

**PROPOSED INVESTIGATION OF THE MOTION-  
PICTURE INDUSTRY: HEARINGS BEFORE A  
SUBCOMMITTEE OF THE COMMITTEE  
ON THE JUDICIARY UNITED STATES SENATE,  
SIXTY-SEVENTH CONGRESS, SECOND  
SESSION; WEDNESDAY, JANUARY 25, 1922**

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# **VARIOUS**

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**SUBCOMMITTEE ON SENATE RESOLUTION 142.**

**SAMUEL M. SHORTRIDGE, Chairman.**

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**HENRY F. ASHURST.**

## PROPOSED INVESTIGATION OF THE MOTION-PICTURE INDUSTRY.

WEDNESDAY, JANUARY 25, 1922.

UNITED STATES SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D. C.

The subcommittee met pursuant to call at 2:30 o'clock p. m. in room 235, Senate office building, Senator Shortridge presiding.

Present, Senators Shortridge (chairman) and Ashurst.

The subcommittee had under consideration Senate Resolution 142, which is here printed in full as follows:

[S. Res. 142, Sixty-seventh Congress, first session.]

Whereas motion-picture interests, by their own announcement, "Have entered politics, to become a factor in the election of every candidate, from alderman to President, from assemblyman to United States Senator," the test for candidates being whether or not they pledge themselves to governmental action favoring this one business or their devotion to public interests; and

Whereas the president of the National Association of the Motion Picture Industry, which claims to control 95 per centum of all the films of the country, having \$250,000,000 invested, announced to the Chicago motion-picture industry (as printed in its report of September, 1920), that this industry proposed to use the wonderful power in its hands and go into politics; and

Whereas the ninth annual convention of the Exhibitors' League of Pennsylvania, South New Jersey, and Delaware, in August, 1920, voted to use its publicity power against all State legislators and congressional candidates who may refuse to pledge themselves to support legislation favorable to their business, and for the removal of boards of censors whose decisions had been too drastic; and

Whereas at the Atlantic City convention of the Motion Picture Theater Owners of America, July 7, 1921, it is reported that Marcus Loew and Auolph Zukor, two of the most influential men in the industry, pledged all the screens under their control henceforth to enter politics; and

Whereas it is reported the motion-picture interests have already engaged a representative to direct a political campaign in New York before the primary and election next fall, to secure the repeal of the New York motion-picture law, by promising the use of publicity power of the screens of the State to elect all who agree to vote for its repeal and to defeat all candidates who refuse to promise so to do; and

Whereas at a hearing before Governor Miller, of New York, April 26, 1921, the representatives of the National Association of the Motion Picture Industry, in an effort to prove that no State legislative action was necessary to clean up the pictures in that State, claimed that absolute and unlimited power over the whole business was in the hands of four or five men; and

Whereas it is reported that Jacob W. Binder, who was in the employ of what is now called the National Board of Review, at a meeting of the National Exhibitor's League, said, July 15, 1915, in San Francisco: "It was through money provided by manufacturers that I, as a representative of the national board, was sent into thirteen States to combat bills for legalized censorship"; and

Whereas the president of the National Association of Motion Picture Industry in a speech to a committee of the State Senate of New Jersey, March 21, 1921, is reported to have said: "You can't control this business, but I can; I am president of the producers' association and, with two or three other men, I control every foot of film shown in the United States; what we say goes"; and

Whereas seven States, namely, Ohio, Pennsylvania, Kansas, Maryland, New York, Massachusetts, and Florida, have enacted either censorship or regulatory

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laws, three of them in 1921, and the legislature of one other State (Nevada) enacted a censorship law which was vetoed by the governor—such legislative action showing widespread discontent because of the undesirable influence of the films shown in recent years; and

Whereas the Committee on Education of the United States House of Representatives of the Sixty-fourth and Sixty-fifth Congresses held prolonged investigations of motion pictures, and each time reported favorably a bill for the Federal control of films in interstate commerce; and

Whereas three other investigations, namely, those of the New York Legislature in 1917, the British inquiry in the same year, and two years of investigation by the Chicago city government, published in 1920, have each resulted in a declaration that motion pictures need more careful and efficient moral control; and

Whereas it is said to be a fact that no producer in America has ever been punished by a jail sentence for producing an immoral picture, and nine-tenths of all the pictures shown in the world are of American production; and

Whereas there is danger that the motion-picture interests, with an uncontrolled publicity business and political power, may become a serious menace to free elections; Therefore be it

*Resolved*, That the Judiciary Committee of the Senate or a subcommittee thereof be empowered and directed to conduct, with the assistance of the Department of Justice and the Department of Commerce, an investigation into the political activities of the motion-picture industry, in all its branches throughout the United States, together with such other of its activities as might involve violation of the antitrust or other laws or improper relations with State boards of censorship.

*Resolved further*, That the Judiciary Committee or a subcommittee thereof conducting such investigation be empowered to subpoena witnesses for such investigation and to compel the production of books and papers and to employ a stenographer and print the proceedings of such investigation and that the expense thereof be allowed and paid out of the contingent fund of the Senate.

*Resolved further*, That the Judiciary Committee is directed to recommend such remedial action and legislation in the premises as it may deem wise for the Federal Government to undertake.

Senator SHOETRIDGE. The subcommittee appointed to consider Senate Resolution 142 is met for that purpose, and we shall be very glad to hear anyone who desires to appear.

Senator Myers, we shall be glad to hear from you.

### STATEMENT OF SENATOR HENRY L. MYERS, OF MONTANA.

Senator MYERS. As I understand, the subcommittee is to hear those who wish to appear upon this matter, and in regard to the advisability of the adoption of the resolution by the Senate, and I submit to the subcommittee copies of the resolution.

Mr. Chairman, I told those who wanted to appear to-day that you had agreed to have the hearing, at very great sacrifice to your time and convenience; that you were very busy and crowded with work, and had to leave the city soon, but that you kindly consented to this hearing upon my assurance that to-day it would not last exceeding an hour. With that understanding, they will endeavor to govern themselves accordingly; and I suppose then, in that event, later sessions may be had when others may be heard, at a more convenient time.

Senator SHOETRIDGE. Yes; that will be the order.

Senator MYERS. Canon Chase, a distinguished clergyman of Brooklyn, who is very much interested in the welfare of the people, and in good morals and good citizenship, and who has interested himself very greatly in the motion picture industry and its workings, and has a large degree of familiarity therewith, is present, and would like to be heard on this occasion.

### STATEMENT OF REV. WILLIAM SHEAFE CHASE, OF BROOKLYN, N. Y.

Mr. CHASE. Mr. Chairman and members of the committee, this resolution calls for an investigation by the Senate Committee on the Judiciary, with the assistance of the Department of Justice and the Department of Commerce, into

the political activities of the motion-picture industry, in all its branches throughout the United States, together with such other of its activities as might involve violation of the anti-trust or other laws or improper relations with State boards of censorship.

I, in the beginning, would like to call your attention to a pamphlet which I have here. Is Senator Norris here?

Senator MYERS. No; Senator Norris is not here. There are two members of the subcommittee here, making a majority. Senator Norris said that he might come in a little later, and would do so if he could.

Mr. CHASE. There have been already four investigations, and here is an account of the four, in this pamphlet.

The first one was by the Committee on Education of the House of Representatives, in 1915. That investigation into the motion-picture industry was with reference to a proposed bill for Federal regulation, and the result of that inquiry was a unanimous report of the Committee on Education of a Federal bill for Federal control of the motion-picture business. It was in the war time, however, and it was never brought before Congress.

The next Congress conducted a similar hearing before the Committee on Education of the House of Representatives, and the result of that was that by a vote of 11 to 5 the committee favored a bill for Federal regulation of interstate films. At that time the Paramount Pictures Corporation, one of the leading motion-picture corporations, of which at that time Mr. Hodgkinson was the president, was represented; and he came personally before the committee with his lawyers and favored a bill for Federal regulation, and cooperated with the committee and made a number of amendments, and later favored the revised bill. Those two hearings by the House Committee on Education constitute the first investigation, which is described somewhat at length here in this pamphlet, and I will not take your time to cover it. I would like, if it may seem proper, to have this description of that investigation incorporated here in this hearing.

Senator SHORTTRIDGE. You may file that document, and the committee will determine what portions—part or all—will be incorporated in the report.

Mr. CHASE. Then there was an investigation by the Cinema Commission of Inquiry, instituted in 1917, by the National Council of Public Morals for Great and Greater Britain. That is perhaps the most thorough investigation that has ever been made. It made a report, published in 1917, of 476 pages, which is in the public libraries of the country. Every department of the industry was summoned there, and the result was that they favored a more stringent regulation of the motion-picture business in Great Britain than was in existence at that time.

Senator SHORTTRIDGE. That report is published, you say?

Mr. CHASE. Yes, sir.

Senator SHORTTRIDGE. And is available?

Mr. CHASE. I have a copy at home in Brooklyn, and if the committee desire it I will be very glad to forward it. I will send it to you, Senator.

Senator SHORTTRIDGE. It might be useful, Doctor.

Mr. CHASE. I will be glad to do so. That was the second investigation.

The third investigation was that by the New York joint legislative investigating committee in 1917. That you will find described in this little pamphlet on page 20. This was thoroughly carried out. Senator Hanburn was the very valuable working secretary—executive secretary, perhaps—of this commission, and they made a very thorough report. Members of the trade from all over the country were summoned before that committee and the result of that investigation was a report that it needed a more thorough moral supervision than was then in existence.

Senator SHORTTRIDGE. That was in New York?

Mr. CHASE. That was in New York.

Senator SHORTTRIDGE. Was that report then followed by legislation along the line of the recommendations of the commission?

Mr. CHASE. Yes, sir. Legislation was proposed. Let me see. I will say that legislation was proposed, but one of the reasons that led to the legislation was a bill was passed by the New York Legislature for a censorship of motion pictures and was vetoed by Governor Whitman. He said that there was a possibility that the Congress was going to pass a Federal bill, and in view of that, and of some imperfections which he found in the bill, he vetoed the matter.

I think it was the next year that this investigation was made, following that up, and the commission reported a bill, but that was not passed and enacted.



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It was not until this last March or April that the New York Legislature enacted the present law, which is a very helpful measure for the regulation—not the censorship—of motion pictures.

Now I come to the fourth investigation which has been held, and an account of that is given on page 21 of this pamphlet. This was an investigation by the Chicago Motion Picture Commission, appointed in 1915 by the judiciary committee of the city council, which after a very complete investigation of two years made its report in September, 1920, in a volume of 184 pages. In that report it recommended for Chicago an ordinance of censorship.

Before that commission appeared members of the trade from all over the country, and I recall particularly the speech which was made there by Mr. William A. Brady, who was president of the National Motion Picture Industry.

These investigations have not been thorough enough, I feel, to meet all the needs. There is a very great feeling of need of more efficient regulation of the morality of the motion picture. It has been brought out that 87 per cent of our impressions come through the eye, 7 or 8 per cent through the ear, 2 per cent by the touch and 1 per cent by the smell. I think it is—but 87 per cent of our education comes through the eye.

The Commissioner of Education of the United States has, in a public speech, called attention to the fact that he feels that the motion picture is a larger factor in the education of our people than the public school. I can not recollect exactly how he establishes that, but one thing is, there are 20,000,000 people in the motion-picture houses every day. There are about 17,000,000 children and youth in the day schools and colleges of our country. The influence of the people who attend the motion pictures, with their larger grasp, their maturer thought and larger social influence, is such in his opinion as to exert even a greater influence than our public schools.

Senator SHORTRIDGE. The Commissioner of Education uses the word "education," does he?

Mr. CHASE. I think so.

Senator SHORTRIDGE. That would turn upon what is education.

Mr. CHASE. Yes.

Senator SHORTRIDGE. What do we mean by "education"?

Mr. CHASE. It is from the Latin *educio*, a drawing out.

Mr. FIED. If you will allow me, Canon Chase, I believe he said the range of knowledge was more extensive through the screen and the theater than in the schools.

Mr. CHASE. Another feature is that whatever is put in action, whatever is dramatized, has a high influence over life, larger than that which is simply read or which is simply taught. Experiments have been made by people interested in visual education as to the time, the celerity and thoroughness with which a class of equal age and equal intelligence as one taught by the oral method can be taught by the visual method. One is taught by teaching orally for a certain length of time, and then the same teaching incorporated in motion pictures is taught, and then an examination is made of both classes, and it is found that there is quite a considerable gain in the celerity of the visual education and the impression upon the child mind.

I think that until one grasps the tremendous influence of the motion picture over American life, one does not quite realize the importance of what is brought to your attention here to-day. You will find beginning on page 42 of this pamphlet a summary of some of the reasons that I would like to have brought before you as quickly and as succinctly as possible. I think I will take them in the order in which they are given here. I will begin at the beginning here. There are here five reasons why the motion-picture industry should be investigated by Congress. [Reading:]

"(1) Because the motion-picture interests 'have entered politics' to 'become a factor in the election of every candidate from alderman to the President, from assemblyman to United States Senator,' its test for candidates being whether or not they pledge themselves to governmental action favoring this one business, regardless of their devotion to public interests."

Of course, I recognize the right of every man to enter politics, and the right to advocate his own measures; but there is an excess to which no interests ought to go, and I would now call your attention to the speech made by Mr. William A. Brady before the Chicago commission. He appeared there before the commission. He said that he warned the public that the motion-picture business intended to enter politics.

Senator SHORTRIDGE. Has it occurred to you, Doctor, that he said that before the present Postmaster General had agreed to take charge of that industry?

Mr. CHASE. Yes; I was coming to that, Senator.

Senator SHORTRIDGE. I do not suppose the thought could now be indulged in for a moment that that industry would have anything to do with politics.

Senator ASHURST. You think because Postmaster General Hays entered the picture industry, politics is absolved and removed from it forever?

Senator SHORTRIDGE. Exactly. Pardon me; proceed Doctor.

Mr. CHASE. In New York recently we passed a law for regulation of motion pictures. The motion-picture business engaged Mr. LaGuardia, a recent candidate for mayor of the city of New York, as their agent, and the candidates for the position of assemblyman were notified throughout the State of New York that if they did not consent to vote for the repeal of this law, the motion-picture interests would use their screens for their defeat; and in the issue of the Moving Picture World of November 26, in screaming headlines, the World says:

"New York voters defeat 35 assemblymen who voted for censorship."

So that we have not only their announcement of what they are going to do, but of what they did.

Last winter, to show the agitation, the public feeling upon the matter, there were 34 States that had bills introduced for censorship before their legislatures, and Massachusetts passed a law after the Federation of Churches there, and the Roman Catholic Church and Bishop Lawrence of the Episcopal Church, had appeared before the legislature asking for the enactment of the law. That law was passed last spring. They have a law there which permits a referendum, upon the signing of a petition by 15,000 people, and that number of signers was secured and it will come up for decision this fall.

In a conversation with Mr. Brady concerning the passage of this law, he told me—and it was not a matter of confidence, as I consider it; I think he would tell anybody this thing—he said, "We do not want a law; we want a gentleman's agreement. We promise to put on good pictures, and we will put them on provided the governor will veto this bill," and he was asking me to take this gentleman's agreement. And then he said, "I have just been through the West, and I have visited six legislatures, and seen six governors, and I have said to them that if they would defeat this censorship law or fail to pass it, if then we did not give them good pictures within a year, I would come down myself and advocate a motion picture censorship." He said that with a view to getting my consent for a gentleman's agreement.

I replied to him something like this: "Mr. Brady, the liquor business had a man named Mr. Dan Morgan Smith who was in their employ, and he visited six States in the western part of our country and he made a similar statement to yours. He said, 'Prohibition does not prohibit. Regulation does regulate. If you will kill this prohibition bill, I will secure, through my cooperation with the trade, the regulation of the liquor traffic in these States, and if it is not done within two years I will come back here and advocate prohibition.' Mr. Dan Morgan Smith," I said, "being a man of his word, kept his agreement, and as he could not make the regulation regulate, he actually worked for the carrying of prohibition States, and they were carried." I said, "Mr. Brady, we can not wait for you to be educated. We know what will be the result. We know that you have tried many times to reform, and have never been able to reform. I call your attention to the fact that at the hearing before Governor Miller, in New York, when the motion-picture trade was asking for the veto of the bill, they made an official statement which it seems to me is of such importance as alone to justify this committee in making their report, if they had no other reason;" and that is on page 39. This I took pains to secure from the stenographer at the State House in Albany, so that it is as accurate as can be. [Reading:]

"Following Mr. Cravath was an address by Mr. Harris, D. H. Connick, chairman of the executive committee of Famous Players-Lasky Co. He said:

"Now, as Mr. Cravath said, the bulk of the pictures are made by four or five concerns, as for instance Mr. Fox, who is here, he makes pictures, and Mr. Marcus Loew, he makes the Metro pictures, and a few others—these four or five men together could absolutely insure the quality of these pictures to any standard that might be agreed upon. All you have to do is to decide on it and they can do it.

"Now, these four or five men who own these pictures by just simply withholding buying films—we do not only use our own films, we all buy, and I be-

lieve the Famous Players-Lasky happens to be the largest buyer in the United States—these four or five men could get together and refuse to deal with any producer. Take John Jones who produces a salacious picture. All right, he is going to produce 10 pictures over a period of 10 years. These men withdraw their support. What happens?

"If we withdraw our support from Mr. Jones, he would die, and all that is required to clean up this industry is to get these people in under the tent, and I think they are there."

There was the most significant statement of the absolute power of four or five men industrially.

Now, if you take that along in connection with the point that I am now making, of their entrance into politics, you can see what four or five men can do in threatening. For instance, this spring come the primaries, and this fall come the elections. Does this committee feel that it is safe for four or five men to hold that power, three of whom were named there and the other two might be? Surely Adolph Zukor was one of the others who was not named, and probably Mr. Carl Laemmle was the other of the two. We may suppose the five were Messrs. Lasky, Loew, Fox, Zukor, and Laemmle. Is it not a dangerous thing that four or five men can control the screens of America? It seems to me that when you realize that these four or five men have engaged the Postmaster General of the United States, who knows the politics at least of one party, to be the manager of their business this fall, and you realize that the killing of the report of this committee is possibly one of the tasks that is assigned to him, the tremendous importance of the subject is brought to your attention. It is said that he is asked because of his executive ability. Possibly. But it seems quite curious that it should happen to be the ex-chairman of the Republican National committee that is asked to manage this part of this most significant business.

Now, in connection with this, eight days after Senator Myers introduced this resolution the Federal Trade Commission brought charges against six companies, the Famous Players-Lasky Co., the Stanley Co. of America, the Stanley Booking Corporation, the Black New England Theatres (Inc.), the Southern Enterprises (Inc.), and the Saenger Amusement Co.; and against six individuals, namely, Adolph Zukor, Jesse L. Lasky, Jules Mastbaum, Alfred S. Black, Stephen A. Lynch, and Ernest V. Richards, Esq., as being guilty of violation of the fair trade laws:

I would like permission in place of this which I have here in the Moving Picture World, which is a newspaper synopsis of the complaint, to substitute the copy of the actual complaint. This hearing was called so quickly that I was not quite able to get the complaint in full, but I think your committee should have the actual complaint.

Senator SHORTRIDGE. That complaint was filed by whom?

Mr. CHASE. By the Federal Trade Commission.

Senator SHORTRIDGE. Well, if you will procure and forward a copy of the complaint, the committee will receive it.

Mr. CHASE. Thank you, sir.

I would like also to request that you invite them, because I think otherwise the Federal Trade Commission would not feel that it was within their function, to come here and offer testimony with reference to the situation. When this resolution was offered this complaint had not been made, but it has been made since, and it justifies the resolution.

I would like to suggest to Senator Myers and to the committee that it is just possible, if you decided to have this investigation, that it might be wise to in some way secure the cooperation of the Federal Trade Commission. They have been studying this matter for two or three years, and therefore their assistance to you in forming your judgment would be important.

Senator SHORTRIDGE. Of course, within the scope of the resolution it would be entirely competent for this committee to call on anybody, including the commission referred to, for evidence, advice, suggestion, information, touching the general subject matter. You have noticed, Senator Ashurst, the form of the resolution here?

Senator ASHURST. Yes, sir.

Mr. CHASE. Now may I take up the second point there, which I mentioned, on page 42 of the pamphlet? [Reading:]

"(2) Because the motion picture screen has greater publicity and political power than the newspapers, and has selfish ends in view which threaten the freedom of our Government."