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## Historicizing Censorship

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Until the Ontario Board of Censors first discovered experimental film and video in 1981, in part inciting the censor wars, the provincial government had not laid a single charge under the Theatres and Cinematographers Act of 1911 or the Theatres Act of 1953 during that seventy-year period. What were the circumstances leading to this rupture? Were the censor wars merely a hitch in censorship's otherwise smooth ride through history, progressing toward liberalization? In this chapter, I trace the evolving rationalities in administrative logics of the Ontario Film Review Board (OFRB, 1985–2015) and of its former incarnation as the Ontario Censor Board (OCB, 1911–85) to trouble its seemingly coherent progression toward liberalization, which the Ontario Film Authority's (OFA) website describes as an evolution from acting on “extensive powers” to promoting a mandate “directed less at censorship and more towards classification.”<sup>1</sup>

Indeed, in Ontario between 1911 and the late 1970s, censorship policies underwent many changes. Regarding the range of filmic subjects it had the power to cut or ban, former vice-chair of the board George Belcher said in 1985, “In the old days, I can remember that if a girl's navel was exposed, that was cut. Now today, you see everything that is possible to be seen. This is the whole feature of censorship: you must go along with the times, you can't live in the past, and you can't be too far ahead of the public.”<sup>2</sup> This kind of rhetoric around the history of censorship is typical to the view that it is propelled by a symmetrical progression toward “permissiveness.” In 1985

former chair of the censor board Donald Sims noted that “every time you get into discussions of censorship you get into what was accepted in 1919 – was it accepted in 1940?”<sup>3</sup> Does this story of censorship liberalization mean that the government is gradually removing itself from the job of censorship?

The trajectory of this narrative is reinforced by a liberal political theory of censorship that understands new examples of censorship to be unenlightened, anachronistic errors that ought to have been abolished from what would otherwise be a democratic system of communications exchange.<sup>4</sup> When the history of the Ontario Censor Board is viewed through this theoretical lens, the board’s practice of censoring more types of images in the early twentieth century than it does today indeed appears to follow the same inevitable progression, as though the same cultural values were at stake throughout the board’s history, values that simply shifted laterally, following a linear trajectory toward enlightenment. In this scenario, moments of controversy during the early 1980s over contentious board decisions about a selection of mainstream films and over struggles involving nonprofit arts exhibitors read like blips on an otherwise smooth historical timeline of consistent cultural values undergoing a process of liberalization.

In the early twentieth century, government censorship was generally accepted as a conventional part of civic life, whereas in later years its most overt and visible forms developed a reputation as outmoded and repressive. This transformation is reflected in the board’s 1985 change of name from the Ontario Board of Censors to the Ontario Film Review Board, with the word “Censors” being replaced by the word “Review.” What the OFA’s website does not mention is that at the time of this change in official name, the board in fact retained the same powers to censor and ban and expanded its jurisdiction to include videotape. The arts advocacy organization Canadian Artists’ Representation/Le Front des artistes canadiens protested the name change, calling it “a mere smoke screen for the continued discretionary powers of the censors.”<sup>5</sup> Although the practice of censorship remained firmly in place, this rhetorical shift reflects changing public perceptions about the social acceptability of the *appearance* of censorship. Censorship and modern German literature studies scholar Beate Müller notices a similar effect transnationally:

Freedom of speech – juxtaposed with censorship – has become fixed as a value in the modern consciousness – so much so that even in modern non-democratic societies that clearly use pre-publication censorship, it is rarely

called by its real name ... For instance, in the GDR [German Democratic Republic], the licensing branch of the Ministry of Culture went by the name “central administration of publishing houses and book trade,” and the actual censoring process was known as the “procedure to obtain permission to print.”<sup>6</sup>

In each case, the liberalization of the rhetoric around censorship – and the movement, ostensibly, toward no censorship at all – is meant to suggest both a reduction of the kinds of images or texts eligible for censorship and a scaling-back of active interference like cutting and banning, which are replaced by more benign-sounding processes described with words like “classifying,” “procedures,” “permissions,” “administration,” and “review.”

Michel Foucault’s approach to history as a genealogy is useful to complicate myths of smooth historical trajectories – for finding the relations between forces that shift unexpectedly, or in Foucault’s words, “the heterogeneity of what was imagined consistent with itself.”<sup>7</sup> For example, given that images of, say, bank robberies are no longer considered “attacks on law and order,” as the board described them in 1920, a linear, progressive interpretation of the history of censorship might lead to the conclusion that society has undergone a symmetrical progression toward a moral acceptance of theft.<sup>8</sup> Foucault’s concept of genealogy, particularly his genealogy of law and discipline, suggests that this shift in values more accurately reflects law and order’s transformation from a top-down judiciary to a neoliberal context for self-governance. Thus attacks on law and order are no longer a relevant threat to governance. That images of robbery have fallen away from the repertoire of the censored denotes not a liberalization of existing cultural meanings but a change in the formation of the dominant culture.

In that censorship as a concept is often thought of as outdated, a history *about* censorship is easily tempted to find origins in a narrative such that “developments may appear as a culmination.”<sup>9</sup> Tracing a genealogy of heterogeneous forces of power reveals shifting political contexts for how censorship, power, governance, and citizenship are at work in modern societies. The board’s current policy rhetoric justifying both what it censors (i.e., images of sexuality) and its power to censor (i.e., as a safeguard for society) have undergone substantive, discursive, and functional changes over time. In investigating the history of the Ontario Censor Board, I ask under what administrative logic the board formed and in what ways this logic shifted during this history. What content did the board censor during different historical moments, and how does this reflect shifts in dominant cultural

meanings? This brief genealogy of the board's activities sets up a historical context – and a way of thinking about how censorship works – for the moment of confrontation between the board and arts exhibitors that I take up in the following chapters.

### **(National) Culture as a Security Apparatus**

The notion of “safety” has persisted as a governing logic for censoring materials. The OFA's website explains that the OFRB's “ability to limit public exposure” to certain images is “one of the *safeguards* that helps to prevent seriously harmful activities from becoming the normative values of society.”<sup>10</sup> The meaning and purpose of the term “safety,” however, has shifted. Before the Ontario Censor Board came into existence, one of the original impetuses behind the original Theatres and Cinematographers Act of 1911 was informed, very simply, by safety concerns about the circulation and storage of highly flammable film stock.<sup>11</sup> Prior to the existence of a government censoring body in Ontario, municipal police monitored moviegoing and censored content.<sup>12</sup> Governmental film and video censorship first appeared shortly after the Act was passed in Ontario in 1911. The board, along with the government agencies that oversaw its operations, engaged for the following several decades in an expanded practice of censorship that formed part of what communications scholar Michael Dorland would describe as a way for government to *own* culture, amounting to what he and his colleague Kevin Dowler argue is Canadian cultural policy serving as a “security apparatus.”<sup>13</sup>

A multitude of public Crown organizations exemplify the government ownership of culture in Canada today, including the Canadian Broadcasting Corporation, Canada Council for the Arts, Canadian Radio-Television and Telecommunications Commission, and Telefilm Canada, along with the legislation and ministries that empower them.<sup>14</sup> The OFA's website justifies the OFRB's existence by appealing to other democratic polities that use boards to classify films, stating that “many countries, including the United States, Great Britain, Australia, New Zealand, South Africa, France, Germany, Spain, Portugal, Greece, Norway, Denmark and Sweden have film classification boards that provide equivalent services to the public,” yet many of the agencies that classify film in these countries are in fact not run by governments. Britain's censor board has largely influenced Ontario's history of censorship procedures, but Britain does not legislate national or regional censor boards. In response to widely varying decisions by local censors, the British Board of Film Censors was established in 1912 as an independent,

nongovernmental body.<sup>15</sup> Similarly, in the United States, the Motion Picture Producers Association of America (later the Motion Picture Association of America, or MPAA) was the solution to the problem of competing local censors.<sup>16</sup> Whereas the American system is connected to the film industry and the British system runs independently, film and video regulation in Canada runs through government at the provincial level, although since 2015 Ontario's agency has been overseen by a delegated administrative authority, the Ontario Film Authority.<sup>17</sup>

Dowler explains that the security function of this government ownership of culture emerged alongside concerns about the vulnerability of Canadian national sovereignty to an inculcation of foreign – specifically American – culture.<sup>18</sup> Here, culture is key to the defence of sovereignty, and it had served as such in its most self-conscious way by the mid-twentieth century, as articulated by the Royal Commission on National Development in the Arts, Letters and Sciences, popularly known as the Massey-Lévesque Commission. This commission stated, “We are now spending millions to maintain a national independence which would be nothing but an empty shell without a vigorous and distinctive cultural life.”<sup>19</sup> Dowler explains that this metaphor of nation as an empty shell to be filled with culture “indicates the degree to which the commission understood implicitly that the defense of brute space is by itself insufficient.”<sup>20</sup> The logic here is not so much that there would be nothing to defend if not for a national culture but more so that national culture *is* the defence: “Culture would provide the bulwark to construct a strong nation with all its critical faculties intact, and to ward off the potentially harmful effects of creeping continentalism in the form of American mass culture.”<sup>21</sup> Culture was the defence against culture.

For the first fifty years of its operations, the censor board directed cultural expression and culture industries toward a nation-building imperative articulated locally by the moralizing sentiment of the nickname “Toronto the Good” for the province's capital. Here, moralism was connected to a nationalistic sentiment. The “high moral standard” against which government censors evaluated films was very much defined by their perceived difference from their American counterparts, often measured by the number of films *not* approved in Ontario. The first chair of the board, George Armstrong, wrote proudly to Provincial Treasurer T.W. McGarry, whose department oversaw the motion picture industry, that “the present standard of censorship is that of all Censor Boards in the Dominion, and in the United States. In some instances, films that have been passed by the Philadelphia

Board, which is one of the strictest Boards in the United States, have been condemned by our Board.”<sup>22</sup> Armstrong’s statement reflects an interest in distinguishing moral standards in English Canada from the “corruption, vice, and graft” that were perceived as inherent to local American politics.<sup>23</sup>

Although little is known about the demographics of early nickelodeon audiences, journalists and authorities associated the “cheap amusements” with women, children, immigrants, or the working classes.<sup>24</sup> These groups were considered especially vulnerable to deviance, and regulatory measures were aimed at protecting not only them but also “society against them.”<sup>25</sup> Film historian Paul S. Moore, however, complicates early film histories that cast moviegoing as a lower-class pastime. He argues that in the absence of proper statistics, this interpretation is unclear, if not unlikely, given the swiftness with which moviegoing became a mass pastime. Rather, in Moore’s view, the association between early five-cent movies and a perceived social problem resulted from moviegoing practices “restructuring middle-class childhood and family life.”<sup>26</sup> These concerns were framed by a nationalistic sentiment embodied in Toronto the Good as a centre of, in Moore’s description, “moral, social, and civic purity, with the strictest of Protestant, Anglo-Saxon propriety.”<sup>27</sup>

The governmental ministries overseeing the activities of the Ontario Board of Censors put in place a range of policies in defence of Canadian national sovereignty, expanding its administration of this cultural medium; such policies included using film for civic education, censoring American patriotic tropes, and enforcing screening quotas for British and Canadian content. Along with Premier William Hearst, McGarry centralized production activities in Ontario, appointing filmmaker S.C. Johnson – who was making short films about farming for the Department of Agriculture – director of the new Ontario Motion Picture Bureau (OMPB) in 1917.<sup>28</sup> Johnson produced films that demonstrated “educational work for farmers, school children, factory workers and other classes,” following a similar tradition made famous by filmmaker John Grierson’s early work developing civic, educational documentaries for the National Film Board.<sup>29</sup> Until its disbanding in 1934, when the Liberal Party replaced the United Farmers of Ontario Party and began reducing its operations during the Great Depression, the OMPB continued to produce its own films dedicated to guarding “Canadian traditions.”<sup>30</sup>

Censoring American tropes formed another aspect of legislating against the inculcation of American-made and pro-American patriotic films in

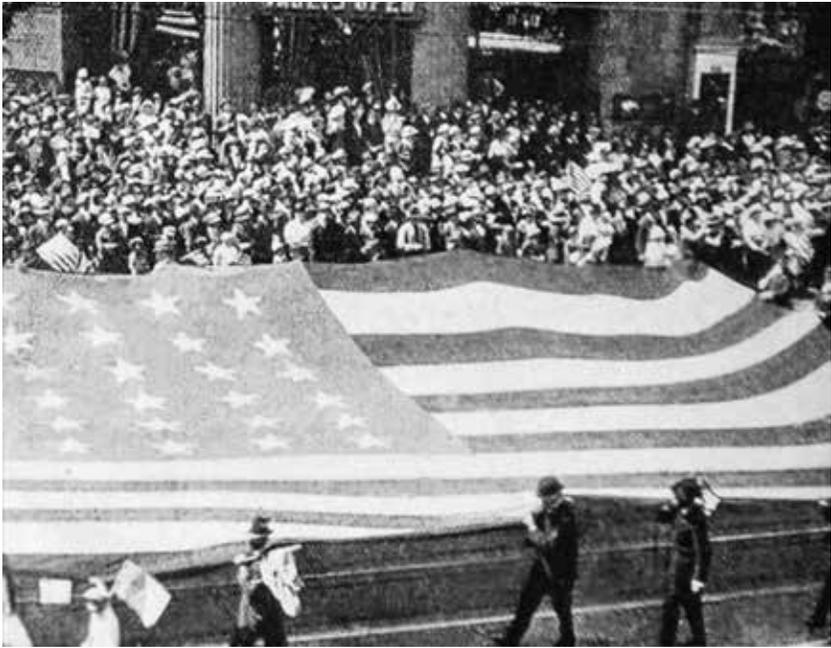
Ontario and became part of, to use Dowler's words, performing "the function of a security apparatus."<sup>31</sup> On the board from 1929 until 1979, former vice-chair George Belcher recalled in 1985,

Even when I started working at the board, there was an anti-American feeling. For example, I can recall some of the cuts they made in films. Americans were very patriotic, and if there were a film showing a little red school house, going into the classroom, there was always an American flag at the front of the classroom, and I can recall reading numerous times, "Eliminate view of American flag." That automatically came out of films.<sup>32</sup>

The caption to a film still in a 1925 issue of *MacLean's* magazine reads: "A too lavish exhibit such as this is deleted, not because of prejudice, but to leave room for the growth of a healthy Canadian national spirit."<sup>33</sup> Here, the Massey-Lévesque Commission's "empty shell" is only so large, and American iconography must be removed to "leave room" for cultural production that will serve a Canadian nationalism.

Between approximately 1922 and 1932, with the investment of the OMPB in guarding Canadian traditions – which translates into the traditions of the British Empire – the Ontario government strategized to curb the onslaught of American films in Ontario theatres with programs such as the purchasing of production studios and the importation of British- and Australian-made films. In 1932 the Ontario Board of Censors enforced a quota not on the origin of film production but on the content of films. The board's chair, Major J.C. Boylen, drafted a new regulation in effect for the rest of the history of newsreels in Ontario that required any newsreel to contain at least 25 percent Canadian content. This was in addition to a regulation requiring 40 percent British content.<sup>34</sup> Although content quotas have fallen away from the historical project of film and video censorship, this combination of the elimination of certain images and the required inclusion of other images overtly manifests the way censorship promotes meanings at the same time as it tries to eliminate others from the fray.

The Ontario government perceived its role in administering these film practices as an important one, particularly reinforced by a widespread belief that the film medium imparts a strong influence over its audiences. In a memo to the provincial treasurer, Dr. J.D. Monteith, the president of Britain's Board of Trade, Sir P. Cunliffe-Lister, explained the justification for a Films Act under discussion in the British Parliament:



Example of censored American flag. Film still from unknown film, in R. Laird Briscoe, "What the Censor Saves Us From," *MacLean's*, November 1, 1925. In Ontario Board of Censors Chairman's Correspondence, RG 56-1-1, Archives of Ontario.

The cinema was the most universal medium by which national ideas and national atmosphere could be spread ... Millions of people throughout the Empire were being unconsciously influenced in their ideals and outlook by films ... Evidence was given by the Department of Commerce in the United States before a Committee of Congress in January, 1926, to the effect that a complete change was coming over the demands for commodities in dozens of countries, particularly in the Far East, this could be traced directly to the influence of the film.<sup>35</sup>

Elsewhere, Boylen wrote to Monteith, "The importance and far-reaching influence of the cinema are now generally recognized. The cinema is not merely a form of entertainment, but, in addition, a powerful instrument of education in the widest sense of that term."<sup>36</sup> Here, film is seen as a particularly powerful instrument to influence minds, described by Cunliffe-Lister as the "most universal medium by which national ideas and national atmosphere could be spread," or in other words, by which national culture could

be created and thus defended. With moviegoing developed into a full-fledged mass pastime perceived to have a profound influence on film audiences, anxiety that the inculcation of American cultural forms threatened a so-called Canadian national culture reveals that the government's regulatory practices were less about repressing ideas and more about promoting a civic message about the security of a national identity.<sup>37</sup>

The Great Depression brought major changes in the board's operations, among them the introduction of a classification system. Ontario became the first jurisdiction in North America to introduce stratified age restrictions to film theatre admittance. Whereas the current rationale for classification is framed primarily in terms of safeguarding audiences from potentially harmful images through warnings, Ontario's early classification system was in large part inspired by a strategy to bolster the film industry. In 1946 Chair O.J. Silverthorne, who was generally considered liberal and innovative, introduced a two-tiered classification system. Prior to Silverthorne's system, children under the age of sixteen had to be accompanied by an adult at all times, but the rating was "Universal," which meant suitable for everybody.<sup>38</sup>

According to Belcher, Silverthorne introduced an "Adult" restriction, *limiting* admittance, for the purpose of *increasing* moviegoing audiences. It was thought that in allowing admittance to all audiences, the Universal rating was actually deterring potential adult audiences from attending film theatres:

The board and the government agreed that [the Universal rating] was possibly having an adverse effect on the number of people that might see a particular film because they had to advertise in the newspaper ads, underneath the title, the classification Universal. It ... was felt by a lot of people that it was a kid's film, so they would abstain from seeing the film ... It didn't prohibit children from seeing the film.<sup>39</sup>

Although classification was also introduced for its more familiar moral function, as Silverthorne intended it to be "easy for anyone to assess (films) from a moral standpoint,"<sup>40</sup> a primary function was to influence viewing numbers. Indeed, the aim of classification remains today to "help consumers make informed choices about the films they see," as the OFA states on its website, but the logic behind this aim has shifted.<sup>41</sup> Information that now works as a form of restriction, or a restraining mechanism putting limits on moviegoing audiences, was once meant to expand, extend, or invite

audiences as part of a broader imperative to bolster the output and consumption of domestic cultural industries.

This early history of the Ontario Censor Board's activities – not just censoring preoccupations but also efforts to leverage film for civic education and to promote a domestic film industry – demonstrates the way censorship functioned in symbiosis with broader cultural imperatives. And the censor board's cuts and bans were intended not just to eliminate *unwanted* content but also, very self-consciously and transparently, to make space for *wanted* content in the form of quotas. The board's new classification system was meant not just to warn or restrict audiences but also to improve moviegoing numbers, bolstering the economic component of culture industries functioning as security for a national identity. In this light, as a governmental bureaucratic institution charged with regulating meaning through its power to approve or not approve the entry of particular images into public circulation, the censor board participated in shaping cultural industries and symbolic environments.

### **Society Constructed as in Need of Saving**

After a self-defined "liberal" moment in the 1960s, the Ontario Censor Board's activities from the mid-1970s until the early 1980s contributed to and reflected a period of increased regulation of images of sex in North America, a period that preceded striking shifts in social policy, as exemplified in the United States by the New Right movement and in Canada by what gay liberation and social activist Gary Kinsman describes as "moral conservatism" due to its comparative lack of political coherence.<sup>42</sup> Kinsman characterizes this as a time of moral panic and backlash in response to "the excesses of 'liberal' or 'permissive' social- and moral-reform legislation identified with the 1960s, and more recently ... the affirmative-action and social-equity programs that were won by black and feminist movements," and reflected in board activities by a drop in rejected films during the post-war years.<sup>43</sup> The OFA's website boasts that during this time "the Board acquired the reputation as one of the most liberal and enlightened in Canada."<sup>44</sup> In contrast, during the late 1970s the OCB made several controversial cuts and bans that affected such mainstream films as Louis Malle's *Pretty Baby* (1978) and Volker Schlöndorff's Academy Award-winning *The Tin Drum* (1979), adapted from Günter Grass's 1959 novel, and the Ontario government amended the Theatres Act to expand its jurisdiction to include videotape and Super 8 film.<sup>45</sup>

During the mid-1970s, Toronto municipal police initiated a Clean Up Yonge Street campaign aimed at putting an end to a thriving sex and sex-related industry concentrated on this major downtown street. The campaign was spurred both by a high-profile sex-related murder of a young boy named Emanuel Jaques and by the raid and trials of the gay liberation periodical the *Body Politic*. As Kinsman argues, such “social disturbances were blamed on ‘permissive’ legislation” and on “social movements such as feminism and gay liberation which were portrayed as going beyond legitimate thresholds to question the family and moral order itself.”<sup>46</sup> It was during this “permissive” moment that Justice Minister Pierre Elliott Trudeau famously stated “the state has no place in the bedrooms of the nation” and that homosexual activity in private was decriminalized in a reform to the gross indecency section of the Criminal Code.<sup>47</sup> The chair of the board at the time, Donald Sims, commented in an August 1976 interview in the *Globe and Mail*, “Recently the bulk of the complaints we receive have been against what might be called permissive films ... Wouldn’t it be great if the movies entertained the whole family again?”<sup>48</sup> After this liberalization of state intervention into the sexual conduct of citizens in private, anxieties around a supposed breakdown of moral order and crisis of the family found juridical and regulatory expression.

What recent feminist and queer activist work did was politicize the private sphere, bringing conventionally private conduct into the public sphere to produce new, politicized identities.<sup>49</sup> As feminist legal scholar Brenda Cossman explains, those demanding inclusion of these identities began to “revise and expand the meaning of citizenship by claiming their rights and/or their political participation.”<sup>50</sup> In this way, emergent oppositional meanings and values were put into struggle. They would not become what cultural studies theorist Raymond Williams describes as “tolerated as a deviation” or be absorbed by the dominant culture and explained away as an exception but, rather, would fundamentally challenge dominant culture.<sup>51</sup>

The “sin strip’ of Canada” stretched from Wellesley Street to Queen Street along a downtown section of Yonge Street with a concentration of sex shops, adult theatres, adult video stores, massage parlours, and prostitution fronts.<sup>52</sup> Still fighting for the myth of Toronto the Good, Mayor David Crombie campaigned with the message of improving the moral character of the city. The 1975 provincial campaign of the ruling Conservative Party promoted “law and order,” and police initiatives prioritized eliminating prostitution.<sup>53</sup> Kinsman argues that in the context of Clean Up Yonge Street, the high-profile, sex-related murder of twelve-year-old Emanuel Jaques on July

29, 1977, became perfect fodder for a media-organized “moral panic.”<sup>54</sup> Importantly, it was four men who were charged with murder in the killing of Jaques, whose body was found on top of a Yonge Street sex shop, making this an issue of same-sex sexuality.<sup>55</sup> The *Globe and Mail* reported that the incident had “inflamed public opinion against the Yonge Street sex shops.”<sup>56</sup> Further, it recounted that there were cries for the death of the charged men and that Jaques’s “death in a Yonge Street sex shop ... has resulted in an emotional upheaval unlike any seen in Toronto for years.”<sup>57</sup>

The term “moral panic,” credited to sociologist and criminologist Stanley Cohen in 1972, refers to a sudden outbreak of social concern in which, in Cohen’s words, “a condition, episode, person or group of persons emerges to become defined as a threat to social values and interests.”<sup>58</sup> The media often play an integral role in creating stylized or stereotypical constructions of an issue.<sup>59</sup> A survey of how the newspaper the *Toronto Sun* reported on Jaques’s murder in the following weeks illustrates several media patterns that can exacerbate a moral panic. What sociology and moral panic scholar Kenneth Thompson calls “shock-horror headlines” – in this case, for example, “Homosexual Orgy,” “Group Wants Noose,” “Parents Must Stay on Guard” – exaggerate facts and sensationalize events.<sup>60</sup> The emphasis on and repetition of this style of language – including here stereotypical nicknames like “sleaze” in the headline “Tragedy ... and Sleaze,” references to Yonge Street as the “sin strip,” and the designation of people who worked on or frequented Yonge street as “sexploiters” and “sin strip hustlers” – work to reduce diverse participants and practices to singular objects of derision.<sup>61</sup>

These terminologies were contrasted against references to Jaques as a “happy, smiling kid” and to the metro police’s lawyer as a “modern day Wyatt Earp” in an effort to draw lines in terms of good and evil, or as Thompson argues, “the language of moral indignation.”<sup>62</sup> The *Sun*’s privileging of images and large text further simplified the complexity of a longer story, as a full double-page spread beneath the headline “Roar of Outrage” included photo after photo of angry crowds, overwhelming the eye with a stylized impression of endless supporters of the panic.<sup>63</sup> The newspaper announced unsubstantiated rumours that the “sex killing may be on film,” provoking anxieties about film and video practices as dangerous and underregulated. The newspaper also threatened to publish the names and addresses of those charged by police: “Starting immediately the *Sun* will publish the names and addresses of those charged ... when the police raid joints. So don’t say we didn’t warn you ... See you in the paper.”<sup>64</sup>

This media-led inciting of outrage exhibited the disproportionality associated with moral panic, where “public concern [is] in excess of what is appropriate given the objective harm done by the behaviour.”<sup>65</sup> Certainly, the murder of a child will elicit a public outcry; however, as sociology scholar Deborah Rose Brock points out, children are abused far more often by family or neighbours than by strangers.<sup>66</sup> Such incidents taking place outside the politicized context of the Clean Up Yonge Street campaign, however, did not serve the same symbolic purpose. In fact, a similar crime involving the sexual assault and murder of a young boy took place in 1973 just off Yonge Street. As Brock asks, “Why was there not a massive public outcry when this young boy was found sexually assaulted and murdered?” She rightly argues, “His death was no less tragic. It was simply not politically useful.”<sup>67</sup> In the context of his rape and murder by four men on the Yonge Street strip, then, Jaques was a symbol for good – an innocent child whose need for protection was the justification for conflating homosexuality with evil as well as for lamenting a breakdown of “social and moral order” and the family unit.<sup>68</sup>

The media- and police-led moral panic organized around the Clean Up Yonge Street campaign was characterized by language about a society in *decline*. Some headlines published in the “Letters to the Editor” section of the *Globe and Mail* included “I’ve Never Seen Anything So Sordid,” “Yonge St. Has Become Cesspool of Iniquity,” “Deplorable State of Affairs,” “Out of Character with Our City,” “Cheap and Tawdry Honky-Tonk Sin Strip,” and “Contributing to Decay of Society.”<sup>69</sup> Sims explained in 1976, “Many of us have a feeling that society is going downhill. My belief is that if there were more support for the family movies that are made then we would have more family movies.”<sup>70</sup> Although the board of censors and the ministries that oversaw it no longer had the same agenda they once had to bolster cultural industries, which might have allowed them to support whatever particular films Sims meant by “the family movies,” his statement certainly communicated the general belief that the proliferation of cultural expression promoting this heteronormative conception of family would be a direct solution to a society perceived to be in decay.

Homosexuality, here, was associated with pedophilia and murder, and “found lurking in seedy parts of the city.”<sup>71</sup> Social movement scholars Erich Goode and Nachman Ben-Yehuda note that moral crusades develop “moral entrepreneurs,” those who create the moral panic, including pressure groups, government elites, and the media in a loosely organized fashion, and people

whom Cohen terms “folk devils,” those subject to the hostility of the moral panic.<sup>72</sup> Like witches in seventeenth-century witch hunts, folk devils are named as such because accounts of their actions are like legends spread through gossip and because they are scapegoated to “reaffirm the communal boundaries of the wider group or society.”<sup>73</sup> In this case, the demonized group was a perceived homogenous group of homosexual men, which effectively functioned as a stand-in for any and all forms of so-called deviant sexuality. According to Kinsman, the police had already linked Yonge Street to organized crime “by associating the sex industry, prostitution, and homosexuality with the criminal underworld,” thereby linking some kinds of heterosexual sex – and all gay sex between men – to illegality.<sup>74</sup> In turn, this association of specific kinds of sex with illegality created and affirmed, in contrast, that the dominant group was linked to good citizenship.

Toronto police attempted to criminalize written representations of queer practices in a key set of trials involving the *Body Politic*.<sup>75</sup> A few months after the Emanuel Jaques murder and a few weeks before the trial of his killers, the *Body Politic* published an article by journalist Gerald Hannon that, incidentally, included a preamble about Jaques. Entitled “Men Loving Boys Loving Men,” the article was about intergenerational, consensual sex. On December 30, 1977, five police officers raided the offices of the *Body Politic*, seized materials, and charged three members of the corporation under the Criminal Code for possession and distribution of obscene materials.<sup>76</sup> Clayton Ruby, the lawyer representing the *Body Politic*’s publisher, Pink Triangle Press, successfully argued that the search warrant was illegal, and the members of the corporation were acquitted.<sup>77</sup>

Adjacent to this attempt to criminalize a particular act (i.e., intergenerational gay sex), or rather a *representation* of a particular act in the form of written words, government regulation directed itself toward the criminalization of conduct related to or enabling a range of practices associated with queer communities. Toronto police began a series of raids on bathhouses in December 1978 under the bawdy-house legislation, making the dubious claim that sexual encounters at bathhouses were acts of prostitution. Brock contends that the police’s broad use of this legislation served as a way to bypass Trudeau’s Criminal Code reform of the gross indecency law, noting that “where the *Toronto Star* had previously focused on the presence of heterosexual commercial sex in the city, in 1978 it began to report on establishments and services for homosexuals.”<sup>78</sup> In tandem with new municipal laws requiring body rub parlors to obtain licences and employees to remain

“properly dressed,” the conservative government made amendments to the Theatres Act in order to expand its jurisdiction from 16 millimetre film and above to include 8 millimetre and videotape.<sup>79</sup>

Once these smaller formats were subsumed under the regulations, it became a crime to fail to have a licence to run businesses carrying explicit videos and films – businesses that, importantly, helped to form queer communities and culture. When no actual crime was committed – the conduct of homosexuality itself not being a crime – the imposition of an increase in regulations effectively stifled community-specific practices through administrative constraints.<sup>80</sup> These varying levels of overt constraints, such as the police imposition of the bawdy-house legislation, and constitutive regulatory constraints, such as licensing issues, illustrate how, in Cossman’s words, “the law operates both in juridical ways through repression and in more disciplinary ways through the constructing of the subject and its appropriate modes of self-governance.”<sup>81</sup> It became the prerogative of the owners of often small, alternative book or video stores to obtain the proper paperwork and licence to operate their business, which effectively turned them into *potential* outlaws.

Contemporary citizenship studies look at notions of belonging, inclusion, and exclusion by focusing on discourses and representations alongside formal recognition of membership in a nation-state. Cossman, who draws some of her ideas of citizenship from Foucault, explains that the transformation from a welfare state with its Marshallian social citizen to a neo-liberal state with its privatized citizen brings with it a new arrangement of governance that places more responsibility on citizens to govern *themselves*.<sup>82</sup> Here, citizenship is constituted through “practices of regulated freedom,”<sup>83</sup> with governance taking place “through the regulated and accountable choices of citizens.”<sup>84</sup> As a result, freedom is crucial to liberal governance, which simultaneously represents both a form of rule and the distancing of restraint.<sup>85</sup> Where citizenship is constituted through practices of self-regulation, “those who refuse to become responsible and govern themselves ethically have also refused the offer to become members of our moral community.”<sup>86</sup>

In conjunction with the media world and the spheres of society, politics, and culture, the regulatory dimension of law has played a significant role in constructing a gendered and sexed citizen, which, as Cossman argues, makes it a location for the struggle over citizenship, and the way different subjects “are, or not, granted rights, responsibilities, and representations.”<sup>87</sup> Citizens like those involved with the *Body Politic* sought to defend conduct

that fell outside the dominant behaviours of the gatekeepers of normative citizenship in that place and time, *refusing to become members of the moral community*. The moral panic in Toronto painted a picture of gay men as the antithesis of a successful citizen, who was defined as moral, a promoter of middle-class values, family-oriented, and operating through dominant structures for the consumption of culture. Given that constructions of homosexuality connected it to criminality and deviance, and to 1960s “permissiveness,” gay men were positioned as outside of responsible citizenship in a normalizing exclusion from the universal family, in the disciplining regulation of conduct by the imposition of licences, and in the attempted criminalization of specific practices such as those discussed during the *Body Politic* trials. In this sense, the administrative function of film and video censorship shifted from a concern with cultural *products* in a system of culture as security apparatus to a concern with the *identities* of the producers and distributors of culture and with their impacts on the boundaries of acceptable, sexual citizenship.<sup>88</sup>

### Inventing Community Standards

The board clearly played a role in policing sexuality through procedural, regulative constraints – requiring businesses to obtain licences and conform to the bureaucracy of prior censorship. The kinds of images that the board actually censored or banned were primarily images of explicit sexuality, as they still are, and thus the board was engaged in the struggle over the boundaries of sexual citizenship. In the myth of a linear history of censorship, where the censor board’s early jurisdiction over far-reaching topics to cut or ban was reduced overall to mainly images of sexuality and extreme violence, it might appear that we, in Foucault scholar John S. Ransom’s words, “live at history’s summit.”<sup>89</sup> In a series of 1985 interviews conducted by Roger Nickerson of the Archives of Ontario, former chairs of the board discussed its censorship policies. Chair Mary Brown noted that materials coming through the Ontario Board of Censors were getting rougher and that the board’s guidelines were becoming more lenient, revealing her interpretation of the history of censorship as moving toward permissiveness, or liberalization.<sup>90</sup>

A closer look at this progression, this time as discussed by the interviewer, Nickerson, reveals some of the historically and culturally specific value judgments underlying what is taken as a symmetrical progression. He said, “What we’ve been allowed to see on screen has been increased in quite clearly defined steps: thighs, then breasts, then frontal nudity, then

penetration. Now we seem to be getting into manual stimulation and masturbation and that sort of thing.”<sup>91</sup> Here, Nickerson’s chronological list reveals some of the historically and culturally specific values that defined the evaluation of images as more or less obscene, or more or less in need of censoring. For instance, out of two acts that are arguably equally explicit, Nickerson interpreted masturbation as more obscene than penetration, a distinction that seems to have had more to do with ideas about nonreproductive sex and perhaps Catholic sin than it did with a symmetrical progression toward permitting explicitness.

Brown’s responses to Nickerson’s questions reveal similar perspectives. Brown served as vice-chair of the board under Sims before becoming chair in July 1980. She is credited with initiating such reforms as publishing a list of eliminations from films, beginning the process of drawing up specific censorship guidelines, and organizing extensive outreach. Her term as chair was also fraught with controversy, as her decisions directly impacted arts communities and anti-censorship action. She was a former history and English teacher, a Roman Catholic, and the mother of six children, experience that she believed added to her qualifications to serve on the board. She said, “I thought I could be helpful in the classification of films. I had raised six children, my whole world had been young people, young teenagers.”<sup>92</sup> When Nickerson asked Brown about the use of uncensored films for the sexual education of children, Brown responded in a way that revealed her own culturally and politically situated biases, based in heterosexual marriage rites and a view that sex ought to remain untouched by politics or public education:

The people with whom I had grown up in similar circumstances where the gift of sexuality was considered to be that and one to be cherished, not one to be paraded publicly, where ... in later teenage years when our curiosity and our physical responses were there, we investigated through books, [and] through talking to people who were responsible. It began to unfold for us. Certainly, in modern terms our sexual education was pretty nil until we were at an almost marriageable age. And I look at the people of that generation, of my generation, and I see long-term lifetime commitments, I see happy and fulfilling marriages, I see families.<sup>93</sup>

Here, Brown attributed the penultimate success of the sexual citizen, supported entirely by mentor citizens, as culminating and confirmed in heteronormative marriage.

Nickerson confronted Brown about the influence of the Catholic Church on board decisions, describing the church as conservative because it “does not promote birth control.” Brown countered that the Catholic Church was in fact not repressive when it came to sex and was therefore presumably a viable model on which to base censorial decisions:

This wonderful Catholic country treats sex and affection with humour and delight, which I think is reflective of again the Catholic Church that I know – the delight, the joy, the fulfilment. You feel that you get the approach to dark passion from ... nonreligious affiliations, but the joy ... the passion and the warmth and the joy and the fun, the ability to laugh at themselves ... It’s not the cold mechanics of the American porn. It’s the loving, joyful, happy, fulfilling kind of relationship. It could be casual but it’s still warm.<sup>94</sup>

Residual cultural knowledges distinguishing Ontario’s version of national identity in terms that contrasted it with American culture cropped up again here – as did ideas of Anglo-Saxon propriety – when Brown described the country as Catholic. Following this discussion, Brown backtracked, insisting that Nickerson’s question about whether the Catholic Church in Toronto had an impact or influence on the board was inappropriate in the first place. She nonetheless addressed the question, justifying the church’s influence by appealing to attitudes that she deemed were generated by the public and using terms that put heteronormative family structures in symmetrical opposition to hedonism:

I think gradually emerging from our community is a people who have a concern with a family-oriented society – who have a concern for a life philosophy, whatever that life philosophy may be [– in contrast to a] people who are sort of ... drifting ... from day to day, and this kind of purposelessness, live day to day, this hedonistic approach.<sup>95</sup>

In this rare moment when a government representative was asked to articulate the cultural values informing administrative policies that (de)legitimated media productions, Brown awkwardly drew on secular language around *community* while promoting Christian values.

These interviews provide a glimpse into the languages and terminologies that informed board decisions and activities, putting into words, however awkward, the positive aspects of censorship. Of course, not all responsibility for the legitimating operations of the board lay with individual members –

even chairs – of a governmental tribunal that was subject to the standard bureaucratic oversight of governing ministries. Until 1981 there were no guidelines written into the regulations delineating images eligible for censorship. According to the *Globe and Mail*, in 1980 the board had a “policy of refusing to discuss specific demands,” and distributors were “barred by provincial law from revealing the sequences in question or their length.”<sup>96</sup> In the absence of clear guidelines, the board’s practice of knowledge gathering through surveys produced a fruitful archive documenting the way cultural values were legitimized, normalized, and codified through cultural policy initiatives, which in this case were aimed at ascertaining public opinion about state censorship policies in Ontario.

As of 1983 the board’s *Standard Procedures* pamphlet explained, “Films are classified and censored to reflect both community standards and the level of tolerance indicated by the Ontario public. Although no single gauge can be considered totally accurate, a constant survey of public opinion is maintained.”<sup>97</sup> The concept of community standards comes from federal law, specifically *R. v. Brodie* (1962), in which the Supreme Court changed the test for obscenity from one based on subjective ideas of morality at the discretion of the judge to one meant to be more scientific and based on the shifting mores of the (national) community. The current board claims to reflect the community standards of the province by assuring that the board has a diverse membership: “Within Ontario, OFRB members are appointed by the government from different parts of the province and from different age groups and backgrounds to ensure that there is collective input respecting community standards.”<sup>98</sup> Similarly, during her interview with Nickerson, Brown explained that the board was committed to ensuring diversity, albeit limited to occupations: “I think the guidelines are coming from a clear cross section ... Our forty members are really representative of our cross section, everything from an ordained minister to a young rock musician, from a dig-in-the-ground-type miner to a lawyer.”<sup>99</sup> Of course, questions remain about which citizens or groups were inevitably left out. When Brown addressed a seminar at the Ontario College of Art and Design (now the Ontario College of Art and Design University) in 1984, gay liberation activist Chris Bearchell reported that Brown was “surprised at the suggestion that lesbians and gays might be a persecuted minority,” noting that Brown’s response to this fact was to suggest, “If you’re afraid your point of view isn’t being represented, just ask the cabinet to appoint you to the Board of Censors.”<sup>100</sup>

During the 1970s and intensifying during the 1980s, the board conducted community outreach to gain insight into what sort of images the citizens of

Ontario thought should be censored and to further justify its rhetorical tool of community standards. As part of this outreach initiative, board members conducted public presentations and information sessions about board operations, which again were subject to the same dilemma of singling out some groups over others.<sup>101</sup> The board also conducted surveys during these presentations, and although they were administered for the purposes of gathering information, I argue that they also worked to reaffirm the board's existing mandates. As French sociologist Pierre Bourdieu explains, polls designed with whatever good intentions inevitably manipulate opinions just by way of a survey's internal logic and structure, creating the "reification of public opinion or the definition of the public agenda."<sup>102</sup> A textual analysis of some of the questions included in the surveys, and here I draw again on Foucault's theories of governmentality, reveals the way disciplinary powers observe and direct docile bodies through knowledge-gathering tools, which in turn promote self-regulation and normative conduct.

In one exemplary survey, respondents were asked to read descriptions of sample film scenes and put them in order according to what respondents "would find most offensive and [feel] ought be removed."<sup>103</sup> The scenes included:

Dialogue with excessive use of 4 letter words; lifestyle that promotes use of drugs; lifestyle that promotes crime; lifestyle that promotes homosexual behaviour; lengthy nude scenes; cruelty to animals; violence with blood and guts; scenes concentrating on the genitals; scenes involving sex with adult loving couples; anti-racial themes; use of children in nude scenes; use of children in sexual scenes; violence against women such as rape or bondage.<sup>104</sup>

This survey carried with it underlying assumptions that inform its wording in three areas. First, it did not account for the interpretation of gratuitous scenes versus scenes integrated into a broader narrative or message. In fact, to separate hypothetical examples of scenes from any context whatsoever effectively renders *all* of the scenes gratuitous. Second, the wording of the question made the issue the *degree* of offensiveness, such that all examples were deemed offensive to some degree, thus omitting the option *not* to remove any of them. And third, the descriptions of the scenes did not differentiate between imaginary representations and real acts. The representation of cruelty to animals is quite different from an actual act of cruelty to an animal on film. Rape and bondage appeared in the same option, which erased the very important distinction between rape and consensual,

simulated bondage practices. By imposing categories on respondents, polls define people as “either possessing or not possessing opinions,” which then “‘produces’ them as entities within these categories.”<sup>105</sup> Here, the power wielded by the survey was not a matter of obedience but of normalization. The survey normalized meanings, and even absorbed what might have been opposing opinions, through its internal logic.<sup>106</sup> In this way, the rhetorical tool of community standards – and their administrative method of discovery – worked to reify possible subjectivities and the boundaries of sexual citizenship.

Alexina Cameron of Toronto-based Environics Research Group Canada, writing for *Cinema Canada* in 1981, analyzed two of the censor board’s larger surveys, which are illustrative of a key organizational structure promoting self-governance: the surveys always asked what respondents would tolerate *others* viewing.<sup>107</sup> Cameron found that most respondents believed that they were capable of self-censorship but that others were not. She argued, “Implicit in this attitude is the kind of paternalism that has plagued the regulation of film from its very beginnings.”<sup>108</sup> The key difference in this case, however, was that this paternalism was no longer directed at citizens by the board but at citizens by other citizens. The question the state poses in a move to decentralize judicial power is the very question by which the state justifies its power.<sup>109</sup>

Julian Polika of the Office of the Attorney General of Ontario and lawyer for the OFRB during a Supreme Court of Ontario appeal challenging the authority of the board in 1986, explicitly stated what role the government saw itself playing in legitimizing particular cultural values: “We’re talking about attitudes toward marriage, toward children, toward the family unit, toward promiscuity ... These films [entering Ontario] have the capacity to change those attitudes. These are values we wish to protect.”<sup>110</sup> Consequently, as paraphrased by *Globe and Mail* journalist Deborah Wilson, Polika stated that the “government has the power to protect such deterioration of community standards.”<sup>111</sup> If community standards are subject to deterioration, then in the project of discovering community standards, would not the deteriorated standard simply become the new standard? The idea that community standards can or ought to be protected suggests that they are subject to manipulation, even if only in the form of their maintenance. Here, rather than representing an organic feature of society that the government seeks to discover on an ongoing basis, community standards, according to this logic, form one among many administrative tools at work in rendering the state’s “knowledge of society as ‘real.’”<sup>112</sup>

Turning to the board's actual censoring activities, two particularly controversial decisions in 1978 and 1980 shed light on how these positive legitimations played out in practice. Louis Malle's *Pretty Baby* (1978) stars a young Brooke Shields as a girl living in a brothel in turn-of-the-century New Orleans. As former vice-chair Belcher explained, the board decided that the film was objectionable overall and could not be remedied by cuts:

It's not really like a sex film. A lot of it was implied, but there was nudity in it and there was the fact that this girl was being used as a prostitute – a young child. That would be the main objection to the film. It wasn't the type of picture where you could take a scene, cut it out, and allow it to be shown. It was the theme, the theme of the picture.<sup>113</sup>

The media criticized the board's decision to ban the film because its theme was "distasteful," claiming the reason was too subjective.<sup>114</sup> The board had jurisdiction over images of explicit sex, which the film did not contain. Many letters to newspaper editors noted that the board acted inconsistently in banning this film after approving Martin Scorsese's *Taxi Driver* (1976), also about teen prostitution, which had been released before the heat of the moral panic in Toronto.<sup>115</sup>

On the heels of the *Pretty Baby* controversy, the censor board demanded cuts from Volker Schlöndorff's *The Tin Drum* (1979), an adaptation of Günter Grass's 1959 novel. The film contains an ambiguous scene in which a sixteen-year-old boy rests his head in the lap of a sixteen-year-old girl (played by twelve- and twenty-four-year-old actors respectively) in a way that could be suggestive of an oral sex act. The board was concerned about potential depictions of child pornography in both films. At issue with its decisions to censor them was the fact that *Pretty Baby* contained no explicit scenes and that in *The Tin Drum*, "the main character in this quasi-science-fiction film was at one point a twenty-year-old man, inhabiting a three-year-old boy's body donated by a twelve-year-old actor named David Bennet."<sup>116</sup> As film historian Malcolm Dean puts it, "so much for legal concepts of 'age.'"<sup>117</sup> The board received criticism for unscientifically censoring ambiguous and/or entirely nonexplicit images, thus pointing to the positive legitimations that come along with the negative prohibitions of censorship – in this case, the particular "attitudes toward marriage, toward children, toward the family unit" that the board's lawyer admitted it promoted.

Incited by these controversial board decisions, debates about the efficacy of board operations began to appear in the media at this time. Although

the director of *The Tin Drum* agreed to eliminations for the British censors, he refused the Ontario board's demands on principle.<sup>118</sup> In contrast to their sweeping condemnation of the body rub parlours and porn theatres, many media outlets editorialized for the abolition of censorship.<sup>119</sup> What emerged were several pro- and anti-censorship positions: conservative groups lobbied for the censorship of images of sex on moral grounds; pro-censorship feminists fought to constrain industry pornography on the basis of protecting women's equality; anti-censorship feminists warned that censorship processes could not be separated from paternalistic power structures; and staunch libertarians promoted free expression on principle. All positions engaged with legal processes and sought social and political change.

At the same time that these positions emerged in *response* to censorship, mainstream and alternative media writing suggests that they were also *formative* of discourses around sexuality and representation. The following chapters unpack these positions and locate where and when a series of confrontations between artistic expression and law contributed to the shaping of those debates and to the shaping of laws. As I have shown in this chapter, as a technique of government in the Foucauldian sense, the censor board did not exert power strictly from top to bottom but acted with agency in conjunction with other governmental bodies with complex policy agendas and responded to pressures from a range of sources, including political campaigns, media, lobby groups, and other law and order agencies, like police forces. Artists and arts organizations formed a significant voice in this interaction.

Contrary to the idea that we "live at history's summit," this brief genealogy of the censor board highlights historically and contextually specific practices and thus is meant to historicize not just the censor board's mandate but also the way censorship works in shifting historical and political contexts. In sum, regulating structures in different Canadian and commonwealth jurisdictions differ vastly; the content of cuts and bans reflect transformed cultural values and modes of governance, as some images and themes are added to or dropped from the inventory of eligible items for censorship; and the administration of censorship shifts so that the positive, legitimating action of censorship is expressed more or less overtly. In this case, the board's censorship was broadly concerned first with national identity and bolstering cultural industries as a security apparatus and then with bodies through the policing of the boundaries of sexual citizenship. Having set up a historical context for the functioning of the board, I begin in the following chapter to explore what I consider a historical rupture for film and video

artists and exhibitors as the censor board abruptly changed its policies by targeting arts and nonprofit practices. Anti-censorship efforts, which included competing movement strategies, developed languages to describe and defend certain practices against growing support for the state regulation of representations of sex.