical and digital distribution formats are relatively new innovations. Studio films have gone from having a very short window of profitability, leading to their neglect or deliberate destruction by their copyright holders, to being assets whose long-term profit potential justify their continual preservation. These changes have been gradual, with a wider range of motion pictures obtaining a greater profit potential throughout the decades. It is outside the scope of this dissertation to fully document these industry shifts, but a brief review of major changes using examples that are emblematic of overall trends follows.² The most notable change

² For a more detailed summary of shifts in film studio ownership, motion picture distribution methods, and the increasing value of studio film libraries, see Douglas Gomery, "The Hollywood Film Industry: Theatrical Exhibition, Pay TV, and Home Video," in *Who Owns the Media: Competition and*

in the motion picture industry in relation to film preservation is that by the 1970s, the companies that owned film libraries had major motivations to finance the preservation of works in these collections. This motivation increased by the late-1980s, as new technologies such as cable television and consumer video cassette players increased the long-term financial exploitability of studios' motion picture holdings. However, while the films were the intellectual property of the studios, copies were often held by cultural heritage institutions and preserved with non-industry funds, reinforcing the concept of these works being cultural artifacts belonging to the American people. This environment contributed to legislators believing they had a right to regulate how studios treated these materials, which posed a problem to studio executives.

Economic and technological changes in motion picture distribution have led to shifts in how studios treated negatives and prints of films to which they held copyright over the years. In the first decades of cinema, negatives and actual prints of motion pictures were not treated as major fiscal assets beyond their initial release.³ Film was seen as a constantly evolving form of entertainment, with advancements in production technologies and techniques making works that were only a few years old seem artistically and technically dated.⁴ Prior to the establishment of the Hollywood studio

Concentration in the Mass Media Industry, ed. Benjamin M. Compaine and Douglas Gomery (Mahwah, NJ: Lawrence Erlbaum Associates, 2010), 359-435. An overview of media company consolidations in the 1980s and early 1990s, including the importance of studio film libraries in these shifts, can be found in Elliot Forbes and David Pierce, "Who Owns the Movies?," *Film Comment* 30, no. 6 (November 1994): 43-50. Eric Hoyt provides a detailed history of the profitability of film libraries and trends in re-distributing films through various means after their initial release, from the creation of cinema into the 1970s, in Eric Hoyt, *Hollywood Vault: Film Libraries before Home Video* (Oakland: University of California Press, 2014).

³ A detailed explanation for the loss of an overwhelming majority of American silent films can be found in Pierce, "Legion of the Condemned," 5-22.

⁴ Hoyt, *Hollywood Vault*, 64-8.

system and the solidification of the industry's vertically integrated distribution system in the late 1910s and early 1920s, many studios would often fail financially and go out of business, often leading to the sale or eventual disappearance of their negatives and prints. These issues, combined with the high cost of storing nitrate and the ability to reclaim silver from prints, led to the neglect of deliberate destruction of many motion pictures.⁵

From the solidification of the studio system in the 1920s through the 1950s, film studios occasionally revived past films for distribution in first-run theatres, many of which were owned by these production companies.⁶ Later run theatres outside of studio control, meanwhile, often worked with the studios to obtain past films that had done well to bundle with newer works as double features, thereby allowing these theatres to offer greater value to patrons and better compete with downtown, first-run locations.⁷ Since the production costs of these films had already been covered, studios and exhibitors made significant profits from the screenings. In fact, revivals meant the difference between profitable and unprofitable years for several studios in the late 1940s.⁸ However, none of the re-release strategies used for Hollywood motion pictures during this time led the adoption of film preservation standards for entire catalogs for the film studios, since only a small selection of past works were considered profitable beyond their initial release. This led to the neglect of a majority of Hollywood-produced motion pictures.

The film studios' short sightedness on the profit potential of their films led to several major film studios making questionable decisions and selling their libraries to

⁵ Spehr, "Education of an Archivist," 151-152. Pierce, "Legion of the Condemned," 5-22.

⁶ Hoyt, *Hollywood Vault*, 86-92.

⁷ Hoyt, *Hollywood Vault*, 92-5.

⁸ Hoyt, *Hollywood Vault*, 124-9.

outside parties that hoped to make a profit by showing these works on television. Television distributor General Teleradio, a subsidiary of the General Tire and Rubber Company, purchased both the struggling RKO studio and its library outright to provide content for syndicated programming in 1955, and Paramount sold its pre-1948 library in 1958 due to similar financial difficulties.⁹ Considering that most outsiders did not know or consider what a film library was worth when calculating the value of a studio, the Warner brothers sold their studio's pre-1950 library in 1956 to television distributor Eliot Hyman to increase the cash value of their company in an attempt to receive more favorable terms when selling their studio before their planned retirements.¹⁰ Twentieth Century Fox and MGM made decisions more focused on the long term, trading distribution rights to films to local television stations in exchange for partial ownership stakes in these broadcast organizations.¹¹ Although television broadcast of Hollywood motion pictures became highly profitable, with even lower-budget and less popular films making money in late-night timeslots on local stations, this still did not lead to the majority of Hollywood produced films being preserved properly. Local television stations often purchased the rights to films in bulk packages, including works with varying levels of popularity, and screened these films from 16mm copies.¹² The quality of these prints were acceptable for small, low-resolution television screens that did not necessitate the level of clarity needed by cable or video versions years later, let alone modern high definition televisions. A proliferation of small-gauge derivatives was considered adequate

⁹ Hoyt, *Hollywood Vault*, 164-7, 175.

¹⁰ Hoyt, *Hollywood Vault*, 167-174.

¹¹ Hoyt, *Hollywood Vault*, 174.

¹² Hoyt, *Hollywood Vault*, 172-7.

for most television distributors and, considering that one lesser-known film could be easily substituted for another, films were treated as collections rather than distinct works that were each worthy of preservation.¹³ As an example of the impact of this type of treatment, although John Ford's *Stagecoach* (1939) could regularly be seen on television through 16mm prints, the negatives have been lost and no high-quality 35mm print was known to exist until 1968, when a copy was found in John Wayne's garage.¹⁴

The divorce of film libraries from their studios would eventually led to major changes in the structure and ownership of some of the film studios. In a notable example, Eliot Hyman was able to use the stable and growing profits from the Warner Bros. library and other film libraries he had acquired as collateral to start his own independent production company, Seven Arts, in 1957.¹⁵ The profit from these ventures allowed Hyman to purchase a controlling interest in Warner Bros. in 1967, thereby reuniting the studio with its film library, but with the latter now being the clearly superior source of fiscal stability.¹⁶ Although box office receipts from new features were in flux, making the theatrical release market a risky business, studios that still possessed or had been reunited with their libraries became relatively safe investments. This did not go unnoticed by large corporations that were looking for new areas of expansion. In the case of Warner Bros., the studio was purchased in 1969 by the Kinney National Corporation, which had

¹³ In Hoyt, *Hollywood Vault*, 173-4, the author notes the television distributors such as "Hyman and Fox recognized that the television market enabled a new method of monetizing libraries, in aggregate form - not simply reissuing A-quality pictures from the vault but exploiting the entire vault."

¹⁴ House Committee on Education and Labor, *To Create the American Film Institute as an Independent Agency: Hearings on H.R. 17021*, 93rd Cong., 2nd sess., May 7-8, 1974, 14; Peter Bogdanovich, "Stagecoach," *Indiewire*, September 26, 2010, <http://blogs.indiewire.com/peterbogdanovich/stagecoach>.

¹⁵ Hoyt, *Hollywood Vault*, 182-6.

¹⁶ Hoyt, *Hollywood Vault*, 190-4.

previously generated revenue through parking lots and cleaning services. Kinney also purchased several recording studios and publishing houses, which the company merged with the film studio to create the media conglomerate Warner Communications.

This trend of media mergers enveloped most film studios at the time and continues to date. In fact, with the exception of the Walt Disney Company, every major studio founded before the 1980s has sold a majority of its film holdings to an outside company, been purchased by a major outside firm, or both.¹⁷ None of these companies were what they started as by the late 1980s, but instead they were part of major cross-media conglomerates that treated their catalogs as assets that provided security and collateral for new media production. Disney avoided this type of absorption by expanding into television, publishing, and other fields on its own and purchasing other production companies and their libraries, all of which was facilitated by the company's relatively early use of its motion picture catalog as a stable, low-overhead profit stream beginning in the 1940s.¹⁸ Disney's regular, profitable theatrical re-releases of its feature animated films from this time period forward and its use of past works for its television programs beginning in 1954 led to it having a longer, more consistent history of preserving its own works than any other studio.¹⁹

Hoyt argues that the economic model that positioned film libraries, music catalogs, and other past works as an important – possibly the most important – part of media companies' operations was well in place before the advent of home video and the

¹⁷ For a comprehensive "genealogy" of shifts in the ownership of major studios and their film libraries, see Karen Gracy, *Film Preservation*, 251-7. A history of the development of these changes for each studio can be found in Gomery, "The Hollywood Film Industry," 380-98.

¹⁸ Gomery, "The Hollywood Film Industry, 380-386. Forbes and Pierce, "Who Owns the Movies?," 48-9.

¹⁹ Slide, *Nitrate Won't Wait*, 154; Gomery, "The Hollywood Film Industry, 370.

widespread adoption of cable television.²⁰ However, the considerable expansion of the motion picture re-release market through new technologies led to a significant expansion of the profit potential of film libraries. This new model, based on the need to fill hundreds of hours of programming for new cable channels and the ability to sell or rent affordable videotape copies of motion pictures to thousands of consumers, contributed to the introduction of influential new players in the media industry. Cable television mogul Ted Turner purchased Metro Goldwyn Mayer (MGM) in 1986 but, upon realizing the purchase was too great for him to financially support, he sold the film studio and kept its library.²¹ Despite contemporary criticism over selling off the studio, which was considered a more traditionally valuable investment, Turner made massive profits by using the film library as a steady source of content for his cable companies and video cassette sales. Likewise, Sony purchased Columbia Pictures in 1989 as a way to provide content for its future home media platforms.²²

The repositioning of film libraries as assets led to media companies making serious efforts to safeguard their valuable collections, but the long-standing involvement of the government and cultural heritage institutions in film preservation and exhibition created conflicts for Turner Entertainment, Sony, and the film industry as a whole. Sony's plan to purchase Columbia Pictures would have placed an American film studio in Japanese hands, so public acknowledgement of American cinema as American culture – a position that had been cultivated by MoMA, the AFI, the LoC, and other institutions –

²⁰ Hoyt, *Hollywood Vault*, 193-4.

²¹ Ted Turner and Bill Burke, *Call Me Ted* (New York: Grand Central Publishing, 2008), 237-47; Ted Turner, "My Beef with Big Media," *Federal Communications Law Journal* 57, no. 2 (2005): 227.

²² Richard A. Gershon and Tsutomu Kanayama "The Sony Corporation: A Case Study in Transnational Media Management," *International Journal of Media Management* 4, no. 2 (2002): 111-2.

led to public outrage and threats of Congressional legislation to ensure that films in the studio library could not leave the country.²³ Since Sony had no intention of exporting these works, the company was able to alleviate these fears by cooperating with American cultural institutions. Likewise, since cultural heritage organizations had spent decades cultivating public appreciation of motion pictures as art, its attempts by Turner Entertainment and other companies to alter historic motion pictures through colorization and other means were met with considerable backlash. Thus, at the close of the 1980s, major corporations that controlled the copyrights to motion pictures learned that other parties felt a sense of cultural ownership over these works, and these stakeholders were determined to limit the ways in which companies could exploit and trade their assets. These conflicts and their meaning for film preservation are analyzed in the remainder of this chapter.

The NFPA of 1988: Colorization and Moral Rights of Motion Picture Artists

Congress turned its attention toward the so-called preservation of films with the controversy surrounding colorization of classic, black-and-white motion pictures in the late 1980s.²⁴ New computer technologies during this decade made it possible to add color to classic films, which made the works more appealing to audiences who preferred

²³ Caroline Frick, *Saving Cinema: The Politics of Preservation* (Oxford: Oxford University Press, 2010): 80-3.

²⁴ There were numerous articles in legal journals discussing the NFPA of 1988 following its passage, with these articles focusing primarily on colorization issues and not physical preservation. Although I cite some specific arguments for and against colorization, this article is not intended to provide a comprehensive overview of the colorization debate but only enough information to provide a framework for understanding the origins of future legislation on physical preservation. For more thorough overviews of the colorization debate and legislation, see Eric J. Schwartz, "The National Film Preservation Act of 1988: A Copyright Case Study in the Legislative Process," *Journal of the Copyright Society of the USA* 36 (1989): 138–59, and Janine V. McNally, "Congressional Limits on Technological Alterations to Film: The Public Interest and the Artists' Moral Right," *High Technology Law Journal* 5, no. 1 (1989): 129–56.

modern, colorized motion pictures.²⁵ Ted Turner and other owners of large studio-produced film libraries found that, in some cases, colorized versions earned several times as much through cable and video as the original, unaltered versions. Other modifications, such as panning and scanning to fit widescreen films on standard televisions, editing for commercials, censoring for broadcast standards, and time compressing films to fit into shorter programming blocks (lexiconning), were also standard practice and done to make films more commercially viable, but colorization was done to make films more appealing to certain audiences rather than to fit technological and commercial broadcast standards.

Despite the popularity of these colorized works among portions of the public, the original filmmakers and stars of these films argued that the colorization process altered these works in an artistically unacceptable manner, presenting them in a way that defaced their original intentions.²⁶ These artistic creators of the original motion pictures, who were usually not the copyright holders, attempted to argue that they should have moral rights over works they created. Moral rights are limited control given to artists to prevent the legal owner of their work from altering it substantially without their permission.²⁷ Such rights are meant to prevent copyright owners from taking actions that may damage the original artists' reputations by misrepresenting their contributions to their work. While moral rights for films and other arts had been a standard part of European copyright law, as outlined in the Berne Convention, no such explicit protections existed

²⁵ Paul Grainge, "Reclaiming Heritage: Colourization, Culture Wars, and the Politics of Nostalgia," *Cultural Studies* 13, no. 4 (1999): 622–3.

²⁶ Grainge, "Reclaiming Heritage," 622–3.

²⁷ This dissertation discusses moral rights in relation to motion pictures only to such a degree that it illustrates the meaning of the NFPA of 1988. However, for a thorough discussion of the history of moral rights legislation and court cases for American motion pictures, see Decherney, *Hollywood's Copyright Wars*, 108–54, which discusses moral rights relating to films screened on television.

within American copyright law. The Hollywood creative community thus began to lobby Congress for moral rights protections against digital alterations to works they created. While the creative community used the well-publicized issue of colorization to fight for moral rights, the ultimate goal was to give creators greater control over and, when needed, protection from all alterations to their films, not just colorization.

The AFI lobbied on behalf of the creative community against colorization for a very brief period, holding a planned press conference that devolved into a contentious debate in October 1986. During this event, the trustees of the Institute voiced their opposition to computer-based colorization through a prepared statement arguing that it is “the ethical responsibility of the copyright holders to protect and preserve the artistic integrity of black and white films.”²⁸ Famed actor Jimmy Stewart and directors Stanley Kramer, Martha Coolidge, Nicholas Meyer, and Peter Hyams were present at this conference as official supporters of the AFI’s position. However, what the AFI did not anticipate was the disruptive presence of two executives from Hal Roach Studios, the parent company of Colorization Inc. and the owner of a significant film library that was supplying a steady source of titles that were being colorized by this subsidiary. Despite much of the audience bolstering the AFI’s stated position by shouting down the Hal Roach executives when they attempted to defend their company’s actions and profit model, the Institute was placed in a highly difficult position. Although the studios had never become the primary fiscal supporter of the organization’s activities, they provided enough funding and in-kind support that the response to opposing them could become a major problem for the AFI’s general activities moving forward. By entering the

²⁸ Jack Mathews, “A Sneak Preview of the Colorization Wars,” *Los Angeles Times*, October 2, 1986, http://articles.latimes.com/1986-10-02/entertainment/ca-3533_1_colorizing.

colorization debate in a meaningful manner, the AFI would need to choose between alienating either the film studios or the Hollywood creative community, both of which were essential constituencies for their operations. Therefore, following this contentious event, the AFI limited its involvement in the colorization debates and the numerous federal legislative attempts to address this issue.

Initial Legislative Attempts to Address Colorization and Moral Rights

The U.S. Congress had an opportunity to quickly address the issue of artists' moral rights when dealing with motion pictures through the Berne Convention Implementation Act of 1987, which brought much of U.S. copyright law in line with European standards. Congress's partial adoption of Berne was prompted by urging from several copyright-dependent industries, including motion picture studios, which believed Berne could provide greater protection against moving image piracy.²⁹ Had Congress adopted the entirety of the Berne Convention at this time, which would have included the implementation of moral rights provisions, this would have given artists significantly greater protections against copyright holders who wished to alter the content of their works. In fact, John Huston's heirs later used French law, which did have explicit Berne Convention-compliant moral rights, to enjoin the broadcast of a colorized version of his film *The Asphalt Jungle* (1950) on French television. However, despite Sydney Pollock and Frank Pierson testifying on behalf of the Directors Guild of America (DGA) and the Writers Guild of America, respectively, in favor of adopting the explicit moral rights component of the Berne Convention specifically to battle colorization, Congress chose to

²⁹ Peter Decherney, *Hollywood's Copyright Wars: From Edison to the Internet* (New York: Columbia University Press, 2012), 144–50.

exclude this element from the legislation, despite it appearing in the original draft.³⁰ Instead, Congress decided to deal with moral rights in separate legislation, preventing American publishing, music, and film production companies from using their legislative clout to block Congress from joining Berne. Although corporate copyright holders were in favor of most of the Berne Convention – indeed, they were a driving force in bringing this matter before Congress – they would have blocked any legislation including moral rights. These corporate entities did not want the uncertainty that new rights might provide to contributors to works or for creators to be able to block commercial exploitation of works-for-hire. Temporarily avoiding moral rights allowed Congress to craft easily passable legislation to make the United States compliant with most of the Berne Convention and make it easier for American interests to protect their copyrights on the international stage, but it allowed colorization and moral rights more broadly to be an ongoing, highly debated issue.³¹

The Judiciary Committee of the Senate held a hearing on “Legal Issues That Arise When Color Is Added to Films Originally Produced, Sold, and Distributed in Black and White” on May 12, 1987. This hearing, which included testimony from filmmakers such as Woody Allen, Milos Forman, and Sydney Pollack, as well as a letter from Jimmy Stewart in support of moral rights, primarily focused on the protection of motion picture content. However, when testifying on behalf of Turner Entertainment – which wished to preserve its right to release colorized versions of films – company president Roger Mayer

³⁰ House Committee on the Judiciary, *Berne Convention Implementation Act of 1987: Hearings on H.R. 1623*, 100th Cong., 1st and 2nd sess., 1987, 407–11.

argued that colorization actually helped the physical preservation of motion pictures.³² Mayer noted that the colorization process was done on video and that the original film elements had to be cleaned and restored to an optimal state before the transfer to video could occur. Additionally, the entire reason for Turner Entertainment purchasing libraries of motion picture classics, including the collections of Metro-Goldwyn-Mayer (MGM) and RKO, was that the home video and cable markets had given these films new venues for commercial exploitation. Mayer asserted that Turner Entertainment and other companies that held the rights to classic films were doing more than ever before to preserve these works, as they were now seen as financial assets whose value extended far beyond their original theatrical releases. Therefore, Mayer argued, colorization and other alterations that made films more commercially viable in home entertainment markets aided the physical preservation of motion pictures.

Mayer's statements suggesting that he was personally and professionally concerned with physical film preservation were unquestionably earnest, because he had dedicated much of his career to this. When Mayer was hired as the assistant general manager of MGM Studios in 1961, a large part of his duties revolved around overseeing the physical maintenance of the Culver City studios.³³ Mayer discovered that many of the studio's negatives were being stored in improper conditions, and he fought to secure studio support to better preserve these works despite the lack of a video and cable aftermarket, which would have offered MGM a profit motive. Therefore, when Ted

³² House Committee on the Judiciary, *Legal Issues That Arise When Color Is Added to Films Originally Produced, Sold, and Distributed in Black and White*, 100th Cong., 1st sess., May 12, 1987, 150–1.

³³ Karie Bible, "An Interview with Roger L. Mayer (Chairman, National Film Preservation Foundation)," *Film Radar*, May 30, 2003, http://www.filmradar.com/articles/item/an_interview_with_roger_l_mayer_chairman_national_film_preservation_foundat/.

Turner purchased the MGM library in 1986, many of these films were extant and in good condition because of Mayer's significant effort to preserve these works. This was the primary reason for Ted Turner appointing Mayer as company president of Turner Entertainment after the MGM buyout. Mayer's personal dedication to physical film preservation both before and after the emergence a profit motive for saving such works did not conflict with Mayer's advocacy of colorization but instead showed that questions of physical and content preservation were two separate debates.

In response to the ongoing dispute about the colorization issue, Representatives Robert Kastenmeier and Carlos Moorhead – who had jurisdiction over copyright issues in Congress as chairman and ranking minority member, respectively, of the House Judiciary Committee's Subcommittee on Courts, Civil Liberties, and the Administration of Justice – requested that the Copyright Office of the Library of Congress prepare a report on motion picture colorization, with a completion date set for early 1989.³⁴ Beyond the moral rights issues, a major goal of this report was to determine if colorization constituted significant enough alterations to films that were out of copyright to constitute new works that could be copyrighted. The Copyright Office of the Library assigned two recently hired attorneys, William Patry and Eric Schwartz, to complete this report.³⁵ Schwartz was able to travel across the country and speak with producers, directors, writers, cinematographers, and actors, learning how digital alterations to motion pictures changed their artistic visions or contributions. It was directors, writers, and cinematographers in particular who argued that “material alterations” for post-theatrical

³⁴ Schwartz, “National Film Preservation Act of 1988,” 139.

³⁵ David Pierce, “Copyright, Preservation, and Archives: An Interview with Eric Schwartz,” *The Moving Image* 9, no. 2 (2010): 112–4; Eric J. Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

markets, without their input or approval, misrepresented their contributions when these transformed films were shown to the public with their names attached. Schwartz also spoke to studio representatives – including Roger Mayer – about their intentions, with these individuals reiterating that the colorization debate was separate from questions of physical preservation. Schwartz was able to visit all three of the labs in the United States and Canada that were colorizing films and see firsthand that the films that were being transferred to video for the process had been cleaned and preserved for an optimal transfer to tape, confirming that colorization did not harm films but rather that the re-dyeing process of making new print materials could aid film preservation in the long run. These observations were submitted to Congress in March 1989 as *Report of the Register of Copyrights on Technological Alteration of Motion Pictures and Other Audiovisual Works*. However, Congress took legislative action on moral rights in motion pictures well before the completion of the report, and thus the Copyright Office had little impact in shaping the first legislation to pass on the moral rights issue in the United States.

The National Film Preservation Act of 1988

Instead of waiting for the House and Senate Judiciary Committees to fully investigate moral rights and pass legislation that would weigh the interests of both artists who created films and the corporations that owned the copyright to these works, the DGA and other creative guilds lobbied Congress to act sooner, with the colorization controversy providing a starting point for the government to take action on moral rights

in general.³⁶ Rather than going through the House Judiciary Committee, which had jurisdiction over matters involving copyright, the DGA approached Representatives Robert Mrazek and Sidney Yates, both congressmen on the House Appropriations Committee and the latter the chairman of the Subcommittee on the Interior. The Hollywood guilds felt that they would have more success by working with these congressmen, because they were both pro-union and supported creative artists' rights. What emerged following this lobbying effort was the NFPA of 1988, which was introduced by Mrazek and Yates in May 1988 as a nongermane amendment to an appropriations bill for the Department of the Interior. This amendment would have been highly favorable to artists' demands, creating labeling requirements for all altered motion pictures that would include language noting that "the principal director or principal screenwriter of the film desires to be disassociated from the materially altered version of the film."³⁷ The legislation also promoted the creation of a National Film Commission within the Department of Interior, which would become the National Film Preservation Board (NFPB) in subsequent drafts of the legislation. This body, comprised of notable individuals from the film industry and cultural and academic organizations that worked with film, would elevate the recognition of film as an art form by designating culturally important films to be part of a National Film Registry (NFR). The placement of the NFR within the Department of Interior was a result of Yates's association with the department.

The DGA and other creative organizations worked with members of Congress outside of the Judiciary Committee partially to avoid interference by other stakeholders,

³⁶ Schwartz, "National Film Preservation Act of 1988," 139–44; Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

³⁷ Schwartz, "National Film Preservation Act of 1988," 142–3.

and they were initially successful in this strategy.³⁸ However, the film studios – as represented by Motion Picture Association of America president Jack Valenti – learned of the amendment when the Subcommittee on the Interior reported it to the Appropriations Committee on June 8, 1988. Valenti was able to encourage other members of Congress to support him in fighting the amendment, and Representatives Mrazek and Yates recognized that they would need to compromise to get enough votes to pass it. In a closed-door meeting with different members of Congress, including Mrazek and Yates, Valenti was able to redraft a compromise amendment to prevent colorization legislation from expanding to such a degree that it would impede the motion picture industry’s right to alter films as they pleased.³⁹ This closed-door drafting of legislation bypassed the House Judiciary Committee, which held the initial hearings on these matters, thereby avoiding consideration of many of the key arguments presented in that committee’s hearings on colorization in the process. One of the main stakeholders in the earlier congressional testimony was the Copyright Office of the Library of Congress, whose ongoing research into colorization was now being ignored in this new legislation. Although the Copyright Office had little influence on the final language of the amendment, Eric Schwartz was able to convince Librarian of Congress James Billington to protest the placement of the NFR and NFPB within the Department of Interior, with Schwartz arguing that the Library of Congress’s holding of the largest motion picture collection in the United States made it a more appropriate home for the Registry and

³⁸ Schwartz, “National Film Preservation Act of 1988,” 143–4.

³⁹ National Film Preservation Board, *Meeting of the National Film Preservation Board* (Washington, D.C.: Library of Congress, 1989), audiocassettes of meeting in Washington, D.C., on September 26, 1989.

Board and that they could later be repurposed to support physical film preservation.⁴⁰

With the approval of Mrzaek and Yates, Schwartz and Billington were successful in this effort to shift the location of the NFR.

Owing to significant lobbying from the motion picture studios, the final legislation did not create any significant alterations to the existing copyright law.⁴¹ Instead, when the NFPA of 1988 was passed on September 27, 1988, it required the Library of Congress to designate twenty-five commercially released motion pictures each year as significant works of art worth protecting. These films would be added to the NFR, which would be chosen by the NFPB. The NFPB was to be assembled by the Librarian of Congress, who would have the power to choose these individuals from among professionals in the motion picture production industry, film archivists, and film scholars. The legislation would legally require that anyone who significantly altered a film on the Registry, including the original copyright holder, would have to label it as having been materially altered before any form of exhibition or distribution. This included a disclaimer at the front of the visual work as well as labels on videotapes and other physical carriers for motion pictures. Therefore *preservation* in this instance meant the preservation of motion picture content in its original form rather than preservation in relation to proper archival storage that prevents physical deterioration. This act did not go nearly as far as European copyright laws in protecting artists' moral rights, only preventing copyright owners from misrepresenting artists' contributions to their own

⁴⁰ Schwartz, "National Film Preservation Act of 1988," 153–5; Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

⁴¹ Warren H. Husband, "Resurrecting Hollywood's Golden Age: Balancing the Rights of Film Owners, Artistic Authors, and Consumers," *Columbia Journal of Law and the Arts* 17 (1993): 344–6; Anthony Slide, *Nitrate Won't Wait*, 129–30.

works in a very limited number of cases. The only minor gesture to physical preservation in the legislation was a mandate that the LoC attempt to obtain by gift a preservation copy of every film on the Registry, although there would be no penalties for failure to obtain a preservation copy or extra powers given to the Library to encourage film studios to donate such materials. The legislation also provided funds to support the NFPB's operating expenses but no extra funding to support motion picture preservation programs at the Library of Congress. As a result of lobbying on the part of Jack Valenti and the film studios, the legislation would also expire in three years, making it unlikely that labeling enforcement for the films chosen for the NFR and the resulting interference with the film industry's distribution practices would continue after this brief term.⁴²

In his 1992 book *Nitrate Won't Wait*, Anthony Slide was critical of the legislation and the labeling plan, stating that "the legislation . . . is a compromise which serves no valid purpose; simply it increases the legislative bureaucracy and adds an additional quarter-of-a-million-dollars to the taxpayers' burden."⁴³ Contemporary criticism from both sides of the debate reflects this assessment, especially among advocates of actual physical preservation. On June 22, 1988 – the day after the private meeting between Valenti, Mrazek, Yates, and other members of Congress to revise the NFPA of 1988 – Representative Robert Kastenmeier of the House Judiciary Committee proposed and opened hearings for the Film Integrity Act of 1988.⁴⁴ This built on the judiciary's previous work on moral rights and content alterations, including commissioning a colorization report from the Register of Copyrights, and was put forth as an ultimately

⁴² Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

⁴³ Slide, *Nitrate Won't Wait*, 130.

⁴⁴ Schwartz, "National Film Preservation Act of 1988," 145–8.

unsuccessful alternative to the NFPA of 1988. Testifying once again, Roger Mayer noted that Turner had spent \$1.4 billion to purchase what was then the largest corporate-held film library in the world and that it had already spent more than \$30 million to physically preserve these assets.⁴⁵ Mayer continued to argue that moral rights legislation, which limited commercial exploitation of these assets through colorization and other processes that made these products more commercially successful, would be depriving his company of the means to preserve these works and recoup the company's investment.

Register of Copyrights for the Library of Congress Ralph Oman also testified to explain the library's reservations.⁴⁶ Oman suggested that it would be better to leave interpretation of contemporary copyright law's influence over colorization to the courts and that having the library oversee the enforcement of this matter was beyond the appropriate scope of the institution's powers. Oman also attempted to shift the dialogue from content preservation to film preservation by sharply suggesting that if they chose not to pass the NFPA, "the money you save on the [NFPB] could be spent on film preservation at the Library of Congress."⁴⁷ Oman further emphasized this fundamental flaw in a bill nominally about film preservation by noting the absence of film preservation representatives from the Library of Congress, the American Film Institute, the National Archives, the Academy of Motion Picture Arts and Sciences, and other stakeholder institutions from hearings on this legislation. However, Oman did suggest that the film commission that would later become the NFPB in the draft of the NFPA of

⁴⁵ House Committee on the Judiciary, *Film Integrity Act of 1987: Hearings on H.R. 2400*, 100th Cong., 2nd sess., June 21, 1987, 136.

⁴⁶ House Committee on the Judiciary, *Film Integrity Act of 1987: Hearings*, 11.

⁴⁷ House Committee on the Judiciary, *Film Integrity Act of 1987: Hearings*, 14.

1988 could be useful in another context, if it were to be used as a publicity mechanism for physical preservation of motion picture materials.

The NFR and NFPB were created through controversial legislation as a compromise that pleased few of the interested parties. Despite these problematic origins, the NFR and NFPB have grown into important publicity mechanisms for the preservation of motion pictures. The next chapter details how the Library of Congress, corporate owners of theatrical motion pictures, and other stakeholders in the film preservation community guided future federal legislation to better support motion picture preservation in the United States. Before these shifts occurred, however, questions of corporate ownership over films and the concept of American motion pictures as part of national cultural heritage led to the threat of Congress implementing more regulations over the film industry. As discussed in the following section, these debates were far less prolonged than those surrounding the NFPA, but they had significant implications for how film LoC.

Sony Buys Columbia: Foreign Ownership Fears Prompt Better Preservation

The major film studios initially opposed the availability of home video, which became available to consumers in the mid-1970s. Sony's introduction of the Betamax format in 1975, which was followed by a consortium led by Matsushita Electronics' introduction of the Video Home System (VHS) in 1977, made the studios concerned that consumers would primarily consume movies by recording them from television and re-watching them at their leisure, thereby destroying the theatrical motion picture market.⁴⁸ Universal Studios and the Walt Disney Company were wary enough of this development

⁴⁸ Douglas Gomery, "The Hollywood Film Industry," 411-4.

that they jointly filed suit against Sony, with Universal as the primary plaintiff, to block the sale of home video systems in the United States.⁴⁹ The studios lost in federal district court in 1978, won on appeal, and then definitively lost in 1984, when the Supreme Court ruled that consumers recording television programs and viewing them at another time – a practice known as time shifting – was considered fair use under copyright law. Despite this initial animosity, however, all of the major film studios embraced the new medium by the late 1980s, when video cassette player prices had fallen enough to allow a majority of American homes to have such systems.⁵⁰ Videotape sales and rentals of motion pictures, especially those that had recently been well-publicized through their theatrical release, generated massive profits. In fact, in the early 1990s videotape sales of most theatrically release films would surpass the profits generated by their box office runs. Betamax lagged behind in the format competition, as VHS began doubling the sales of its rival as early as the late-1970s, and eventually held 90 percent of the international home video market by 1984.⁵¹

Considering the scale of the profits to be gained through remaining in the market and potentially establishing a dominant format, Sony was looking for a way to ensure that it would be able to re-establish its place in this field in the future, whether through an enhanced version of Betamax or a new media format.⁵² Sony decided to purchase the

⁴⁹ Decherney, *Hollywood's Copyright Wars*, 169-81. Decherney discusses the considerable nuance involved in this complicated case, including the fact that although Universal and Disney had the support of the MPAA, the unwillingness of the other major studios to sign on as co-litigants suggests their uncertainty on this matter.

⁵⁰ Gomery, "The Hollywood Film Industry," 413-20.

⁵¹ Gomery, "The Hollywood Film Industry," 411-3; Gershon and Kanayama, "The Sony Corporation," 111-2.

⁵² Gershon and Kanayama, "The Sony Corporation," 111-2. This long-term strategy ultimately paid off. Sony holds the single largest corporate stake in the Blu-Ray disc format, which established market

Columbia Pictures film studio and library from its previous owner, the Coca-Cola Company, to provide potential content for future home media.⁵³ This exclusive content would theoretically give a future Sony home media format an edge over its rivals. At the time of this proposed buyout, Congress and the public expressed considerable concerns over this shift of historical American films into foreign hands, leading to Sony leveraging rhetoric surrounding film preservation as a defense against these attacks.

Caroline Frick notes that during the media consolidations of the 1980s, British, Australian, and Canadian corporations had already invested heavily in American companies.⁵⁴ Foreign firms already had significant or even majority ownership stakes in American film libraries, and these buyouts prompted little public or Congressional attention. Reactions to Sony's plans were much more pronounced. References to World War II were a regular trend in discussions of the buyout, with a reporter from the *Los Angeles Times* specifically noting that *From Here to Eternity*, a film about the bombing of Pearl Harbor, would be possessed by a corporation based in the nation the perpetrated the attacks.⁵⁵ Congress began to take notice of the situation, as "American politicians pontificated about the Sony-Columbia deal on the House floor in Washington with

dominance over rival HD-DVD after a majority of film studios – one of which was under Sony's control – chose to support the former. See Michael Kannellos, "Blu-ray Victory Means Royalties, Royalties, Royalties." *CNET*, February 19, 2008. <http://www.cnet.com/news/blu-ray-victory-means-royalties-royalties-royalties/>.

⁵³ Toshiro Mitsufuji, "Strategic Alliance in the Video Industry: The Acquisition of Columbia by Sony and MCA by Matsushita," *Journal of Strategic Change* 2 (1993): 207–14; Douglas Gomery, "The Hollywood Film Industry," 388.

⁵⁴ Frick, *Saving Cinema*, 80.

⁵⁵ Caroline Frick documents the various instances in which national identity was brought into the debate about whether Sony should be permitted to purchase Columbia. See Frick, *Saving Cinema*, 80-83. For the specific *Los Angeles Times* article noted in this text, also cited in Frick, see Nina Easton, "Sony to Cash In on Columbia's Cache," *Los Angeles Times*, September 29, 1989, 1, 27.

comments tinged with resentment, fear, and racism.”⁵⁶ Rumors of the corporation absconding to Japan with copies of American cultural treasures became commonplace, and legislators began to form plans to either block the sale of the studio and its library or limit what the corporation could do with these films.

Despite this controversy, Sony was not merely a Japanese corporation, but had American offices and considerable interests in the United States market.⁵⁷ A primary reason for the company pursuing the Columbia library was its interest in selling home media software and hardware to the American market, and removing the studio’s films from the United States would have run counter to this goal. This was emphasized in November 1989, when company executives were called to testify about Sony’s intentions before the House Subcommittee on Telecommunications and Finance.⁵⁸ Sony of America vice-chairman Michael P. Schulhof emphasized his company’s respect for and dedication to protecting and preserving the Columbia films as part of American culture. Not only would this be achieved through the company’s own preservation activities, but he also announced that Sony had made an agreement to partner with the LoC to protect parts of this collection.⁵⁹ This proposal to more heavily link the Columbia library with a distinctly American cultural heritage institution largely alleviated Congressional pressure on Sony and prevented legislation that would have blocked the purchase of Columbia or regulated what the corporation could do with its newly acquired film assets. Frick argues that Sony was able to use this plan to alleviate Congressional pressure in no small part due to the

⁵⁶ Frick, *Saving Cinema*, 80-1.

⁵⁷ Mistufuji, “Strategic Alliance in the Video Industry,” 207-8.

⁵⁸ Frick, *Saving Cinema*, 82.

⁵⁹ Frick, *Saving Cinema*, 82-3.

increase in public awareness about the cultural importance of film preservation, promoted largely through the AFI and Hollywood figures such as Martin Scorsese.⁶⁰

Sony's adept dealings with Congress, the press, and the public in its purchase of Columbia decreased the level of scrutiny surrounding other companies' purchases of film studios and libraries. In perhaps the most ironic example of this, Japanese electronics firm Matsushita was able to buy Universal film studios and its library the following year, in 1990, with relatively little fanfare about these American films being bought out by a foreign country.⁶¹ Since Matsushita had the largest stake in the consortium that owned the patents to the dominant VHS video format, this purchase was done in part to help maintain VHS's dominance. Thus, not only did Sony facilitate its primary corporate rival's ability to mimic its strategic actions and purchase a film studio of its own, but Matsushita chose to purchase Universal, the studio that had launched a federal court case to outlaw home video cassette players in the United States.

Sony ultimately made good on its proposal to partner with the LoC, not only depositing prints and negatives of many of Columbia's most prestigious films with the LoC, but also providing funding for staff positions at the Library to protect these works.⁶² A specific focus of this partnership was preservation of Columbia's remaining nitrate holdings, most of which was already at the LoC, which the Library was specifically capable of protecting. Sony's agreement with the LoC continues to the present, and other major film studios entered into similar agreements over the ensuing years. This allows the film studios to continue to receive the benefits of being associated with a distinguished

⁶⁰ Frick, *Saving Cinema*, 82.

⁶¹ Mistufuji, "Strategic Alliance in the Video Industry," 210.

⁶² Frick, *Saving Cinema*, 82-3.

American cultural heritage organization while diminishing justifications for regulation and other forms of governmental and public oversight that come with tax dollars preserving these privately owned works.

Furthermore, there is a highly practical reason for such contracts, since Karen Gracy notes that a “key tenet of preservation in the commercial realm is the concept of asset protection through geographic separation, whereby the studios keep negatives and master positives of their films in different locations to protect against the loss of films because of natural or manmade disasters.”⁶³ Such protections also include contracts with privately-run, for-profit film vaults and the creation of additional facilities owned by the studios, but using and providing funding to the LoC and other cultural heritage institutions is a relatively inexpensive means of protecting these works, relying on these organizations’ high level of expertise in the field and established facilities while providing other benefits to the studios.

Conclusion

The NFPA of 1988 and threats of Congressional action over the Sony buyout of Columbia Pictures show interesting appropriations of the concept of film preservation, which had been popularized by the AFI and other organizations in prior years. The idea of film prints as American cultural artifacts initially worked against Sony, creating racially-tinged paranoia about the export of these works to another nation. However, company executives were able to turn the tables and use these concepts of film preservation to their advantage, leveraging an association with a distinctly American cultural institution, the LoC, to negate fears of cultural appropriation.

⁶³ Gracy, *Film Preservation*, 153.

Meanwhile, the NFPA of 1998 was not concerned primarily with preserving physical films in the archival sense; instead, the law was drafted in response to controversial, contemporary efforts to colorize classic black-and-white motion pictures. The term *preservation*, as used in the law, was primarily concerned with the preservation of original motion picture content without significant visual alterations. This legislation created both the NFPB and the NFR, both of which were designed mainly as enforcement mechanisms for the preservation of motion picture content; archival preservation was an afterthought. However, despite the serious flaws in the final legislation, NFPA of 1988 was a pivotal moment for focusing federal public policy on motion picture preservation. As discussed in the next chapter, the legislative process brought together numerous stakeholders who wanted to see the government do more to actually save films, and they promoted new legislation in 1992 to reposition both the NFPB and NFR to assist in this goal.

Chapter 6: The National Film Preservation Acts of 1992 and 1996 and Greater Recognition for Orphan Films

Introduction

The National Film Preservation Act of 1998 was a hastily crafted piece of legislation that promoted “film preservation” as a vague concept of protecting motion picture content from alterations while doing nothing to save the innumerable films at risk of physical deterioration in the United States. The laws that followed the original 1988 act, however, moved toward preservation in the physical, archival sense, with each subsequent piece of legislation that was passed as a continuation of the NFPA of 1988 increasing the government’s commitment to this goal. This was due to the efforts of the Library of Congress, film archivists, and their allies, who saw the very public formation of the original NFPA as a means of increasing the visibility of preservation issues to Congress and the general public. The creators of the NFPA of 1992 and the legislation and reports that followed altered the primary purpose of the NFPB and NFR to deal with the problem that “motion pictures of all types are deteriorating faster than archives can preserve them.”¹ This chapter argues that the staff of the LoC and other stakeholders in the film preservation community worked deliberately and thoughtfully to redirect federal legislation from a controversial, ineffective copyright compromise in 1988 to an effective public policy plan that continues to provide strong federal support for the physical preservation of motion pictures. Perhaps most importantly, this future legislation –

¹ Annette Melville and Scott Simmon, *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 1: Report* (Washington, D.C.: Library of Congress, 1993), ix.

particularly the NFPA of 1996 – guided preservation priorities for noncorporate archives away from a focus on commercially released feature films and their antecedents, and toward the preservation of orphan works.

The NFPA of 1996 also created the National Film Preservation Foundation (NFPF), which has become a major grant maker for film preservation projects throughout the United States. The NFPF began with federal matching funds of \$250,000 per year, and has continued to operate using federal funds and private donations each year. Most of these grants focus on preserving neglected works held by smaller archives rather than major, studio-produced feature films in the collections of larger archives. One could argue that the AFI should have been issuing such grants prior to the passage of the legislation that created the NFPF in 1996, thereby making the formation of the NFPF unnecessary. In fact, Congress ceased providing funding for the AFI's preservation grant making project in 1995. While general funding cuts to the NEA have been cited as the cause for the cessation of governmental preservation funding to the AFI, this is not the whole story.² The fact that Congress passed legislation to create and fund a new nongovernmental entity to preserve motion pictures just a year after the end of NEA film preservation grant funding suggests greater governmental dissatisfaction of the AFI than previously documented. Therefore, this chapter includes a comparison of AFI and NFPF operational procedures, arguing that the founder of the NFPF deliberately designed the organization to address what were publically seen as shortcomings with the AFI's preservation program.

² Jones, *The Past is a Moving Picture*, 86-8, 107.

In short, the 1990s saw a shift to more functional government-supported mechanisms to promote film preservation in the United States. The failed NFPA of 1988 was reconfigured into the successful and effective NFPAs of 1992 and 1996, which created the groundwork for the preservation of a wider range of motion pictures and new concepts of what a national film collection truly means. Likewise, as the AFI's actions and inaction regarding film preservation chipped away at its relevancy in this domain, the LoC stepped up to take a leadership role in American film preservation.

The National Film Preservation Acts

The National Film Preservation Act of 1988
<p>Original drafts attempted to limit studios' rights to add color to and otherwise alter video or digital versions of films to which they owned the copyright. Objections from the creative talent involved in making these films could halt the release of colorized works or require that these modified motion pictures be labeled to let viewers know they were altered against the creators' wishes.</p> <p>The bill would have also created a National Film Preservation Board (NFPB) within the Department of Interior, which would have selected 25 films of cultural significance each year for a National Film Registry (NFR). These films would be protected from significant alterations by the companies that owned them.</p> <p>This legislation was ultimately modified, due to film studio lobbying, to only require that films selected for the NFR be labeled if they were colorized. The NFPB and NFR were placed with the LoC rather than the Department of Interior. All provisions of the NFPA of 1988 were designed to sunset after three years.</p>
The National Film Preservation Act of 1992
<p>Renewed federal support for the NFR and NFPB, but repositioned them as promotional mechanisms for film preservation rather than enforcement mechanisms to protect against content alterations.</p> <p>This legislation commissioned comprehensive studies of film preservation in the United States, entitled <i>Film Preservation 1993: A Study of the Current State of American Film Preservation</i> and <i>Redefining Film Preservation: A National Plan</i>.</p> <p>Hearings for this legislation included the first public discussion of the concept of orphan films. These are motion pictures that lack profit potential, making it so that for-profit archives will not care for them. The only way for these films to survive is for nonprofit archives to metaphorically adopt them.</p>
The National Film Preservation Act of 1996
<p>Created the National Film Preservation Foundation (NFPF) as a Congressionally chartered, independent nonprofit designed to distribute grant funds for film preservation to American film archives. These funds were supposed to primarily focus on orphan films.</p> <p>Congress provided grant funds for this organization to distribute, on the condition that it could raise matching funds for its activities in advance.</p>

The NFPA of 1992 and Congressional Support for Actual Motion Picture Preservation

After the passage of the first NFPA in fall 1988, Eric Schwartz and another LoC employee, Pat Loughney, were tasked with overseeing the formation of the NFPB and the NFR on behalf of the Library of Congress. In accordance with the law, the Library appointed individuals from various stakeholder organizations to compose the NFPB. These individuals solicited public suggestions on what films to choose for the NFR in 1989 and 1990 and the Board voted on which films to include.³ The Library appointed screenwriter, playwright, and former Academy of Motion Picture Arts and Sciences president Fay Kanin to serve as the first president of the NFPB. Kanin used her political abilities to moderate the competing interests of studio and creative representatives on the Board. With the oversight of both Kanin and Schwartz, the NFPB was able to institute guidelines – following Congress’s vague and sometimes contradictory suggestions as detailed in the legislation – for what constituted significant enough “material alterations” to require a film on the Registry to be labeled as materially altered. The law, and therefore the guidelines, also permitted alterations that made it possible to air films on television, such as lexiconning and panning and scanning, without labeling.

Despite the NFPB’s success in executing Congress’s intent in terms of film labeling, the members of the Board and the staff of the LoC were displeased at having to do so. Although Jack Valenti was largely responsible for shaping the compromise legislation that led to the creation of the NFR and NFPB, as a member of the latter, he stated during the first Board meeting that he was against any government entity being

³ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

allowed to regulate film distribution.⁴ Though the other Board members were not quite as hostile toward the labeling requirements during this and subsequent meetings, there was prolonged debate over Congress's intent with the labeling process owing to ambiguities in the legislation. Representatives from the creative and archival communities believed that labeling should be as encompassing as possible, including panning and scanning and any other alterations for broadcast or video, while representatives from the motion picture production industry urged that films on the Registry that had been edited for television did not require labeling.

Despite prolonged debate over how labeling should be handled, the NFPB was able to reach agreement on some issues. First, near the beginning of a September 1989 NFPB meeting, Valenti received clear approval from the Board when he put forth a motion to lobby Congress for funding to preserve the first twenty-five films selected for the NFR and other actual film preservation programs at the LoC.⁵ In fact, the NFPB was encouraged by positive press coverage about the first selections of the NFR and the press's inclusion of information about physical preservation issues in the wake of the list of films being announced in July of that year. These press notices and their pro-preservation content were the result of the considerable and deliberate efforts of the NFPB and were perhaps the Board's greatest achievement at this point. Second, when various Board members expressed at different points that the NFPA and its labeling requirements were inherently flawed as a result of Congress passing the legislation too quickly, there was no disagreement by other members present at the meetings.

⁴ National Film Preservation Board, *Meeting of the National Film Preservation Board*.

⁵ National Film Preservation Board, *Meeting of the National Film Preservation Board*.

Therefore Eric Schwartz and other members of the Board recognized that the NFPB and NFR could be put to much better use if the focus were shifted away from labeling and copyright debates to fully embrace the promotion of physical film preservation.⁶ By 1991, the 1988 legislation was set to expire. There was no Congressional interest in renewing the law, but the Librarian of Congress and his staff, including Eric Schwartz, spoke to relevant stakeholders and floated the idea of a newly reconstituted Board and mission: one focused on the physical preservation of motion picture film.⁷ Schwartz received some resistance from NFPB members over this proposal for a refocused Board. Representatives of the Hollywood creative guilds were frustrated that he planned to drop the concept of moral rights from future legislation. Studio representatives were wary of continuing potential government intrusion into the film industry, including the possibility that the new legislation would revert into another round of the moral rights debate. However, he was ultimately able to overcome these criticisms by noting that the creative guilds could still pursue other legislation to deal with moral rights and assuring the studio representatives that his plan would not alter copyright or intrude on their business model. As a result, when Congress began discussions about the future of the NFPB and the NFR during House Judiciary Committee hearings for the Copyright Amendments Act of 1991, representatives of the LoC and the film industry agreed to allow the labeling requirements to expire and shifted the focus of the law to supporting film preservation programs at the LoC and other film archives. Though the LoC had little influence over the drafting of the NFPA of 1988 – with the notable

⁶ Pierce, “An Interview with Eric Schwartz,” 116–7; Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

⁷ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

exception of shifting the NFR from the Department of the Interior to the Library – Schwartz, in his capacity as an employee of the Copyright Office, was the primary author of the language in the NFPA of 1992.

The relatively brief discussions on this proposed plan included further congressional testimony from Register of Copyrights for the LoC Ralph Oman and Turner Entertainment President Roger Mayer as well as testimony from Eric Schwartz and Fay Kanin of the NFPB, Librarian of Congress James Billington, and curator for film programs of the LoC Pat Loughney. The testimony of these individuals echoed many of Oman’s and Mayer’s original critiques of the NFPA of 1988, including Oman’s questioning of whether the Copyright Office should be policing alterations to motion pictures and Mayer’s assertion that the government lacked the authority to oversee use of films owned by the studios. Meanwhile, the representatives of the LoC and Kanin presented suggestions for future legislation that would guide the NFR and NFPB away from their roles as moral rights enforcement mechanisms and toward allowing these entities to act as effective means to promote archival preservation of motion pictures. Billington emphasized the irrelevance of labeling to motion picture preservation by stating, “I would note that labeling films that are materially altered does not protect or preserve the original film materials. Only film preservation activities do this.”⁸ Therefore the Library was clearly displeased with the concept of “preservation” as protecting original content as part of a copyright dispute instead of saving physical filmic materials. Congress was receptive to this proposal and dropped labeling and enforcement duties

⁸ House Committee on the Judiciary, *Copyright Amendments Act of 1991: Hearings on H.R. 2372*, 102nd Cong., 1st sess., 1991, 320.

from the NFPB and NFR as mandated by the NFPA of 1988, causing these entities to focus on the actual preservation of motion pictures.⁹

Acting on the NFPB's suggestions, Billington also took action to move the NFR away from a singular focus on feature-length, theatrically released motion pictures, noting in his testimony that he had already urged the writers of the legislation to remove these requirements from the new bill. Billington's argument for this was that "this will allow us to select significant films which may be less commercial in nature though we believe equally deserving of preservation and public note."¹⁰ Although Billington was not turning fully away from features but, instead, attempting to expand the scope of the film canon, Roger Mayer argued that preserving the feature films that had already been selected for the NFR was an ineffective use of tax dollars, because the copyright holders had a significant interest in maintaining these materials. Instead, Mayer suggested that "government efforts might be better focused on films of historical or cultural interest which are in the public domain or are, for other reasons, not being preserved rather than on the twenty-five Film Board 'best film' designations which are, undoubtedly, already being preserved."¹¹ Congressman Carlos Moorehead echoed some of these sentiments when questioning Billington, noting the financial motivations for studios to preserve

⁹ This would not be the end of the film labeling debate, and in fact, Congress dropped the labeling function of the NFR, despite testimony from Elliot Silverstein of the DGA and Brian Walton of the Writers Guild of America encouraging the expansion of these duties. House Committee on the Judiciary, *Copyright Amendments Act of 1991*, 379–96. Shortly after labeling requirements were dropped from the NFPA of 1992, Congressman Mrazek held hearings for new legislation entitling the Film Disclosure Act (1992), which would have expanded film labeling while not involving the Library of Congress. This legislation failed, as did a similar bill several years later called the Film Disclosure Act (1995). Moral rights were successfully passed for certain works—such as paintings, sculptures, still photographs, drawings, and prints—in limited cases with the Visual Artists Rights Act of 1990, but this once again excluded motion pictures.

¹⁰ House Committee on the Judiciary, *Copyright Amendments Act of 1991*, 320.

¹¹ House Committee on the Judiciary, *Copyright Amendments Act of 1991*, 577.

films for which they owned copyright.¹² While Billington countered this by questioning the adequacy of some studios' preservation and restoration methods, it is clear that Congress and the LoC were already contemplating a shift toward greater protection of works without commercial potential. Though this is the first time that the concept of *orphan works* appeared in testimony for the NFPAs, Eric Schwartz noted that the term and its attachment to the concept of works that lacked commercial potential and, therefore, were at significant risk of not being preserved were coined during NFPB deliberations by Fay Kanin early in the existence of the NFPB, with the already mentioned repetition of these concepts likely coming from her original formulation.¹³

With the focus of the NFPA of 1992 now on actual preservation, the NFPB and the Library also urged Congress to take further action to expand both the LoC's and, through providing funding, the federal government's role in supporting motion picture preservation. Furthermore, Schwartz recognized that an extensive overview of the state of film preservation in the United States was not available, so he and the other supporters of the legislation requested funding to collaborate with various stakeholders in the entire motion picture preservation community to develop a comprehensive, national plan to support film preservation and encourage greater collaboration and less redundancy between various film archives in the United States.¹⁴ Schwartz also knew from experience that congressional studies often did not result in congressional action, so he suggested that the study be complemented by an action plan to improve American film

¹² House Committee on the Judiciary, *Copyright Amendments Act of 1991*, 334–8.

¹³ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

¹⁴ House Committee on the Judiciary, *Copyright Amendments Act of 1991*, 338–45; Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

preservation. Congress approved these proposals and provided funding for them, allowing the NFPB to oversee the study and action plan. As detailed later, this study showed that concerns about the state of preservation for materials without commercial potential expanded beyond the LoC and Mayer to most noncorporate archives and numerous academic institutions.

The National Film Preservation Plan and Better Archival Cooperation

With the mandate to create a report on the current state of film preservation in the United States, the Library and the NFPB formed discussion groups and held hearings first in Los Angeles and then in Washington, DC that included representatives from archives around the country, in addition to representatives from the motion picture industry, scholarly organizations, and retrospective film exhibitors. Teams of individuals with expertise in certain areas worked together to define the primary issues facing film preservation, which resulted in the creation of two documents: *Film Preservation 1993: A Study of the Current State of American Film Preservation* and the subsequent *Redefining Film Preservation: A National Plan*, which built off of the former report to define future courses of action in support of motion picture preservation in the United States. These reports were overseen by two outside consultants, Scott Simmon and Annette Melville.¹⁵ Both individuals were former LoC employees, but they were not employed by the Library at the time of the study. Therefore the two not only had enough of an understanding of the LoC and archival communities to be able to conduct the report, but also enough distance to ensure that the final results of the studies would not seem biased toward the Library's desires, instead reflecting the input of the broader archival and film community.

¹⁵ Pierce, "An Interview with Eric Schwartz," 118.

Three of the five presenters on the first panel of the Los Angeles hearings spoke to the need to preserve orphan films. This included testimony from Karen Ishizuka of the Japanese American National Museum, Stephen Gong of the Pacific Film Archive, and Robert Rosen of the UCLA Film & Television Archive, who spoke, respectively, of the difficulty in preserving – and, by extension, obtaining funding to preserve – home movies of Japanese Americans, experimental films, and newsreels.¹⁶ These individuals noted that these works had limited commercial potential and, as such, were at significant risk of deterioration and eventual loss as part of America’s cultural heritage. As one of moderators of these discussions, Billington took an interest in these nontheatrical works, showing particular enthusiasm for home movies such as those in Ishizuka’s collection as valuable resources for preserving the history of often neglected ethnic groups in the United States.

These early remarks encouraging the preservation of nontheatrical motion pictures were consistent not only with later testimony from other representatives of archives that dealt with noncommercial works, but also with remarks made by representatives from major film studios. The studio representatives echoed the concepts presented by Roger Mayer in testimony for the NFPAs of 1988 and 1992. Their consensus was that the studios not only had significant motivation to preserve feature films with commercial potential, but were in fact spending significant amounts of money to do just that. These studio representatives, including Mayer himself, noted in later hearing panels that they understood the harm that would come with the loss of

¹⁶ Annette Melville and Scott Simmon, *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 2: Hearing February 12, 1993, Los Angeles, California* (Washington, D.C.: Library of Congress, 1993), 8-27.

noncommercial films. Paramount Pictures vice president Philip E. Murphy stated that such “titles are called orphans because they have no protectors, no organization with the wherewithal to . . . assure that future generations will have the opportunity to view what the early part of the century looked like on film.”¹⁷ As a result, the authors of *Film Preservation 1993* and *Redefining Film Preservation* suggested that “newsreels, documentaries, avant-garde works, anthropological and regional films, advertising shorts, and even some home movies (especially of ethnic groups invisible in the mainstream media) [which were] now seen as important records of America’s social memory”¹⁸ be given special preservation priority in the new national film preservation plan.

These works, defined in the reports as orphan films, therefore fell under the preservation domain of public-sector and nonprofit archives owing to the inability of private-sector archives to commercially exploit them.¹⁹ The reports also noted that silent films were at risk owing to their limited appeal for cable and video markets. While the dividing line between private archives preserving commercially exploitable feature films and public and nonprofit archives preserving orphan works is not always clear cut – indeed, the LoC still preserves copies of many sound feature films with commercial potential – this split has been the dominant paradigm following the creation of the reports.

While the authors of these reports created a distinction between the responsibilities of private film archives and those of public and nonprofit archives, they

¹⁷ Melville and Simmon, *Film Preservation 1993 Volume 2: Los Angeles Hearings*, 60.

¹⁸ Melville and Simmon, *Film Preservation 1993 Volume 1: Report*, ix.

¹⁹ Melville and Simmon, *Film Preservation 1993 Volume 1: Report*, 5.

also recognized that there were significant areas of overlap in all archives.²⁰ Therefore the reports recommended that archives work together to avoid redundancies on projects, ensuring that no two archives restore the same film independently of each other. By avoiding these overlaps, archives would be able to restore more films in total, thereby allowing more of the nation's cinematic heritage to be saved. Additionally, the authors of the reports recommended that archives work together to create standards, such as norms for cold storage vaults for physical preservation, digitization, and metadata.²¹ This would allow for cost savings by lowering overall investment in such innovations as well as greater interoperability between archives by making their storage and digital systems work with each other. As discussed below, the fact that these matters were being discussed a quarter century after the AFI was founded and tasked with providing broad, national support for film archives demonstrates that the Institute had not succeeded at one of its central tasks.

The creators of these reports also recognized that federal funding for film preservation was declining owing to contemporary changes in governmental budgetary priorities.²² Total motion picture preservation funds from the AFI-distributed NEA grants and LoC budget allocations had either remained flat or decreased slightly year-to-year in terms of actual dollars, but when considering inflation and the steep increase in

²⁰ Annette Melville and Scott Simmon, *Redefining Film Preservation: A National Plan: Recommendations to the Librarian of Congress in Consultation with the National Film Preservation Board* (Washington, D.C.: Library of Congress, 1994), 21-28

²¹ I have limited my discussion of the technical guidelines and collaborations that were developed as a result of Melville and Simmon, "Redefining Film Preservation," because a detailed description of these benefits would do little to shed light on public policy decisions. However, for an excellent overview of the development and implementation of these guidelines, see Helen Sam, "Cataloging and Preservation of Moving Images: A Survey of Organizations and Initiatives," *PNLA Quarterly* 73, no. 4 (2009): 62-68.

²² Melville and Simmon, *Redefining Film Preservation*, 26-27.

preservation laboratory costs, the number of films that could be preserved with these annual monies had fallen drastically. Rather than simply hoping for this federal support to increase, the discussion group – with support from the LoC – developed a plan to increase funding for public-sector film preservation. The goal was to create a foundation that would raise funds for film preservation in the United States through donations from private individuals and the private sector. The federal government would provide matching funds to motivate potential donors to give to this cause, thereby stretching the value of limited federal funding. This idea became reality with the reauthorization of the NFPB in 1996.

The Rise of the National Film Preservation Foundation

In 1996 the U.S. Congress once again reauthorized the NFPB and the NFR.²³ The structure of both was left intact, showing that Congress was pleased with the progress that had been made and the direction of the Board since the 1992 reauthorization. The law followed the recommendations outlined in *Redefining Film Preservation: A National Plan* and gave the Librarian of Congress a mandate to create a National Film Preservation Foundation (NFPF).²⁴ This organization was designed to be a congressionally authorized, Title 36 nonprofit organization that, despite its federal mandate to raise funds for motion picture preservation efforts throughout the country and a requirement to report annually on its work to the Librarian of Congress, would act as an autonomous entity independent

²³ Reauthorization of the National Film Preservation Board, Public Law 104-285, *U.S. Statutes at Large* 110 (1996).

²⁴ It is worth noting that there was significantly less testimony about the NFPA of 1996 than there was for the NFPAs of 1988 and 1992. Instead, the film archives submitted “Redefining Film Preservation” as part of the congressional record for hearings titled *Copyright Term, Film Labeling, and Film Preservation Legislation*, 104th Cong., 1st sess., 1995, and AMIA president Edward Richmond provided a brief introduction to the plan to create a National Film Preservation Foundation.

of direct government control.²⁵ Although in 1994, Eric Schwartz left the Copyright Office of the LoC for private law practice, he still did pro bono work, drafting the 1996 legislation, working with the archival community for its enactment, and doing the legal work to create the NFPF as a 501(c)(3) after the law passed. Schwartz's decision to make the NFPF an autonomous legal entity was in part to ensure that it would continue even if Congress failed to provide it with further funding in future legislative sessions. The Librarian of Congress appointed Schwartz as the founding director and Roger Mayer as the chairman of the Board of Directors of the NFPF. The Board of the NFPF had its first meeting in 1997, and when it had raised sufficient private monies during the first year, the board hired Annette Melville as its first paid – and full time – director. This allowed the NFPF to take advantage of Melville's knowledge of American film preservation, which was honed through crafting *Film Preservation 1993* and *Redefining Film Preservation*, while Schwartz continued to assist the organization by remaining on its Board of Directors. The Foundation's own reports can be used to gauge its success, which has been significant since its formation. This mandate allowed the LoC to take the lead in defining the norms for film preservation for the public and nonprofit sectors.

In the NFPF's 2011 annual report to the Librarian of Congress, chair of the Board of Directors Roger Mayer noted that:

When Congress created the NFPF 15 years ago, it put film preservation on the national agenda. At that time, only a handful of film archives had the capacity to save motion pictures documenting America's history and culture. Now, thanks to

²⁵ For a clear overview of the purpose of Title 36 corporations and their relationships to the U.S. government, see Kevin R. Kosar, *Congressionally Chartered Nonprofit Organizations ("Title 36 Corporations"): What They Are and How Congress Treats Them* (Washington, D.C.: Congressional Research Service, Library of Congress, 2006).

federal funding secured by the Library of Congress and the contributions of the entertainment industry, organizations across all 50 states have joined the effort.

[...] These newsreels, documentaries, cartoons, silent-era works, avant-garde films, home movies, industrials, and independent productions are used in teaching and reach audiences everywhere through exhibition, television, video, and the Internet.²⁶

This statement shows that the NFPPF has been successful in light of several of the goals that were put forth in *Redefining Film Preservation: A National Plan*.²⁷ To date, NFPPF grants have funded the preservation of 2,166 films held by 266 organizations.²⁸

Roger Mayer's involvement in the NFPPF as the chair of the Board of Directors since its founding is an interesting development in the evolution of federal policy on film preservation. As detailed earlier, when Mayer repeatedly testified before Congress as a representative of Turner Entertainment, he explained that corporate entities were doing more than ever to protect films as financially exploitable assets. He also urged governmental and other noncorporate film archives to focus on materials without commercial potential. Considering that Mayer taking a pro bono leadership role in the NFPPF while he was still president of Turner Entertainment and continued this role following his 2006 retirement from the company through his death in March 2015, it is

²⁶ National Film Preservation Foundation, *Report to the U.S. Congress for the Year Ending December 31, 2011* (San Francisco, CA: National Film Preservation Foundation, 2012).

²⁷ Melville and Simmon, *Redefining Film Preservation*, 27-29

²⁸ National Film Preservation Foundation, *Report to the U.S. Congress for the Year Ending December 31, 2013* (San Francisco, CA: National Film Preservation Foundation, 2014); "About the NFPPF," National Film Preservation Foundation, accessed April 16, 2015, <http://www.filmpreservation.org/about/about-the-nfpf>.

clear that the beliefs he expressed about the value of film preservation and what preservation priorities should be were not merely convenient defenses against government intrusion into the motion picture industry. Instead, these were expressions of his personal convictions. Shortly after Mayer's passing, Martin Scorsese noted that although he originally met him as an adversary during the colorization debates, he grew to consider Mayer to be a friend of the film preservation community, since "he was absolutely key in helping the Library of Congress establish the National Film Preservation Foundation in 1996, and over the years, he gave tirelessly of his time and expertise."²⁹

Although the federal government provided \$250,000 annually in matching funds to support the NFPF's efforts, the 1996 legislation withheld those monies for the first three years, until private funds could be raised.³⁰ The law also stipulated that none of the federal funding could be used for administrative purposes, ensuring that all taxpayer dollars were used for actual film preservation. In fact, federal funds were withheld until the year 2000 and would only be made available once the organization had proved that it would be able to meet matching requirements. To meet this matching requirement and provide support for the NFPF's first several years of operations, Mayer personally reached out to his contacts within the entertainment industry shortly after the foundation's creation to raise the private funds necessary to make it functional.

The foundation met its goal of increasing the amount of overall funding for film preservation beyond limited federal funds, as dozens of individual and corporate

²⁹ Mike Barnes, "Roger Mayer, Champion of Film Preservation, Dies at 89," *Hollywood Reporter*, March 25, 2015, <http://www.hollywoodreporter.com/news/roger-mayer-dead-film-preservation-784295>.

³⁰ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

supporters have donated since 1997.³¹ Some of the institutions that have received preservation funds from the NFPF are larger, well-known archives, such as the LoC and GEH, but the presence of numerous smaller, lesser known recipients, including state historical societies, universities, small museums and archives, and more, confirms that the foundation successfully publicized its grants and reached out to organizations with films well outside the mainstream. This confirms a continuing dedication to works without significant commercial potential, since the government-supported NFPF bolstering nonprofit organizations that help preserve a national film heritage expanding well beyond commercial feature films.

The NFPF has expanded its scope beyond its primary, government-assisted grant making operations, but its focus has remained firmly on preservation. In 2003 Martin Scorsese's Film Foundation partnered with the NFPF to begin the annual Avant Garde Masters film preservation grant program, with the former providing funds to preserve avant-garde work from various archives and the latter administering the program.³² This program continues to operate today. Likewise, the NFPF has actively collaborated with foreign film archives to repatriate American films, providing new preservation masters of these works to both an American archive and the foreign institution where it was found while also making these works available in digital forms. Such activities included a 2008 partnership with the National Film and Sound Archive of Australia, a collaboration with the New Zealand Film Archive that lasted from 2011 through 2013, and a project with

³¹ National Film Preservation Foundation, *Report to the U.S. Congress for the Year Ending December 31, 2011*, 2–3.

³² "2014 Avant-Garde Masters Grants Awarded," National Film Preservation Foundation, accessed April 16, 2015, <http://www.filmpreservation.org/about/pr-2014-10-14>.

Amsterdam's Eye Filmmuseum that is currently underway.³³ Funding for these programs coming from the National Park Service and NEA's Save America's Treasures grant program, the Andrew W. Mellon Foundation, most of the major Hollywood film studios, and more. The NFPF has shown its dedication to raising funds for film preservation from a diverse range of sources, going well beyond its annual federal grant allocation of approximately \$500,000 and corresponding matching support.

The initial work of the NFPB, the NFPA of 1992, the resulting reports and actions, and congressional testimony from Roger Mayer and other film industry representatives changed the concept of American film heritage and encouraged the expansion of works considered worthy of preservation. This status quo continues to date, with the LoC and the NFPF leveraging government and private funding to enable a wide range of cultural heritage institutions to save cinema. However, just as the LoC and the NFPF were rising as new national leaders in the realm of film preservation, the AFI was becoming decreasingly relevant in this area.

The Fall of the American Film Institute as a National Film Preservation Organization

Considering that the AFI was designed to be and attempted to present itself as a national leadership organization for motion picture preservation, it may seem surprising that the Institute did not take a prominent role in the formation of the NFPAs and the NFR. Furthermore, by all logic the congressionally-supported reports *Film Preservation 1993* and *Redefining Film Preservation* should have been redundant, as the AFI's National Center for Film and Video Preservation (NCFVP), which was funded in large

³³ "International Partnerships," National Film Preservation Foundation, accessed April 16, 2015, <http://www.filmpreservation.org/preserved-films/international-partnerships>.

part by the federal government, should have already had useable data on the state of American film preservation and archives. Instead, the AFI played a relatively minor role in these processes. Representatives provided testimony for *Film Preservation 1993*, but not from a leadership position. Despite the organization not having a major, positive guiding impact on these federal actions, it did significantly influence these processes by providing a model for what should not be done going forward. The failure of the organization to avoid criticism and provide adequate support for both established, larger film archives and, especially, smaller institutions with more niche collections provided a framework for major issues the new federal film preservation support paradigm would need to address.

As detailed in the previous chapter, the AFI mostly stayed clear of the colorization debates and the NFPA of 1988, although it did gain a seat on the NFR. Considering that the NFPA of 1992 was passed with minimal debate and relatively few parties testifying about the legislation, the AFI did not emerge publicly as a supporting player in the NFPA cycle until the research process for *Film Preservation 1993*. Both John Ptak, Interim Director and Co-Chair of the NCFVP and Susan Dalton, Director of Preservation and Archival Projects for the NCFVP, testified for this report. Ptak attempted to explain his office's recent activities, emphasizing that the NCFVP was currently the administrator of the only ongoing, federally funded film preservation grants and, considering its established collaboration with the government, the AFI would be happy to offer its assistance in promoting and executing the NFPB and LoC's future film preservation plans.³⁴ He also provided some preliminary information from a nationwide

³⁴ Melville and Simmon, *Film Preservation 1993 Volume 2: Los Angeles Hearings*, 17-20.

preservation needs assessment the organization conducted in 1990. This included a listing of the types of organizations the AFI believed should be surveyed in a national study of film preservation, but provided little concrete information about specific issues and challenges. Ptak did not emphasize the need to preserve nontheatrical film materials, which would go on to become a major focus of testimony from other experts, but instead criticized the exclusion of television and video materials from the discussions. When one of the moderators asked if the AFI would be willing and able to assist in the coordination of an increasingly diverse national film collection that included a wider range of cultural institutions, Ptak responded, “Absolutely, unless there’s some reason to create yet another bureaucracy.”³⁵ This retort initially gained laughs, but fellow panelist Michael Friend, Director of the Academy of Motion Picture Arts and Sciences Film Archives, was quick to emphasize that he saw far more value in creating community standards and fostering collaboration between institutions, as the LoC was attempting to do, than he did in promoting a single organization as a national coordinator of film archival activities. On the idea of the AFI or any other organization continuing to have oversight over American film archives, he stated that “I think that bureaucracies are the death of preservation. They have been in the past and they will continue to be in the future.”³⁶

Further *Film Preservation 1993* testimony revealed that the AFI’s national digital database of information on American films, NAMID, had not lived up to expectations. Many film archives had difficulty accessing the system, and archivists would often make telephone calls to the NCFVP to ask for information instead of dialing into the

³⁵ Melville and Simmon, *Film Preservation 1993 Volume 2: Los Angeles Hearings*, 26.

³⁶ Melville and Simmon, *Film Preservation 1993 Volume 2: Los Angeles Hearings*, 27.

database.³⁷ Edward Richmond of the UCLA Film and Television Archive discussed how his organization's own archives database system, based on the commonly used Machine-Readable Cataloging (MARC) standard, was able to interface with both the wider campus systems and OCLC's union cataloging efforts.³⁸ He suggested that such interoperability was already bringing together records and had the potential to make NAMID, as a union catalog of motion pictures, redundant. Although the AFI's system was MARC compatible and, therefore, it would be easy enough for a growing number of institutions to add film-related records, Richmond argued that the greatest problem with the database was simply that "unfortunately, NAMID has never worked," with the inability of many institutions to easily access it in a reliable manner proving to be an ongoing problem.³⁹ Likewise, while NAMID promised to document ongoing preservation projects, allowing institutions to avoid redundancies, Richmond noted that projects in the past had only overlapped for a limited number of higher profile films, and avoiding such issues in the future could be achieved through direct communication between institutions that held such works. Building on these opinions, Richmond stated that "arguably, all the time, energy, and money invested in NAMID has diverted, to some extent, the efforts of the National Center and the archival community away from preservation, rather than serving the interests of preservation."⁴⁰ In fairness, these criticisms seemed to be targeted more towards the AFI's institutional failures rather than at the employees who were tasked

³⁷ Melville and Simmon, *Film Preservation 1993 Volume 3: Washington, D.C. Hearings*, 103.

³⁸ Annette Melville and Scott Simmon, *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 4: Submissions* (Washington, D.C.: Library of Congress, 1993), 363-7.

³⁹ Melville and Simmon, *Film Preservation 1993 Volume 4: Submissions*, 364.

⁴⁰ Melville and Simmon, *Film Preservation 1993 Volume 4: Submissions*, 364.

with executing these programs. Considering Susan Dalton's testimony to the effect that her work on NAMID and other projects were not adequately funded, and that outside individuals with knowledge of the AFI's budget operations echoed this opinion, it is important to separate the failures of the organization from the dedication and efforts of its staff.⁴¹

The unsigned, written statement submitted by the LoC built on these concerns, asserting that a "lack of consistent leadership at AFI's National Center [for Film and Video Preservation] has neutralized its effectiveness as an archival coordinator, a role that had been assigned to it through its administration of the NEA's grants program."⁴² Furthermore, this statement noted that the "AFI's fundraising for their own programs has turned them into a competitor for funding rather than a source of funding, the role they played during the 1970s and early 1980s. While this does not directly affect the Library, it does affect the cooperation among archives because it increases competition for funds."⁴³ This echoed the concerns of the heads of major film archives in the series of letters to Martin Scorsese and the Film Foundation two years prior, showing that the AFI had not taken adequate actions to alleviate these concerns.

The AFI would ultimately lose its NEA funding for the film preservation grants the NCFVP administered just two years after *Film Preservation 1993*. Although many film preservation stakeholders held negative opinions of the AFI or were lukewarm to the

⁴¹ Testifying on behalf of the Association of Moving Image Archivists, Jan-Christopher Horak argued that film archives needed a joint catalog of holdings, but noted that "while the National Moving Image Database (NAMID) at the National Center for Film and Video Preservation aspires to such a role, limited funding has so far hampered its capability to achieve such a goal." Melville and Simmon, *Film Preservation 1993 Volume 4: Submissions*, 34.

⁴² Melville and Simmon, *Film Preservation 1993 Volume 4: Submissions*, 211.

⁴³ Melville and Simmon, *Film Preservation 1993 Vol. 4: Submissions*, 211.

organization, this environment was not the primary contributor to the end of the AFI administered NEA preservation grant program. Instead, in 1995 the NEA as a whole was under fire by the Republican congressional majority, which opposed the organization for supporting art projects its constituents believed to be obscene and for its central mandate of funding unnecessary art projects running counter to fiscal conservatism.⁴⁴ GOP legislators wished to entirely eliminate the NEA and its sister agency, the NEH. Both Endowments ultimately survived, but with deep budget cuts. Faced with a 40 percent funding reduction, the NEA cut the AFI-administrated film preservation grants program entirely. The author has found no evidence suggesting that the end of this program was due to agency objections to its operations, but instead this appears to have merely been a pragmatic response to a difficult situation. Within two years the NEA ended all ongoing, annual funding support for the AFI in response to continued funding difficulties.

Despite its reputation not leading to an end of NEA support for film preservation grants and activities, this was the reason for the AFI being sidelined from involvement in further governmental actions regarding film preservation. Even before the passage of the NFPA of 1988, Eric Schwartz was well aware of the criticism of the AFI's film preservation activities.⁴⁵ This understanding grew with contact with film archivists throughout the country, eventually including concerns about how much of the annual NEA funds the organization retained for its own operations and the lack of diversity in the number and type of film archives funded through this project. Quite significantly, he also saw a considerable disconnect between the AFI's publicly projected image of being

⁴⁴ Jacqueline Trescott, "The NEA's Half-Victory; Agency Still Alive, but Budget Cuts Will Hurt," *Washington Post*, October 1, 1995, G01.

⁴⁵ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

at the forefront of film preservation and its actual actions. A particular concern was that many of the attendees of the AFI's high profile events, such as film premieres and galas, believed that the funds raised from such activities were being used directly for the physical preservation of motion picture films when, as discussed previously in this dissertation, reality belied these assumptions.

The formation of the NFPF as a federally funded, nongovernmental organization less than a year after the end of the NEA film preservation grant program should be viewed as a response to stakeholder concerns about the AFI's operations, as should the fact that the planning process for the creation of the NFPF began well before it was clear that the AFI would lose its NEA support.⁴⁶ The primary purpose of the NFPF was to administer grants to cultural heritage institutions for the purpose of film preservation, which is a role that the AFI had assumed for decades. The fact that Schwartz and his collaborators chose to start a new organization rather than use the AFI's extant resources for this purpose, combined with an absence of dissenting voices urging a new funding mechanism for AFI distributed film preservation grants as an alternative to the founding of the NFPF, shows an indisputable lack of stakeholder support for the Institute.

Likewise, Schwartz and the other founders of the NFPF deliberately designed their new organization in a way that would avoid the flaws that harmed the AFI's reputation.⁴⁷ The AFI regularly received criticism for not adequately supporting projects that respective stakeholders found to be important, instead allowing funding and other resources to go towards other activities. The NFPF, in contrast, chose motion picture

⁴⁶ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

⁴⁷ Schwartz, personal interview with the author, Washington, D.C., August 29, 2012.

preservation as its sole mission and primarily supports this through its grant making activities. The AFI was routinely criticized for keeping a large portion of its annual NEA allotment for purposes other than the direct preservation of films, while the NFPF uses government monies only to support actual preservation work, relying on private donations to support its administrative needs and other activities. Perhaps most importantly, the AFI primarily supported the preservation of Hollywood films and other works that are seen as antecedents of mainstream cinema, with materials outside of this paradigm representing only a small fraction of the films that were preserved through NEA funding. The need to expand beyond this narrow concept of cinema had been evident for years, and the NFPF's preservation priorities acted to correct the previous neglect of a wide portion of America's cultural heritage.

Therefore, the AFI did not lose its federal funding as a result of scrutiny from stakeholders in the film preservation community, but this was the primary reason for its inability to obtain replacement government support or reestablish its role as a leader in the film preservation community. It was abundantly clear to various stakeholders that the AFI's rhetoric on its commitment to film preservation implied greater activity and success than its actions demonstrated, as the organization's leaders had not provided its NCFVP with adequate resources to fulfill its stated goals. The LoC, which had become America's most significant film archive in no small part due to the AFI's support in the 1970s, recognized this failure and moved to remedy this lack of leadership. Through its own actions and its development and continued support of the NFPB, NFR, and NFPF, the LoC continues to date to act as major supporter of efforts to protect America's diverse film heritage as held by a wide range of institutions.

The NFPF's Legacy and Greater Recognition of Orphan Works

Following the success of the NFR, the NFPB, and, especially, the NFPF, subsequent congressional actions dealing with motion picture preservation no longer encountered the same controversy that accompanied the NFPA of 1988. In fact, the NFPA of 1992 and 1996 have been successful enough that the LoC worked with Congress to create the National Recording Preservation Act of 2000.⁴⁸ This legislation mirrored the NFPA of 1992, including a mandate to create a proposal and national plan on preserving audio recordings as well as public policy mechanisms to promote the preservation of recorded sound in the United States. These mechanisms included the National Recording Registry, National Recording Preservation Board, and National Recording Preservation Foundation. This new legislation depended heavily enough on the NFPA of 1992 that much of the text was copied verbatim, with references to motion pictures changed to address sound recordings.

It is also worth noting that the NFR evolved with public policy on film preservation. Just as the LoC and federal preservation funding shifted from a primary focus on Hollywood features and their antecedents to orphan films, the NFPB began to select orphan films for the NFR. Despite these films being eligible for the NFR after the change in selection criteria in the NFPA of 1992, orphan films began appearing on the NFR primarily in the wake of the establishment of the NFPF and its promotion of such works and, by 2007, accounted for about half of the films selected annually.⁴⁹ With this shift, popularity or commercial success is no longer a factor in deciding which films are

⁴⁸ National Recording Preservation Act of 2000, Public Law 106-474, *U.S. Statutes at Large* 114 (2000).

⁴⁹ Caroline Frick, *Saving Cinema*, 179; Streible, "Role of Orphan Films," 126.

added to the Registry each year, but instead films are selected based on their artistic merit and ability to represent part of America's cinematic heritage.⁵⁰

This change in the makeup of the NFR was deliberately encouraged by Billington, who had expressed interest in the preservation of home movies in response to Japanese American National Museum Curator Karen Ishizuka's testimony for *Film Preservation* 1993.⁵¹ In June 1996, Billington asked NFPB member Milt Shefter to reach out to Ishizuka and encourage her to recommend a film for the annual selections of the NFR, which would in turn send a message to the film archival community that the Library was interested in using the NFR to honor films beyond mainstream, commercial works.⁵² Ishizuka responded by suggesting a collection of 8mm footage known as *Topaz*, which was filmed in secret by amateur filmmaker and American of Japanese descent Dave Tatsuno when he was interred in the Topaz War Relocation Camp in Utah from 1943 through 1945. This footage provides a counterpoint to the only other home movie that was then on the Registry, the infamous "Zapruder Film" of John F. Kennedy's assassination, by showing a national tragedy through footage of mundane, rarely seen domestic activities without a clear narrative or conclusion rather than focusing on an abrupt shock to the nation.⁵³ Likewise, while many of the World War II feature films and documentaries then on the NFR focused on glorifying America's history, Tatsuno's film complicated the list by acknowledging that filmic materials that showed America's

⁵⁰ Daniel Eagan, *America's Film Legacy: The Authoritative Guide to the Landmark Movies in the National Film Registry* (New York: Continuum, 2010), ix–xi.

⁵¹ Karen L. Ishizuka and Patricia R. Zimmermann, "The Home Movie and the National Film Registry: The Story of Topaz," in *Mining the Home Movie: Excavations in Histories and Memories*, ed. Karen L. Ishizuka and Patricia R. Zimmermann (Berkeley: University of California Press, 2008), 126–41.

⁵² Ishizuka and Patricia R. Zimmermann, "The Home Movie and the National Film Registry, 134–137.

⁵³ Ishizuka and Patricia R. Zimmermann, "The Home Movie and the National Film Registry, 137–8.

failures were worthy of preservation. *Topaz* was named as one of the 1996 selections to the NFR, resulting in the film, and the NFPB's decision to include it, receiving a significant amount of positive press coverage. Ishizuka was appointed to the NFPB several months later, as Billington and the other Board members wanted the continued assistance of someone who had shown expertise in selecting works that could expand perceptions of America's national film heritage.⁵⁴ The ensuing years have seen such an expansion, with smaller film archives and cultural heritage institutions discovering the benefits of works in their possession being placed in the same esteem as major, well-known studio films.

This increased interest in orphan films, as well as increased funding for their preservation, led to greater scholarly collaboration between archives and film scholars. The discussion group that formed the content of *Film Preservation 1993: A Study of the Current State of American Film Preservation* and *Redefining Film Preservation: A National Plan* acknowledged that film scholars had begun to recognize the importance of films outside the mainstream – orphan films before they were commonly defined as such.⁵⁵ Academic interest in these films continued to grow, especially in light of archives placing greater emphasis on these works and having better mechanisms to publicize them.⁵⁶ This resulted in the establishment of the first Orphan Film Symposium in 1999, which was supported in part by the NFPP and brought together film archivists, film

⁵⁴ "Karen Ishizuka, Japanese American National Museum Curator, Named to National Film Preservation Board," Japanese American National Museum, last modified April 27, 1997, <http://www.janm.org/press/release/78/>.

⁵⁵ Melville and Simmon, *Film Preservation 1993 Volume 1: Report*, 5; Melville and Simmon, *Redefining Film Preservation*, 26

⁵⁶ Dan Streible, "The Role of Orphan Films in the 21st Century Archive," *Cinema Journal* 46, no. 3 (2007): 124–8.

scholars, and filmmakers. The founder of this now biennial symposium, Director of New York University's Moving Image Archiving and Preservation Program Dan Streible, noted that the convergence of these individuals over this common interest had resulted in cooperation between academics and archivists and, in some cases, a blurring of the lines between the professions.⁵⁷

As the NFPAs evolved from an obligation placed on the LoC to legislation that has saved previously neglected films, fostered the creation of new scholarly communities, and – through the National Recording Preservation Act of 2000 – provided a model for other preservation programs, the programs instituted in the NFPA of 1996 were renewed without significant debate or controversy in future legislation. Indeed, in 2005, Congress reauthorized the NFPB and, by extension, the NFR, in Title 3 of the Family Entertainment and Copyright Act, and it again reauthorized these institutions for another seven years with the Library of Congress Sound Recordings and Film Preservation Programs Reauthorization Act of 2008.⁵⁸

Conclusion

The NFPA of 1988 was a seriously flawed piece of legislation that, ironically, had little to do with the actual preservation of motion pictures. The law also put the LoC into the awkward position of policing alterations to certain motion pictures, despite the

⁵⁷ Streible, "The Role of Orphan Films in the 21st Century Archive," 125–6.

⁵⁸ Family Entertainment and Copyright Act of 2005, Public Law 109-9, *U.S. Statutes at Large* 119 (2005). Title 1 of this legislation allowed for limited use of motion picture content sanitizing devices, which has little to do with the reauthorization of the NFR, NFPB, and NFPP. These legislative actions were only included in the same law because they both dealt with film. For more information on the somewhat controversial content of Title 1 of this legislation, see Matt Williams, "Making Encouraged Expression Imperceptible: The Family Movie Act of 2005 Is Inconsistent with the Purpose of American Copyright," *Virginia Sports and Entertainment Law Journal* 5, no. 2 (2006): 233–58; Decherney, *Hollywood's Copyright Wars*, 150–4; Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008, Public Law 110-336, *U.S. Statutes at Large* 122 (2008).

Copyright Office not having been consulted whether the government had the authority to do so under current copyright law. Despite this, however, the LoC realized the potential of the NFPB and the NFR to act as mechanisms to promote the value of actual motion picture preservation. The LoC, the NFPB, and representatives from the motion picture industry guided future legislation to shift Congress's attention from a controversial dispute over moral rights to a strong, effective series of legislative actions that have improved film preservation in the United States.

The NFPB was essential in advising the Librarian of Congress on the creation of the reports that redefined film preservation in the United States, thereby justifying the Board's existence through an expansion in its purpose beyond that mandated by the 1988 legislation. As for the NFR, in each year since its founding, news of the new titles added to the list has been featured in the *Washington Post* and the *New York Times*, on CNN, and through other major media outlets.⁵⁹ These stories highlight the need for motion picture preservation and, to varying degrees, detail the lesser known orphan works added to the list. Thus, the Registry has successfully been transformed into a promotional mechanism that brings greater public attention each year to the need for film preservation. These positive actions, as well as the creation of the NFPF, demonstrate that the LoC was highly successful in guiding public policy away from questionable

⁵⁹ For recent news stories on the annual additions to the NFR, see Ann Hornaday, "Library of Congress Adds *Big Lebowski*, 24 Others to National Film Registry," *Washington Post*, December 17, 2014, http://www.washingtonpost.com/lifestyle/style/library-of-congress-adds-big-lebowski-24-others-to-national-film-registry/2014/12/16/34bdd516-8548-11e4-9534-f79a23c40e6c_story.html; David Itzkoff, "Library of Congress Likes *Rosemary's Baby* and *The Big Lebowski*," *New York Times*, December 17, 2014, <http://artsbeat.blogs.nytimes.com/2014/12/17/library-of-congress-likes-rosemarys-baby-and-the-big-lebowski/>; Breeanna Hare, "*The Big Lebowski*: Now Preserved for All Time," CNN, December 18, 2014, <http://www.cnn.com/2014/12/18/showbiz/movies/feat-big-lebowski-national-film-registry/index.html>.

legislative actions and toward the advancement of programs that continue to save important elements of our cultural heritage.

Chapter 7: Future Film Preservation Challenges

At present, the federally funded LoC holds 160,000 reels of nitrate motion pictures and a total of 1.4 million film, television, and video recordings. The LoC also oversees the NFPB and NFR as valuable mechanisms for promoting film preservation nationwide, and it works with the NFPF to provide film preservation support to smaller film archives. Prior to this point, the NEA – a federal agency – provided approximately \$500,000 annually from 1972 to 1995 to support film preservation at a variety of institutions, including MoMA, GEH, and UCLA. Other federal interventions are described throughout this dissertation, but suffice to say, the United States government has provided the resources needed to save a large portion of America's cinematic record.

This is not to say that the road to the present has been smooth. Federal support for film preservation started in some cases in response to specific needs, such as the analysis and distribution of films through MoMA during World War II, and then abruptly ended when these needs were fulfilled. When the federal government did finally provide ongoing funding for film preservation in 1967, it chose to do so through the AFI. It is impossible to disentangle the founding of the AFI from the Cold War political context of its time. Although this contributed to some initial planning actions that privileged the preservation of Hollywood produced feature films and their antecedents over other works, since the government saw these motion pictures as being useful for soft diplomacy purposes, in practice these motivations became less explicit moving forward. The AFI continued to focus on Hollywood film history as American cinema history because of the initial design of the organization, including a mandate to collaborate with the Hollywood

studios, and because of the greater perceived preservation needs of studio works, rather than overt or even implied political reasons. However, the fact that it lost its federal funding due to budget cuts to another Cold War era institution, the NEA, in the years following the end of these international political tensions deserves further investigation. The NEA was unable to defend itself from political attacks partially because of the loss of its Cold War era *raison d'être*, which in turn led to an end to an end for film preservation funding for the AFI, but it is difficult to measure the impact of this factor in a verifiable manner, and it would be outside the scope of this dissertation to do so.

Meanwhile, the AFI was successful in tracking down thousands of films from studios and collectors and arranging for them to be deposited in the LoC, leading to the survival of many of these works. However, the organization also alienated key stakeholders such as the educational community, independent filmmakers and, by the 1990s, the film archivists who actually preserved films. As the representatives of the federal government pushed for new preservation plans, through the NFPAs of 1992 and 1996, they attempted to avoid these past mistakes by including the input of film archivists, motion picture studios, film scholars, and other key stakeholders.

The field of motion picture preservation will continue to change, and there are issues the federal government has the authority or ability to address. Key challenges include navigating preservation needs in the digital domain and addressing elements of copyright law that inhibit access to motion picture works. The discussions below summarize past issues and actions in film preservation, using an understanding of the past to identify stakeholder needs for the future.

Changing Meanings of Preservation

Motion picture preservation has meant different things at different time periods. The term was not commonly used when institutions such as MoMA, the LoC, and GEH began to collect films. MoMA and GEH originally collected films for the purpose of study and exhibition. Films initially made their way to the LoC due to copyright deposit before it began to collect a limited number of films to maintain a historical and cultural record in the 1940s and 1950s. Preservation did not become a priority for these cultural heritage institutions until the 1950s, when they began to realize their nitrate holdings were deteriorating and that, due to the studios' loss of parts of their own holdings, some of the films they held were the only or best quality surviving copy. These works had been accidentally preserved by these archival institutions. Considering the higher costs and risks of storing combustible nitrate materials, which became more of a fire risk as they decomposed, "preservation" for the LoC meant copying nitrate to acetate so that the Library could dispose of the original films. Even though this practice ended in the late 1960s, the mindset among archivists was that the loss of all nitrate was inevitable, meaning that most of America's cinematic record from before the early 1950s was considered to be at risk. Films from the 1950s onward were considered to be safe, because the industry had shifted to acetate based "safety" stock and the archivists and studios believed that these materials were not subject to decomposition.

As the nitrate crisis grew in the 1960s and 1970s, preservation for motion pictures primarily meant copying films recorded on nitrate stock onto acetate film. The AFI distributed NEA funds to the major film archives for this purpose each year, and these resources went to a small number of institutions. In fact, since America's major film

archives controlled how NEA preservation funds were distributed, they intentionally excluded other film archives from this funding and this decision making process. This was not out of a sense of greed or fiscal impropriety, but instead these archives recognized that they could not afford to preserve all of the nitrate in their collections with present resources, and a wider distribution of limited government monies would result in the loss of works in their collections.

In the late 1970s, it became clear that nitrate was not the only problem. Acetate film stock was subject to vinegar syndrome, in which the film released an acidic odor while decomposing, warping, and eventually fusing together. Color films produced from the 1950s onward were subject to picture fading, resulting in the image losing most color variety and leaving pink or red hues. In other words, virtually all motion pictures were now known to need some form of preservation intervention. However, studies showed that storing all films – including nitrate – at cold, near freezing temperatures with low humidity could prevent or slow down deterioration almost indefinitely. This type of storage is not standard practice for all archives, since this is cost prohibitive for smaller institutions, but it has become the norm for the film studios and America's larger film archives.

In the digital age, changing definitions of preservation present significant challenges. In 2007, the Academy of Motion Picture Arts and Sciences released a report on digital preservation of motion pictures. At the time they found that, "economic models comparing long-term storage costs of film versus digital materials show that the annual cost of preserving film archival master material is \$1,059 per title, and the annual cost of

preserving a 4K digital master is \$12,514, an 11-fold difference.”¹ Although the price of digital storage for these materials has dropped considerably since this time, storing motion picture film in optimal conditions is still less expensive than storing a digital replica of comparable visual quality. While the full range of issues creating this cost disparity is beyond the scope of this dissertation, key factors are the expense entailed in digital preservation is the need to maintain multiple copies of files in separate locations to protect against data loss, routinely comparing files to ensure that loss has not occurred, and periodically migrating materials to new storage hardware.

In a follow-up report in 2012, the Academy described how digital production and distribution can benefit and harm independent and documentary filmmakers working outside the studio system. The ability to distribute films through digital files has made it so that filmmakers can reach a wider audience, since they do not need to incur the expense of creating numerous physical prints for distribution. However, the researchers for the Academy found that many documentary filmmakers “did not seem concerned about or aware of the possibility or likelihood of digitally acquired historical footage being lost. To the contrary, they believed that the Internet and today’s digital technologies offered unprecedented access to historical footage.”² In other words, while digital distribution provides clear short-term benefits to filmmakers, they are at risk of not being able to profit from their works in the long term due to misconceptions about the stability of their digital films. The Academy suggests that these filmmakers reach out to

¹ Science and Technology Council of the Academy of Motion Picture Arts and Sciences, *The Digital Dilemma: Strategic Issues in Archiving and Accessing Digital Motion Picture Materials* (Los Angeles: Academy of Motion Picture Arts and Sciences, 2007), 1-2.

² Science and Technology Council of the Academy of Motion Picture Arts and Sciences, *The Digital Dilemma 2: Perspectives from Independent Filmmakers, Documentarians, and Nonprofit Audiovisual Archives* (Los Angeles: Academy of Motion Picture Arts and Sciences, 2012), 4.

nonprofit, cultural heritage institutions that work with film and vice versa, in order to form partnerships to save these works.

Just as many nitrate films were lost because of a lack of understanding of their enduring value and acetate films have been lost due to misconceptions about their stability, the shift to digital formats has the potential to precipitate the loss of many motion pictures. The LoC already has the infrastructure and expertise needed to save digital works, so it needs to take action in the coming years to provide guidance and leadership to save the digital equivalencies of the camera negatives and fine grain prints of modern films.³

Corporate Motivations for Preserving Motion Pictures

Film studios that produced theatrically released motion pictures did not adequately preserve these works during the early decades of cinema. This occurred for a variety of reasons, including the companies going out of business, the volatility of nitrate stock, and perceptions that audiences had little interest in works that seemed dated after a few years. Regardless of the reasons for this, it fell on other entities to save this part of the nation's cinematic record. By neglecting films and paper copies of motion pictures that had been deposited to establish copyright, the LoC accidentally preserved much of America's motion picture record in the early years of cinema. These films were saved because producers and distributors saw financial value in maintaining intellectual property protections for works they owned.

³ Bryan Gardiner, "Inside the Nuclear Bunker Where America Preserves its Movie History," *Wired*, July 7, 2015, <http://www.wired.com/2015/07/film-preservation/>.

In the mid-1930s, MoMA was allowed to collect and exhibit films owned by the major film studios, under the condition that they obtained and screened prints after these titles finished their theatrical run and were no longer considered to have profit potential. The commercial availability of television in the 1950s expanded the profitability of films well beyond their original releases, but this did not significantly improve for-profit film preservation practices, even as outside companies bought studio libraries as assets. The majority of films were considered to be effectively interchangeable for television programming, making the safekeeping of only a limited number of well-known features a priority. American television distributors did not find value in the original negatives or fine grain prints, but instead in 16mm derivatives. Most negatives and fine grain prints were not safe from loss due to neglect and inadequate storage until the federal government funded the creation of the AFI in 1967. The AFI was able to offer the studios significant financial benefits, including tax breaks and storage savings, for depositing their physical motion picture materials with the LoC. This resulted in the survival of many studio films that would have ultimately deteriorated otherwise.

The advent and widespread adoption of cable television and home video in the 1970s and 1980s led to a need for an amount of content that exceeded all previous demand. This made the corporations that owned motion pictures recognize the expanded value of their holdings, and they responded by preserving a wider range of their own works than ever before. However, Congress attempted to block the corporate owners of motion pictures from adding digital color to motion pictures they owned through the NFPA of 1988. The following year, Congress and the press launched xenophobic attacks against Sony during its attempts to buy out Columbia pictures. In both cases, the studios

emphasized their commitment to film preservation as a successful defense against these attempted regulatory actions. This included Sony launching a trend of studios providing funding to help support the staff at the LoC who help preserve the materials owned by the sponsoring company.

The current preservation paradigm for films that are legally owned by major corporations is that these companies preserve many of their holdings themselves, especially those produced in the last few decades, while the safekeeping of a large portion of their older, nitrate-based materials is left to the LoC and other institutions. These companies, in some cases, provide staff funding and other support to the LoC or other institutions, treating them as secondary repositories in case some form of disaster strikes their primary facility. This has occurred as films have continued to grow in value as assets, following the transition to DVD and the advent of streaming services. An ongoing problem, however, is that even though film archives such as the LoC hold the surviving physical record of many works, the copyright still rests with corporations that have a history of making decisions based on the profit potential of actions.

The LoC and other film archives will not be able to freely provide a wider range of access to currently copyrighted motion pictures, through online distribution and other means, anytime in the foreseeable future. While the Copyright Act of 1909 set the maximum amount of time a user could maintain control of a work at fifty-six years if the author renewed the work after the first twenty-eight years of protection, the current term is the life of the author plus seventy years with no renewal requirements or other formalities.⁴ This extension was put forth in the Sonny Bono Copyright Term Extension

⁴ David R. Hansen, "Orphan Works: Causes of the Problem," (Berkeley Digital Library Copyright Project, White Paper No. 3, 2012): 5-7.

Act of 1998 primarily as a result of corporate lobbying, with one of the most common examples being Disney fearing the loss of control over Mickey Mouse and other characters.⁵ Despite clear benefits, such as no works accidentally falling into the public domain and depriving the original authors of justified financial benefits, Hansen asserted that “because copyright is now more easily obtained, the law is thought to grant rights beyond what is necessary to motivate authors to create, and now extends protection to a large number of works with questionable commercial importance.”⁶

Despite these barriers, the LoC is making efforts to ensure that access is not completely tied to the whims or financial analyses of the studios. Mike Mashon, head of the Motion Picture Section of the LoC, recently noted that he has been involved in discussions with some of the major film studios to stream works still under copyright for free online.⁷ The materials would be films in the LoC’s collections, they would be digitized by the Library, and no profit would be made from this form of distribution. These will be titles that the studios do not believe to be popular enough to justify the upfront expense of a home media or digital download release. Thus, just as MoMA was allowed to screen films theatrically and make prints to loan to other institutions once they were seen as no longer having significant profit potential, the LoC is working to create similar agreements for the digital age. The LoC and other film archives that hold studio works should aggressively pursue a policy that falls along these lines, negotiating for public access permissions – but not permanent rights – for films they hold in return for

⁵ Christina N. Gifford, “The Sonny Bono Copyright Term Extension Act,” *University of Memphis Law Review* 30 (1999): 385-6.

⁶ Hansen, “Orphan Works: Causes of the Problem,” 2.

⁷ Mike Mashon, “Do You Hide Aliens and Other Government Secrets There?” (presentation, Mostly Lost 4, Library of Congress National Audio Visual Conservation Center, Culpeper, VA, June 11-13, 2015).

the work these institutions have done to ensure that the previously short-sighted studios can still financially exploit a wide range of America's cinematic record.

Shifting Priorities in Government Support for Motion Picture Preservation

With the notable exception of federal funding for the preservation of government produced films at the National Archives, federal support for motion picture preservation went mostly towards studio produced works and their antecedents from the 1930s into the 1990s. Meanwhile, MoMA gravitated towards such works because of the personal tastes of curator Iris Barry and the fact that the individuals who funded the Museum's Film Library had connections to the Hollywood industry. MoMA collected a limited number of avant-garde works for its collections and, starting in the 1950s, the LoC acquired a small number of documentary and other nontheatrical films for the purpose of maintaining a historical and cultural record of the United States. Likewise, much of MoMA's collections of theatrically produced films were created outside of the United States. However, for the most part avant-garde works and other nontheatrical films were treated as a lesser collecting priority.

Avant-garde filmmakers Jonas Mekas and Jerome Hill attempted to remedy this issue when the NEA was being formed in the mid-1960s, appealing to the federal government to use some of the resources of the new agency for the preservation and promotion of avant-garde and other non-theatrical cinema. Their proposal was rejected, due to other plans already being in place for the NEA's cinema-related activities. Hill and Mekas responded to this by creating Anthology Film Archives to collect and exhibit avant-garde motion pictures.

When the NEA funded AFI started acquiring films in 1968 for deposit at the LoC, the archives staff focused on studio films and their antecedents for several reasons. The AFI's first Associate Archivist, David Shepard, notes that he was unaware of any government rejection of Mekas and Hill or a mandate for him to ignore avant-garde films in his collecting efforts. He was, however, aware of Anthology's collecting efforts, which had recently started in advance of its 1970 opening, and he yielded this collecting area to this other organization. Meanwhile, many avant-garde films, home movies, and other nontheatrical works were shot and distributed in small gauge film formats, which typically used acetate-based safety film. Acetate was not yet known to deteriorate, so these films were believed to be relatively safe, while studio films produced and distributed on nitrate stock was known to be at risk. Finally, since avant-garde films, home movies, and other non-mainstream films were printed in limited numbers and often held by the original creator, the acquisition of these works was much more time consuming. Considering these factors, most of the NEA funding that went to the AFI for film preservation or that was distributed for motion picture acquisitions and preservation was used for nitrate materials, which mostly meant narrative fiction films that were produced or distributed by film studios.

This paradigm changed for a variety of reasons. In the late 1970s the archives discovered that acetate materials deteriorated over time, putting these materials at risk. The major film studios, meanwhile, increasingly recognized the long-term value of works they owned, prompting them to improve their own preservation activities in the 1980s. These studios also realized in the late 1980s and early 1990s that continued dependency on the federal resources for the preservation of works to which they owned copyright led

to members of Congress and the public believing that they should have input into how these works could and could not be commercially exploited, contributing to threats of federal regulations that would limit the studios' actions. Studios supported a shift of federal resources to focus on orphan films partially as a means to shift Congressional attention away from the studios' own films. This was done with the support of America's major film archives, which were frustrated by what they perceived as the AFI's mismanagement of NEA preservation funds, and smaller archives that held orphan films.

The transferal in federal funding priorities for film preservation from primarily focusing on studio created works to supporting orphan films was achieved through the NFPAs of 1992 and 1996, the latter of which created the NFPF to distribute federal funds to a variety of cultural heritage institutions for such purposes. These changes prompted new areas of scholarship in film studies, supported by activities such as the biennial Orphan Films Symposium. However, the recognition of the value of orphan films also revealed significant copyright problems that hinder the preservation of such works.

Orphan Films and New Copyright Dilemmas

The concept of orphan films was originally defined as motion pictures works that would not be cared for by an original or subsequent owner due to a lack of profit potential. This definition has been expanded in two significant ways. Dan Streible, founder of the Orphan Film Symposium, considers any film outside of the theatrical or commercial mainstream to be an orphan. For example, industrial and educational films would be considered orphan films in both of these senses. However, even though many federal government films have production qualities that are similar to industrial and

educational works, but since these are cared for at the National Archives, these films would only be considered orphans under Streible's definition.

The other way that the concept of orphans has been expanded is through copyright considerations, which expand beyond films to published materials in various formats. A work is considered a copyright orphan if the legal owner of the copyright cannot be determined. When the United States Copyright Office issued its Report on Orphan Works in 2006, it defined a work as being orphaned in situations "where the owner of a copyrighted work cannot be identified and located by someone who wishes to make use of the work in a manner that requires permission of the copyright owner."⁸ Therefore, the person who wishes to make use of the material must either choose to not use it or, if they do make use of the material, risk legal actions and potential financial penalties from a reemerging copyright holder. This is now the most common definition of orphan works. The Copyright Office's report served as the basis of Congress' failed attempts to pass legislation to limit legal actions and financial penalties against users of orphan works in 2006 and 2008. The Copyright Office recently conducted another study of the orphan works problem, detailed in a June 2015 report entitled *Orphan Works and Mass Digitization*, but no legislation has been proposed to address the findings of this report, which once again suggest the penalties for certain usages that exceed fair market price unfairly inhibit access to these materials.

Many, but not all, orphan films can also be considered orphan works under the copyright related definition. It is difficult to justify preserving a work if the owner of the physical material cannot provide access to it, and for many orphan films it is difficult to

⁸Jule Sigall, *Report on Orphan Works* (Washington: United States Copyright Office, 2006): 1.

determine who the copyright owner is and ask for permission to provide advanced forms of access. Due to changes in copyright law in 1976, many of these works are copyrighted regardless of whether the creator registered them with the Copyright Office. Institutions that hold such works can still legally provide access to these materials on site, but they face potential obstacles if they screen these films publicly or digitize them for Internet based distribution. Under current copyright law, a copyright holder who learns her or his work has been used can request recompense that exceeds the value of the usage, creating a significant threat to institutions that provide some forms of access to orphan films.⁹ The Copyright Office has recommended limiting this remuneration based on fair market values, and this was part of the failed 2006 and 2008 legislation, but as of now the risk of excessive penalties is still a problem. However, one means for film archives to provide access to copyright orphans in an expansive manner may be through the concept of fair use.

Fair use was codified as part of the Copyright Act of 1976, since Congress recognizing that changes in copyright standards required exemptions to maintain balances in protecting appropriate usage of intellectual property.¹⁰ Therefore, section 107 of the United States Code allows works to be used freely and without compensation “for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research,” and suggests the following four factors be used to determine if a particular usage is fair use:

⁹ Sigall, *Report on Orphan Works*, 95-7.

¹⁰ Decherney, *Hollywood's Copyright Wars*, 155-7.

- 1.) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- 2.) the nature of the copyrighted work;
- 3.) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- 4.) the effect of the use upon the potential market for or value of the copyrighted work.¹¹

The fair use exemption does little to list specific examples. Congress had the foresight to recognize that, with evolving market conditions and changing technologies, such interpretations would be better left to intellectual property users and the courts to decide.

While the second factor – “the nature of the copyrighted work” – is perhaps the least commonly cited of the four in court cases on fair use, Jennifer Urban argued that it is highly relevant to cases involving orphan works.¹² A key factor in understanding the nature of an orphan work is that it has been orphaned. The copyright holder has seen no benefit in being available or locatable so users can easily offer to pay for rights, nor has he or she seen any financial reason to provide access to the work. Beyond the copyright owner’s obscurity suggesting the work has little financial importance, the original nature of the work should be a major consideration. If a work was created for a purpose that should not include expectations of prolonged financial revenues – which is the case for virtually all industrial films, home movies, educational films, and other orphan motion pictures – then this lack of projected, long-term profits should be a factor in determining

¹¹ 17 United States Code § 107 (2006).

¹² Jennifer M. Urban, "How Fair Use Can Help Solve the Orphan Works Problem," *Berkeley Tech. L.J.* 27, 1392-9.

the nature of the work. Urban's basic argument is that in most cases of orphan works, consideration of the second factor will resolve the question of the fourth factor, since "where one party to any transaction is simply missing – there cannot be a negative effect on the market because no market can arise."¹³

Considering that the first factor encourages users and the courts to consider nonprofit, educational uses more favorably than commercial uses in determining fair use, nonprofit institutions like archives, museums, and libraries have a strong case for their primary use of such works falling under this exemption. Urban suggested that this, combined with the nature of orphan works and a lack of potential market, should mitigate the relevancy of the third factor, dealing with how much of a work can be used under fair use.¹⁴ She interprets the third factor as primarily ensuring that content users do not sample enough of a work to replace the potential market controlled by the copyright owner, but the lack of such a market makes this argument irrelevant. Furthermore, scholarly works and transformative uses often rely on access to complete works to properly comment on, critique, or otherwise study these materials. The public benefits enough from these new works produced by scholarship that the lack of copyright clarity for orphan materials and the market failure to provide a way for the entire documents to be licensed should not prevent libraries and archives from presenting them to the public, whether on-site or online.

Patricia Aufderheide and Peter Jaszi noted that when considering fair use, the courts often the norms of particular communities of practice as a basis for their

¹³ Urban, "How Fair Use Can Help Solve the Orphan Works Problem," 1400.

¹⁴ Urban, "How Fair Use Can Help Solve the Orphan Works Problem," 1401-4.

decisions.¹⁵ Upon learning that documentary filmmakers were paying expensive licensing fees for sampling other artistic works in their films, they began to investigate why this was standard practice. They found that filmmakers needed to pay licensing fees to obtain errors and permissions insurance, which protects filmmakers and distributors against the costs of legal action in case they are accused of or found to have used part of a work in a way that violated copyright. Public television, theatrical distributors, and many other media outlets will not distribute a film without this insurance. Most of these documentary creators believed that sampling other works in their films fell under fair use, since the documentaries constituted transformative works and they were critiquing and commenting on the material they used, but they still licensed materials due to the insurance problem. However, Aufderheide and Jaszi interviewed filmmakers to obtain their arguments for why they believed sampling other works constituted fair use and used this data to produce a document of community standards. Insurance companies accepted this reasoning and allowed filmmakers to sample other works under fair use conditions without paying licensing fees. At present, no legal action has been taken against documentary filmmakers for following these community guidelines.

On a similar note, if film archives want to be able to safely show films that are considered copyright orphans, the ideal solution is not to wait until Congress passes relevant legislation. Congress may move forward on this, but objections from corporations that own a large number of copyrighted works combined with the present dysfunction of the federal legislature makes this unlikely to happen soon or efficiently. Instead, the archives need to work together to create community standards of practice to

¹⁵ Patricia Aufderheide and Peter Jaszi, *Reclaiming Fair Use: How to Put the Balance Back in Copyright* (Chicago: University of Chicago Press, 2011): 94-107.

determine what these institutions consider to constitute fair use in regard to these works. This can include information on how filmmakers or copyright holders have reacted when they have learned their works have been displayed or distributed. By creating such guidelines, archives would have a defense ready in case their use of orphan films were to prompt a legal challenge.

Conclusion

The federal government can and should play an important role in motion picture preservation going forward. As corporate owners of films continue to base their access decisions on profit potential, the LoC is acting to work with studios and remedy this market failure by making certain films available to the public in digital form. Expanding this program as widely as possible will ensure greater access to these works, giving the public greater value for the tax dollars spent to preserve these films. Digital motion pictures are at risk of loss and decay as much as film has been in the past. Just as they did for film in the past, the LoC and other cultural heritage institutions must take a leadership role regarding this problem, educating relevant stakeholders while also providing the technical guidance and facilities needed to avoid this loss. Finally, the federal government was largely responsible for creating the concept of orphan films as a subset of American cinema that is worthy of preservation, but with this came the recognition of new copyright dilemmas that pose barriers to access. Ideally, Congress should pass legislation that clarifies this matter and decreases potential penalties for the use of these films. However, considering that this may not happen, film archives must leverage existing fair use statutes and creation community norms to protect themselves against the risk entailed in providing access to orphan films.

Furthermore, the creation of *Film Preservation 1993* and *Redefining Film Preservation* documented contemporary issues in motion picture preservation and suggested several successful courses of action, such as the development of the NFPF to address the preservation need of orphan films and small archives. However, this research is now more than twenty years old. Since film archives face new problems from copyright constraints, digitization, and other matters, more research must be conducted to ensure that the right actions are taken to meet these challenges. Although the AFI had a mandate to coordinate cooperation between film archives on a national level from the creation of the NCFVP in 1984 through the end of federal funding in 1995, it lacked the funding and the will to execute such a survey. Additionally, its internal actions largely sidelined and ignored the existence and needs of many smaller film archives. AMIA and the NFPA now make great efforts to connect to film archives of all sizes, so all that is needed is the necessary resources to work with one or both of these organizations to create a new study of preservation needs. The federal government and LoC should enable such research by providing the necessary funding and logistical support. Through this, the needs of America's film archives and the scope of current problems can be determined simply by asking archivists what they have observed through their work in the field, and knowledge of current problems can facilitate actions resolve them and improve the preservation of and access to the American cinematic record.

Bibliography

- Academy of Motion Picture Arts and Sciences. "George Stevens, Jr." Accessed June 20, 2015. <http://www.oscars.org/governors-awards/ceremonies/honoree-bio/george-stevens-jr>.
- "AFI at 30: Advancing the 20th Century Artform." Special Supplement to *Variety*, June 16-22, 1997, cover-30.
- "AFI Board of Trustees Unanimously Select Bob Gazzale as New President and CEO." *PR Newswire*. Last modified June 26, 2007. <http://www.prnewswire.com/news-releases/afi-board-of-trustees-unanimously-select-bob-gazzale-as-new-president-and-ceo-58340292.html>.
- AFI Docs. "About AFI Docs." Accessed June 27, 2015. <http://afi.com/afidocs/about.aspx>.
- American Film Institute. *The American Film Institute Catalog of Motion Pictures Produced in the United States: Feature Films, 1961-1971*. Berkeley: University of California Press, 1976.
- , *The American Film Institute Catalog of Motion Pictures Produced in the United States: Feature Films, 1941-1950*. Berkeley: University of California Press, 1997.
- , "AFI Catalog of Feature Films." Accessed June 27, 2015. <http://www.afi.com/members/catalog/>.
- , "About the American Film Institute," accessed June 27, 2015. <http://www.afi.com/about/whatis.aspx>.
- Aufderheide Patricia, and Peter Jaszi. *Reclaiming Fair Use: How to Put the Balance Back in Copyright*. Chicago: University of Chicago Press, 2011.
- Barnes, Mike. "Roger Mayer, Champion of Film Preservation, Dies at 89." *Hollywood Reporter*. March 25, 2015. <http://www.hollywoodreporter.com/news/roger-mayer-dead-film-preservation-784295>.
- Bible, Karie. "An Interview with Roger L. Mayer (Chairman, National Film Preservation Foundation)." *Film Radar*, May 30, 2003. http://www.filmradar.com/articles/item/an_interview_with_roger_l_mayer_chairman_national_film_preservation_foundation/.
- Binder, Michael. *A Light Affliction: A History of Film Preservation and Restoration*. Raleigh, NC: Lulu.com, 2014.

- Bogdanovich, Peter. "Stagecoach," *Indiewire*, September 26, 2010. <http://blogs.indiewire.com/peterbogdanovich/stagecoach>.
- Bowser, Eileen. Review of *Nitrate Won't Wait: A History of Film Preservation in the United States* by Anthony Slide. *FIAF Bulletin* 45 (1992), 59-61.
- Callenbach, Ernest. "The Unloved One: Crisis at the AFI." *Film Quarterly* 24, no. 4 (1971): 42-54.
- Charmaz, Kathy. *Constructing Grounded Theory: A Practical Guide through Qualitative Analysis*. Thousand Oaks, CA: Sage, 2006.
- Cull, Nicholas. *The Cold War and the United States Information Agency: American Propaganda and Public Diplomacy, 1945-1989*. Cambridge: Cambridge University Press, 2008.
- Decherney, Peter. *Hollywood and the Culture Elite: How the Movies Became American*. New York: Columbia University Press, 2006.
- , *Hollywood's Copyright Wars: From Edison to the Internet*. New York: Columbia University Press, 2012.
- Downs, Robert B. "American Library Cooperation in Review." *College & Research Libraries* 6, no. 2 (1945): 407-415.
- Eagan, Daniel. *America's Film Legacy: The Authoritative Guide to the Landmark Movies in the National Film Registry*. New York: Continuum, 2010.
- Easton, Nina. "Sony to Cash In on Columbia's Cache." *Los Angeles Times*, September 29, 1989, 1, 27.
- Enticknap, Leo. "The Film Industry's Conversion from Nitrate to Safety Film in the Late 1940s: A Discussion of the Reasons and Consequences." In *This Film is Dangerous: A Celebration of Nitrate Film*, edited by Roger Smither and Catherine A Surowiec, 202-212. Brussels: FIAF, 2002.
- Family Entertainment and Copyright Act of 2005, Public Law 109-9. U.S. Statutes at Large 119 (2005).
- Feinman, Barbara. "Reagan, Saving the Shows: With Baryshnikov at AFI's Preservation Ball." *Washington Post*. May 23, 1988, C1, C4.
- Firstenberg, Jean. "The AFI and Film Education II: Jean Firstenberg Responds to E. Ann Kaplan's Editorial Statement," *Cinema Journal* 23 no. 1 (1983): 60-61.

- Forbes, Elliot, and David Pierce. "Who Owns the Movies?" *Film Comment* 30, no. 6 (November 1994): 43-50.
- Frick, Caroline. *Saving Cinema: The Politics of Preservation*. Oxford: Oxford University Press, 2011.
- Gardiner, Bryan. "Inside the Nuclear Bunker Where America Preserves its Movie History." *Wired*, July 7, 2015. <http://www.wired.com/2015/07/film-preservation/>.
- Gershon, Richard A., and Tsutomu Kanayama. "The Sony Corporation: A Case Study in Transnational Media Management." *International Journal of Media Management* 4, no. 2 (2002): 105-17.
- Gifford, Christina N. "The Sonny Bono Copyright Term Extension Act." *University of Memphis Law Review* 30 (1999): 363-408.
- Gomery, Douglas. "The Hollywood Film Industry: Theatrical Exhibition, Pay TV, and Home Video." In *Who Owns the Media: Competition and Concentration in the Mass Media Industry*, edited by Benjamin M. Compaine and Douglas Gomery, 359-435. Mahwah, NJ: Lawrence Erlbaum Associates, 2010.
- Gracy, Karen. *Film Preservation: Competing Definitions of Value, Use, and Practice*. Chicago: Society of American Archivists, 2009.
- Grainge, Paul. "Reclaiming Heritage: Colourization, Culture Wars, and the Politics of Nostalgia." *Cultural Studies* 13, no. 4 (1999): 621-38.
- Hansen, David R. *Orphan Works: Causes of the Problem*. Berkeley Digital Library Copyright Project, White Paper No. 3, 2012. <http://ssrn.com/abstract=2038068>.
- Hare, Breeanna. "The Big Lebowski: Now Preserved for All Time." CNN, December 18, 2014. <http://www.cnn.com/2014/12/18/showbiz/movies/feat-big-lebowski-national-film-registry/index.html>.
- Harris, Mark. *Five Came Back: A Story of Hollywood and the Second World War*. New York: Penguin, 2014.
- Hornaday, Ann. "Library of Congress Adds *Big Lebowski*, 24 Others to National Film Registry." *Washington Post*, December 17, 2014. http://www.washingtonpost.com/lifestyle/style/library-of-congress-adds-big-lebowski-24-others-to-national-film-registry/2014/12/16/34bdd516-8548-11e4-9534-f79a23c40e6c_story.html.
- Horne, Jennifer. "Experiments in Propaganda: Reintroducing James Blue's Colombia Trilogy." *The Moving Image* 9, no. 1 (2009): 183-200.
- Houston, Penelope. *Keepers of the Frame: The Film Archives*. London: The British Film

- Institute, 1994.
- Hoyt, Eric. *Hollywood Vault: Film Libraries before Home Video*. Oakland: University of California Press, 2014.
- Husband, Warren H. "Resurrecting Hollywood's Golden Age: Balancing the Rights of Film Owners, Artistic Authors, and Consumers." *Columbia Journal of Law and the Arts* 17 (1993): 327-358.
- Ishizuka, Karen L., and Patricia R. Zimmermann. "The Home Movie and the National Film Registry: The Story of Topaz." In *Mining the Home Movie: Excavations in Histories and Memories*, edited by Karen L. Ishizuka and Patricia R. Zimmermann, 126-41. Berkeley: University of California Press, 2008.
- Itzkoff, David. "Library of Congress Likes *Rosemary's Baby* and *The Big Lebowski*." *New York Times*, December 17, 2014. <http://artsbeat.blogs.nytimes.com/2014/12/17/library-of-congress-likes-rosemarys-baby-and-the-big-lebowski/>.
- Japanese American National Museum. "Karen Ishizuka, Japanese American National Museum Curator, Named To National Film Preservation Board." Last modified April 27, 1997. <http://www.janm.org/press/release/78/>.
- Johnson, Ted. "Going Public: Nonprofit AFI Reaches Beyond Big Donors, Gov't in its Mission," in "AFI at 30: Advancing the 20th Century Artform," Special Supplement to *Variety*, June 16-22, 1997, 1.
- Jones, Frances, Sam Kula, and Steve Zito. "Facts, Fancies and the American Film Institute Catalog." *Film Quarterly* 25, no. 4 (1972): 44-46.
- Jones, Janna *The Past is a Moving Picture: Preserving the Twentieth Century on Film*. Gainesville: University Press of Florida, 2012.
- Kannellos, Michael. "Blu-ray Victory Means Royalties, Royalties, Royalties." *CNET*, February 19, 2008. <http://www.cnet.com/news/blu-ray-victory-means-royalties-royalties-royalties/>.
- Kaplan, E. Ann. "Professional Notes." *Cinema Journal* 22 no. 4 (1983): 74.
- Karr, Lawrence F. "The American Film Institute and the Library of Congress: A Twelve Year Perspective." *Quarterly Journal of the Library of Congress* 37, no. 3/4 (1980): 355-369.
- Kilday, Gregg. "AFI - The Battle Gives Way to Détente." *Los Angeles Times*, December 7, 1975, O1.
- King, Susan. "Foundation Set to Preserve American Film." *Los Angeles Times*, May 2,

1990, OCF6.

Kosar, Kevin R. *Congressionally Chartered Nonprofit Organizations ("Title 36 Corporations"): What They Are and How Congress Treats Them*. Washington, D.C.: Congressional Research Service, Library of Congress, 2006.

Lamont, Austin, "The Search for Lost Films: David Shepard Discusses the Importance, Methods, Costs and Confusions of Film Archive Work," *Film Comment* (Winter 1971-1972): 59-65.

Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008, Public Law 110-336. U.S. Statutes at Large 122 (2008).

MacCann, Richard Dyer. "Film and Foreign Policy: The USIA, 1962-67." *Cinema Journal* 9, no. 1 (1969): 23-42.

Mann, Sarah Ziebell. "American Moving Image Preservation: 1967-1987." MLS thesis, University of Texas at Austin, 2000.

Mann, Sarah Ziebell. "The Evolution of American Moving Image Preservation: Defining the Preservation Landscape (1967-1977)." *The Moving Image* 1, no. 2 (2001): 1-20.

Mashon, Mike. "The Library of Congress National Audio-Visual Conservation Center." *Cinema Journal* 46, no. 3 (2007): 140-42.

-----, "Do You Hide Aliens and Other Government Secrets There?" Paper presented at Mostly Lost 4, Library of Congress National Audio Visual Conservation Center, Culpeper, VA, June 11-13, 2015.

Mast, Gerald. "The AFI and Film Education I: Jean Firstenberg Responds to E. Ann Kaplan's Editorial Statement on the Closing of the AFI Education Services." *Cinema Journal* 23 no. 1 (1983): 57-59.

Mathews, Jack. "A Sneak Preview of the Colorization Wars." *Los Angeles Times*, October 2, 1986. http://articles.latimes.com/1986-10-02/entertainment/ca-3533_1_colorizing.

McGreevey, Tom, and Joanne L. Yeck. *Our Movie Heritage*. New Brunswick, New Jersey: Rutgers University Press, 1997.

McNally, Janine V. "Congressional Limits on Technological Alterations to Film: The Public Interest and the Artists' Moral Right." *High Technology Law Journal* 5, no. 1 (1989): 129-56.

Melville, Annette, and Scott Simmon. *Film Preservation 1993: A Study of the Current*

State of American Film Preservation Volume 1: Report. Washington, D.C.: Library of Congress, 1993.

----- . *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 2: Hearing February 12, 1993, Los Angeles, California.* Washington, D.C.: Library of Congress, 1993.

----- . *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 3: Hearing Before the Panel of the National Film Preservation Board, Library of Congress, Washington, D.C., February 26, 1993.* Washington, D.C.: Library of Congress, 1993.

----- . *Film Preservation 1993: A Study of the Current State of American Film Preservation Volume 4: Submissions.* Washington, D.C.: Library of Congress, 1993.

----- . *Redefining Film Preservation: A National Plan: Recommendations to the Librarian of Congress in Consultation with the National Film Preservation Board.* Washington, D.C.: Library of Congress, 1994.

Mitsufuji, Toshiro. "Strategic Alliance in the Video Industry: The Acquisition of Columbia by Sony and MCA by Matsushita." *Journal of Strategic Change* 2 (1993): 207–14.

Mohr, Lawrence B. *Impact Analysis for Program Evaluation.* Thousand Oaks, CA: Sage, 1995.

Morse, Janice M., Michael Barrett, Maria Mayan, Karin Olson, and Jude Spiers. "Verification Strategies for Establishing Reliability and Validity in Qualitative Research." *International Journal of Qualitative Methods*, 1, no. 2 (2002): 13-22.

Murphy, William T. "Genesis of a Profession: Origins of the Film and Television Archives Advisory Committees." *The Moving Image* 11, no. 1 (2011): 103-112.

National Endowment for the Arts. "National Council on the Arts: History and Purpose." Accessed May 13, 2015. <http://arts.gov/about/national-council-arts>.

----- . "About the NEA: Annual Reports." Accessed July 5, 2015. <http://arts.gov/about/annual-reports>.

National Endowment for the Arts and National Council on the Arts. *1971 Annual Report.* Washington, D.C.: National Endowment for the Arts, 1971. <http://arts.gov/sites/default/files/NEA-Annual-Report-1971.pdf>.

----- . *1972 Annual Report.* Washington, D.C.: National Endowment for the Arts, 1972. <http://arts.gov/sites/default/files/NEA-Annual-Report-1972.pdf>.

National Film Preservation Board. *Meeting of the National Film Preservation Board on September 26, 1989*. Washington, D.C.: Library of Congress, 1989. From Library of Congress. Audiocassette recording.

National Film Preservation Foundation. *Report to the U.S. Congress for the Year Ending December 31, 2011*. San Francisco, CA: National Film Preservation Foundation, 2012.

-----, *Report to the U.S. Congress for the Year Ending December 31, 2013*. San Francisco, CA: National Film Preservation Foundation, 2014.

-----, "2014 Avant-Garde Masters Grants Awarded." Accessed April 16, 2015. <http://www.filmpreservation.org/about/pr-2014-10-14>.

-----, "International Partnerships." Accessed April 16, 2015. <http://www.filmpreservation.org/preserved-films/international-partnerships>.

-----, "About the NFPF." Accessed April 16, 2015. <http://www.filmpreservation.org/about/about-the-nfpf>.

National Recording Preservation Act of 2000, Public Law 106-474. U.S. Statutes at Large 114 (2000).

Nichols, Bill. "Report from the President." *Cinema Journal* 23, no. 1 (1983): 4-6.

-----, "Report on the American Film Institute Education Services." *Cinema Journal* 24, no. 4 (1984): 59-71.

Niver, Kemp. "From Film to Paper to Film: The Story of the Library of Congress Paper-Print Conversion Program." *Quarterly Journal of the Library of Congress* 21, no. 4 (1967): 248-264.

Nowell-Smith, Geoffrey. "Foundation and Early Years." In *The British Film Institute, the Government, and Film Culture, 1933-2000*, edited by Geoffrey Nowell-Smith and Christophe Dupin, 14-33. Manchester: Manchester University Press, 2012.

Nowell-Smith, Geoffrey and and Christophe Dupin. *The British Film Institute, the Government, and Film Culture, 1933-2000*. Manchester: Manchester University Press, 2012.

O'Connell, Bill. "Fade Out." *Film Comment* 15, no. 5 (1979): 11-18, 72.

Petrie, Duncan. "British Film Education and the Career of Colin Young." *Journal of British Cinema & Television* 1, no. 1 (2004): 78-92.

- Pierce, David. "The Legion of the Condemned - Why American Silent Films Perished." *Film History* 9, no. 1 (1997): 5-22.
- . "Copyright, Preservation, and Archives: An Interview with Eric Schwartz." *The Moving Image* 9, no. 2 (2010): 105-48.
- . *The Survival of American Silent Feature Films: 1912-1929*. Washington, D.C.: Council on Library and Information Resources and the Library of Congress, 2013.
- Ramirez, Gracia. "'In the Best Interests of the Country': The American Film Institute and Philanthropic Support for American Experimental and Independent Cinema in the 1960s." PhD diss., Edinburgh Napier University, 2013.
- Real, Brian. "From Colorization to Orphans: The Evolution of American Public Policy on Film Preservation." *The Moving Image* 13, no. 1 (2013): 129-150.
- RealScreen. "History's Keeper: The U.S. National Archives," last modified February 1, 2000. <http://realscreen.com/2000/02/01/27900-20000201/>.
- Reauthorization of the National Film Preservation Board, Public Law 104-285. U.S. Statutes at Large 110 (1996).
- Records Relating to the Council on International Nontheatrical Events, 1961 – 1971. Records of the U.S. Information Agency, Record Group 306, National Archives at College Park, MD.
- Reynolds, Herbert. "'What Can You Do for Us, Barney?' Four Decades of Film Collecting: An Interview with James Card." *Image: Journal of Photography and Motion Pictures of the International Museum of Photography at George Eastman House* 20, no. 2 (1977): 13-30.
- "Rootie-Toot, Film Institute!" *Variety*, February 9, 1966.
- Roud, Richard. *A Passion for Films: Henri Langlois and the Cinémathèque Française*. Baltimore: Johns Hopkins University Press, 1999.
- Sam, Helen. "Cataloging and Preservation of Moving Images: A Survey of Organizations and Initiatives." *PNLA Quarterly* 73, no. 4 (2009): 62–68.
- Saunders, Shauna. "The Case for the National Endowment for the Arts: Federal Funding for the Arts in America in the 1960s and 1970s." *Political Economy* 37, no. 3 (2005): 593-616.
- Schwartz, Eric J. "The National Film Preservation Act of 1988: A Copyright Case Study

in the Legislative Process.” *Journal of the Copyright Society of the USA* 36 (1989): 138–59.

Science and Technology Council of the Academy of Motion Picture Arts and Sciences. *The Digital Dilemma: Strategic Issues in Archiving and Accessing Digital Motion Picture Materials*. Los Angeles: Academy of Motion Picture Arts and Sciences, 2007.

------. *The Digital Dilemma 2: Perspectives from Independent Filmmakers, Documentarians, and Nonprofit Audiovisual Archives*. Los Angeles: Academy of Motion Picture Arts and Sciences, 2012.

“Secret Treaties (So Negotiated) Loom as Fear Re Film Institute; Say Decision Should Follow Debate.” *Variety*, March 16, 1966.

Sigall, Jule. *Report on Orphan Works*. Washington: United States Copyright Office, 2006.

Silberg, Jon. “Preservation: To Protect and Preserve,” in “AFI at 30: Advancing the 20th Century Artform.” Special Supplement to *Variety*, June 16-22, 1997, 6, 22.

Sitton, Robert. *Lady in the Dark: Iris Barry and the Art of Film*. New York: Columbia University Press, 2014.

Slide, Anthony. *Nitrate Won’t Wait: A History of Film Preservation in the United States*. Jefferson, N.C.: McFarland, 1992.

Slide, Anthony, Papers. 1964-Present. Center for Archival Collections, Bowling Green State University Libraries.

Spehr, Paul C. “The Education of an Archivist: Keeping Movies at the Library of Congress.” *The Moving Image* 13, no. 1 (2013): 151-178.

Society of Cinema Studies. “Annual Meeting.” *Cinema Journal* 11, no. 1 (1971): 1.

------. “An Open Letter to the Board of Trustees of the American Film Institute.” *Cinema Journal* 11, no. 1 (1971): 72.

Stevens Jr., George. “About the American Film Institute.” *Film Quarterly* 25 no. 2 (1971-1972): 36-44

Stevens Jr., George, Personal Papers, Private Collection.

Streible, Dan. “The Role of Orphan Films in the 21st Century Archive.” *Cinema Journal* 46, no. 3 (2007): 124–28.

- Sweeney, Louise. "American Film Institute's Jean Firstenberg; From Would-be Sports Announcer to President." *Christian Science Monitor*, June 26, 1980. <http://www.csmonitor.com/1980/0626/062654.html>.
- Taylor, Clarke. "Cooperation Urged in Film Preservation." *Los Angeles Times*, May 1, 1985. http://articles.latimes.com/1985-05-01/entertainment/ca-11806_1_film-preservation.
- "These Are the Top 25 Film Schools in the United States." *Hollywood Reporter*. Last modified July 30, 2014. <http://www.hollywoodreporter.com/news/top-25-film-schools-united-721649>.
- Tilton, Peter D., Charles K. Martin, Jr., and Carleton Green. *Organization and Location of the American Film Institute*. Stanford: Stanford Research Institute, 1967.
- "Timeline," in "AFI at 30: Advancing the 20th Century Artform." Special Supplement to *Variety*, June 16-22, 1997, 26, 28.
- Trescott, Jacqueline. "The NEA's Half-Victory; Agency Still Alive, but Budget Cuts Will Hurt." *Washington Post*, October 1, 1995, G01.
- Turner, Ted. "My Beef with Big Media: How Government Protects Big Media-and Shuts Out Upstarts Like Me." *Federal Communications Law Journal* 57, no. 2 (2005): 223-33.
- Turner, Ted, and Bill Burke. *Call Me Ted*. New York: Grand Central Publishing, 2008.
- Urban, Jennifer M. "How Fair Use Can Help Solve the Orphan Works Problem," *Berkeley Technology Law Journal* 27 (2012): 1380-1429.
- U.S. Congress. House. Committee on Education and Labor. *To Create the American Film Institute as an Independent Agency: Hearings on H.R. 17021*. 93rd Cong., 2nd sess., May 7-8, 1974.
- U.S. Congress. House. Committee on the Judiciary. *Berne Convention Implementation Act of 1987: Hearings on H.R. 1623*. 100th Cong., 1st and 2nd sess., June 17, July 23, September 16 and 30, 1987, February 9 and 10, 1988.
- U.S. Congress. House. Committee on the Judiciary. *Legal Issues That Arise When Color Is Added to Films Originally Produced, Sold, and Distributed in Black and White*. 100th Cong., 1st sess., May 12, 1987.
- U.S. Congress. House. Committee on the Judiciary. *Film Integrity Act of 1987: Hearings on H.R. 2400*. 100th Cong., 2nd sess., June 21, 1987.
- U.S. Congress. House. Committee on the Judiciary. *Copyright Amendments Act of 1991*:

- Hearings on H.R. 2372*. 102nd Cong., 1st sess., May 30, June 6, 12, and 20, 1991.
- U.S. Congress. House. Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary. *Copyright Term, Film Labeling, and Film Preservation Legislation*, 104th Cong., 1st sess., July 1 and 13, 1995.
- Wasson, Haidee. *Museum Movies: The Museum of Modern Art and the Birth of Art Cinema*. Oakland: University of California Press, 2005.
- Welkos, Robert W. "To Preserve and (Self-) Protect?: The State of the American Film Institute." *Los Angeles Times*, October 4, 1998. <http://articles.latimes.com/1998/oct/04/entertainment/ca-29022>.
- Williams, Matt. "Making Encouraged Expression Imperceptible: The Family Movie Act of 2005 Is Inconsistent with the Purpose of American Copyright." *Virginia Sports and Entertainment Law Journal* 5, no. 2 (2006): 233–58
- Yanow, Dvora. *Conducting Interpretive Policy Analysis*. Thousand Oaks, CA: Sage, 2000.
- Young, Colin. "An American Film Institute: A Proposal." *Film Quarterly* 14, no. 4 (1961): 37-50.
- Zinnemann, Fred, Papers 1923-1996. The Margaret Herrick Library Special Collections, Academy of Motion Picture Arts and Sciences.