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LA THÈSE A ÉTÉ MICROFILMÉE TELLE QUE NOUS L'AVONS RÉCU
CANADIAN FEATURE FILM INDUSTRY: MONOPOLY AND COMPETITION

by

Manjunath Pendakur

B.A., University of Washington, 1973
M.A., University of Washington, 1975

A THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY
in the Department
of
Communication

Manjunath Pendakur 1979
SIMON FRASER UNIVERSITY
November 1979

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ABSTRACT

Scholarly study of monopoly power of the modern corporation is increasingly attracting the attention of researchers. This thesis, a case study on the power of the American multinational corporations involved in the production-distribution of feature films, contributes to the theory of monopoly power.

Canada today is the largest importer of American mass media content in the world. In the feature film industry, American films dominate the Canadian screen. The global pre-eminence of fewer than ten, large, integrated, multinational media conglomerates based in the United States has been studied before. But their invasion and occupation of the Canadian feature film market has not been subjected to scholarly investigation. This thesis attempts to fill that gap.

The purpose of this thesis is to study historically, the political and economic processes that have led to Canada's dependence on American feature films.

The methodology employed is historical, analytical, and argumentative. Taped interviews conducted with some prominent spokespersons representing production, distribution and exhibition of feature films in Canada serve to corroborate the data found in traditional sources and also reveal new information. Two sets of hypotheses are proposed:

(1) The oligopolistic structure of the feature film industry in Canada and the monopolistic market relationships among the dominant Canadian and American firms have precluded the free market forces from establishing an indigenous feature film industry in Canada.
(2) The Canadian government has recognized the need for a national film industry as a vehicle to express and promote Canadian culture, but its policies have not altered the industry structure and market domination by American oligopoly firms. The thesis demonstrates that the dominant American production-distribution companies and the dominant Canadian exhibitors are integrated by either structural or monopolistic market relationships. The production sector is largely left to independent companies which have no effective access to the Canadian and international distribution and exhibition markets.

It is argued that government of Canada's policies have historically protected the U.S. branch plant distribution/exhibition sector in Canada due to successful lobbying by the American film industry cartel (the Motion Picture Export Association of America). The present tax write-off policy aimed at shoring up the capitalist production sector may result in a branch plant production sector over-laid on the already existing branch plant distribution/exhibition sector.

The thesis concludes that unless the industry structure is altered by legislation, and a reasonable access for indigenous Canadian films to the nation's screens is secured, the development of a viable Canadian feature film industry will remain uncertain.

Two sets of policy measures are proposed to help set the Canadian feature film industry on a firm footing. They are: (1) measures that would assure profitability of Canadian films within the domestic market, and (2) measures that would assure profitability of Canadian films in the international markets.
To Roja, my friend and wife.
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INTRODUCTION

You in Canada should not be dependent on either the United States or Great Britain. You should have your own films and exchange them with those of other countries. You can make them just as well in Toronto as in New York.

- David Wark Griffith, December 15, 1925.

More than half a century has gone by since Griffith made the above statement. Canada's screens are still dominated by imported feature films, most of which come from the United States of America (U.S.). Not that Canada does not produce its own feature films. After a decade of public assistance to production, through the Canadian Film Development Corporation, the number of films produced in the country is steadily rising. A generation of actors, producers, and directors have been created, some of whom have won international acclaim. But faced with tough competition from American feature films in the domestic and foreign markets, profitability for films made in Canada is severely limited. While the branch plants of U.S. film distribution companies and their affiliated theatre circuits are thriving in Canada, the same cannot be said of independent, Canadian owned enterprises in production, distribution, and exhibition.

This thesis addresses a long-standing debate in Canada, which dates back at least to the mid sixties, over the vital issue of developing a national film industry (production, distribution, exhibition) with a policy of producing films for the Canadian people, versus a Canadian film industry with a
policy devoted to producing films for the American/international market. The contending forces in the industry--Canadian workers, Canadian capitalists, and the international capitalists (American branch plants in Canada) have participated actively in this debate to shape its outcome. The analysis in this thesis will attempt to show whether Canada's film production will take the form that American capital seeks to dictate, or whether Canada's film production capability will take the direction of serving the Canadian people with films autonomously conceived and produced (as well as distributed and exhibited). Although the battle to create an indigenous Canadian film industry is not lost, fast-tax write-offs introduced by the government of Canada since 1976 are an excellent substitute for creating branch plants of U.S. film production companies to produce films for the U.S./international market. The logic seems to be, why have the analog of General Motors (Canada) when the same result can take place via Canadian tax laws?

An argument commonly heard in the Canadian film industry is that movie-goers in Canada freely choose American films over Canadian and other films because the American films have superior box office ingredients such as stars, sets, etc. This of course is the myth of consumer sovereignty which masks the demand creation by film distributing companies through massive advertising etc. Audiences can only be formed for films that are effectively available to them. The free-choice argument is hollow because it assumes free and open competition between American and Canadian film production and distribution companies for theatrical markets.
To see why Canada is the biggest consumer (outside the U.S.) of American films, one has to "go far beyond the words, voices and film images which are our contact points with the media" as Humphrey McQueen put it in his study of Australian media. It is necessary to investigate the structures and policies of the dominant firms in the Canadian feature film market from the early years of the industry to understand why Canada is dependent on imported films and why it is unable to develop a viable, indigenous feature film industry.

Equally importantly, the reasons for Canada's dependency on imported American films cannot all be found within the Canadian film industry. The problem is more complex than that. It has to be seen in the larger context of Canada's economic and political dependency on the U.S. Canada transferred its allegiance from its colonial master, Great Britain, to the emerging Super Power, the United States, immediately after World War II. The take-over of Canada's resource industries and the reduction of Canadian economy to the status of a U.S. satellite has been well documented. If and how the dependency relationship affects Canada's national policy in the feature film industry needs to be investigated.

One cannot ignore the fact that the U.S. has, at least since World War II, recognized and used media exports as tools of mass persuasion. This U.S. policy of international relations came to be articulated as cultural diplomacy, which is described by Mr. William Benton, the Assistant Secretary of State, who was in charge of formulating and explaining official policy in 1946:
The State Department plans to do everything within its power along political or diplomatic lines to help break down the artificial barriers to the expansion of private American news agencies, magazines, motion pictures, and other media of communications throughout the world. Freedom of the press—and freedom of exchange of information generally—is an integral part of our foreign policy. Benton could very well have added other U.S. exports, from Coca-Cola to computers, which make up the U.S. consciousness industry.

Film is a medium of communication, a powerful one at that. It carries images of people and societies, mythical and otherwise, to distant lands. All films carry ideas and they have the power to impinge those ideas on the viewers' consciousness. Often those ideas may be in direct conflict with those of the importing nation. Recognizing those qualities of the film medium, the U.S. government has consistently assisted American film production companies, through diplomatic and other means, to get established in foreign markets including Canada. As early as 1898, U.S. policy makers had realized the importance of trade and commerce not just for the wealth it brought home, but also for the ideological benefits accruing from it. Senator James Beveridge of Indiana articulated the U.S. position in 1898 rather eloquently:

American factories are making more than the American people can use. American soil is producing more than they can consume. Fate has written our policy for us; the trade of the world must and shall be ours. And we shall get it as our mother, England, has told us how. We will establish trading posts throughout the world as distributing posts for American products. . . . Great colonies, governing themselves, flying our flag and trading with us, will grow about our posts of trade. Our institutions will follow our trade in the wings of our commerce. And American law, American order, American civilization, and American flag will plant themselves on shores.
hitherto bloody and benighted by those agencies of God henceforth made beautiful and bright.5

But in the aftermath of World War II, with the demise of the British Empire, formal colonization of the world's peoples effectively ended. The U.S. and Soviet Russia had emerged as the two Super Powers contending for world hegemony. The military force used in building empires in the past was no longer effective because the national liberation struggles mounted in the colonies had succeeded despite the military might of the conquerors. The modus operandi of the new system of imperial relations between the U.S., which had become the center of the world system by the end of World War II, and the countries of the periphery, was the subtle and mystifying policy of cultural diplomacy.

The policy of cultural diplomacy is more important to the U.S. now than ever before. Frank Stanton, an influential spokesman in the U.S. communication industry and former president of the Columbia Broadcasting System, a communications conglomerate in the U.S., explained the new role of communications in the post-Vietnam period:

While the United States retains considerable, perhaps predominant, power in international affairs, the capacity of America to dictate the course of international events has diminished. This means that the United States will have to count more than ever on explanation and persuasion. The new premium on persuasion makes cultural diplomacy essential to the achievement of American policy goals.6

Herbert Schiller, in his Communication and Cultural Domination, has documented how the freedom of communications doctrine employed by the U.S. government after World War II facilitated the establishment of American media enterprises in
the weakened British Empire. According to Schiller,

The economic imperative initiates the cultural envelopment, the impact extends far beyond the profit-seeking objectives of some huge media monopolies and cultural conglomerates, important and powerful as these combines are. The cultural penetration that has occurred in recent decades embraces all the socializing institutions of the affected host area. And though this, too, occurs mostly for economic reasons, the impact is felt throughout the realm of individual and social consciousness in the penetrated provinces.7

Schiller clearly sees cultural diplomacy as the changed source of exploitation in the re-organized international structure of domination, i.e., neo-colonialism. He defines the system as cultural imperialism:

. . . the sum of the processes by which a society is brought into the modern world system and how its dominating stratum is attracted, pressured, forced, and sometimes bribed into shaping social institutions to correspond to, or even promote, the values and structures of the dominating center of the system.8

In this penetrating process, Schiller goes on to say that the mass media must be captured by the dominating power.

While cultural diplomacy is important to the U.S. to maintain its dominant position in the world, cultural autonomy is an important issue in international communications today. While some of the importing countries in the world have cultural screens such as language, Canada (except in Quebec), lacks any such barriers. U.S. media products cross the border into Canada relatively freely in the absence of screen quotas and other trade barriers commonly found in most importing countries. In light of this, Canadian national policies in the feature film industry need careful evaluation. The national experiences
of other countries, particularly Great Britain, are helpful in identifying the options available to the Canadian government in formulating film policies.

This thesis is congruent with Schiller's theory of cultural imperialism. However, the purpose of this thesis is not to demonstrate how the U.S. captured all of the Canadian mass media but, to examine thoroughly, if such a process can be observed in the Canadian feature film industry. To accomplish this task, three broad areas of investigation were identified:

(1) Economic relations between American, British and Canadian film industries,
(2) Relations between the U.S. and Canadian governments regarding theatrical films, and
(3) Relations between the American motion picture industry labor unions and their Canadian branches.

The study was limited to (1) and (2) due to inadequate data available to the author on (3).

Chapter II describes the problem being studied in this thesis and the concepts used. Chapter III explains the methodology employed. Chapters IV and V analyze the American and British feature film industries. Chapters VI and VII deal with the Canadian film industry structure (ownership and control) and the market relations that developed between the Canadian, American and British film industries from their early years. The Canadian government policy in the feature film industry is the subject of Chapter VIII. Discussion, conclusions and recommendations are provided in Chapter IX.
ENDNOTES


7. Ibid., p. 8.

8. Ibid., p. 9.
II. CONCEPTS, DEFINITIONS AND HYPOTHESES

The Problem

Canada has produced 448 feature films between 1970-1977, but a great number of Canadians have never seen a film produced in Canada. According to a survey conducted in 1978, 63 percent of urban Canadians had seen a movie within the last year. However, of those who did, 71 percent could not recall the title of the last Canadian movie they saw.

The problem could be simply that the movie-goers in Canada do not wish to see a Canadian film for such reasons as quality, taste and so on. There is some reason to believe that this exists because, in a question in the poll referred to above, 39 percent of the respondents answered that they considered Canadian films inferior to those produced elsewhere. However, the number of respondents who said Canadian films were "much better" (1%), "somewhat better" (11%), and "about the same" (22%) when compared to the non-Canadian ones constituted a sizeable figure of 34 percent of the total sample. The Canadian audiences have supported commercially such films as, Apprenticeship of Duddy Kravitz, Mon Oncle Antoine, Why Shoot the Teacher?, and Who Has Seen the Wind? only to name a few. So, the problem is not simply that the audience disliked Canadian movies.

A look at what films were available in commercial theatres in 1977 gives clues as to the basis of the problem. Canada produced 58 features in 1977, but only 24 of them found their way into the theatres. The total number of new theatrical
films distributed in Canada during the same year was 970, out of which Canadian films made up 2.5 percent of the total. The largest number of films distributed in Canada in 1977 came from the United States of America (U. S.), totalling 490 features, making up 50.5 percent of all feature films shown in Canada for that year.

The larger questions this thesis addresses are why Canada does not have a viable feature film industry and why it relies largely on imported films from the U. S. To deal with these questions adequately, I must first answer the following questions:

1. What elements of competition and monopoly exist in the Canadian theatrical exhibition market? How do they relate to the apparent dependency of Canada on foreign films?

2. What elements of competition and monopoly exist in the distribution market in Canada? How do they relate to the apparent dependency of Canada on foreign films?

To get at those questions, I need to examine the structure of the feature film industry in Canada, and the market relations between the three principal sectors of the industry namely, production, distribution, and exhibition, in their historical as well as present context.

**Concepts and Definitions**

The concepts used in this study are monopoly and competition, both of which deserve some comment.

Monopoly, where only one seller operates in a market, is held to be a rare case by economists. "Monopoly" and
"competition" are mutually exclusive according to the textbooks on neoclassical economic theory. When two or more business firms control the same market, a neoclassical economist would prefer to use the term, "oligopoly" rather than "monopoly." I have chosen to use the concept "monopoly," because it describes more accurately than the other concept, the nature and behavior of the firms in the Canadian motion picture industry historically, and, in the present context.

Neoclassical economic theory is based upon the belief that capitalist economies are under a "free" market system which is governed by the forces of supply and demand. The business firm is held to be subordinate to the institution of market, and thereby to the consumer. The state is subordinate to the consumer-citizen who rule it by casting his ballot. There are exceptions but consumer sovereignty in the economy and in the matters of the state is the rule on which the neoclassical economic theory is positioned. In the "free" market system, monopoly and competition cannot coexist.

Neoclassical economic theory is being criticized increasingly from within the community of economics scholars for being out of touch with the reality in the market economies of the industrialized countries. John Kenneth Galbraith, in his presidential address to the American Economic Association in 1972, put forth that view very strongly. Galbraith argued that there were two systems operating in these economies—one which he called the monopolistic sector and the other, competitive sector. Galbraith argued that,
In the place of the market, we must now assume that for approximately half of all economic output there is a power or planning system. . . . The planning system consists in the United States of, at the most 2,000 large corporations. In their operation, they have power that transcends the market.8

Galbraith explained further the influence that this monopolistic sector has on the United States' economy:

... we agree that the modern corporation, either by itself or in conjunction with others, has extensive influence over its prices and its major costs. Can we doubt that it goes beyond its prices and the market to persuade its customers? Or that it goes back of its costs to organize supply? Or that from its earnings or the possession of financial affiliates it seeks to control its sources of capital? Or that its persuasion of the consumer joined with the similar effort of other firms--and with the more than incidental blessing of neoclassical pedagogy--helps establish the values of the community, notably the association between well-being and the progressively increased consumption of the products of this part of the economy?9

Galbraith emphasized that in the still-evolving monopolistic sector of the economy, power extends incompletely but comprehensively to markets, to the people who patronize them and to the state. Its priorities and needs in research and development, technically-qualified people, public works, emergency financial support, becomes public policy. In the competitive sector, however, power is contained by the market.10

In the Canadian motion picture industry, the subject of this thesis, one can observe the coexistence of the monopolistic and competitive sectors that Galbraith described. It is worthy of note, however, that the monopolistic sector in the Canadian feature film industry is an extension of a foreign, predominantly, American monopoly power.
It is difficult to illustrate the existence of monopoly in the Canadian feature film industry as the neoclassical economists would define that concept. However, the power of the monopoly sector over the production, distribution, and exhibition markets in Canada is considerable and worthy of study. Furthermore, the power that the monopolistic sector brings to bear on the Canadian state to influence state policy in the motion picture industry is instructive for future policy considerations. The struggle waged by the competitive sector against the foreign controlled monopoly sector attempting to influence public policy, needs careful examination. They are the dialectic which have shaped the Canadian feature film industry historically, and will reveal the future course the industry might take.

Hypotheses

1. The structure of the feature film market in Canada and the relations between the dominant firms in the business have restricted the growth of independent production, distribution, and exhibition firms in Canada.

A subset of hypotheses follows from (1):

(a) The distribution and the exhibition sectors of Canada's feature film industry are largely controlled by foreign multinational firms.

(b) These firms dominate the market and employ certain predatory practices to monopolize the market which are not in the interest of independent Canadian firms.
(c) The dominant firms in the industry have not encouraged the production of Canadian films in any significant manner, either by way of investment or by suitable distribution and exhibition of Canadian films in the domestic, U. S. and other markets in which these firms have significant access and control.

(d) Independent distributors and exhibitors in Canada face unfair competition by these monopolistic firms which command large capital investment and have significant control of the world feature film market.

(e) Under the preceding conditions, "free" market forces have not been free to establish an indigenous film production industry in Canada.

2. Efforts of the Canadian government to establish a Canadian feature film industry have been self-defeating.

A subset of hypotheses follows from (2):

(a) The government's policies have generally been shaped by the American film industry lobby.

(b) Although the Canadian government has recognized the structure of the feature film industry as a serious problem in the development of a viable industry in Canada, its attempts to alter the structure have been minimal.

(c) The orientation of the Canadian Film Development Corporation to produce feature films for profit has confused its goals.
(d) The government of Canada seems to be sensitive to possible retaliatory measures by the U.S. government if Canada imposes a quota or a box office levy to curb the monopoly power of American film companies.
ENDNOTES

1. Film Canadienne, 1977-1978; and Canadian Film Development Corporation, Annual Reports, 1968-1978.


3. According to the Canadian Film Development Corporation's Annual Reports, these films have been successful commercially as well as critically in the Canadian market.


5. Ibid.


8. Ibid., p. 4.

9. Ibid., p. 5.

10. Ibid., p. 6.
III. METHODOLOGY

To understand the present market conditions in Canada's motion picture industry, a historical analysis of the development of the motion picture industry in Canada is necessary as background. Considerable attention needs to be paid to the evolution and structure in the American and British film industries because they have had a significant impact on the Canadian film industry's structure and the relationships between producers, distributors, and exhibitors in Canada. I will examine certain important policies of the American and British governments with respect to their film industries as they affected Canada. This analysis will help to trace historically the patterns of monopoly and competition in the Canadian feature film industry.

For analytical purposes, a structural model of the American feature film industry, as it evolved in the years 1906-1930, is proposed below. This model is necessary for analysis of the complex pattern of relationships that came into being among the production, distribution, and exhibition sectors of the American film industry. Further, it will also reveal the relationships that emerged between the American, British and Canadian film industries.

A Structural Model of the American Feature Film Industry

It is hoped that this model will illustrate the struggle that took place for control over the markets in the production, distribution, and exhibition sectors of the American film industry between 1906-1930. The model depicts the pushes and pulls in
the integration process that can be observed in that developmental period. The arrows point the direction in which firms pushed to integrate with others and often succeeded.

The Model

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Producers (Majors/Independents)

Distributors (Majors/Independents)

Exhibitors (Circuits/Independents)
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Horizontal Integration

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[Diagram]
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Vertical Integration

Note: Boxes represent companies in each category and the number of boxes does not correspond to the actual number of companies operating at any one time.

"Producers" here represent a large number of companies that were engaged in the creative process of making films. In the early years, they were also manufacturers of film equipment, such as cameras, projectors, processing machinery and so on. The leading producers are called the majors and the smaller ones are called the independents.

"Distributors" are companies that acted as agents purchasing or leasing positive prints from domestic producers or importing them from Europe to sell or rent to theatres. Some of the larger producers maintained distribution outlets of their own in the most important markets or hired responsible distributors as
agents for a steady operation. Some of the distribution companies organized a nationwide network of exchanges and some operated only in a particular state or states, districts and cities or a city.

"Exhibitors," in the early years of the motion picture industry, were the operators of the nickelodeons or the five-cent store-front theatres. According to one account, there were about 10,000 of these enterprises in the United States. Later on, the nickelodeons were replaced by motion picture palaces, some of which still remain.

Discussion of the Model

The history of the American motion picture industry can be seen as one of a constant struggle for control over the markets by the companies in production, distribution, and exhibition of films. This process of control is evident in the combines or trusts that arose in the production sector first and, which then controlled the distribution sector. Actors, directors, and other talented people in the industry became monopolized commodities, known as "stars," of the new powerful production-distribution combines.

This struggle for market control was in no way unidirectional. Forces pushed in both directions. The events surrounding such struggle were akin to a war situation. The exhibitors facing integrated systems of control organized their own associations or mergers of previously-independent theatres. These theatre combines successfully challenged their adversaries (producer-distributor firms), by either creating their own production
enterprises, or, by combining with some of the weaker producing and distributing companies. The model proposed here is not new and may be applicable to other communications industries. Mae Huettig, in her study of the American motion picture industry, implicitly follows such a model. What I have done, however, is to formalize the model and apply it to the analysis of the structures and policies in the American motion picture industry.

Some Problems in Data Collection

The data for the examination of the U. S. and British film industries come from secondary sources.

The materials available on the history of Canada's feature film industry are sparse and particularly lacking if one looks for an economic analysis of the industry. Obtaining reliable economic data on the Canadian feature film industry is difficult and time-consuming.

Traditional sources, such as the Statistics Canada, do collect some information in this field. But they depend on survey data voluntarily provided by the companies in distribution, exhibition, and production in Canada. Statistics Canada Annuals (no 63-206 and 63-207) are useful in providing an overall picture of the market place but significant gaps do exist in these data. For instance, data with respect to ownership, investment, and profitability in the theatre industry are not available in these annuals. One must use several sources such as: the Film Industry Year Book, and the annual reports of the companies, to get close to such information. Some of the data collected by Statistics Canada are incomplete. For instance, information
pertaining to the nationality of motion pictures shown in theatres across Canada is incomplete, because out of a total of 1,094 theatres surveyed only 575 provided that information. It is unclear if these theatre operators correctly identified nationality. Furthermore, it is not known whether the responses came from urban or rural theatres or from what market areas. So, this statistic gives only a partial picture of the share of the Canadian market for motion pictures produced in Canada.

The Secretary of State and his agencies, such as the Canadian Film Development Corporation (CFDC) and the Film Festivals Bureau, do not yield any information with respect to the ownership, control, and operations of the American transnational film companies in Canada. However, the Secretary of State has one full-time officer in charge of matters pertaining to film policy. That officer was helpful in providing the author with certain specialized data such as: the various co-production arrangements between Canada and other countries, "Canadian content" regulations, and eligibility requirements for Capital Cost Allowances for investors in Canadian films. The CFDC provided their annual reports generously. The Secretary of State released an internal document upon the request of the author titled, An Evaluation of the CFDC, produced by an outside consultant in 1974, hitherto unavilable in the public domain.

If a researcher looks for specific types of information, such as, how many of the theatre screens in Canada are owned and how many are leased by the major theatre companies, he has no choice but to rely on the companies themselves. More importantly, if one needs to know the share of the rental income from leasing
motion pictures to theatres in Canada for all the major American companies, one cannot find it anywhere. One must simply wait until the companies themselves reveal those data. The main reason for this sorry state of affairs is that the consumer laws in Canada do not require the companies to file such information with a government agency.

One may learn considerably about the American companies operating in Canada, including their theatre subsidiaries, from the Form 10-K reports required to be filed by these companies with the Securities and Exchange Commission in the United States. However, a difficulty with the 10-K reports is that they only produce a gross picture of these companies and their operations. Moreover, Canada is frequently treated for marketing purposes as part of the North American market. As a result, delineation of the data with respect to Canada becomes difficult. Often one has to proceed on "guesstimates" for Canadian information based on established industry standards. For instance, after checking with several people in the industry, I found that Canada constitutes approximately 10 percent of gross theatrical box office revenue in the North American market. So, if Paramount Pictures Distributing Company reported $200,000,000 in gross film rental for North America for a given year, one could estimate its Canadian gross film rental to be 10 percent of that amount, or $20,000,000 for that year.

There is also a cloud of secrecy surrounding company finances in Canada, particularly with the dominant firms in
the business. Other thorny problems are misrepresentation, and/or falsified box office figures. So, I have chosen to rely on the statements made by the company officials under oath in various court cases involving the American major production-distribution companies and the major exhibitors in Canada. Submissions made by major exhibition companies in Canada to the Royal Commission on Corporate Concentration in 1975 have been important sources of information. Two trade journals, Variety from New York, and Cinemag from Toronto, have yielded important information.

**Interviews**

To corroborate the data found and to collect additional information, the author identified several key persons in Canada's feature film industry who could authoritatively speak about the different sectors of the industry. Particularly those who had retired, or were about to do so, or resigned from their positions in different companies, were contacted. The rationale for this selective sample was that those who were presently in high positions in the companies and the Federal bureaucracy would not be as forthright as some of those in that selected group. This assumption was borne out when the field work was completed.

Initial contact with these persons was made by letters in early 1977 and an attempt was made to instill personal confidence in the author and the study. In November 1978, the author spent a month visiting Toronto, Montreal, Ottawa and Kingston in Canada to conduct interviews with six distributors, six exhibitors, six producers of Canadian motion pictures and six persons related to public policy matters.
ENDNOTES

The purpose of this chapter is to examine the structures and policies in the American feature film industry historically by applying the model proposed in Chapter III.

The Early Years

From the first showing of a moving picture in 1896 in New York until 1909, active competition prevailed in the infant motion picture industry. The Edison Company, which held the patents to the moving picture camera and projector, attempted to establish total control of the market but failed. Edison was the foremost manufacturer of projectors and films but it was unable to meet the demand of the exhibitors. The company policy was to rent projectors and later to sell them, but cameras were neither rented nor sold. The intention was to retain control of the production and sale of the pictures. But Edison had not obtained patents for his inventions in Europe and cameras made there became available to meet the demand in the U. S. Several new companies in the U. S. had been granted patents on "improved" versions of Edison's patents and had entered the business of making cameras, projectors and producing films. It was important for these manufacturers to make films because they could not sell their manufactured goods unless there were films available to show.

Entry in production of films was completely open to anyone with small sums of capital to buy (or rent) a camera, some unexposed film, and hire the services of a cameraman with a
steady hand to crank the camera. Actors/actresses, stories and sets were not needed, as any animated scene such as the arrival of a train at a railroad station enthralled the viewers. Producers sold their films outright directly to the exhibitors, who ordered them from a catalogue.

Several thousand nickelodeens or storefront theatres had sprung up around the country by the year 1900. Capital needed to enter exhibition was also small as all that one needed was a large room, a screen, a projector and all the chairs that the room could hold. Exhibitors bought pictures at ten cents a foot and ran them until they literally fell apart. The largest markets for the exhibitors were the big industrial cities—New York, Chicago, and Philadelphia with their huge immigrant working populations. Five and ten cent admission prices suited the patrons’ pocket books well and the silent but moving images overcame their language barrier.

In 1903, Miles Brothers’ Exchange was established as an agency to buy films from manufacturers and to rent them to exhibitors at a percentage of the purchase price for a specified length of time. This service came to be called distribution of films and eliminated the expensive and wasteful practice of exhibitors buying pictures outright. The exchange idea was highly profitable and within four years 125 to 150 exchanges were started in the country.

The exchanges produced benefits to everyone in the industry. For producers it meant a few large buyers, each agreeing to purchase most of the pictures to offer a wide variety to the exhibitors. The competition among the exchanges in the same
locality for pictures yielded more revenue to the producers. As exhibitors paid less per picture under the rental plan, they could afford to buy more pictures. More frequent program changes were possible, which brought more viewers into the nickelodeons.

By 1908, moving pictures had become a serious competitor of the stage, churches, newspapers, and saloons for the public's leisure time and money. They were already being criticized by some religious leaders as being the creation of the devil, and by some upper-class persons as corruptor of workers' morals.

This period, 1896-1908, was characterized by fierce competition among numerous producers, distributors, and exhibitors, ease of entry into each field and small investment requirements. However, this competitive stage lasted only a short time. Ten powerful companies had emerged by 1908. Some of them manufactured both equipment and films and were the main sources of supply to a rapidly growing industry. Each of them tried to control the market by restricting the buyers of films to exhibit them only on their projectors and buyers of projectors to use only their films. The ten leading manufacturers competed actively among themselves and also with other companies that were trying to break into the market. It did not take long for the ten big producers to realize that some rationalization was needed in the industry and all of them would benefit by it. The result was the first successful monopoly firm in the motion picture industry.

The Motion Picture Patents Company, 1908-15

The Motion Picture Patents Company (MPPC) was formed in December 1908 and was to touch every phase of the mascent film
industry in a matter of two years. Some 16 patents held by four manufacturers: Aramont, Biograph, Edison and Vitagraph were pooled under this corporation in order to eliminate competition among themselves and to control the market more effectively. This organization not only ended the patents competition among the major manufacturers, but also brought the ten leading suppliers of motion pictures under one corporate control for their own benefit. Several other manufacturers and importers of equipment and pictures who were operating in competition at that time were excluded from the combine.

MPPC issued uniform licenses to the ten member companies to manufacture and use cameras and to manufacture and lease projectors. Only those exhibitors using MPPC projectors were licensed by the trust and the exhibitors were barred from using any other producers' films. Exchanges also came under the control of the trust. Exchanges around the country were licensed by the MPCC and were ordered to deal exclusively in films produced by the trust's producers. The exchanges were further required to lease films on conditions specified by the trust. MPCC charged a license fee of two dollars a week from each exhibitor which was to be collected by the licensed exchanges. These restrictive practices were to have a devastating effect on the independent producers, exchanges, and exhibitors.

MPCC even attempted to control competition from foreign producers of films. George Kline, one of the trust's members, was not a manufacturer but an importer of films. Nine or ten foreign producers supplied him approximately 10,000 feet of film per week. MPCC reduced it to a third of that total.
The MPPC exercised its control over production, distribution, and exhibition of films for about two years successfully by virtue of restrictions on entering the business. However, there were many independent producers who were eager to participate in the industry and dissatisfaction among the independent exchanges and exhibitors was also growing. These independents managed to make pictures and find markets as the increasing demand for films could not be met by MPPO producers. Many licensed exchanges of the MPPC defied the terms of their licenses to the temptation of greater profit by dealing with independent exhibitors. MPPC men resorted to confiscation of projectors from unlicensed exhibitors and harassed them by filing law suits. But independents somehow survived.

The MPPC reacted to the competitive situation by organizing a distribution subsidiary called the General Film Company (General Film) in 1910. It was to consolidate and control the exchanges and thereby the exhibitors also. This was the beginning of the integration process by major producing companies to control the market which is still with us today.

The MPPC bought out 68 exchanges and drove the others out of business except for one exchange by withdrawal of supply of film, price cutting, discrimination and so on. Within a year from its organization, General Film became the sole distributor of films. Fifty-two branch offices throughout the country were established and the territory was divided between them. General Film classified all theatres and standardized rental terms, which could no longer be negotiated by the exhibitors. It also
exacted a tribute of $2.00 license fee from about 1,200 exhibitors, which alone amounted to almost a quarter of a million dollars a year. Dissatisfaction with the trust was common among exhibitors who bore the burden of the trust's monopoly practices and it was some of the independent exhibitors who were to become the greatest opponents of the trust.

Fox Film Company (Fox) was an independent that owned several theatres and an exchange in the greater New York area and the only company that survived General Film's expansion. General Film tried unsuccessfully to buy Fox's distribution business. General Film threatened to shut off Fox's supply of films, whereupon Fox opened its own studio and started a national distribution system to handle its product. Fox was able to survive the pressure exerted by General Film because it was backed by capital from Prudential Life Insurance Company. With the ever-increasing demand for pictures, Fox prospered and steadily increased its holdings of theatres in the New York area.

As was noted in the structural model at the beginning of this chapter, horizontal mergers also occurred among the independent producers. It was a necessity to strengthen their position vis-à-vis the monopoly power of the MPPC. Fox Film Company, Universal Film Company, and Mutual Film Company were prominent among the several hundred independents at the time. Carl Laemmle was another independent producer who fought against the General Film monopoly. His Independent Motion Picture Company was quite small. He and several other independent producers and a number of exchange owners in leading cities merged their
interests in the Universal Film Company, making it a large producing and distributing concern. Universal established studios in New York and Los Angeles with a national system of exchanges. Mutual followed the same pattern with a national network of exchanges and studios in New York and Los Angeles.

The system of monopoly control introduced by the MPPC eventually collapsed for external reasons and internal policies of the trust. The independents, such as Fox and Laemmle, posed a great challenge to the MPPC hegemony. Fox brought suit against the trust under the U. S. antitrust laws that prohibited restrictive trade practices. Laemmle also chose to fight the trust in the courts. Robert Cochrane, another independent who had originally organized the Universal Film Company, placed large advertisements in the trade press and waged a public relations war against the trust. In addition to these challenges, the trust was faced with many patent disputes resulting in more court cases. The Federal government in 1915 finally brought a suit against the trust and its subsidiaries charging them with combination in restraint of trade aimed at monopolizing the industry. The case was successful and the court declared the combination illegal.

Internal reasons were also important for the trust's demise. Some of the patents held by the trust expired. More importantly, the distribution and production system of the trust was too rigid and did not keep up with the changes in audience taste. For instance, the standard program of General Film consisted of one-reelers changed daily or every other day. One of its employees in San Francisco, William Hodkinson, had tried
three day runs of better pictures and was successful commercially. The trust rebuked Hodkinson for breaking the rules and he quit his job to start his own exchanges on the west coast. MPPC policy did not recognize that the public would accept longer films. Several independent exhibitors and exchange owners had already identified the need for longer films with stories in them. Some producers such as D. W. Griffith and Cecil B. DeMille were seeking financial backing to make longer pictures with stories, but the trust would not allow such ventures.

As the novelty of moving pictures wore off, the audiences were ready for better pictures. Edison studios had made The Great Train Robbery in 1903, a one-reel film with a complete story based on a crime. The viewers thronged to see that film. Although that picture marked a turning point in the art of motion picture production, the MPPC productions remained serial thrillers of mediocre quality.

There were important reasons why the trust did not encourage story film production. The features meant bigger investment that would increase rentals and the trust did not believe the nickelodeons could support any higher rentals. Besides, the majority of the trust members were manufacturers of equipment and they were interested in film only to sell their manufactured goods. They approached film production as a service that consisted of providing so many feet of film regularly. It was the trust's policy to take no account of individual pictures or individual actors or directors, and the flat rate per foot applied without regard to the number of separate pictures supplied, or the size of the theatre.
MPPC's competitors, the independent producers who had been kept out of the market, correctly saw the demand for longer and better pictures. Several exhibitors, who were demanding longer pictures but received no recognition from the trust, provided the markets. Three independents, Adolph Zukor, Jesse L. Lasky and Hobart Bosworth, broke into the market by supplying such films, which were distributed by independents and shown in independent theatres with considerable success.

Not until 1915, just before its dissolution did the MPPC finance a feature length film. Griffith made the controversial Birth of a Nation for Bioscope, a member of the trust. It was eleven reels long and as a result the investment in the picture exceeded all previous records and frightened the trust. It refused to advance the additional funds required for completing the film. The president of Mutual, an independent production-distribution company, invested $25,000 to complete the film. General Film had seriously contemplated releasing the picture as a serial, one reel a week. Griffith fought that move successfully. The film was successful at the box office. This case illustrates the rigidity of the MPPC in its policies.

The internal decay of the trust, outside pressures from the independents opposing the monopoly, and the court decision declaring the monopoly illegal, rendered the MPPC weak. Along with the General Film Company, it faded away in 1915. However, the history of the trust had left its mark on the motion picture industry. MPPC had demonstrated that control in the industry rested in distribution, and that a national network of distribution would maximize a film's earning potential. Producers
and exhibitors were equally dependent on distribution, the former for outlets for their pictures and the latter for film supply. Thus the key position in the industry was held by the distributor. The new structures that were built in this period were to benefit from MPPC's experience.

Transition to Vertical Integration

Several important structural and policy changes, often simultaneously, were occurring in the American film industry. Many of these changes were the result of the independents' attempt to break into the exhibition markets monopolized by the MPPC. These changes are important to the analysis here as they eventually led to the final step in the integration process of production, distribution, and exhibition in the 1920s.

Just as some independent producers had succeeded in gaining entry into the motion picture industry by way of making longer films, there were men in exhibition, such as Marcus Loew and William Hodkinson, who believed that if they built bigger and better-looking theatres, they could gain a competitive edge over the others. Bigger theatres would maximize seating capacity and comfortable seats would retain audiences during long films. Better-looking theatres would attract a different class of audience perhaps willing to pay higher admission. As a consequence of all of these factors, those theatres would have a better bargaining position with the distributors. The construction of the larger and better-looking theatres was to lead to a caste structure in exhibition with first-run, second-run, and subsequent-run theatres having unequal status in the industry.
By 1913, the motion picture theatre had found its place on Broadway and the Main Streets of the small cities as nickelodeons were beginning to disappear. The public response to motion pictures in general, and to longer pictures in particular, was so overwhelming that several independent exhibitors acquired chains of theatres. The Fox and Loew companies were prominent circuits in the New York area and other important chains existed in the New Orleans and Philadelphia areas.

Along with the formation of the chains, booking combines appeared for independently-owned theatres. As early as 1912, local chains had assumed sufficient market control to force their own terms on producers, insisting on lower rentals for all theatres of a particular chain. This policy came to be called circuit booking. With their large buying power, the circuits could threaten the dominant producers by refusing to book their pictures. The Stanley Booking Corporation of Philadelphia was the largest and most successful combination in the country.

As the audiences were willing to pay higher admission prices for the privilege of seeing a new picture, producers generated a continuous flow of new films. Certain theatres in cities gained more power over their competitors by their ability to obtain new films earlier than the others in the same area. These theatres came to be called first-run houses and soon attained a significant position in the industry to which I will return later.

It was changes in the nature of films that brought about important structural and policy changes in the industry as a whole. MPPC policy was to supply one or two reel pictures, all
substantially of the same quality, in order to keep the pricing simple. But the introduction of longer pictures was to change that drastically. The independents had recognized the fact that there was demand for pictures with known actors and actresses. Carl Laemmle had realized the potential of making actors or actresses attractions in themselves. He lured Mary Pickford, an unknown at the time, away from Biograph by paying her a higher salary. This practice became common in the industry as a way to undermine the competition and to increase a picture's grossing potential. The star system as we know it today was in the offing.

Many independent production companies came into the industry around 1912-13. Zukor started Famous Players when his proposal to make four reeler pictures for the MPPC was rejected. Noticing that Mary Pickford was gaining popularity, Famous Players hired her away from Laemmle's company. Jesse L. Lasky organized Jesse L. Lasky Feature Play Company in 1912 with Samuel Goldfish (later Goldwyn), hiring Cecil B. DeMille to direct pictures in Hollywood.

Though the market was ready for longer pictures and producers were also ready for making them, they lacked the necessary capital. Each four to five reel picture cost $10,000 to $20,000 at that time. Weekly change meant a very large outlay, which the bankers were not prepared to advance. These could be obtained only from distribution on a national basis, which was an object lesson producers had learned from the General Film Company. Not only could longer films be made but they could be more profitable if the producer himself controlled the conditions of sale. Zukor's Famous Players had contracted many
established actors/actresses of the day. Their pictures were being distributed by a film-buying combine called Paramount Pictures, which Hodkinson organized in 1913 by merging five regional distribution companies. Famous Players supplied only half of the pictures distributed by Paramount, the rest coming from Lasky and other independents. Gross rentals were divided on the basis of 65 percent to the producer, and 35 percent to the distributor. But this system left the final control of marketing in the hands of the distributor and not the producer. Zukor's product, or that from any other independent producer, could be replaced by someone else's at any time by the distributor. With these considerations in mind, Zukor effected a merger of Paramount, Famous Players, and Lasky to form the Famous Players-Lasky Corporation in 1916. Hodkinson disagreed with Zukor for Hodkinson believed production should be divorced from distribution and argued that "better" pictures would be produced if active competition for markets were maintained. He was deposed as head of Paramount and Zukor positioned himself as president of the new company. Lasky was to be head of production. In this reorganization, Paramount became a distribution subsidiary of the new company.

Famous Players-Lasky Corporation (Famous-Lasky) started the trend of mergers among the production and distribution companies which eventually led to vertical integration in the American film industry.
Vertical Integration of Production, Distribution, and Exhibition

Hardly two years had passed since the MPPC monopoly had disintegrated and the companies in the American film industry were on their way to form more combines, but this time by integrating production, distribution, and exhibition under one corporate umbrella. This phenomenon known as vertical integration whereby companies in production-distribution extended direct control over exhibition and vice versa had become a necessity to survive for those companies.

Costs of production escalated to unprecedented heights prior to World War I and that trend continued after the war as well. By 1913, actors/actresses had been commoditized as "stars" by shrewd entrepreneurs in production. A good example is the case of Mary Pickford. She earned a salary of $5.00 a day when she began her career. Her salary went up to $2,000 a year and to $2,000 a week in 1915. Her pictures were immensely popular and as a result Famous-Lasky was willing to pay her such high salary.

Pictures with "stars" assured a minimum number of play-dates for a producer's other pictures without a "star." This was the result of the "block booking" method that was forced by Famous-Lasky on exhibitors. Under that booking policy, an exhibitor agreed to play a block of pictures which comprised of a few potentially popular pictures with "stars." It also meant that the distributor extracted substantially the same rental for pictures with low grossing potential as he did for the others. As the stars realized their importance in attracting audiences to theatres, their salary demands skyrocketed leading to an increase
in rentals on their pictures. For instance, Famous-Lasky trebled rentals on Pickford's pictures in 1916 and made substantial increases in the rentals of other films the company handled.

Acquiring "stars" from other companies gave a competitive edge to one company over the others. For example, Triangle Film Corporation was formed in 1915 by consolidating three production firms. A prestigious team--D. W. Griffith, Thomas Ince, Mack Sennett, and Douglas Fairbanks, Sr.--made pictures for Triangle. However, Famous-Lasky lured these "stars" away from Triangle to add to its list, which already included Gloria Swanson, William Hart, "Fatty" Arbuckle, Cecil B. DeMille and others. Famous-Lasky was releasing 220 pictures a year by 1918, an unprecedented record for any one company before or since.

The market economy has a logic of its own. Famous-Lasky's growing control over the supply of films led to its own remedy. Many exhibitors were concerned about "block booking" and other oppressive policies of Famous-Lasky. Some of them strongly believed that if they went along with that company's policies, it would eventually control the whole industry. One may own first-run houses in a market but without the star-studded pictures of Famous-Lasky, those theatres would not retain that status and be profitable. With such considerations, about 26 exhibitors with 100 theatres organized the First National Exhibitors Circuit (First National) to act as a purchasing agent to acquire independently produced pictures in 1917.

Formation of First National was a significant step in the industry. As indicated in the structural model on page 16, First National, unlike Famous-Lasky, worked in the opposite direction
for integration. Zukor started from production, went into distribution, and eventually into exhibition; First National began in exhibition, expanded into distribution, and ultimately into production. As it will become apparent, the outcome was substantially the same.

First National consolidated the greatest purchasing power in the industry and combined it with a nationwide distribution system paralleling that of Paramount. First National's policy was to acquire exclusive national rights to a picture and divide the cost among its 26 members who were designated as franchise holders. Each member paid the corporation a percentage of the picture's cost based on the amount to be derived from its distribution in the particular locality of that member. In return, the franchisee received the exclusive right to distribute and exhibit that picture throughout its territory. As all of the franchise holders were owners of first-run theatres, they had their choice of product and play-dates, thus increasing their worth and importance in their area vis-a-vis independent exhibitors. The independents thus depended on their principal competitor for part of their supply of films. These market considerations sharply increased the membership of First National. By 1920, it controlled a total of 639 theatres, out of which 224 were first-run houses. First National had already bought an interest in the Stanley Booking Corporation, which was a large, profitable group of theatres and a "booking combine" of many independently owned theatres in eastern and central Pennsylvania.

First National needed pictures of high quality with stars to compete with Famous-Lasky. Mary Pickford's contract with
Famous-Lasky was about to expire and she was convinced to make
to people for First National as an independent producer. In the
following two years, First National executed contracts with
Chaplin, Anita Stewart, Katherine McDonald, Constance Talamadge,
and other stars. First National had also hired away established
directors such as Griffith, Louis B. Mayer, Marshall D. Neilan,
Frank Lloyd, Fred Niblo, Whitman Bennett and others. It was
firmly in place as an exhibitor-distributor in direct competition
to Zukor's production-distribution organization.

First National's ascendency in the industry convinced
Zukor that his previous strategies to dominate the market through
monopolizing stars, directors, and distribution channels was no-
longer effective. Any new producer could lure away a star from
him and thereby render him weak in the market. Zukor had also
realized that his strategy of buying an interest in an opponent
producer's company, as he did in Lewis Selznick's Select Pictures,
or attempting to reorganize the Stanley Company to gain control
of the box office, were not going to assure him a commanding
position in the market.

Without the assured exhibition markets, no producer could
be viable, let alone be the leading force in the industry.
Furthermore, Zukor felt that the production sector was not getting
an equitable share of the theatrical revenue under existing con-
tracts between his company and the exhibitors. Zukor's sales
department made a thorough study of the economic status of produc-
tion, distribution, and exhibition in 1919, and Zukor made the
following statement to his investment bankers:

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the largest returns of the industry result from exhibiting pictures to the public, not from manufacturing them. The Famous Players-Lasky Corporation sales department estimates that the gross annual return of the 15,000 American theatres during 1919 will be $800,000,000 and that the total amount the producers will receive in the form of sales and leases of film and accessories will not be over $90,000,000. It is apparent to anyone who has had theatrical experience that this is not an equitable division. Producers claim that even when full consideration is given to the extra cost of large orchestras and other attractions required of picture houses, they should receive from twenty-two to twenty-five percent of the gross theatre income. 3

Zukor went further and sampled the benefits of acquiring the retail outlets. In early 1919, he bought four first-run houses in New York and Los Angeles. The profit from these theatres, showing a return of 80-100% on their investment annually, convinced a Wall Street investment firm, Kuhn, Loeb and Company, to support Zukor's expansion plans. It underwrote the capitalization of $10,000,000 offering in Famous Players-Lasky stock. 4
Zukor was then on his way to integrate his production-distribution branches with his own theatre operation.

This event had another significance in the historical development of the American film industry. Until that time, films were financed mainly by small capital the producers themselves gathered. Paramount was worth $25 to $30 million then and it had not sought public financing before. Some producers such as Triangle and World Film had obtained public financing but they had not become established producers. The introduction of bankers into the industry by a leading producer-distributor changed the situation rapidly. Within a few years, the shares of production companies such as Loew's Incorporated, Pathe and Fox, were listed on the New York Stock Exchange. By 1924, Wall Street
brokers were added to the boards of directors of motion picture companies. The film industry in the U. S. was well on its way to becoming a big business.

Zukor employed many cunning and ruthless tactics to acquire independently-owned theatres in the U. S. He set up a network of companies to purchase options in opponents' theatres; he intimidated independents by building or threatening to build bigger theatres in opposition to them, finally forcing them to sell or close. One of his emissaries, Stephen E. Lynch, was assigned the task of bringing several theatres in the Southern states into Zukor's camp. Equipped with capital from Famous-Lasky, Lynch executed Zukor's plans successfully. When all else failed to coerce the independent, Lynch resorted to some strong-arm tactics. As a result, Lynch's group came to be called the "wrecking crew" and the "dynamite gang."

In a span of three years, Famous-Lasky acquired some 600 theatres across the country and also expanded into Canada. It was not until 1926 that Zukor was able to weaken his main competitor, First National, when he bought two-thirds of the powerful Balaban and Katz theatre circuit, which had important outlets for First National's films in and around Chicago.

During this period of consolidation, before the advent of sound pictures in 1927, Paramount, Loew's, First National and Fox became completely integrated units each having its own national system of distribution and important theatre holdings in various parts of the country. However, they were not equal in strength in each activity. Paramount dominated production and
was becoming increasingly important in exhibition. Loew's drew its strength from a small number of prosperous first-run houses. First National was a strong group of first-run houses across the country and also a producer with important stars. Fox was a successful producer with its own distribution and exhibition. Universal and another newcomer, Columbia Pictures Corporation (Columbia) were active and prosperous but not a major force. The independent first-run theatre owner and independent producer was rapidly becoming a rare species. Still to appear on the scene were two more major companies—Warner Brothers (Warners) and Radio-Keith-Orpheum (R.K.O.), which joined the ranks of the major companies due to sound pictures.

While the four majors were engaged in expanding their operations, Warners, a minor production company, was finding it exceedingly difficult to release its pictures in first-run houses. It owned only one theatre, located in New York, and was dependent on the major companies who controlled almost all of the first-run houses to exploit their pictures. Between 1925 and 1927, Warners suffered severe losses on its pictures. But its earlier investment in sound equipment and perseverance to make talking pictures removed it from that path of obscurity which so many independents had been on and placed it among the majors.

Merely 15 years earlier, MPPC was not willing to introduce four reelers, but independents such as Zukor, Hodkinson, Fox, had experimented with the new concept and benefited greatly. By 1925, all the majors except Fox had seen the Bell Telephone Company experiments with sound and rejected the sound for pictures with the fear that the public might not accept it. Fox
held patents to Movietone and released sound newsreels. Warners, on the other hand, had invested $800,000 in Vitaphone Corporation, its subsidiary that had the exclusive licensing rights to the Bell Telephone patents and the sound equipment manufactured by Bell's subsidiary, Western Electric. As bankers considered sound pictures a high-risk venture, Warners had to do it with its own resources. It was well-rewarded in May 1927 when it released Jazz Singer, the first full-length drama with music and songs. The public response to that film was so phenomenal that a picture costing only $500,000 to make had grossed a total of $2.5 million at the box office.

While Warners' gamble with sound pictures had paid off, five companies—MGM, First National, Paramount, Universal, and Producing Distributing Corporation—had agreed to adopt a wait-and-see policy on converting their studios and theatres for one year in February 1927. They were concerned about the incompatibility of the several sound systems available on the market, which they perceived would hinder wide distribution of their films. A special committee was appointed to study the sound systems and to recommend one that would be in the best interest of all the five companies. But this embargo did not last long, as these companies saw each successive picture released by Warners becoming a box office hit. By the spring of 1928, Paramount, Loew's and First National began wiring their studios and theatres for sound. But it took them almost another year before they could produce their own sound pictures. Meanwhile, Warners was firmly established as one of the major companies.
Warners made a profit of $17 million in 1929. Between 1928 and 1930, their assets had gone up from $16 million to $230 million. It had all the funds needed to go into theatre operation. The Stanley Booking Corporation, one of the most powerful theatre circuits in the country with 250 theatres in its control, was bought by the Warners. Stanley also had a third of First National's stock, which passed into the hands of Warners. Eventually First National was acquired completely by Warners. By 1930, Warners controlled more than 500 theatres. Once Warners was fully integrated with a nationwide theatre circuit, it was finally established as a major company ranking with Paramount, Loew's and Fox.

R.K.O., another major fully integrated firm, was the creation of a consortium of giant electronics manufacturing companies—Radio Corporation of America (RCA), General Electric, and Westinghouse—which had developed another sound system called the Photophone. However, they had difficulty selling it because AT&T through its subsidiaries had signed ten year exclusive contracts with all the major film companies (except for Fox) for its own equipment. AT&T had established a formidable monopoly on the film industry but RCA challenged it with its own strategy.

R.K.O. acquired F.B.O. Productions Inc., a minor production company at the time. It also bought a controlling interest in Keith-Albee-Orpheum, one of the largest theatre chains in the country. R.K.O. acquired additional theatres, increasing the total to about 200. Some of the best theatres in and around New York City came under that company's control, and as a result, it
became a major force in the industry. But RCA could not compete with AT&T on equal terms for the business of independent non-affiliated circuits, because AT&T's exclusive contracts with the major companies forbade them to supply their films to theatres that did not have AT&T equipment. RCA threatened its rival by preparing to bring suit under the terms of the Sherman Antitrust Act. The licensees also brought pressure on AT&T to modify its agreements. In December 1928, AT&T opened the domestic exhibition market to both sound systems.

While sound motion pictures brought hitherto unseen bounties to the majors, many small independent exhibitors were driven out of business. Being unable to finance costly conversion of their theatres to sound, they sold out to the circuits. Concentration of ownership of theatres among the affiliated circuits and independent chains grew rapidly. At the end of 1930, the five majors owned more theatres than ever before.

The MPPC patent control period was followed by the creation of an industry structure in which a few very large firms dominated the production, distribution, and exhibition markets for theatrical motion pictures. They achieved their dominant position by extending vertically integrated control of production, distribution and exhibition from both ends of the structure. But their theatrical holdings were somewhat specialized geographically. For instance, Warners were present in New York and New Jersey, Paramount in the Southern states, and New England. Fox's holdings were mainly in Midwestern, Mountain and Pacific Coast states. Collectively, they owned the bulk of the first-run theatres in the country. Inevitably, they cooperated with each
other by exhibiting in their own theatres the films produced by all of them. The effect was that the independent exhibitors became dependent on the majors' films for which patron demand had been created at the majors' first-run theatres. It guaranteed play-off of the majors' films in virtually all theatres, hence insured the profitability of the major production studios. Moreover, the market control exercised by the major vertically integrated firms meant that the independent producers could get access to exhibition screens only when it was deemed necessary by the majors to supply the theatres with more films than the majors produced, and then on price terms dictated by the majors. In this way, the profitable investment in theatres by the majors was protected by being assured of an adequate supply of films (even if some were independently produced) to fill up their playing time. It was an efficient way for a cartel to control and profit from a whole industry. The monopolistic structure had been created in reality by the self-destructive consequences of competition, the enduring pattern by which the U. S. market (and its Canadian adjunct as it will be seen in Chapter VI) would be controlled henceforth.

The integration process discussed earlier in this chapter had attracted considerable attention in the press, government, and the industry. Two antitrust laws which were already in force were of concern to the industry in general and particularly to the majors. The Sherman Antitrust Act of 1890 had made it illegal to "monopolize trade" and outlawed all "combinations or conspiracy in restraint of trade." The Clayton Act of 1914 had spelled out the vague intent of the Sherman Act and had declared monopolistic
practices such as, price discrimination to lessen competition and "tied" contracts or, where a firm forced a buyer or seller to deal exclusively with it illegal. Interlocking directors and mergers of companies by acquiring common stock of competitors were also banned. The Clayton Act emphasized prevention as opposed to the "after the fact" nature of the Sherman Act. To enforce the Clayton Act, the Federal Trade Commission was created in 1914 with powers to investigate, hold hearings, and issue cease-and-desist orders. The antitrust laws were not enforced rigidly in the film industry as cordial relations existed between the U. S. Justice Department and the industry. The industry, using its political/economic influence via the Hays Organization, which will be analyzed in detail later, staved off effective application of antitrust laws until 1948.

The American production companies had the backing of the American law and also the diplomatic support of the U. S. State Department to present a united defense against the policies of foreign governments. The Webb Pomerene Export Trade Act passed in 1918 provided qualified exemptions for American companies from prohibitions in the antitrust laws with respect to American businesses abroad. In essence, this government policy meant that American business was forbidden to practice monopoly in domestic markets, but when it came to international markets, the law in the fact encouraged them to form cartels to act as monopolies. In the case of the motion picture industry, although it was evident to the government that the industry was vulnerable to anti-monopoly action within the U. S., the Webb Pomerene Act
fully sanctioned the majors' use of monopoly in the Canadian and other foreign markets.

The Great Depression and Recovery

The economic collapse during the 1930s in the United States caught the film industry by surprise and caused many upheavals in the corporate hierarchies. However, the structure of the industry basically remained the same.

The sharp fall in theatre attendance began in 1931 and affected all sections of the industry drastically. The recovery from this crisis did not start until 1936. All the majors except Loew's became insolvent. The main reason for their bankruptcy was their over-ambitious investments in theatres, conversion to sound, impressive production facilities and extremely high-paid array of "stars" which were manageable during the boom years of the 1920s. For example, Paramount's industrial empire had consisted of 1,500 theatres, a major international distribution network and vast production facilities in 1930. Zukor had also bought a half interest in Columbia Broadcasting System, a radio network formed in 1927 to compete with RCA's broadcasting subsidiary, The National Broadcasting Corporation. Paramount's theatres had earned $130 million in 1930 and its exchanges took in $69 million that year. However, in the very next year the tumbling box office receipts changed the picture entirely. Its profits had dropped from $18 million in 1930 to $6 million in 1931. Bankruptcy was lurking nearby. Though the company had enormous physical assets it could not gather enough hard cash to meet its overhead and mortgage payments. In 1932, the company
suffered a loss of $21 million and in the next year, it filed bankruptcy proceedings and was placed in equity receivership. It was not until 1935, the Atlas Corporation, an investment trust with close connections to Morgan interests, inherited the corporate control from Kuhn, Loeb and Company. Paramount was reorganized and Zukor was deposed from his powerful position of president later to be succeeded by Barney Balaban. Under the new management, Paramount continued to make about 52 pictures annually. Almost half of them were produced by independents on a profit-sharing basis.

Fox went into receivership in 1931 and came under the control of the Chase National Bank. In 1935, Fox was merged with the Twentieth Century Pictures, a production company owned by Chase. William Fox, a movie mogul in the traditional sense, had fought against the powerful monopoly of the MPPC in the early years of the industry and had survived. However, he did not last the crisis of the thirties and became bankrupt.

R.K.O. was driven to receivership in 1933 due to the economic crisis in the country, and came under the control of Atlas Corporation and Lehman Brothers, when they bought a half interest in that company. This move effectively put another major company under the Morgan influence. R.K.O. did not come out of receivership until 1940.

Several smaller studios—Tiffany, Sono Art-Worldwide, Invincible, and Mayfair Pictures—among others, were shut down due to the economic stagnation of the thirties. Columbia and United Artists survived this period, as they did not hold any theatres.
and their overhead was also relatively small. Along with the studios, many stars of the previous decade vanished. Mary Pickford and Douglas Fairbanks, Sr. retired from their acting careers.

A new company in the industry that became firmly established in this period was that of Walt Disney Studios. Disney had arrived in Hollywood in 1923 at a time when major production companies were at their height of prosperity and were expanding their operations nationally and internationally. As an independent producer, Disney found the market difficult to break into and it was in 1928 that his animated cartoon, Mickey Mouse found its way into theatres through independent exchanges. Mickey was an instant success, and Disney studios, a small operation, survived the Depression years by releasing color cartoons which the exhibitors demanded. Disney had also obtained the exclusive right to use Technicolor’s three-color process, a monopoly practice for cartoon production until 1935, which gave the studio a competitive edge over others. Its distribution agreement with United Artists, which brought Disney 60 percent of the gross on each film, was better than Disney’s earlier deals with other distributors. United Artists had raised the advances also to more than $20,000 a film. Under this contract, Disney turned out 22 shorts a year. It was estimated that by 1934 Disney studios was earning a profit of $660,000 a year, most of which was reinvested into the studio.9

A striking feature of this period was intensification of control of the motion picture industry by industrial capital. Except for Disney, which was a minor studio at this time, all the major producers had come under the influence of big international
capital. The typical movie mogul who was the undisputed ruler of the Hollywood studio had vanished or was pushed into the background. It was the financial wizards of Wall Street who dominated the boards of major film companies.

The general economic crisis in the industry discussed above was short-lived. By 1936, the box office figures began to rise again with the upswing in the nation's economy, and except for a drop in the recession of 1938, the industry went into another boom cycle with the beginning of World War II. The vertically integrated structures erected during the 1920s and strengthened with the sound films survived the Depression years. The larger production distribution companies had organized the Motion Picture Producers and Distributors of America in 1922, which played an important role in significant political and economic matters affecting the industry, to which I will turn now.

The Hays Organization

This institution's general role was to gather intelligence at home and abroad regarding issues and policies that could potentially be damaging to the American film industry, and to take any necessary defensive action for the industry.

Motion Picture Producers and Distributors of America was the Association's formal title, but it took on the name of its first president, Will H. Hays, who was credited with putting its policies into effective practice. Mr. Hays was politically well connected, having been the Post Master General in President Harding's Cabinet.
The Hays Organization served a political as well as an economic purpose on behalf of the production-distribution companies in the U. S. It was somewhat of a pioneer in getting the public and the government to accept the idea of industry "self-government." It lobbied various levels of government in such political matters as censorship and enforcement of antitrust laws in the film industry.

As observed earlier, mergers in all sections of the industry were common. Famous-Lasky had particularly been involved in stock manipulation of competing companies, as in the case of First National and Selznick Pictures. Those were proven as flagrant violations of the law two decades later. The Federal Trade Commission was investigating Famous-Lasky in 1922 and conducted hearings for several years in various parts of the country. On one occasion, two agents of that Commission who were scheduled to appear with evidence about Zukor's monopolistic activities, declined to testify on health grounds, as the time set for the hearing approached. The Hays Organization was credited with the public relations work in this instance, which it was always prepared to do to protect one of its important members.10

In the 1930s, the Hays Organization attempted another such "intervention" but this time at a much higher level. In 1938, the Justice Department filed an antitrust suit under the Sherman Act after five years of intensive investigation against eight leading motion picture companies. Paramount, Loew's, Twentieth Century-Fox, Warners, R.K.O, Universal, Columbia, and United Artists were the defendants, who were charged with monopolistic
trade practices. The Hays Organization lobbied on behalf of them with the Federal government, and a delegation of attorneys headed by Will Hays met with President Roosevelt in an attempt to nullify the suit. Although they were not completely successful, the government filed an amended complaint against the defendants. 11

The system of self-censorship instituted by the Hays Organization was one means by which the majors controlled the content of films and thereby controlled the output. In an effort to protect its member companies from charges of immorality, the Hays Organization began a script reviewing program on an advisory basis in 1926. It produced a list of "don'ts" and "be carefuls" also. The Motion Picture Production Code was drafted in 1930 for this organization by a Roman Catholic priest. Initially, it was loosely enforced by the Production Code Authority (PCA), which had the responsibility to administer the code. But the Catholic Legion of Decency waged a militant campaign threatening boycott of films, and the result was that the PCA machinery was strengthened. A member firm which violated the code could be assessed a $25,000 penalty. This was later abolished, however, upon advice from counsel that it violated the Sherman Antitrust Act.

How did these mechanisms of the Hays Organization serve the interests of the majors? Firstly, the PCA administrators were employees of the majors. As the majors would not exhibit any film in their theatres without the approval of the PCA, that film would not get played on 70 percent of the first-run houses in the country. Since other theatres exhibited those films which had proved their earning power in first runs, the lack of code
seal meant large net losses to the film. But for a few exceptions, the code enforcement resulted in a repetitious pattern of stories and plots that prevented novel approaches and ideas in film production. Entry into the production end of the industry for an independent, as in the case of Zukor and others vis-à-vis the MPPC monopoly, and later on, for Warners vis-à-vis Famous-Lasky and other vertically integrated firms, was possible only because of their new concepts and methods of production. Any independent who hoped to establish his name and company by producing pictures with daring themes on social problems or political issues could be effectively kept out of the market by the PCA. An example was Sinclair Lewis's anti-fascist novel, "It Can't Happen Here," which could not be made into a film due to the PCA script reviewing program. Mary Pickford, one of the owners of United Artists Corporation, charged in 1946,

As things stand now, the Big Five are both the Congress and the Supreme Court. They not only make the rules, but they sit in judgement on the operation of them, so that an independent has no recourse.

Though the Hays Organization's censorship policy was put forward as simply "self-regulation" in the industry, it reduced competition to the large production companies from independent producers.

The Hays Organization was politically active internationally as well. By mid-1920s, American films dominated the European markets and The United Kingdom was one of the largest importers. There was a great deal of concern expressed in the European press about the adverse impact of American film imports on their film industries, local culture, and on local industry
as a correlation was found between increased film imports and imports of other American goods. Many European countries passed screen quotas to protect domestic film industries. The American majors spoke through the Motion Picture Association of America (MPAA), a later title for the Hays Organization, in policy matters abroad.

The American film industry policy of protecting its hegemony over foreign markets became the concern of the Motion Picture Export Association of America (MPEA), a separate corporation established in 1945. It was organized as a legal cartel and registered under provisions of the Webb Pomerene Export Trade Act of 1918. Its officers and members were the same as those in the MPAA. Thomas Guback, in his study of the American film industry, found that the MPEA facilitated overseas activities of its members in a variety of ways. It was concerned with expanding and keeping open foreign markets, expediting transfers on earnings to the U.S., reducing restrictions imposed on the distribution of American films through direct negotiations and "other appropriate means," disseminating information of interest to members about trading conditions abroad, negotiating film import agreements, and in some cases, negotiating rental terms. The MPEA maintained an extensive network of offices in key film markets with its head office in the U.S. Its functions, scope, and methods of operation were so similar to that of the U.S. State Department, that the MPEA has been referred to as "The Little State Department."

The MPEA derives its power from the policy of presenting a united front for all the American majors in foreign countries where protectionist legislation may be contemplated. It attempts
to make friends in the right places, and to influence local policy.
The uniformity policy was (and has been) absolutely necessary
because foreign markets had become increasingly important as a source
of revenue for the American motion picture companies. Erik
Johnston, who succeeded Will Hays as the president of MPAA/MPEA,
claimed in 1956 that American companies would lose $100 million
a year if they ever resorted to individualism (meaning competition)
in dealing with foreign markets. He explained what role unity played
in making the MPEA effective:

Our pictures fill about 60 percent of the screen time
in foreign countries. When anyone of them wants to
impose restrictions I can go to the Finance Minister,
not threateningly, but simply state that our films keep
more than half of the theatres open. This means employ-
ment and a bolstering factor for the economy of which
ever country is involved. And I can tell the Finance
Minister of the tax revenue which these theatres yield.
But if only two or three American companies were
to accept the restrictions on their own, my argument
with the Finance Minister would lose weight. My position
would be an impossible one if our ranks are to be broken.
We must have the uniformity policy.15

The uniformity policy was a powerful tool in dealing with
foreign governments. There have been many instances in Europe and
Asia, where the MPEA has used this power to force local govern-
ments to compromise or to withdraw their restrictive legislation
such as screen quotas and taxes.

The MPEA continues to be an important and effective
cartel of the American motion picture industry today. For instance,
the MPEA has been focusing its attention on China as a possible
new market. With the changing political environment in the Peoples
Republic, Jack Valenti, the current president of the MPAA/MPEA
visited that country as part of a U. S. government delegation to examine the possibility of exporting American films to that market. The delegation was headed by the Special U. S. Trade Ambassador, Robert Strauss, and consisted of other prominent industry leaders. It met with the highest levels of the Chinese government, including T'eng Hsiao-Peng. This is another indication of how much importance the U. S. places on the cultural exports to other countries, not only for the revenues they bring home, but also because of their extraordinary capability to carry American ideology. The impact of the Hays Organization and its branches with respect to Canada's motion picture industry will be examined in some detail in the next chapter.

"Community of Interests"

The structure of the motion picture industry had become stable by 1939, surviving the hard times of the Great Depression. There were five majors--Paramount, Loew's, Twentieth Century-Fox, Warners and R.K.O.--each of which had completely integrated structures of production, distribution, and exhibition. These majors also owned the controlling interest in 70 percent of the first-run theatres in cities with populations exceeding 100,000. In addition, they controlled nearly 60 percent of the first-run houses in cities with populations between 25,000-100,000. Columbia and Universal were engaged in both production and distribution and, United Artists was only a distributor for independently produced films. These three companies were in the minor league. They did not control any theatres. The seven producer-distributor companies accounted for 62.2 percent of all the features.
produced between 1934-35 and 1938-39 seasons. The independent producers made up the rest of the supply of films. The eight leading producers took in 76 percent of the domestic rentals in 1939.

The Justice Department filed an antitrust suit in 1938 against all the eight leading companies. As noted earlier, the Department filed an amended and supplemental complaint which charged the five vertically integrated majors with combining and conspiring to restrain trade unreasonably and with monopolizing the production, distribution and exhibition of films. The three minor companies were in turn charged with illegally conspiring with the five majors to restrain trade and to lessen competition. The government requested the court for the elimination of many unfair producer-distributor trade practices including block and blind booking. Most important of all, the government asked for breaking up the five vertically integrated companies by divorcement of production and distribution from exhibition. But negotiations for a settlement started within three days after the case went to trial. An agreement was reached on November 20, 1940, whereby the government and the five majors became parties to a consent decree. The suit against the three smaller companies was delayed, as they did not own any theatres.

The five majors, without admitting any guilt, agreed to modify their monopolistic trade practices, such as block booking and blind selling. Further assurance was given that the majors would not acquire any additional theatres during a specified period of time. It was a clear victory to the majors as they
came out of the case without any substantial change in their existing structures. What effect if any the Hays Organization had on the government is not known. However, it is believed that the government was reluctant to disrupt a major industry at a time of an impending hegemonic war in Europe. The Justice Department had reserved the right to seek further relief if there was reason to believe that the consent decree had not proven effective.

That became an actuality in the summer of 1944 with the reactivation of the Justice Department's suit against the same eight leading companies. This time the government pressed for the divorcement of theatres from production and distribution. A special three-judge statutory court in New York held that the eight defendants—the Big Five and the Little Three—had conspired in restraint of trade, and listed several infractions of the Sherman Act. Instead of divorcement of theatres from production-distribution as the Justice Department argued for, the District Court ordered a system of competitive bidding to eliminate unreasonable discriminations against small independent theatres. Dissatisfied with the ruling, both sides appealed the decision to the Supreme Court. In May 1948, that court upheld the general verdict of the lower court. The eight defendants were enjoined from such monopoly practices as block booking, cooperative management, fixing the minimum admission price, and so on. Additionally, the five majors were ordered to divest themselves of their theatre holdings.

Paramount and R.K.O. signed consent decrees in 1949, but the other majors had to be forced into submission by the District
Court and then the Supreme Court. The three smaller companies signed separate consent decrees in 1949 which submitted them to the same trade restrictions as the Big Five. The divestiture of individual theatres progressed very slowly and it was finally completed in 1959. Meanwhile, television entered the scene and coupled with the post-war recession, several theatres had to be closed.

The findings in the Paramount case revealed the power of the majors, the sources of that power, and the methods by which they derived their power in the domestic market. Some of those findings are discussed here briefly.

Most important of all, it was clearly established that the majors exercised indirect control over production output. Effective combination for direct control of production output was ruled out. It was not possible because each film was a unique commodity and the product continually changed, two important factors promoting innovation, thus making it possible for the independents to enter the market. As a result, the majors employed indirect methods of control such as the rigid system of censorship through the Hays Organization, which was discussed earlier.

Another important means by which the majors exercised indirect control over production of films was their hegemony over the first-run theatres which was supplemented by their control over distribution. Consequently, the real hurdle for the independent producers was at the marketing level, as the production industry could only be partially controlled.

The distribution market was under complete control of the eight leading companies called the Paramount defendants. They
received 94 percent of total film rentals in 1943-44 season of which 73.3 percent went to the five vertically integrated firms. It was also found that for 1935-40, the eight companies received 95 percent of domestic film rentals which established a longer term pattern of control of the distribution market. These figures indicate their market dominance quite clearly.

As the five majors controlled the key theatres in the country, they had the power to exclude other distributors from a large share of the exhibition market. As a result, the independent producer of better-quality and more-costly pictures had to turn to the majors for distribution in order to have access to the first-run market for revenues to recover his costs. The independent had to pay the majors' monopolistic distributor fees and also to conform to their production code. Thus monopolization of first-run market facilitated monopolization of distribution. The court found that there indeed was an organized control of the distribution market which was effective and it also found an intent to exercise that monopoly power.

In the first-run exhibition market, the five majors reigned supreme. Although they controlled only 17 percent of total theatres, viewed as a group, they controlled more than 70 percent of the first-run theatres in 92 of the largest cities with populations of 100,000. Out of those 92 cities, in 43 cities one or more of the five majors exhibited films distributed by all five firms. In other words, as a policy, unaffiliated first-run theatres were excluded from playing the products of all the five major companies.
There was a great deal of cooperation and not competition among the theatre circuits affiliated with the five majors. Although they held theatres in every part of the country, they competed in less than one quarter of them. Paramount had theatres mainly in the South, in New England, and in key Midwest cities. Fox theatres were concentrated in Midwestern, Mountain, and Pacific Coast states. Loew's had theatres mainly in New York City, Connecticut, and Ohio. R.K.O. owned theatres in New York, New Jersey, Ohio, and Michigan. The court found no agreement to divide the territories among the majors in their original acquisitions. However, it found that the geographical distribution was to have been intentionally maintained as part of a system to prevent competition. In cities, where more than one of the five majors owned theatres, competition was eliminated by pooling agreements or joint partnerships.

Thus the five majors derived their power from concentrated first-run theatre holdings, lion's share of the domestic film rentals, coupled with strategic advantages of vertical integration. This great power was in turn used to restrict competition from the independents at all three levels of the motion picture industry--production, distribution, and exhibition. Further, the cooperation or collusion that existed between the five majors for mutual benefit in the first-run market rendered them as a cartel in the domestic market or a "community of interests" rather than competing forces.
Transition to Media Conglomerates

The Supreme Court verdict in 1948 shook the economic foundations of the motion picture industry in the U.S. A new era began in which the independents became a powerful force, and some of the majors came under the control of conglomerate corporations. This new era was characterized by a trend towards a more complex structure in the industry.

The consent decrees had significant impact on the industry primarily because the defendants in the case were barred from owning theatres. But other forms of vertical integration -- production distribution combines were not made illegal. Nor did the prohibition concerning theatre ownership apply to non-defendants. Block booking was outlawed. Though the actual divorcement of theatres dragged on until late 1950s, in the absense of block booking, screen time hitherto mostly unavailable to independent producers became available. Many independents entered the industry, among them Allied Artists (previously Monogram) and Republic Pictures Corporation became producers of high-quality pictures. Before World War II, there were very few independent producers of first grade films.

Prior to the divorcement of theatres, no independent could obtain financing for his picture without having a release deal with a distributor. It was considered too risky by the investors to back independents' films because the first-run markets under the tight control of the five majors were closed to them. By 1950, an estimated 20 new pictures were started by independents who did not have a distribution deal at the time when they began filming, a new trend which was to continue.
Some other factors also helped the entry of independents into production. The Production Code Authority, the agency of self-censorship in the Hays Organization dominated by the five majors, was a barrier to entry for the independents. Its power was reduced due to the majors' losing control of the first-run market. To preserve a part of the Code Authority's former powers, the code was revised in 1956 in an attempt to fit it more nearly to its original declared purpose of barring obscenity rather than its monopoly purpose of barring innovation.

All the major film producers adjusted to the new situation rather well except for R.K.O., which stopped production mostly due to consistently poor box office performance of its pictures and internal corporate turmoil. Several measures of diseconomies of scale were instituted to cope with the changed structure of the market place. Large studios with high overheads dismantled major parts of their studios by either selling or leasing their land to developers and to firms leasing space to television production. Twentieth Century-Fox, R.K.O., and Universal followed this pattern.

Unlike the production market, the distribution market remained tightly in the control of the majors. Although a few new companies such as American International rose to prominence, the majors competed intensely to acquire independents' films as their own production dropped. It resulted in high distribution costs, which in turn tended to reduce and in some cases wipe out profits in distribution. Under such market conditions, entry by new firms in distribution was limited.

In terms of profits, Paramount, Twentieth Century-Fox, and Warners showed a strong recovery by 1954 after an initial drop.
due to costs of litigation and corporate reorganization following the consent decrees in 1949. R.K.O. and Loew's suffered consistent losses in production and distribution. 28

The increasing competition from television in the fifties resulting in the drop of theatre attendance rendered the majors vulnerable to further integration by conglomerate enterprises which were expanding into leisure industries. The majors had large film libraries, which were attractive to the conglomerates due to their earning potential from television.

The integration of some of the majors with large industrial corporations was a culmination of what had started in the post-Depression era. It may be recalled here when Fox and Paramount declared bankruptcy during that period, the former company came to be controlled by Rockefeller interests and the latter by Morgan interests. Industrial capital had firmly established its influence in this powerful communications industry. The absorption of some of the major production-distribution companies in the 1960s by large industrial corporations was then a logical development.

Music Corporation of America, a powerful talent agency having interests in record manufacturing and television program production, secured 100 percent control of Universal Pictures in 1962. 29

Paramount Studios had become moribund by 1965, and a target for take-over by Gulf & Western Industries, Inc., a transitional firm with interests in a multitude of businesses such as energy, mines, sugar, meat packing, zinc, cigars, and auto parts in many countries around the world. 30
In 1967, United Artists was merged into Transamerica Corporation, which dealt in insurance and other financial services.31

Warners merged with Seven Arts Production Limited, a Canadian distributor of films to television, in 1967.32 Following that, in the same year, Kinney National, a service industry conglomerate which had its origins in funeral parlours, was acquiring several leisure industries and bought a controlling interest in Warner Brothers-Sevent Arts. In the following years, Kinney's media-related acquisitions grew rapidly, including the National Periodical Publications, which published some 50 magazines and distributed several others; Panavision, a company that leases motion picture equipment; and a few record companies. In July 1971, Kinney created Warner Communications, a separate sister organization to manage all of its leisure industries.33

MGM suffered heavy losses after 1948, with such failures as Mutiny on the Bounty, a $30 million production. By 1967, almost 14 percent of MGM stock was controlled by Seagram Industries, and an unknown but substantial interest in MGM was acquired by Time, Inc.34

Columbia has remained immune to conglomerate take-overs because of its strong performance in the theatrical as well as telefilm market.

Disney was consistently profitable throughout this period. It was not a vertically integrated firm, but formed a distribution subsidiary, Buena Vista, in 1953.35 Disney methods of cost-cutting were exemplary. For example, Buena Vista handled
the distribution arrangements, but the actual physical handling of prints was left to National Film Service. By that method, the company reduced costs of distribution from 30 percent to 15 percent of gross rentals and also gained direct control over the handling of its films in the market. Disney was also ahead of the other leading companies in establishing its product quite early on television. Some how Disney was not absorbed by an industrial empire.

Fox was suffering losses every year until 1965, when it released an $8 million picture, *Sound of Music*, which collected $78 million in gross rental from U. S.-Canada market alone. But the period between 1965-71 was not profitable for Fox because several of its big budget pictures failed at the box office. However, two pictures, *French Connection* and *Poseidon Adventure*, set Fox on a better course in the early 1970s. It was perhaps able to survive the periods of crisis because Fox had become a mini conglomerate in its own right. Its revenues in the sixties came from such diversified sources as three television stations, television series production, film lab operations, 20th Century Records, 20th Century Music Corporation, and theatres in New Zealand and Australia.

The other majors have followed the same pattern of diversification. There are additional sources of income for the major film production-distribution companies today such as video discs, cable companies, Pay-TV and so on. This diversification makes for a complicated structure of the companies, but it is an
important factor in turning the companies around from a fiscal loss position to one of prosperity.

Commercial television has become an important source of revenue for the major motion picture companies. Some researchers have found that the three commercial networks in the U. S. have used between $122 and $158 million-worth of feature films annually during 1970-76. Those networks have paid staggering prices to secure television rights to some exceptionally successful films at the box office. For example, National Broadcasting Corporation paid Paramount an unprecedented $10 million for The God Father in 1974. Released early in 1972, that film had grossed $26 million in the first 26 days in the U. S.–Canada theatrical market. In 1966, American Broadcasting Corporation paid $19.5 million for rights to 17 feature films and spent another $20 million for 32 features from another company. In the same year, Columbia Broadcasting System paid MGM $52.6 million for a package of 63 feature films. In terms of supplying prime-time programming material, Columbia, MGM, Paramount, Fox, Universal, and Warners supplied 70 percent of programs in 1971 for all the three networks. This statistic includes both features as well as series programs. Television sales in foreign markets by the Hollywood majors brought $110 million in to the U. S. in the same year. Thus the American motion picture industry majors have made a significant presence on television although television was considered by some to become a competing medium to those companies.

Although the structure of the industry is much more complex today in comparison to the structure in 1948, the majors'
preeminence in the domestic and global film markets remains unchanged. The six majors along with four other large production-distribution companies today keep half the theatres in the capitalist world supplied with films and also take out nine of every ten dollars of theatrical revenue in the U. S. market. More than half of the majors' theatrical revenues in the sixties and early seventies were extracted from foreign markets.

The analysis of the American motion picture industry has focused on the patterns of monopoly and competition in that industry from its early years. The structures and policies which were formed in the industry by the major production firms culminating in the vertical integration of all the three principal areas of the industry were examined. As will be explained later, the U. S. monopoly companies, facilitated by the Webb Pomerene law, have dominated the Canadian film industry and prevented it from developing a production capability, either branch plant or indigenous to Canada. The impact of the U. S. Supreme Court decision of 1948 on the film industry in general, and particularly on the vertically integrated monopoly firms, was discussed. It should be noted here that monopolistic trade practices in the industry do not seem to have disappeared. Charges of monopoly in restraint of trade by one or more companies in the film industry and counter-charges by another and law suits filed under the antitrust acts are not uncommon today. Before studying the structures and policies of the American majors in the Canadian film industry, it is necessary to turn to the British film industry.
1. This chapter has been summarized from the following secondary sources:


Footnotes are used to credit other researchers from whose publications data have been drawn.


7. The U. S. government has always used American films for its propaganda purposes around the world. For example, the State Department openly invited the cooperation of the American film industry in 1938 and 1939 in a projected million dollar propaganda program to improve relations between the U. S. and Latin America. The film industry cooperated wholeheartedly with the government. One might say that such responsiveness to U. S. government's plans on the part of the film industry could not have gone unrewarded. For details, see Tobey, Margaret F., America at the Movies. New Haven: Yale University Press, 1939, pp. 279-281.


17. Conant, Michael, op. cit., p. 36.


23. Paramount Findings, 147(e), in Conant, Michael, op. cit., p. 50.


32. Stanley, Robert H., op. cit., p. 263.

33. Stanley, Robert H., op. cit., p. 263.

Prime time on television is the period between roughly 7 p.m. to 11 p.m. weekdays when most viewers are supposed to have their sets turned on. Advertisers pay for the commercial minutes costing anywhere from $200,000-$400,000 each during this period to reach the greatest number of viewers of desired demographic and psychographic characteristics.

Annual Reports of Cinerama, Inc. (December 31, 1977) and United Artists Theatre Circuit, Inc. (August 31, 1977) filed with the U. S. Securities & Exchange Commission indicate that such a case is pending in the U. S. District Court for the Southern District of New York. United Artists Theatre Circuit charges that R.K.O.-Stanley Warner Theatres, Inc. and Mann Theatres Corporation of California and Twentieth Century Fox distributors combined or conspired unreasonably and alleges that the plaintiffs were deprived of first-run motion pictures distributed by Fox in the New York metropolitan area. It alleges that Fox has obtained an interest in the R.K.O. circuit, which violates the Paramount decision and the consent decree of 1948.
Before I analyze why Canada has been dependent historically on American films, it is necessary to ask the question, why Canada, once a colony in the British Empire and having strong political and economic ties with Britain during the early 1900s did not become dependent on British films? To answer that question, the structures and policies in the British film industry are examined by applying the model on p. 18.

Production

In the early 1900s, several small production companies--Hepworth, Gaumont, Ideal, Welsh-Pearson and others made films in Britain. As noted earlier, British filmmakers were ahead of their American counterparts around 1912 in the sense that they were already making five reelers pictures. Hepworth made seven reelers in 1913 based on the novels of Charles Dickens. David Copperfield was 7500 feet long, an unheard of length at that time.

Though the British producers were not hindered by a monopolistic firm in their country such as the Motion Picture Patents Company in the U.S., they faced tough competition from American producers as early as 1912. Essanay and Vitagraph, both MPPC member producers had distribution offices in London. Famous-Lasky and Fox started their distribution branches in 1915 and 1916 respectively. The publicity for American pictures was far superior and an important factor in the British filmmakers' inability to compete in the home market. It may be recalled here that MPPC had restricted the importation of foreign pictures into the U.S. which limited the entry of British films in the large U.S.
market. On the other hand, the British market was open to imports. According to one estimate, of all the pictures released in 1919 in the United Kingdom (U.K.) only 15 percent were of British origin. France was the principal supplier contributing 36 percent of the films. U.S. was second in importance with 28 percent of film supply, Italy with 17 percent, Germany and others made up 4 percent. Just prior to the First World War, British producers supplied an estimated 25 percent of the films shown in domestic theatres. But British production declined during the war years, French and Italian studios were closed and the German films disappeared from the British market completely. The absence of competition from British and other producers in the U.K. market, combined with the demise of the MPPC at home, gave the American producer-distributors the opportunity to get firmly established in the British market. Between 1914 and 1916, American film exports to that market nearly doubled and in the latter year, 54 percent of all American film exports went to Great Britain.

Exhibition

diuous entrepreneurs operated in the theatrical exhibition market prior to the war. By 1916, there were about 4000-45000 theatres in Britain. As the model (p. 18) illustrated, horizontal combinations of theatres into various circuits had begun. It was estimated that 90 circuits operated with 429 theatres and only eight circuits had 10 or more theatres each. Most of the circuits were regional and the only two national circuits based in London were Bicolour Picture Theatres and the Central Hall Circuit.
of Wandsworth. Independent single theatre owners were the largest in number.

More capital seems to have been available to build theatres rather than finance pictures. The single theatre construction in these early years was financed by small merchant capital. But in the 1920s, when bigger theatres became profitable, banks and insurance companies became heavily involved.

The financial structure of the exhibition industry during the 1920s changed significantly. Public companies grew and the large number of small circuits were consolidated at first by horizontal combination into gigantic circuits, and finally, by vertical integration of the largest circuits with distribution and production interests. As the analysis of the American film industry pointed out vertical integration resulted due to the logic of the marketplace. In Great Britain, it was not the same due to the dominant presence of American distribution companies. Vertical integration did not come about until certain structural changes were introduced in the production and distribution sectors by the British government in 1927.

Distribution

During World War I, American firms dominated the British market. While the nation was preoccupied with war, capital to produce British pictures was scarce. It was also a period when the U.S. film industry grew vigorously in all areas and expanded its operations throughout the world. Thus, early in its development the British film industry had come under the control of American production interests which impeded the growth of British film production.
In 1912-20, Famous-Lasky, Fox, Goldwyn, F.B.O. and Vitagraph were some of the largest distributors of films in Great Britain. They were joined by First National and Warners in 1924. In 1920, the total number of films available for exhibitors in the U.K. was 878 of which 144 were British. It is not known to me whether those British films secured any booking into theatres, the amount of screen time they were given and the type of theatres which may have exhibited them. It has been estimated that in 1923 about 10 percent of films exhibited in Great Britain were of British origin. The market conditions must have worsened for British films in the 1920s because the total output fell drastically. British pictures 'trade shown' or completed and shown to distributors in 1913 were 103 five reelers and that figure fell to 45 seven reelers in 1926. Hepworth and Ideal, two prominent producers had ceased production during this period. They not only lacked capital but also access to the market within and outside Britain.

Some of the American production-distribution companies had acquired theatres of their own in Great Britain. As early as 1910, Famous-Lasky had attempted to buy 10 percent interest in a theatre circuit which did not materialize as it created a wave of hysteria in the theatrical industry which strongly opposed vertical integration at the time. By 1926, Famous-Lasky had bought control in two theatres in Birmingham. Fox held a controlling interest in Gaumont-British Pictures Corporation, which was the first vertically integrated British film. Loew's were to enter the theatre business also in the same period.

Direct ownership of theatres was not so crucial to the American production companies. They were firmly in control of
the distribution market in Britain. The twenties have been called
the 'Golden Age' of silent cinema in the U.S. Average budget
for a British picture at the time was 5000 pounds whereas an
American picture cost five times as much to produce. Better
technical quality was not the only reason why the American films
were well liked by the British audience. Typical British films
were strongly connected to the stage which was the dominant class
culture in the U.K. The American film industry, on the other hand,
developed in its early years its own peculiar form and content
which appealed to a mass audience. Moreover, the Zukors,
Laemmles, DeMilles of Hollywood who had gone from 'rags to riches'
packaged the American Dream of 'any one can make it by hard work',
that sold well to the poor immigrants in the U.S. and the poor
in the class society of England. These were some of the reasons
why American films were favored by the British audiences.

There were policy reasons as well that helped the American
films to become a permanent fixture on British screens. The
policies of the American distribution companies, such as 'block
booking' and 'blind booking' gave them undue control over screen
time in British theatres. For example, Famous-Lasky introduced
its "104 policy" whereby that company leased a block of 104
pictures for an entire season to the exhibitors. It was an all
or none policy. Vitagraph, First National and others also followed
block and blind booking methods. All the circuits were tied into
American distributors, thus the only avenue to get a British
picture shown was in the independently owned theatres which were
mostly not first-run. The American distributors had no interest
in acquiring British pictures produced in this period. Conse-
quently, the production industry in Britain was in a depressed state.
The production companies in Britain employed several strategies to improve their competitive position in the market before they brought pressure on the government to regulate the industry in 1927. A special body, British National Film League, had been formed in 1921, the aim of which was to: encourage production and exhibition of British made films; to eliminate block and blind booking; and to shorten the interval between 'trade shows' and the release date for British pictures. Gaumont, a production company collaborated with Hepworth to organize British Film Weeks as a publicity ploy to attract attention to the industry in 1924. The League was brought into organizing the Film Weeks throughout the country. The project was launched with many prominent political and other personalities present including the Prince of Wales which attracted press publicity. However, it did little for the British production industry. The League had difficulty obtaining dates in theatres. When the theatres became available, the initial publicity had lost some of its strength and the poor quality of films dampened the audience interest confirming their already held view that Americans made "better" pictures. The whole project misfired because concentrating the pictures into a week did nothing to improve either the quantity or quality of British product. It only provided playdates for a lot of bad pictures which otherwise would not have been shown at all. By 1926, the amount of screen time occupied by British films had dwindled to less than 5 percent. Political intervention became a necessity to change the state of affairs in the industry.
Government Policy and Vertical Integration

Oddly enough, government intervention in the motion picture industry in Britain resulted or hastened the process of vertical integration. The Cinematograph Films Act of 1927 enacted to protect the national film industry in the U.K. laid the foundations for films to be produced within that country on a continuing basis. Although it led to vertical integration within the British film industry, the British vertical monopolies could not escape the domination by the U.S. producer-distributor corporations. Before analyzing the impact of this legislation on the industry, let me turn to the economic and political considerations of the British government in passing the Act.

The Board of Trade, a government body was studying the economic reasons for the rarity of British pictures in theatres by early 1925. In the same year, the House of Lords debated how to preserve the British film industry. In the following two years, associations representing producers and exhibitors and a joint Trade Committee struggled with several ideas to deal with the problems facing the industry. Their main concern was to do away with monopolistic booking practices of the American distributors. The distributors were opposed to any restrictive legislation and they dismissed the opposition to their booking policies by arguing that the theatre operators demanded a regular supply of films resulting in leasing more pictures than they could actually use in a given season. The major circuits were the chief beneficiaries of being tied into the American distributors and consequently opposed government intervention. However, the
producers demanded that the government not only ensure screen time to British made films but also provide them with financial assistance for new production.

Shoring up an ailing production industry did not seem to be the only concern of the British government. There were ideological considerations as well. A sentiment popular in Great Britain and Canada at the time was that film could be used as an effective tool to project an ideal British image throughout the world and particularly in the colonies, many of which were engaged in popular as well as armed struggles against the British rule. The Imperial Conference held in October 1926 where Mackenzie King, the Prime minister of Canada and other comprador elements from New Zealand and Australia were present expressed concern over the small proportion of films of Empire origin shown in Britain and other parts of the Empire. It attached great importance to the need for a larger film production within the Empire and its dependencies. The General Economic-Subcommittee of the conference suggested a number of measures by which the colonial governments could assist to achieve that end. They included customs duties on imported films, preferred entry of Empire films, legislation to restrict monopolistic practices, and encouragement to Empire films by quotas.

No financial help came forth for the British film industry in the Cinematograph Films Act of 1927. The purpose of that legislation was to restrict monopolistic booking policies and to secure a certain portion of the distribution and exhibition markets for British pictures. Parts I and II of the Act limited rental agreements to six months in advance and required mandatory
registration of films with the Board of Trade and compulsory trade shows or pre-release shows. These restrictions were aimed at checking block and blind booking practices of the American distributors. The Act required both the distributors and exhibitors to fulfill an annually increasing quota of British films. At least seven and one half percent of the films acquired by the distributors in 1928 had to be of British origin. The exhibitors had to make some minimum screen time available for British pictures. The exhibitor's quota was calculated by multiplying the footage of film shown by the number of times it was exhibited. It was set at five percent for 1928. Both quotas were to increase in stages to 20 percent in 1935 and were to remain at that level until 1938 when the Act expired.

The legislation was immensely successful from many points of view. It spurred growth in the production as well as in the exhibition sector setting the industry on a course to vertical integration. The year preceding the act only 26 British pictures were produced but a year later 128 pictures were completed. Suddenly money became available to float production companies. For example, anticipating the act in 1926, John Maxwell floated British International Pictures, which grew into a prominent production company. There was so much confidence in the future of the industry, several new studios were built after 1927. Pinewood, Denham, Elstree, Shepperton and other studios emerged during the ten year period of the first Act.

Vertical integration in the industry from production through distribution to exhibition as pointed out in the model (p. 18) was rapid following the legislation. Gaumont, which had
started in distribution in 1898 and gone into production merged with other indigenous production/distribution firms and formed Gaumont-British Pictures Corporation (GBPC) in 1927. It was then poised to enter exhibition. Organized as a public company, it was backed with a capital of 2.5 million pounds from a London investment firm. Gaumont acquired Bicolour, one of the largest circuits in London. In addition to building several new theatres, it acquired many existing ones owned by independents. Its theatre holding went up in one year from 21 to 187 houses.

British International Pictures (BIP) bought Associated British Cinemas (ABC) which had 29 theatres in 1928. In the year following that, ABC grew to a circuit of 88 theatres. BIP and GBPC were to be the largest of the vertically integrated firms in the thirties.

Just as vertical monopolies were organized from exhibition through distribution to production in the U.S. (First National), an attempt was made in Great Britain to form a combine of smaller circuits and independent houses in 1927 when the Cinema Exhibitors Association considered a proposal to establish a cooperative booking circuit. This booking combine was to negotiate terms and conditions with the distributors and avoid competition for big budget pictures among the members of the combine. However, Kinematograph Renters Society which was dominated by American distributors opposed the move forcefully declaring that its members would refuse to deal with such a combine. The supporters of the proposal maintained that First National and other independent sources in America would supply the pictures directly to them. This was a departure from the theatre combines in the U.S.
in the sense that the British looked for their supply outside the country rather than from within. The main purpose of the booking combine was to prevent the take-over of better theatres by the vertically integrated firms leaving the rest in an uncompetitive position. The scheme was eventually dropped when sufficient support was not given by the exhibitors possibly because they feared the threats of American distributors.

Why was there no vertical integration prior to the quota legislation in Great Britain? According to a government report, the American domination of the theatrical and distribution markets had rendered the British production moribund and there was little left to integrate. It could have come about only if there had been an alliance between American and British interests. The circuits were allied with the American distributors who represented their own production firms. As a result, integration of the British film industry had occurred with foreign monopolies. That was a profitable situation for the circuits. Consequently, no need existed for vertical integration with British production companies. The same phenomenon can be observed in the Canadian film industry which will be discussed in the next chapter. With the Cinematograph Films Act of 1927, a portion of screen time became available for British films. Furthermore, the American distributors had to fulfill their quota obligations as well. The guaranteed access to the market made film production an attractive field for the investor. With the growing film production and finance, large scale vertical integration became a practical proposition.
Although the quantity of British films increased rapidly following the 1927 act, their 'quality' did not keep up pace with American films. By 'quality' I mean extravagance in production, lavishness, big stars and big budgets. Many pictures in Great Britain were produced on small budgets with the goal to meet the quota requirements. These "quota quickies" kept the workers in the industry employed but did little to encourage the public to see British films. Not all the films made during this period were of poor 'quality.' Three major directors emerged—Alfred Hitchcock, Anthony Asquith, and Alexander Korda, who made several pictures of high 'quality' in Great Britain.

The duopoly in the first-run theatrical market, GBPC and ABC circuits, controlled 13 percent of first-run houses. They were both monopolized by the large American distributors. These two circuits had separate corporate identity, but the interlocking directorships may have reduced any possible competition between them. In the mid thirties, a merger between the two firms was attempted by Maxwell, who was represented on both boards but it failed. Apparently Twentieth Century-Fox, which had a substantial share control in GBPC objected to the merger for reasons unknown to me.

No company could flourish just because it had better looking theatres. This fact was borne out in the Canadian market also as it will become apparent in the next chapter. Odeon Theatres in Great Britain was another chain built during this period with the goal to provide better looking theatres than its rivals in an attempt to compete with them successfully. However, the American majors' product was already tied to the two major
circuits. Odeon, after much negotiation with the American distributors, was able to obtain a deal with United Artists which was not a vertically integrated firm but a distributor of independently produced films. United Artists did not give Odeon an exclusive franchise to their films but majority of them would be played on Odeon screens. This link assured a base market for United Artists in Britain and a guaranteed source of supply of American films for Odeon.

The 1930s were a period of expansion in the British film industry, production reaching a peak of 228 features in 1937. Though the "quota quickies" damaged the British film industry's reputation with the audience in the U.K. and abroad, there were some outstanding revenue earners such as Alexander Korda's 1933 film, The Private Life of Henry VIII. It was lavishly produced with an estimated budget of 60,000 pounds and was acclaimed by critics as the first British film which could match an American extravaganza. It was widely distributed in foreign markets, including the U.S. Its revenue on the first day in the U.S. market was a world's box office record of $18,400. On the heels of the flattering press publicity in the U.S., Korda released the film in London. The large profits to the British producer from this film induced many financial interests to invest in big budget British productions.

This euphoric stage in the industry was however short lived as the British pictures lacked not only a large enough home market but also a reasonable share of the world market. The American majors commanded a domestic market which was two and a half
times as large as the British market thus gaining a powerful bar-
gaining position vis-à-vis the British producers. The American
majors did not hesitate to undercut their competitors where
necessary. Expensive British films, even when supported by
British distribution subsidiaries in the U.S., could not secure
a reasonable return from that market which was dominated by
the American majors.

By 1937-38, major British studios were in financial trouble.
GEMPC production/distribution wing had a deficit of nearly 100,000
pounds in the previous year's trading. It closed its distribu-
tion offices and hired the General Film Distributors (GFD),
another British firm to handle its films. Many studios closed
and several production companies went bankrupt in the 1937 cri-

An important aspect of the 1937 catastrophe in the British
film industry was the fact that the investors and the producers
chose to imitate the Hollywood pattern of high budget production
to gain access to the American and other markets. The "quota
quickies" could recover their costs and perhaps make a small
profit in the domestic market. But without the international
markets, high budget films could not recoup their costs at home
let alone make a profit. The choice made by the financiers was
international pictures meaning pictures with a big star cast and
other expensive production elements. Although not every big
budget picture with stars guarantees a high profit, the Ameri-
can companies could follow that pattern because with assured
markets at home and abroad they could minimize the losses and
also spread them over the successful ones. But the British production companies did not have that luxury.

The Moyne Committee set up by the government in 1936 had investigated the film industry and recommended an increase in the exhibitor's quota to 50 percent for British pictures in the following ten year period. A new Cinematograph Films Act was passed in 1937 which dropped the film quota to fifteen percent for exhibitors, twelve and a half percent for distributors in the first year, rising in stages eventually to 30 percent and 25 percent respectively. The initial drop was to accommodate an estimated fall in production output. To do away with the "quota quickies," the new act created incentives to exhibitors and distributors to invest in costlier pictures. It set a minimum cost of one pound per foot for film production depending on labor costs. Further, it instituted double and treble quotas so that a film costing three pounds a foot would be counted as twice its length and five pounds a foot three times its length for renters' quota.

The 1937 act did not seem to have had a major impact on British production as the closed studios did not reopen. However, some film makers - Korda, Hitchcock and others returned to production.

Following the 1937 act however, the American industry carried its occupation of the British film industry a significant step further. From control via distribution, it entered the next stage of directly producing pictures in British studios. Some leading American distributors had hired British producers to make quota films after the first Act in 1927. Alexander
Korda had founded the London Film Productions in 1932 and had made films for United Artists. MGM opened a British production wing hiring Michael Balcon who had been with GBPC to manage it. The American films produced in British studios were given the status of a normal MGM product in the U.S. market assuring them a wide market and a certain degree of financial success. MGM's first film, A Yank At Oxford was directed by an American and was commercially successful. This was to set the trend for other American majors to bring their own technical people and stars to make films in Britain.

With the coming of World War II, many large studios went out of production due to scarcity of capital, workers, electricity and raw materials etc. By 1942, production plummeted to 46 pictures. With the reduced output, the screen quota as stated in the 1938 Act was abandoned between 1942 and 1947. During the war years, American distributors supplied a greater number of pictures to theatres in Great Britain. At the end of the war, the American distributors flooded the market with new films. In 1947, 350 new films were available with American distributors for release in the U.K. This was a serious set back for British producers as they had to wait longer to find screen time for their pictures.

An important trend started in the late thirties was that of prominent British directors contracted out to work in Hollywood, which had by then become the film capital of the world. This trend was accentuated during the war when production in the U.K. dropped significantly. Hitchcock signed a contract with Selznick...
pictures in the U.S. His first American picture, Rebecca won an Academy Award for the Best Picture in 1940. Victor Saville was another director lost to the American film industry. Korda, another prominent producer was made head of MGM-London Films, its production unit in Great Britain in 1943.

Higher entertainment tax, reduction in the hours of operation and shortage of personnel were some of the reasons for poor economic conditions in the exhibition industry after 1945. Many independents went out of business in this period. However, concentration in the industry in the vertically integrated firms proceeded rapidly. A new firm consolidating many studios and existing circuits emerged in this period and grew into a transnational firm of considerable size. Known as the Rank Organization Around The World, its history characterizes the relationship between British and American film industries at that time.

J. Arthur Rank had started British National Film in 1934 to make religious pictures but had soon found that first-run theatres were monopolized by the American distributors. So he began to acquire theatres with his own capital from his flourmill operations in the Yorkshire area. He had the financial backing of a jute industrialist also. By 1936, Rank's production interests consisted of Pinewood Studios Ltd., and British and Dominion, a production company which had a distribution agreement with United Artists since 1933. Korda's Denham studios and Amalgamated studios at Elstree were also bought by the Rank group during World War II.

Rank made a spectacular expansion into exhibition and
distribution as well. In 1936, Rank formed the General Cinema Finance Corporation (GCFC) with capital from a number of large scale financial or industrial concerns. Immediately following that, the General Film Distributors (GFD) came under the new corporation's control. In the same year, a leading American producer-distributor, Universal, passed into the hands of a group of American and British financial interests which included Mr. Rank. Consequently, Universal's distribution subsidiary in Great Britain was merged with GFD. A major number of Universal's pictures released in the U.K. were distributed by GFD.

Rank had other American links at that time. GFD, as pointed out earlier, had an agreement to distribute some of United Artists pictures in the U.K. The Rank group's pictures were being distributed in the U.S. by United Artists and Universal. All that was lacking to make the Rank group a vertical combine was a theatre circuit, which was soon realized.

By 1937, Odeon had grown into the third largest circuit in the country with 250 cinemas on par with Gaumont-British and ABC. The Rank group acquired a share interest in Odeon in 1938 and Mr. Rank joined the Odeon board in the following year. Rank eventually bought the Odeon circuit in 1941, which by then consisted of 306 theatres. At the same time, Rank had become the chairman of GBPC, consisting of a circuit with 251 theatres which Rank administered as a separate company.

With the rising attendance in the forties, Rank expanded into the British Colonies to control theatres thus imitating the expansionist policies of the American giant film corporations.
The Rank Organisation had a policy of going into 50-50 partnerships with the colonial capitalists in owning theatres. It bought an interest in the Odeon Theatres circuit in Canada (100 theatres), Kerridge Circuit in New Zealand (120 theatres), and Greater Union Theatres in Australia (82 theatres). This provided guaranteed market access to Rank's films in the first run markets in those countries.

Gaumont-British and Odeon, two circuits controlled by the Rank Organisation and the ABC circuit controlled by the ABPC were dominant in the domestic market. This duopoly was to continue till the present.

Certain close ties existed between the American majors and the two theatre circuits in 1941. Although there was no exclusive American control of any British circuit, United Artists and Twentieth Century-Fox had a share interest in the control of Gaumont-British. Warners had acquired an interest in the ABC circuit. Paramount had a small first-run circuit but it was sold to Odeon in the late thirties. Several American firms had important pre-release theatres in London, which they used as 'show cases' for their firms.

While ownership ties and exclusive franchise agreements with the circuits gave the American majors significant control of the first-run market in Britain, Rank and other producers had a great deal of difficulty in gaining access to the U.S. market. Rank particularly had attempted to build a strong production base for British films following World War II, but British pictures could not recoup their entire cost in the relatively small
home market. Rank's strategy was to secure mass distribution for its expensive films through the large circuits in the U.S. and not only make a profit for those pictures but to create a steady demand for them. But that experiment failed when Rank could not obtain sufficient bookings for its pictures to justify the costs of mass distribution. Rank had bought a theatre in New York to serve as a show case for its big budget pictures. Although that assured Rank's pictures release dates in one city, the other markets being controlled by the American majors were nearly closed to Rank's pictures. Arthur Rank personally went to the U.S. to sell his company's pictures to American distributors in 1947 and was able to obtain some deals. However, his plan collapsed due to certain developments in Great Britain.

In the aftermath of World War II, the balance of payments problem had become so acute in 1947 that the British government was forced to impose a customs duty of 75 percent on the value of all imported films. It was done in an attempt to curb the dollar drain to the U.S. as American films were earning about $70 million annually by 1947. The duty was based on estimated earnings and had to be paid in advance. The American distributors' counter offensive was swift.

The MPEA declared a boycott of the British market in April 1948 which lasted seven months. This however did not mean that no American films were shown in British theatres. Because anticipating the duty, American distributors had stock-piled about 125 new films in Britain. When that supply was exhausted old films were reissued. The MPEA negotiations with the Board of
Trade culminated in May 1948 when Harold Wilson, the president of the board signed an agreement with Eric Johnston of the MPEA. The duty was repealed and the agreement allowed $17 million to be taken out by the MPEA companies for 2 years, which could be increased by the equivalent of British film earnings in the U.S. The agreement also specified how the remaining funds should be invested in the production and distribution of films in Great Britain. A joint committee was formed to supervise the same. The U.S. companies were allowed an investment of up to two and a half million pounds outside the film industry in Great Britain.

The MPEA retaliation affected the Rank Organisation's plans of distribution in the U.S. market. All the deals were canceled with the announcement of the duty. Consequently, Rank's efforts failed in cracking the lucrative American market. It did not resume negotiations with the American distributors after the duty was abolished because the Cinematograph Films Act of 1948 raised the exhibitors' quota to 45 percent for first features and 25 percent for the supporting programme. Though the distributor's quota was removed for the time being and the percentage was to be fixed in accordance with the supply situation, the MPEA companies did not receive the increase in the exhibitors' quota well. They successfully lobbied with the government in Great Britain and the following year, it was reduced to 40 percent.

Production output in Great Britain had reached a peak in 1947 with 170 films registered with the Board of Trade. But it fell to 119 films in the following year as financing became tight due to uncertainties in the industry. This downward trend
did not level off until the early sixties.

Another reason why production in Great Britain declined was because the Rank Organisation, the largest vertically integrated firm in Great Britain stood at the brink of an economic disaster. In the absence of American films, Rank stepped up production to provide the necessary supply of films for theatres in Great Britain. But the agreement signed by the British government with the MPEA permitting unrestricted entry of American films had an adverse effect on Rank's earnings in the domestic market. Lacking any significant access to the American market, coupled with over expansion, Rank suffered heavy losses. Most of Rank's producers became either unemployed or went to work with British Lion. This was to have a great impact on Rank owned theatres in other countries including Canada as they became dependent on American product.

The government had created a film investment bank called the National Film Finance Corporation (NFFC) in 1948 to lend money to British producers who had already secured distribution deals for their film projects. The NFFC operated purely as a business venture and not necessarily to assist the production of artistic or cultural films. But its working capital of five million pounds was soon recognized by the government as inadequate to function well. A government inquiry committee headed by Professor Arnold Plant after studying commercial distribution and exhibition in 1948 had found that there was an absence of competitive trading. The rigid market conditions, according to that committee, made for an inability to extract a film's full potential at the box...
office. It strongly urged structural changes in distribution. Although that recommendation was never implemented by the government because it meant confronting the American monopoly firms, further assistance to film production on a continuing basis was instituted.

The source of government financing was a levy on the box office receipts of all films released in the U.K. which would provide a minimum of 3 million pounds annually. It was a direct subsidy to the producers of "British" films and was based on the quarterly distributor's gross revenues. This policy, called the Eady Plan, named after its author Sir Wilfrid Eady, came into effect in 1950. The prime recipients of this subsidy were commercially successful British producers because it was calculated on a film's earnings and not its artistic or cultural merits. The films with less wide appeal would benefit the least under the Eady Plan. It did not take long for the American subsidiaries to discover the Eady Plan to be lucrative.

Branch Plant Production

With the declining attendance in the fifties in the American market, foreign markets were becoming increasingly important for revenues for American companies. The economic incentives provided by the Eady Plan encouraged branch plant production in Great Britain.

This shift in policy on the part of the American companies was desirable and necessary from many viewpoints. Faced with unionizing in the American studios, European studios offered lower costs of production to the American producers.
Furthermore, many European governments provided economic incentives such as favorable taxes. At the same time, in a branch plant economy the jobs created and taxes paid could be used by the MPEA as bargaining tools with foreign governments if they contemplated any market barriers or nationalization. Rome, Paris, and London became mini Hollywoods.

American subsidiary corporations making films in Great Britain or financing British producers increased slowly during the early fifties and accelerated in the late fifties to continue throughout the sixties. This is reflected in the number of "British" films the American distributors secured for distribution in the U.K. market. In 1947, only 6.2 percent of "British" films were registered for distribution by nine American major distributing companies. The same companies accounted for 45 percent of all films distributed in the U.K. that year. By 1958, those nine companies distributed 43.3 percent of all films but 25.7 percent of "British" films available that year. The total number of films American distributors handled in the U.K. remained fairly constant till 1967 but they distributed almost twice as many "British" films compared to 1958. This marked a significant change in the policy of the American companies.

Many British directors made films in the 1960's with American financing which were distributed widely. David Lean was the foremost among them with many big budget pictures as, Bridge on the River Kwai, Lawrence of Arabia, and Dr. Zhivago.

As production came to be dominated by American financing, a lion's share of the government subsidy payments were made to
the American subsidiaries in Great Britain. According to Variety, American subsidiaries received as much as 80 percent of the subsidy funds in 1966.37

American involvement in "British" production was on the decline in the seventies perhaps because the major American companies had begun to diversify their interests. Costs of production in Great Britain may also have gone up. Whatever were the reasons, American financed pictures in Great Britain declined in the seventies. In 1968, some 88 percent of the films registered in the U.K. were financed by American companies. But in 1970, it dropped to 66 percent. By 1974 American investment in "British" productions had reached the lowest mark. In the summer of that year, three films were made at Pinewood, one of the two major surviving studios. Rank financed only 4 films in 1974. Its annual report for that year summarized the British industry's situation in the 1970s in the following way:

Much has been written and said about the state of the British Film Industry but the unpalatable fact is that generally speaking, low budget films against the competent competition of colour television have little chance of financial success, whilst the high budget films, unless strongly supported by American distribution, have none.

The 1970 Films Act recognized this trend and maintained the exhibitor quota at 35 percent and provided an additional five million pounds into the NFFC over the period up to 1980. MGM shut down its worldwide operations in 1972 and its studio operations in Great Britain came to an end.

Rank had recovered from its financial difficulties by mid fifties but it did not step up production at Pinewood to the
previous level. The company began diversifying its interests with investments in leisure industries first. Rank's Gaumont-British and Odeon circuits were merged in 1958 and as a result the duopoly in the theatrical market in Great Britain continued.

The Anglo-American cooperation in the last decade was possible because it suited the interests of the American major production companies at that time. Despite the government subsidy in Great Britain, American companies pulled out their investment in "British" production when those funds could be invested in more profitable industries or ventures.

Summary

The British film industry did not develop a firm commercial base for reasons within and outside Great Britain. Monopolization of the first-run theatrical market and the distribution market by American major distributors were important factors for the underdevelopment of British cinema. Producers in Great Britain received the same discriminatory treatment as the American independents did by the U.S. monopoly firms. When vertically integrated structures came about after the British government introduced legislative measures to ensure domestic production, the major circuits depended for their supply of films upon the American distributors. The production and distribution efforts of the British vertically integrated firms for the American market were thwarted when reciprocal access to their pictures in the U.S. market was unavailable. In the film, as in other industries, British firms even when they imitated American industrial strategy in exploiting dependent countries' markets, were reduced
to junior competitive status and became dependent on the U.S. industry themselves.

Extraction of profits from the U.K. market to support production in the U.S. and the attraction of the best British talent to Hollywood, the centre of world film production, were other important reasons as to why the British film industry remained import oriented. Two hegemonic wars were additional reasons which depleted men and money from the film industry, weakened Great Britain and in every respect strengthened and helped establish American films in the British market. Finally, branch plant production in Great Britain gave "British" films a wider economic base but it neither brought stability nor did it help carve out a distinct character for the films made in Great Britain.

In general, government policies helped maintain a certain minimum level of film output and employment in the industry. They have also induced a certain level of competition in the distribution market which did not exist prior to the legislation in 1927. However, the British government policy proved incapable of doing away with the foreign monopoly power in the film industry.

In the face of the American majors' domination of the world motion picture market, the British film industry has remained vulnerable to crises and dependent on the government. Though Canada was a colony of Great Britain once and within its influence in the early 1900s, the relatively weak position of the British film companies vis-à-vis the American firms, both at home and abroad resulted in Great Britain not becoming Canada's principal supplier of films. Indeed British policy to develop
an indigenous film production industry was subject to the same force that prevented Canada from doing the same, i.e., the aggressive power of the giant integrated U.S. film corporations. The difference lay in the fact that Great Britain at least tried, but Canada did not, to combat the U.S. film invasion and occupation as it will become apparent in the next two chapters.
ENDNOTES


2. Ibid, p. 32.

3. Ibid, p. 32.


13. Low, Rachel, *op. cit.*, p. 44.


19. Ibid, p. 70.


22. Ibid, p. 74.

23. Ibid, p. 70.

24. Ibid, p. 70.
25. Ibid, p. 70.
26. Ibid, p. 82.


31. Ibid, p. 86.
32. Ibid, p. 97.
33. Ibid, p. 98.
34. Guback, Thomas H., op. cit., p. 44.
36. Twentieth Century, Columbia, Fox, MGM, Paramount, United Artists, R.K.O., Warners, and Warners-Pathe were the major distributors at the time. See Guback, Thomas H., op. cit., p. 63.
The purpose of this chapter is to examine developments in the Canadian feature film industry, tracing historically the patterns of monopoly and competition as affected by the film industry and government policies of the centre(s), i.e., the United States and United Kingdom, and the periphery, Canada. This chapter will also help to see if and how well the model (page 18) applies in explaining and understanding the Canadian film industry.

The Early Years

Exhibition and Distribution

The flickering images presented in vaudeville and variety houses in the early 1900s had caught the imagination of Canadian audiences also. Many pioneer showmen with a limited number of films at their disposal showed their collection and when the audience became weary of them, they moved on to another town or a city. These travelling businessmen had to buy pictures outright in those days, and use them until they literally fell apart. Their supply of films and equipment came from Edison in America, Lumière in France, and from various British manufacturers. As producers could not supply all the film the exhibitors demanded, rental of films came into practice. The exchanges rented pictures on a flat rate basis to travelling exhibitors.

At the same time, single-scene films were being replaced by one reels which encouraged the establishment of permanent theatres in Canada. John Schuberg, a travelling showman from
western Canada, was impressed by the first such theatre in the United States, built in 1902 by Thomas L. Tally in Los Angeles, and started his own permanent theatre in Canada. It was the Electric Theatre in Vancouver which opened with Edison's film, Mount Pelee in Eruption. Schuberg followed his first venture in exhibition with the Dream Land and the Unique Theatre in Winnipeg. The latter opened with The Great Train Robbery, another American film. By 1909, small circuits were being formed all over Canada. Schuberg became the owner of a circuit of eight theatres which spread into Manitoba and central United States.

The border between Canada and the United States did not seem to exist for these pioneers; as businessmen from both sides of the border criss-crossed the country in those years. This practice was to be an important factor in the way the Canadian film industry developed. There were many entrepreneurs—both English and French, who rented stores to turn them into theatres at night. Ernest L. Ouimet was another Canadian pioneer, who built the first successful permanent theatre in 1906 in Montreal, which he called the Ouimetoscope. His theatre was the forerunner of the movie theatre of today, because Ouimet offered two shows a day, reserved seats, and "illustrated songs," all of which became normal in the theatre business in the following years.

However, one family, the Allen Brothers, who moved to Canada in 1906 from Pennsylvania, were to build an extensive and profitable business structure. Close attention should be paid to the Allens as they are important to the analysis in this chapter.

The patterns of Canada's motion picture industry were established in its early days. The exhibitors and exchange owners...
were predominantly Canadians, but very few films they exhibited were produced in Canada. Some of the early nickelodeon men made their own films which were images of exotic Canadian scenery. Predominantly what Canadians, however, saw were imported films. Nickelodeon programs those days typically were made up of 60 percent American films, 40 percent British and French, and an occasional film or two from other foreign countries.6

Barriers to entry into exhibition and distribution of films did not exist in the early years of the Canadian film industry, as was the case in the U.S. and British film industries. All one needed was small sums of capital to enter the business. MPPC patent monopoly in the U.S. did not affect Canadian exhibition and distribution because French and British manufactured equipment and films were available in the country. However, the film production sector lacked the vigorous competition prevalent in exhibition and distribution in the early years of the industry.

Film Production

Between 1906-14, four companies attempted to produce films in Canada: the British American Film Company of Montreal, the Canadian Bioscope Company of Halifax, the Connes Till Film Company of Toronto, and the All-Red Feature Company of Windsor.7

The British American Film Company produced the first Canadian dramatic film, The Battle of the Long Sault, a two-reeler dealing with the Iroquois expedition to attack the French settlement at Montreal. It was completed in 1913 and was praised by an American critic for its good photography and thrilling scenes.
But it is not known whether it received wide distribution. The company went out of business soon thereafter.

The Canadian Bioscope Company had studios and offices in Halifax. It produced *Evangeline*, its first feature based on the expulsion of the Acadians, another historical theme. The film cost the producer $30,000, high for its time, and was 5,000 feet long. Released in 1913, it was an artistic and a financial success in Canada as well as in the U. S. markets. However, Canadian Bioscope's six features that followed were not so successful. Only three of them gained theatrical release. The company went out of existence during World War I, apparently due to loss of its personnel.

All-Red Feature Company was started by an American cinematographer, Frederick Colburn Clarke. Based in Windsor, Ontario, the heartland of the Empire loyalists, the company stood for the red of the British Army and not that of communist Russia. *The War Pigeon* was its first and only dramatic film, another historical piece dealing with the War of 1812. It was adapted from a story written by Arthur Stringer, a Canadian novelist. The film was reasonably successful in Canada and the British American Film Company of Detroit released it in the United States where it failed to arouse any interest. During the War, the All-Red Feature Company released a newsreel series in support of enlistment. The Company did not last long. Clarke returned to the United States to become the head of still photography for the Goldwyn Company.

*Connes Till Film Company of Toronto* was organized with capital from three American and one Canadian businessman in.
1914. A studio was built at a cost of $50,000 outside Toronto and the company held a well-publicized nationwide contest for scripts. It received 500 entries from Toronto alone. The first feature, *On the King's Highway*, a story based on the Royal Canadian Mounted Police, was a three-reel drama which was well acted and well photographed. It was released in 1915 but it is not known to me whether it was distributed in the United States. Companions were to release two or three reelers every week following the release of the feature. But internal company conflicts ended their plans abruptly. In the same year, a fire ravaged the studios, causing the demise of another production company.

The history of these four companies points to some of the important problems in the infant film industry in Canada. All four companies had difficulty finding the necessary talent and technicians to make a film. The vitality of the popular arts in America was so inviting to the undiscovered Canadian actors/actresses and other talent, the many Mary Pickfords, the Mack Sennets, the Jack Warners were emigrating to New York/Hollywood. This continues today. The tremendous fluidity that existed between theatre, music, and other arts in the American scene contributed enormously to the growth of a production industry in the U. S. Canada at that time lacked a theatrical, vaudeville, and musical tradition that was common to the British and American film industries. Sources of capital for film production were to dry up with the failure of these companies to produce profits.
which largely depended on securing a wide distribution and exhibition for local productions. Distribution and exhibition markets were already dominated by American and British films.

Was there any demand for Canadian films in Canada? The anti-American sentiment prior to and during World War I gave expression to such a demand. In the Federal election of 1911, when the reciprocity treaty or the Liberal government's policy of open trade with the U.S. became a national issue, Canadians expressed a desire for the production of films closely related to their own lives and backgrounds. It surfaced later on again during World War I when the Canadians felt that American films did not portray their heroism in the War, and as a matter of fact, insulted them by an excessive display of Stars and Stripes. Various censor boards established by 1911 banned films, which in their view unnecessarily flaunted American flags. It is also to be noted that Canadian and British were interchangeable terms in those days. Leading Canadian newspaper editorials called for films produced in Canada supporting the War effort and the Canadian fighting men's bravery in the War. The American trade paper, Moving Picture World, criticized the Canadians with the following remark:

Canadian imperialists are complaining about having to witness too many deeds of Yankee valour in moving pictures. No reciprocity wanted—excepting Yankee dollars.¹³

As though a response to the public's demand for Canadian films, almost a dozen companies were established between 1914 and 1922 to make feature films. Canadian National Features,
one of those companies urged the Canadians to invest in the company's stock on patriotic grounds.\(^{15}\) The Canadian public responded well because $278,000 worth of stock were subscribed within weeks of the company's incorporation in 1916.\(^{16}\) But none of the companies produced films on a continued basis. The most those companies made was one or two films. For production to occur on a sustained basis, as was the case in the American film industry, integrated companies controlling production and distribution had become a necessity. While there was a certain degree of demand for Canadian-made films, production in the absence of integrated companies was not feasible. To see why Canadian producers could not develop such integrated structures, it is necessary to examine the developments in the exhibition/distribution sectors of the Canadian film industry.

Industry Structures and Policies in Exhibition/Distribution

The Allen Theatres Circuit

The analysis of the industry structures/policies must begin with the Allen Theatres because its evolution and development set the pattern for the industry as a whole. In less than a year after they moved to Canada in 1906, the Allens had started store-front theatres in Kingston, Berlin, Chatham and had also bought a large number of one-reel films.\(^{17}\) They found other store-front theatre owners, who were eager to rent or exchange films. As a result, they went into the film exchange business which was called the Allen Amusement Corporation, an owned distributing company.\(^{18}\) The Allens, thus started the integration
process of exhibition and distribution which was observed in the U. S. and British film industries.

The policies of the U. S. producers and distributors were to affect the Canadian motion picture industry in its early days. Before the arrival of large national exchanges, American producers sold exclusive franchises of their productions to distributors in various territories both in the U. S. and Canada. Many of these distributors were also exhibitors, thus the franchise assured access to the market to the producers. This essentially was a monopoly practice because the franchise holder controlled those films in that territory, which meant that he not only had the right to first showing of the films in his theatres, some of his competitors in the same market were dependent on him for a portion of their supply. The Allens had acquired the rights to distribute Pathé and Independent Motion Pictures' productions from the U. S. Being an integrated company, their theatres were accorded the status of first-run, and the control of a part of the supply of the subsequent-run theatres in the market gave the Allens a high degree of monopoly power over their competitors.

The struggle between the Motion Picture Patent Company monopoly and the independent producers in the U. S. discouraged the Allens as they feared uncertainties in the motion picture business. They sold their assets in the east and were out of the film industry for a short period. But by 1910, they returned to operate theatres, this time in the booming west. Calgary was growing rapidly, which attracted the Allens to start the Canadian Film Exchange with Independent Motion Pictures in the U. S. as the source of supply. They prospered quickly.
Empress" was the only theatre operating in Calgary, which was part of a 15-theatre circuit in western Canada, owned by a Winnipeg company. The Allens challenged the circuit by building "The Monarch," a 600-seat theatre. It was a proven tactic of the exhibitors those days to beat the competition.21 They built their second theatre in Calgary by 1913, called "The Allen Theatre." It was a lavish picture palace with a balcony and an organ.

The Allens combined good showmanship with sound business practices. What they sold to the public was the quality of the theatre and not necessarily the movies themselves. Because of the criticism of motion pictures as "bad influence" on the people's morals by some conservative quarters, a "respectable" audience, the Allens perhaps thought, elevated the medium and increased the chances of the higher classes accepting it.

More importantly, the large-capacity theatre with lavish architecture became more desirable to the distributors because of its audience-drawing power. Hence it was bestowed the status of first-run thereby reducing the competition theatres to second-run. Exhibitors, as a result, competed with each other to build better theatres, because the right to first showing of a film ensured relatively greater earnings at the box office. One researcher found that first-run theatres in the U. S. provided well over 50 percent of the total revenue and, in some areas, as much as 80 percent.22

By 1914-15, the Allens' distribution arm expanded nationally. The success of the Allens was based on the exclusive franchises they had secured from the New York producers.
Paramount Pictures had been organized as a buying combine in the U. S. to distribute Zukor, Lasky and other independent producers’ films. The Allens feared Carl Laemmle, previously the source of their films, could not offer them as attractive a supply of films as Paramount Pictures did. Hence they bought the exclusive franchise for Canada of Paramount films, which they called Famous Players Film Service Limited.23

By 1915, Toronto was developing into the largest market for movies in Canada. It had twice as many cinemas as Montreal and the largest movie-going public in the country. The Allens decided to move to Toronto that year. They had sold all their theatres in the east earlier so they had to begin anew. Their nine theatres in the west were consolidated with their distribution firm under a holding company which was called the Canadian Paramount Pictures Corporation Limited.

The First World War in Europe had a substantial impact on the flow of pictures into Canada. Imperial patriotism was well evident all over Canada, particularly in Ontario which had a concentration of Orange men with their loyalty to God and King. The American government was neutral to the War until it was nearly over. Many patriotic patrons and exhibitors in Canada expressed their concern regarding the overwhelming presence of American films in Canada, which did not support the War effort. The Allens responded to that sentiment by hiring an agent in England to buy British pictures for distribution in Canada.24 One of the better films that reached the Canadian theatres because of that effort was Bruce Bairnsfather’s, "Better 'Ole," a comedy that played in the Allen's Tivoli theatre in Toronto for a 16-week "run,"
probably an unprecedented record for any feature-length film from any source at that time. Many exhibitors loyal to the British Empire tried to expand the market for British pictures by starting such special events as "All-British Film Weeks." These Film Weeks were being organized in England at the time to help the British production industry, which was in a crisis due to its inability to compete with American companies. The idea failed in Canada as it did in Britain. The response of the exhibitors in Canada to the patriotic fervour was typically colonial in that they made no attempt to invest in indigenous production of films.

In the interest of the War, the Canadian government intervened in the motion picture industry. The government must have realized that if left entirely to the companies in the distribution and exhibition of films in Canada, War propaganda films would not receive much distribution. In 1917, W. J. Hanna, the Food Controller, announced the formation of the Motion Picture Committee of the Food Controller and issued the following statement:

Realizing the possibilities of the motion picture theatre as an influence in almost every Canadian community, I have authorized the formation of a Motion Picture Committee to organize the educational work of the Food Controller's Office for the screen.

This Committee consists of one representative from my office and leading representatives from the motion picture industry in Canada—Messrs. Jule and Jay J. Allen and Mr. Clair Hague, (Canadian General Manager, Universal Pictures Corporation) who have patriotically volunteered their services.

I count on the patriotic spirit of Canadian exhibitors in asking them to cooperate with these gentlemen towards giving the greatest possible
publicity to the special films and slides produced for the information of the public on the important war measure of Food Control. 25

Many of the films in this program came from Britain. It is not known whether any were made in Canada for that purpose. The mobilization of the distribution and exhibition sectors of the film industry on the part of the Canadian government on a voluntary basis was characteristic of their intervention in the motion picture market. Chapter VIII will deal with this aspect of government policy in depth. The War reduced film production in Britain significantly resulting in Canada becoming more dependent on American films.

As Paramount's position became preeminent in the U. S., the Allens, having the exclusive franchise for Paramount's films, amassed more wealth, which they invested in extravagant picture houses. They often bought old theatres and remodelled them in exotic and elegant architectural style. "The Temple" in Edmonton, costing $150,000, sat 1,600 patrons. "The Allen Theatre" in Winnipeg was budgeted at $500,000. A new theatre in Montreal was to cost the same amount.

By 1919-20, the Allens were the largest theatre chain in Canada, owning 45 theatres across the country, and had ambitious plans to become the world's largest theatre owners. Allens expanded into the United States. They built a 3,000-capacity theatre in Cleveland. 26 Their Detroit theatre sat 3,500 persons and it was the third-largest theatre in the world when it was built. They had plans to build a picture house with two separate theatres inside in London, England, but were prevented by the turn of events in Canada.
Vertical Integration with the U. S. Film Industry

The Allens had powerful rivals in Canada. The growing popularity of the motion picture entertainment around the world had resulted in high profits for the leading American producers and distributors who had decided to expand their operations internationally by 1920. Vertical structures based in production—First National and Paramount Famous-Lasky—were competing fiercely to control the box office. Paramount had positioned itself directly to own theatres to retain its dominant position in the market. These developments in the U. S. industry had a profound significance for the growing Canadian motion picture industry.

As Zukor contemplated buying up large theatre chains in the U. S., he cast his eyes on Canada's largest theatre chain owned by the Allens. The Allens not only refused Zukor's offer for a 50/50 partnership in 1916, but also bragged about it to a friend and neighbor, Nathan L. Nathanson, who operated a theatre in the Toronto area. Nathanson went to New York to persuade Zukor to get for himself the Paramount franchise, which was up for renewal in 1919. Nathanson suggested to Zukor that he should build a theatre chain rivalling that of the Allens, which was not accepted by Zukor. Furthermore, Zukor asked Nathanson to build a small theatre circuit and prove to him that Nathanson was capable of running a theatre circuit, after which he would consider giving him the Paramount franchise.

Nathanson formed the Regent Theatre Company in 1916 with capital from a coterie of three Toronto businessmen—J. P. Bickell, J. B. Tudhope, and W. J. Sheppard. By 1919, Nathanson
started the Regal Films Limited, which was headed by Bickell, and Nathanson was the managing director. Regal Films acquired exclusive franchises for the films of Select, Triangle, and Metro companies throughout Canada. The Regent Theatre company subsequently grew to a 16-theatre circuit.

By this time, Nathanson's initiatives had convinced Zukor to go into partnership with the Nathanson's group. An agreement was signed by Paramount Famous-Lasky and Nathanson's new company, the Famous Players Canadian Corporation, on February 5, 1920, whereby the latter corporation obtained the exclusive right to exhibit Famous-Lasky pictures in Canada for a period of 20 years. It was a 50/50 partnership and Zukor became the first president of the Canadian company, and Nathanson the managing director. As will be discussed later, this was to be an important avenue for Famous-Lasky to secure monopoly power over the Canadian theatrical market.

Vertical integration, which started in the U. S. film industry, was extended into Canada as though there were no borders between the two countries, in the period 1920-1930. Indirect control of the Canadian market had been accomplished by major American distribution companies prior to vertical integration by the exclusive franchise agreements with the Allens. The British film industry had been in a similar situation before the British government intervened in 1927, as was discussed in the previous chapter. But direct ownership of a theatre circuit which was to grow into a dominant position in Canada further entrenched American films on Canadian screens. By 1925, merely five years after vertical integration with an American major film corporation,
95 percent of all films exhibited in Canada were supplied from the U. S. major film companies. Canada provided five percent of total world film market revenue for Hollywood. Integration with an American monopoly firm also meant dominant control of the Canadian film industry, where competition from rival producers, distributors, and exhibitors, was minimized.

The cornerstone of the Allen Theatre Circuit was the continuing supply of films from Zukor's company. When that was removed, their empire was on shaky grounds. Lord Beaverbrook, who had bought an interest in Gaumont-British, one of the largest theatre circuits in England, expressed an interest in the Allen holdings, offering $5,000,000 for a 50 percent partnership. Two of the largest investors in the Allen's company, First National's Harry Brouse and Bank of Commerce's Chisolm, turned down the Beaverbrook offer. It is hard to say whether the Allens could have survived a little longer if they had the financial support from Britain and whether more British pictures would have been released in Canada. British film production, as discussed in the previous chapter, was itself a victim of American monopoly control at that time. Having lost the Paramount franchise, the Allens aligned themselves with the First National, a vertically integrated company in the U. S. They were to survive only for the next three years in competition with Nathanson for a number of reasons, to which I will return shortly.

Prime position in the first-run portion of the exhibition market rested on newer, bigger, and comfortable theatres. Nathanson therefore announced the building of 20 new theatres in
the year 1920. Allens themselves had tried this earlier against the smaller independents and succeeded. By 1921, New York's Moving Picture World described the Canadian situation in the following way:

The Allens are operating 55 theatres in 30 cities in Canada. There is practically direct competition between Famous Players Canadian Corp. and the Allen's all along the line from Vancouver to the Atlantic coast. The Allens' build their theatres with the aid of local capital, shares being floated as popular investments, while Nathanson's company has been backed by capitalists. Famous Players has had a strenuous building campaign with new "Capitol Theatres" opened in Montreal, Ottawa, Winnipeg, Regina, Calgary, Vancouver, and other houses at Oshawa, Saul Ste. Marie, and Peterboro.

Canada has less than 1,000 theatres, but the country has been a battle ground for two competing organizations whose holdings rival the theatre chains of the largest corporations in the U. S. or Great Britain.

The crux of the matter lay, as it is hinted in the quote above, in the fact that Nathanson was backed by international monopoly capital, which could overpower the Allens' merchant capital. The international capital also had its allies in Canada's big capitalists. When the Allens decided to reorganize all their companies, after the break with Zukor in 1920, and tried to raise $5,000,000 in preferred shares sold to the general public, they failed. The underwriting was handled by a Winnipeg firm, the Edward Brown and Company, whereas the prestigious Montreal-based Royal Securities Corporation Limited handled Nathanson's underwriting. Canada's big capitalists, just as their counterparts on the Wall Street, were attracted to the real estate end of the motion picture industry rather than the creative end of it, where risks were hardly ever under control. They also
understood the importance of the franchise agreement with Zukor well. For instance, Mr. I. W. Killam, whose Royal Securities Corporation Limited financed the underwriting of Famous Players Canadian Corporation's building plans, admitted that the foundation of the original financing of the Famous Players Canadian Corporation was the franchise. According to Killam, the franchise was at least, "essential to assure the stability of the investment of the large amount of money being spent on theatres."33

Famous Players Canadian Corporation was soon to lose any Canadian control that might have existed. The 50/50 partnership between Zukor and Nathanson's group lasted until August 30, 1930, when by exchanging four shares of Paramount for five shares of Famous Players Canadian Corporation, Zukor secured 93.8 percent of the total issued shares of the Canadian company. Subsequently, a three-man Voting Trust was set up consisting of Zukor, Nathanson, and Killam. Ostensibly the object of the pooling of the shares was to give the public the impression that Famous Players Canadian Corporation was a Canadian-controlled company in as much as two of the Voting Trustees were Canadian, and the pool had share control of the Company. Greenshields & Co., which sold the shares, issued a circular that stated:

Control of the Company is being assured to Canada through the purchase of common stock previously held by American interests. For the purpose of retaining this control and providing continuity of the present successful management, voting control has been placed for a period of ten years in the hands of three trustees under a deposit agreement in favour of the Montreal Trust Company.34
This circular may have been issued to induce the Canadian public to buy Famous Players Canadian Corporation's shares. On the other hand, there may have been some pressures from stock holders, at least some sections of them, to get control of the company into Canadian hands. However, speculation aside, the real object of the Trust appears to be to protect Famous-Lasky in respect of the franchise agreement, which gave that American corporation control of the Canadian market on long-term basis.

The Growth of Famous Players Canadian Corporation

Some of the important policies and tactics employed by Famous Players Canadian Corporation (Famous Players) under the leadership of Zukor/Nathanson to grow into a dominant position in Canada will be discussed here. It is relevant to go into the details, not just because they form the historical backdrop to the study of monopoly and competition in the Canadian film industry, but also because some of the same tactics were to be repeated in the 1970s against the independent exhibitors who were to challenge the structure of domination.

Armed with the most lucrative franchise of the day (Paramount films), and backed by big national and international capital, Famous Players expanded rapidly. The new company went after the independents with a vengeance unsurpassed in Canadian motion picture history. Famous Players had its own "wrecking crew" and the "dynamite gang" to help in its goal to monopolize the Canadian theatre business, just as its parent company in the U. S. had. When an independent refused to sell or cooperate with
Nathanson, his associates would go to the extent of putting pressure on the landlord of the exhibitor to sue the leasee for rent unpaid, which, of course, would be a false charge, but create enough trouble to a small entrepreneur. On one occasion, a stink bomb was exploded in an opponent's theatre, and the man who committed the act of bombing was traced to be on the payroll of B & F Theatres, a subsidiary of Famous Players.35 Lowering admission prices, forbidding the vaudeville artists who worked for Famous Players' companies to perform in the opponent's theatre, were some of the other proven tactics. Nathanson did not seem to have used any such tactics against his major competitors, the Allens, because his "wait and see" strategy seems to have been successful in their case.

Interestingly enough, the Allen's Empire collapsed from within. It was indicative of the fact that local merchant capital, which supported the Allens, could not withstand the combined onslaught of the international capital and indigenous big capital. The Allens were in a strong financial position in 1920. Their total earnings for the previous calendar year had been $459,154.23.36 However, they needed more capital to meet their planned construction of new theatres to which they had already committed some funds. Famous Players was beginning to drain their profits with the more popular Paramount films, although the Allens held Select, Goldwyn, and First National franchises.

Several external and internal forces bankrupted the Allens within the next three years. The Allens attempted to reorganize all their companies under a new holding company in
1920, which would be capitalized at $5,000,000 in preferred shares offered to the public. That was the same method which the Famous Players had successfully employed in generating the capital for its expansion. But the financing efforts of the Allens failed. They were neither a subsidiary of a large American corporation as Famous Players Canadian Corporation was, nor did they have prominent financiers of Canada on their board as Famous Players Canadian Corporation did. To compound their problems, a short but severe depression plagued Canada in 1921, which reduced the box office revenue, the only source of funds for the Allens. Economic conditions in the country worsened in 1922. Jay Allen, who was known for his venturesome behaviour, invested a large sum of money in the German mark. That was the current assets needed by Allens for their creditors. The mark plummeted and bankruptcy was inevitable. The Empire Palace of London sued the Allens for breach of contract over the theatre site, which the Allens had bought in London. They could not meet the payments. This event received publicity in the trade press and generated more problems to the Allens.

The major creditors of the Allens were the Simpsons, the Canadian Bank of Commerce, the Federal Department of Finance, and the First National in the U. S. As First National was fighting Paramount in that country, collapse of the Allens meant a loss of a sizeable market for their pictures. Hence, First National responded to the situation with an offered loan of $100,000 to keep the Allens afloat and asked the other Allen creditors to make proportionate advances. It seemed as though the Allens were
going to survive the crisis. But in April 1923, G. T. Clarkson Company, which was the authorized trustee of the Allen's for the benefit of their creditors, asked for tenders for the Allen Theatres Limited. Reasons for their decision are still unknown. First National's president, Robert Leiber, came up to Toronto to make a bid for the Allen's theatres, but Famous Players' bid was accepted. Twenty of the largest Allen theatres passed into Nathanson's hands. Soon the Allen's film exchange business was closed and their franchises were acquired by Regal Films, which was a subsidiary of Paramount.

Famous Players' Acquisition Tactics

Famous Players drew its strength primarily from two sources: the enormous capital that it could command which could not be matched by any independent at that time, and the monopoly franchise which gave it the choice of first-run pictures of Paramount and other company productions. Famous Players exercised these powers as manipulative tools to accomplish its goal to become the dominant theatre circuit in all of Canada.

A complex network of companies, some fully-owned and some partly-owned, was set up to bring independents under Famous Players' control. For example, in September 1924, by an agreement between United Amusements Limited, Independent Amusements Limited and Famous Players, a new company called the United Amusements Corporation Limited, was born. Seventeen theatres in Quebec came into the Famous Players network as a result of this agreement. In exchange, the Famous Players agreed to give the
new company the benefit of its franchise agreement with Paramount Famous-Lasky Corporation.41

Famous Players brought several independent exhibitors into partnership with them in order to reduce competition in certain markets. Once a company became a partner, the agreement stipulated that it would stop competing with Famous Players. For example, Loew's Theatre in Montreal was owned by an independent and in the Fall of 1922, it was in financial difficulties. Famous Players loaned $100,000 to Loew's and reorganized the company under the name Mansfield Theatre Company Limited. The reorganization brought the new company under the control of Famous Players. The new company also agreed not to compete against Famous Players in Montreal. Its headquarters was to be located at the office of Famous Players, which was to receive a booking fee of $100 per week during the life of the agreement of 20 years.42 This probably was Famous Players' way of making sure that the terms of the agreement were met fully, besides making some additional money in booking fees.

When Famous Players began their operations in 1920, they controlled 20 theatres in all. By October 1924, the circuit had in its possession 70 theatres across the country, the largest single chain ever built in Canada prior to that year.43 It had already assumed such dominant position in the Canadian industry, that Sidney S. Cohen, Chairman of the Board of the Motion Picture Theatre Owners of America, issued:

a needful warning to theatre owners to exercise eternal vigilance against any such deplorable state of affairs as exists in our fair neighbour to the north—Canada. One man there controls the
distributing rights to the product of every so-called "big company" in addition to theatres in any number of key spots. The predicament of the independent producers and distributors in fraught with danger.

Cohen's warning correctly pointed out what was to become a major problem to competition in Canadian theatrical film markets. However, Cohen missed the critical aspect of the control of markets in Canada, in that he did not seem to have realized that Famous Players was only a subsidiary of an American major vertically integrated firm at the time. I will return to this aspect of control in subsequent pages.

Another facet of Famous Players' take-over of small theatre chains was the reduction of an independent entrepreneur to a mere manager under the supervision of Famous Players' bosses. This in the end made him not only an employee of Famous but also a defender of their system. One such of many cases was that of B & F Theatre owners, Irving Samuel Fine and Samuel Bloom, who were operating four theatres in Toronto and had plans to build additional theatres in that city. In December 1926, Famous Players entered into an agreement with them and formed a new company called the B & F Theatres Limited. The charter of the company and its by-laws provided that the company's affairs were to be managed by four directors, two, the president and secretary-treasurer, to be nominees of Famous Players, and two, the vice-president and managing director, to be nominees of Bloom and Fine. The head office was moved to the office of Famous Players and the books and records were to be controlled by Famous Players. The agreement further provided that Bloom and Fine were to be employed
by the new company and they agreed not to compete for a period of
ten years in any capacity, or be otherwise than as such employees,
engaged in any way in Toronto in the motion picture business. Bloom and Fine were to book and select pictures and other enter-
tainments, but they could not "contract for pictures or other entertainments of any kind without the approval in writing of Famous Players." Bloom and Fine were later used by Famous Players to intim-
idate those independent exhibitors who were reluctant to join that company. Thus Bloom and Fine became defenders of Famous Players' monopoly power.

Pooling Agreements

The pooling agreement was a device of Famous Players Canadian Corporation (Famous Players), by which the receipts and expenses of two or more theatres were pooled and profits or losses divided between the parties to the agreement. The independents were persuaded to pool their theatres with Famous Players by guaranteeing them a steady supply of Paramount's films and also those of other distributors, often at prices lower than what the independent would pay. This tactic was used by Famous Players in certain markets where an independent theatre stood in competition with a Famous Players' theatre, thus lessening competition.

In 1926, three theatres in Nanaimo, British Columbia, operated by W. P. Dewees, who was exhibiting independently-pro-
duced pictures of the First National in the U. S., were pooled with B. C. Paramount Theatres Limited, a 100-percent owned sub-
sidiary of Famous Players. One of Dewees's theatres was closed
down. According to the pooling agreement, its purpose was as follows:

It is the intention that henceforth, so far as regards theatrical operations in the city of Nanaimo, the Paramount Company and Dewees shall cease to be in competition. 48

The same fate awaited the Gem Theatre in Nelson, B. C. The Royal Victoria, another one of Dewees's theatres, located in Victoria, B. C., run by Dewees, ceased to be a motion picture theatre under similar pooling agreements with Famous Players: It was rented for road shows and other purposes following the pooling. 49 As a result, Famous Players owned the only two first-run houses in town, the Capitol and the Dominion, which gave total control of the market to that company.

When pooling competing theatres did not materialize, Famous Players would resort to other methods of bringing pressure on the owner(s). One such victim was Joseph Frances Langer, who owned six theatres in Vancouver, British Columbia, and was planning to build another downtown theatre. The correspondence between Nathanson and his associates in Vancouver, and Langer reveals the power that was vested in Famous Players. In a letter on August 23, 1926, Mr. Nathanson wrote to Mr. J. R. Muir, managing director-secretary of B. C. Paramount Theatres Ltd., in part as follows:

I am still concerned about the Langer situation. However, no doubt he will make a substantial investment in the Orpheum Theatre and that might keep him from going any further. It is a situation that should never have been permitted to happen and never would have happened anywhere in the East. (Emphasis mine). 50
On September 13, 1926, Mr. Nathanson wrote to Mr. Muir again:

Perhaps there may be some way of bringing Langer around so he will do business with us and that would be preferable to building another theatre in opposition. If, however, we cannot get together with him and he should build in Nanaimo or Nelson or some other place, it would not make a great deal of difference, because we would have to stop him sooner or later. . . . You must realize that my main reason for building in opposition to the Grandview is that I think it is the only profitable theatre he will have and once he realizes what our opposition means he will be more willing to work with us.

Subsequently, Langer refused to pool his theatres with Famous Players and rented them to that company. Mr. Nathanson sent a congratulatory cable to Mr. Thomas on January 19, 1927, which said in part:

This is a good job regardless of whether the theatres are profitable or not, as Langer situation was not a good one for us.

On February 1, 1927, Mr. Nathanson wired Mr. Thomas, the intent of which seems to be to run the Langer theatres in loss:

If you think advisable to buy pictures on 15 percent basis for suburban circuit, do so. Use your own judgement. What we want to do is to cut Langer film rental at least one-third.

In less than three years, the Langer circuit, operated by Famous Players, was in loss as indicated by the following testimony by Mr. T. J. Bragg, secretary-treasurer of Famous Players:

Instead of bringing a profit of $25,000 per year (as prophesied by Thomas) the first year we operated that circuit we lost $5,163 and the second year, which was the first year of sound and the best theatre year, out of the six houses we made $2,600. The third year we lost $25,679.18, i.e., the year ending August 30, 1930, the total loss up to that time being $28,196.70.
After hearing all this testimony, Commissioner White concluded, "The real object in making the deal appears to have been to get rid of the competition from Langer's theatres," which was the principal purpose of the pooling agreements.

Control of Distribution

By establishing control over the exhibition market, Paramount virtually controlled the distribution market as well in Canada. There were ten distributors of considerable size operating in Canada by 1930—all of them U. S. corporations or their subsidiaries in Canada. The White Report states that there were "only a few smaller exchanges, such as Excellent Film Exchange, which sell short subjects produced by independent producers in the U. S." in addition to the ten large distributing companies. No Canadian-owned companies independent of affiliation with a foreign producer seem to have been operating in the years 1920-1930, the years with which the White Report is concerned.

The following is a discussion of the ten large firms in distribution, their ownership, any relationship with Famous Players, and the source of the product they handled:

**Famous Lasky Film Service** was a 100-percent subsidiary of Canadian Paramount Corporation, seven-eighths of the shares of which were owned by the Paramount Publix Corporation in the U. S. Famous Lasky Film Service distributed the pictures produced by Paramount Publix Corporation, its parent company referred to as Paramount Pictures.

**Regal Films Limited** was also a 100-percent owned subsidiary of Canadian Paramount Corporation. Regal distributed the
productions of Metro-Goldwyn-Mayer Pictures, Inc., and Pathé, also those of British International Films Limited. Regal was managed by Henry L. Nathanson, brother of N. L. Nathanson, who was the managing director of Famous Players. Henry obeyed the instructions from his brother with respect to handling the independent exhibitors.

R.K.O. Distributing Corporation of Canada, Limited. This company distributed Radio-Keith-Orpheum Corporation's productions, an independent in the U. S. at the time.

Fox Film Corporation, Limited. This company distributed the pictures produced by Fox Film Corporation, another major vertically integrated corporation in the U. S.

Vitagraph Limited. First National Pictures Incorporated, Warner Brothers Pictures Incorporated, and Vitagraph Incorporated, released their pictures in Canada through this company. Warners had risen to prominence with their venture in sound motion pictures. First National and Warners were major vertically integrated firms and Vitagraph was an independent producer in the U. S.

Canadian Educational Films Company Limited. The productions of Educational Films Incorporated and Sono-Art Productions, Inc., both American companies, were being distributed by this company.

Canadian Universal Film Company Limited. Universal Pictures Corporation, a U. S. corporation, distributed their products through this subsidiary in Canada. Universal had fought and survived the MPPC monopoly in the early 1900s and was finding it
increasingly difficult to gain access to the first-run market in the U. S., which was controlled by the vertically integrated major companies.

**United Artists Corporation, Limited.** This company was a subsidiary of a U. S. corporation by the same name, which was a distributor of independently produced films.

**Columbia Pictures of Canada, Limited.** This was a subsidiary of Columbia Pictures Corporation based in the U. S., the productions of which were distributed in Canada through this firm. It was a newcomer to the business of motion pictures and an independent producer-distributor at the time. Columbia had an interesting financial connection with Famous Players. It had a franchise agreement with that company to allocate first-run products on a first-run basis to Famous Players. Mrs. Arthur Cohen, wife of the general manager of Famous Players, held 25 percent of Columbia's stock. The balance was distributed between the Allens, with whom Famous Players had many theatre affiliations, and Mr. Rosenfield, who was the general manager of Columbia Pictures of Canada Limited, and Mr. H. L. Nathanson, who was closely connected with Famous Players. These relations with Famous Players had some influence in the making of contracts between Columbia and Famous Players. Mr. Arthur Cohen, testifying at the Combines Investigation Hearings in 1930-31, said that the Allens, who were affiliated with Famous Players, operated Columbia.

**Tiffany Productions Limited.** It distributed the productions of Tiffany Productions of the U. S. through Canadian Universal Film Company Limited. This distributor, also through the
Canadian Universal Film Company Limited, distributed the Gaumont British Production of Canada Limited, which handled the products of Gaumont British Corporation Limited and Gainsborough Productions Limited, the former a vertically integrated corporation in Britain and the latter an independent production company in that country.

From this discussion, it is evident that the major distributors of the day were subsidiaries of foreign corporations, predominantly U. S.-based corporations. In the subsequent pages, it will be demonstrated that all of these American corporations were united under a trade association to operate as a cartel. All the companies supplied films primarily from their own parent companies. But for a few exceptions, they did not invest or acquire independently produced films made in Canada at that time. Some of these companies were independent production/distribution firms in the U. S. Although they were sympathetic to the uncompetitive situation faced by independent exhibitors in Canada, they supplied only those films which the Famous Players and its affiliates chose not to use. They cooperated with Famous Players between 1920-30 in many other respects.

The distribution and exhibition markets in Canada were monopolized by American companies in general and Famous-Lasky in particular. In the 1930-31 season, a total of 462 new films were proposed for release by 14 distributors in Canada. Two of them were British companies which supplied a total of 40 films.
or 8.7 percent of the season's total. The rest of the films, 422 or 91.3 percent of the total, were supplied by 12 American companies. Famous-Lasky proposed to release 74 films, or 16 percent of the total supply in its own right, and an additional 92 pictures or 38 percent of the total through its subsidiary, Regal Films. Famous-Lasky thus commanded 54 percent of all films distributed in Canada in 1930-31.

Famous-Lasky was able to manage the market to its advantage primarily due to its control of Famous Players, which had acquired a formidable purchasing power in the Canadian market, as illustrated by the following letter sent by Mr. Clair Hague, General Manager of Universal Films in Canada, to the company's head office in New York:

I am attaching herewith a very interesting set of sheets giving a comparison of the Nathanson houses in the different situations, and the oppositions in the same zones or towns, also including opposition houses that are not first-run but second-run in the same zone. . . . Toronto--The Allen circuit which, while they are not a part of the Nathanson circuit, nevertheless they are pooled with Nathanson in several of their houses. In Ontario you will note that there are only ten towns of 5,000 and over where Nathanson is not in at the present time.

Montreal--I have listed only the towns of 10,000 and over, due to the fact that towns under 10,000 cannot be gauged according to population, as a town of 7 or 8,000 in Quebec is really no better than a town of 3 or 4,000 in any other territory, so far as the percentage of theatre-going public is concerned.

St. John--You will note that I have included the Imperial Theatre, which is a Keith house. There is an amalgamation on at the present time between the Keith-Orpheum circuit of Canada and Nathanson. You will notice that there are twelve towns of 5,000 and over where Nathanson is not in, but before Fall several of these towns will be invaded by Nathanson, as they are just going into the territory. In fact,
an exhibitor is in town now and I presume that something will be worked out where Nathanson will operate or take over their theatre. I also understand that they are now trying to negotiate with the Spencer circuit in that territory.

Winnipeg—You will notice in the city of Winnipeg, Morton and Kershaw houses. Kershaw houses are now over with Nathanson, and the Morton houses will be over in a short space of time. (Four Morton houses were acquired 17th April, 1929). There are only four towns in the Winnipeg territory (Note: This includes Manitoba and a large portion of Saskatchewan) of 5,000 over where Nathanson is not in.

Calgary—(Note: This territory includes Alberta and part of Saskatchewan). There is only one town over 5,000 where Nathanson is not in. (The town referred to is Medicine Hat).

Vancouver—You will note 'Dewees' after some of the theatres. This is the Dewees-Nathanson combination, and on the houses marked 'Berry'—this is just a recent affiliation of the Berry circuit with Nathanson. There are no towns in Vancouver (sic: meaning no doubt British Columbia) of 5,000 and over that Nathanson is not in. This will give you the situation in Canada as pertains to the Nathanson circuit.

With Famous Players holding such important position in the main population centres in the Dominion, no distributor could afford to alienate that company.

Famous Players sought the cooperation of all the distributors to squeeze out the independents by sending letters to them to consult with Famous Players before making any pictures available to its competitors. Although it amounted to intimidation, the distributors acted as a cartel and cooperated with Famous Players for mutual benefit. The following letter sent by Clarence Robson of Famous Players to J. P. O'Loghlin of Fox Film Corporation, demonstrates the power and influence Famous Players had with the distributors:

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Dear Jim,—I understand that in the very near future a change of the picture situation may be developing in the West Toronto Zone, and before you dispose of any of your product whatsoever in that zone I wish that you would personally take up the matter with me. 53

That letter was written in the matter of Crystal Theatre, owned by Ben Freedman, an independent exhibitor in Toronto operating in opposition to two Famous Players' theatres in the area. To illustrate the predicament faced by many independents who were in opposition to Famous Players at the time, the following testimony of Ben Freedman is produced here:

My experience of getting pictures was a very, very difficult one—one of the worst that I knew of at that time. I went to the various exchanges to get pictures and there wasn't anybody that had any pictures available for me with the exception of F.B.O., which is now called R.K.O. I bought their program; I think at that time it was about sixty pictures they had—I couldn't get any other pictures at all—this was in June, 1927. 54

It might be recalled here that F.B.O. was a minor American production company which had difficulty finding access to the U. S. first-run market controlled by the vertically integrated major companies.

The system of monopoly control established by Famous-Lasky and other vertical monopoly firms in Canada was detrimental not only to the competing independent exhibitors but also to the independent U. S. distributors. The independent distributors did not have a choice but to follow the monopolistic policies of the leading production firms which dominated the U. S. and Canadian film markets. Mr. J. C. Brady of Madison theatre in Toronto, operating in opposition to Famous Players, found it
difficult to get a supply of pictures and wrote to Carl Laemmle, president of Universal Pictures in the U. S. Laemmle's letter attests to the fact that distributors at that time had no other avenue to reach the audience efficiently except by dealing with Famous Players:

... I am going to show you how exactly I am fixed in Canada, and, for that matter, in many territories. In the first place, Nathanson (Famous Players) controls most of the representative first-run theatres in the big cities in Canada. Now, if I don't get my pictures, or at least some of them, shown in the key cities, my salesmen find it practically impossible to sell them in other places. In other words, I am more or less at Nathanson's mercy.

By nature I am an independent. My whole history in this business proves it. But there is nothing to be gained by deliberately shutting myself out of the big cities. In fact, there is everything to lose. The theatres which are really independent may be strong enough to make me independent of Nathanson, but they scatter their support in such a way that I can't live on it alone. When my salesmen go in to get bookings for Universal Pictures they find, in a vast number of independent theatres, that such theatres are booked up solidly with pictures made by the very companies which give Nathanson much of his strength. They are sorry but they can't give us all the bookings they would like to.

If I could get bookings enough to support me; if the independent theatres were substantially represented in the key cities which are now controlled by Nathanson, I would take quite a different stand. But there is no sense in butting my head against a stone wall. I can't build enough theatres in key cities to lick Nathanson. That is not my job. It is the independent theatre's job. If I cannot tackle it, I have simply got to straddle the situation and sell some of my pictures to Nathanson and some to the independents. That is the plain truth of the situation. If I have sized it up wrong, there is nothing I would appreciate more than a plan from you that will prove feasible and good for you as well as for me.55

By 1929, Famous Players Canadian Corporation was clearly the dominant company in the motion picture business in Canada. Economic
control in the motion picture industry rested with those companies that controlled the first-run markets as much in Canada as in the U. S. Famous-Lasky had established full control over the Canadian market through Famous Players. Its competitors had to cooperate with Famous-Lasky's policies and preferences in that country. Under such market conditions, managed by one monolithic company the distributors' self-interest to survive resulted in their skewed relationship favoring the dominant company, the Famous Players.

Discriminatory Pricing and Booking

Throughout the 1920s, most of the distributors engaged in discriminatory pricing of film rental terms, and in certain booking practices, all of which were detrimental to the independent exhibitors.

Generally speaking, the independents were charged a flat rental on films, whereas the Famous Players and their affiliated houses were allowed to pay a percentage of the box office gross. A letter dated May 7, 1929 from H. L. Nathanson, manager of Regal Films Limited, to Mr. K. M. Leath of the Standard Theatre, Calgary, attests to that fact:

There are no such terms as 15 percent for any independent house in Canada, and the 15 percent arrangement is made by the Producers with the Famous Players 100 percent owned Theatres, or with their affiliations.56

Why was this pricing discriminatory? That question can be answered by examining the case of two competing theatres in Toronto.
located on the same street. The Carlton was owned by an independent and the Parliament, by Famous Players. The features shown in the Carlton during a five-week period of January 10 to February 13, 1929 inclusive, came from the United Artists, First National, Columbia, Tiffany, and Regal Films. The features shown at the Parliament were supplied by Famous-Lasky, Columbia, Regal Films, Vitagraph, and Universal. The Carlton paid a total rental of $2,107 to its distributors, whereas the Parliament paid a total rental of $1,560.99 to its distributors for the period under review. That meant the independent exhibitor paid over 30 percent more in film rental than did the Famous Players. It is difficult to compare rental terms because they depended on several factors, such as type of film, theatre, etc. What is important to note, however, is that Famous Players was charged on a percentage basis which amounted to less monies paid by them. The independents, on the other hand, in most cases, were charged on flat rental basis, which contributed to higher rental. Flat rental also meant that it had to be paid in advance of the showing of a film, whereas on the percentage basis, the Famous Players could settle the account later while earning interest on the same. The independent, in the case discussed above, was at a further disadvantage because his admission price was higher than that of the latter's theatre. Moreover, the independent could only make two program changes a week throughout the period and he was not covered by any policy of protection as was given to the Famous Players.
Some distributors seem to have reluctantly given in to the demands made by Famous Players. Once an independently-owned theatre came under the Famous Players' umbrella, that company demanded special treatment by the distributors, as expressed in the following letter produced here in part by one Mr. Sichelman to Mr. O'Loghlin, general manager of Fox Film Corporation on May 20, 1930:

You wrote on April 28 advising percentage terms for two more of the Famous Players Canadian Corporation namely, Capitol theatre, Kamloops, B. C., and the Empress Theatre, North Battleford, Saskatchewan. We note the terms quoted are straight percentage arrangement, whereas, according to our records, we previously sold these theatres when owned independently contracts on flat rental basis.

Some of the distributors were not happy with the film rental prices they were receiving from Famous Players as the following communication between Mr. J. A. Wilson, branch manager of Fox Film, Winnipeg, and Mr. J. R. Granger in New York, in reference to seven Famous Players' theatres in Port Arthur, Fort William, Regina, Winnipeg, Brandon, Moose Jaw, and Saskatoon shows:

The basis on which these houses play our subjects is certainly not conducive to what is necessary from these centres to lift our business out of the mediocre to a worthwhile standing. The difference is considerable, from week to week, from what we used to obtain from these centres. In the city of Winnipeg alone, there is a difference of approximately $400 to $750 on every picture played by them. In the Lyceum theatre, prior to Nathanson taking over the booking thereof, we used to obtain $500 to $2,500 first-run. This year we have played two subjects in there--The Lily and the Return of Peter Grimm. On the former we received as our share $264.52 and on the latter $180.02. This is an example of the prices we are obtaining throughout the territory from these theatres and it is evident that they are not sufficient to bring this office from mediocrity to a successful weekly revenue.
If that was so, why did the distributors go along with the Famous Players? The obvious answer to that question is that the Canadian exhibition market had already become a buyers' market, which was largely controlled by Famous Players, where the sellers, the distributors could not dictate terms to their major buyer.

Another answer, perhaps equally important, was that all the distributors had become a part of this system created by Zukor/Nathanson and had come to defend it in their own self-interest. This fact is clearly demonstrated in the case of Mr. Lauriente, who operated a theatre in Trail, British Columbia, in opposition to a Dewees' theatre, an affiliate of Famous Players. Lauriente struggled with all the distributors for well over two years and was not successful in getting pictures from most of them. Except for two independent distributors, Vitagraph and Film Booking Office of America, Inc. (F.B.O.), all others had refused to sell any pictures to Lauriente because Dewees had obtained a monopoly of their entire season's product by way of written contracts in some cases and verbal contracts in others. Vitagraph and F.B.O. sold their films to Lauriente because Dewees did not wish to use their films. Dewees could use only 150 pictures for the whole season, and the total number of films released that year was about 500. The following letter written by Fox's general manager explains why the distributors were willing to give Dewees a monopoly over their product:

We are willing to give Mr. Dewees exclusive use of our product in Trail provided of course that he gives us the proper representation and places us in a position where we can have reasonable and
legal excuse for refusing to supply his opposition, for as you know and Mr. Dewees knows, the opposition exhibitor at Trail is looking for some cause to bring legal action against an Exchange in order to have his position thoroughly defined by law.63

Generally speaking, more than half of the rental income for the American distributors was derived from the Famous Players circuit, so all the distributors played a safe strategy and thereby placed the independent theatre operators at a great disadvantage.

Block Booking and Blind Bidding

Acquiring the necessary number of pictures for a given theatre or theatres from different distributors is known as booking the pictures. When a distributor contracts a group of pictures as a whole, it is called block booking. Invariably, it consists of one or more potential box office hits and several marginal pictures. The number of films in a block is not uniform. Blind booking, on the other hand, is the making of a contract for a picture or a number of pictures which have not been produced and which consequently cannot be seen before purchase.

Generally, the distributors would sell their pictures to the exhibitors prior to the season, which began in September every year. In the 1920-1930 period, the theatres showed four reelers and generally needed two pictures a week. But they tended to book more than the necessary 104 pictures they needed for the entire year, because some of the pictures booked might not be ready for release in that time period or some other problems might arise such as censors forbidding the release of a film.64
In the Canadian motion picture market, block and blind booking came into practice during the period 1920-1948. These monopolistic trade practices may have been in use prior to 1920 because major distributors practiced them in both the U. S. and British film markets. With the exception of United Artists, which had a policy of not selling blocks of pictures, every other distributor in Canada indulged in block booking as well as blind booking.65

Were the distributors able to enforce that system of booking with equal force vis-à-vis the Famous Players and the independents? No, they could not. The monopoly position of Famous Players' theatres enabled them to select films they wanted (apart from their obligation to exhibit all Paramount films released), while their independent competitors were subject to block and blind booking. When asked about Canadian Universal Film Company Limited's booking policies, its general manager, Clair Hague, replied, "We endeavor to sell the entire group, if possible, but if it is not possible, we sell as much as we can".66 He, however, sold Famous Players individual pictures as soon as they became available.67 Before the season began every September, the distributors would present Famous Players with a list of proposed releases, thereby giving that company the right of first choice to their films. This policy meant that Famous Players could choose all of the potential box office hits. Due to their enormous market power, Famous Players could refuse certain pictures offered to them whereas the independents could not. It was, of course, in the best interest of the distributors to sell as many
pictures to Famous Players as possible. Except for the product of Paramount, which was its parent company, Famous Players could refuse anyone else's films.

In this system, the independents often ended up buying more pictures than they could actually play in their theatres in order to obtain a sufficient number of box office attractions. Another consequence of these booking practices was that the independents bought several undesirable pictures, which put them at a competitively disadvantageous position. Frederick Guest, another independent exhibitor, operating the Empire, Delta, Queens, which were suburban theatres in Hamilton; the Dundas Theatre in Dundas, Ontario, and the Stanley Theatre in Vancouver, B. C., testified forcefully against the block booking method:

Block booking means death, in the end, of independent exhibitors, as things are now, we have no chance with Famous Players when we are compelled to line up all the product of all these companies. For instance, I have . . . my opposition at the Delta is a Famous Players' house, the Strand; when I sign for pictures I have got to take the whole year's product of say Warners, and second run . . . or none.

When asked why the independent exhibitors had to buy blocks of pictures and why they could not choose pictures they wanted to exhibit, Mr. Percy Taylor, Manager for Canada R.K.O. Distributing Corporation Limited, answered, "Who will pay for the production of the other pictures?" In other words, the lower-grade pictures were financed by extracting more rental fees out of the independently-owned theatres.

The compulsory nature of block booking was economically a sound practice from the distributors' and producers' points of
view. It saved not only the marketing costs involved in selling each picture separately, but also created a minimum assured market for all grades of pictures. That effectively reduced competition in the distribution market in Canada in the interest of all the vertically integrated production companies in the U.S. More importantly, in the Canadian context, all the available playing time on the independent exhibitors' screens was monopolized by the distributors who sold in blocks. In that instance, an independently-produced film would find it difficult or almost impossible to get playing time.

**American Film Industry Cartel in Canada.**

The American motion picture industry's interests in Canada were safeguarded by a distributors' organization which began functioning around 1922. It was created to gather intelligence about any move by groups within and outside the film industry, and the Canadian government that could be detrimental to the American distributors operating in Canada. It brought all the American distributors together to take the necessary defensive actions collectively whenever needed.

The Motion Picture Exhibitors and Distributors of Canada, incorporated in November 1924, was popularly known as the Cooper Organization because John Alexander Cooper, its first president put its policies into effective practice. He lobbied against censorship, amusement taxes, and worked vigorously to create a favorable corporate image for the members.

The Cooper Organization was a replica institution of the Hays Organization in the U.S. (see Chapter IV). Its policies
we did, however, have the name 'Exhibitors' in the chartered name of our Company, and so I arranged with Mr. Cohen and Mr. Bragg that we should have twenty of their men in as members nominally, in order that when I went to Ottawa or other places and dealt with the questions of censorship, or amusement tax or copyright music or performing rights, I would be able to say that I represented some of the theatre interests.

As Famous Players was vertically integrated with a major American film company, it is needless to say that it did not represent the Canadian-owned independent theatres but protected its own parent company's interests.

What impact did the Hays Organization have on Canada's motion picture industry through the Cooper Organization? It seems to have had a great deal of impact on Canada.

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The Cooper Organization's political activity in the 1920s was restricted to lobbying the censor boards in different provinces to liberalize their rules and to redirect the policies of some social organizations which gave their support to strict censorship in Canada. Cooper personally handled these public relations matters, and often he was quite effective. A report made to the Annual Meeting of the Local Council of Women for Saskatchewan held in Regina in January 1927 by Mrs. H. L. Lovering of the Committee on Films, Amusement and Printed Matter, stated:

I would like to call particular attention to the fact that motion picture producers have appointed their own official censor, namely, Col. John A. Cooper. While we do not claim that it was the result of any one council's activities, it is the result of the activities of such organizations as ours that have awakened moving picture producers to a sense of their responsibilities in checking to some extent the evils in this modern form of entertainment, so fraught with possibilities for the elevation or degradation of our people. Col. Cooper is keeping a careful eye, not only on the pictures themselves, but also on the advertising of them. Of course, our censor boards are doing good work, but the motion picture producers themselves deserve credit for trying to keep the screen clean.75

Mr. Cooper thought this was important enough a development that he sent copies of this report to the General Managers of all exchanges in Canada.76 While his activities as a paid employee of the U. S. producers were aimed at obtaining relaxations of the standard set up by various censor boards, he seemed to have convinced the good lady who prepared that report to believe that he was actually working on behalf of the public. His organization had not made any move or request to have a picture censored. As a matter of fact, the Cooper Organization's files were filled
with criticisms of censor boards and in the province of Quebec, it had suggested a change of personnel of that censor board, whose decisions it regarded as unsatisfactory.

To carry on its public relations work, the Cooper Organization had attempted to hire the services of the members of some censor boards. Miss Alice Fairweather, hired away from the New Brunswick censor board for that purpose, was deployed at the right occasions to mitigate potentially damaging decisions taken by some social organizations. According to the minutes of the Cooper Organization:

The Annual Meeting of the National Council of Women was held at Niagara Falls last week with representation from all the provinces. Miss Alice Fairweather, our secretary at St. John, was elected as a delegate from New Brunswick and attended the meetings. She cooperated with the National Cinema Committee and, I believe, did very good work on behalf of the Industry. A resolution was passed asking for stricter censorship of vaudeville and motion pictures, but the stress of this Resolution was mainly against vaudeville and similar exhibitions.

The main thrust of the Cooper Organization was to lobby for the interests of the U.S. film industry in Canada. By 1929, the public concern over the content of motion pictures on Canadian screens was intense and was a problem to the Cooper Organization. In many sections of the country, patriotic Canadians were demanding pro-British pictures. Mr. Cooper had employed several methods to explain why there were not enough British films exhibited in Canada. One of them was to employ public officials to speak to community groups in favor of American distributors. In British Columbia, he tried to hire Mrs.
Hawkshaw, a member of the censor board in that province, and wrote her the following letter, in part:

We know that you are able to make a speech and that you could talk to the various organizations and explain to them just what the situation is with regard to the various phases of our relations with the public. You could explain to them why we did not get more British pictures in this country than they have in England or Australia. You could also explain the methods adopted by the other provinces to make children's pictures more successful, and you could act as intermediary in making the theatre owners more amenable to the desires of the public. I do a great deal of that work in Ontario, but Canada is too big a field for me to cover.

Mrs. Hawkshaw rejected Mr. Cooper's offer with this terse reply:

... I feel that I am really not the sort of woman you are looking for, as my well-known affiliations and interest in the British Empire Marketing Board would hardly match up with what you want me to do.

When provincial legislatures responded to the lack of British films in Canadian theatres by proposing to legislate a screen quota, the Cooper Organization swiftly moved in to lobby against it. The British Columbia legislature was about to deal with a quota bill in 1929 and Mr. Cooper received the following telegram from one of his associates in that province:

Reliably informed that Government Bill to be introduced immediately present session local legislature in which quota law to be established making it compulsory for exhibitors to play twenty percent Canadian produced pictures Stop. Exhibitors lining up to oppose this measure and it is vital that distributors unite to kill the Bill Stop. Heavy lobbying will be necessary attain results and start should be made Monday Stop. Exhibitors representative leaving for Victoria Sunday and at special meeting Film Board held to-day it was unanimously resolved that Donnenworth should be instructed to
accompany him. Adequate financial appropriation from your office urgently required and suggest same be wired. Stop. 31

Mr. Cooper requested Mr. Muir, the district manager of Famous Players in B. C., who had handled political matters in that province on previous occasions, to campaign against the bill. Mr. Muir sent the following cable:

Government amending censorship act to give them power to censor all newspaper and bill board advertising and impose British film quota also to force theatres to run ten minutes patriotic film every performance. Stop. This bill is fathered by Attorney General Pooley and going to do everything possible to have this bill defeated and I believe I can bring enough influence to bear to do this. . . . Leaving for Victoria to-morrow night with Holland will wire you from there regards. 82

The total cost of the campaign was $5,000 and the provisions in the bill relating to the quota were eliminated before the bill was introduced in the legislature. It took Mr. Muir only four days to accomplish his task and he sent the following message to Mr. Cooper:

Patriotic and British quota features eliminated from bill we think we have censoring of advertising well in hand will report to you further after our next interview with Attorney General to-morrow. 83

It is not known to me how that $5,000 was spent by the American lobby, but suffice it to say that it was effective.

Besides the political aspects of the Cooper Organization, it served a definite economic function in the interest of the American film companies in Canada. Certain American business practices and organizations were introduced in Canada to accomplish that goal.
Prior to 1926, there was no uniform contract that all exchanges used in selling their pictures to exhibitors. In May 1925, Mr. Cooper was authorized by his organization to compile a uniform contract that would be similar to the Standard Exhibition Contract used in the U. S. at the time. This device had many discriminatory clauses such as requiring cash in advance on shipments to independent theatre owners, and refusing to sell pictures to 'booking combinations' which would have increased the bargaining power of the independent theatres. Those theatre owners who breached the contract in any way were put on a "black list" and all the distributors were instructed not to sell any pictures to them.

The standard exhibition contract was declared illegal by the U. S. Supreme Court as it constituted conspiracy to restrain trade in violation of Section 1 of the Sherman Act. On the other hand, in Canada the courts were to declare that it was perfectly legal to impose those monopolistic trade practices on the industry. The smaller companies such as Universal, Fox, Vitagraph, were often competing with the large vertically integrated Paramount and others. The independent exhibitors would devise their own tactics to circumvent the monopoly power of the U. S. distributors. A united front was needed to deal with not only the independent exhibitors but also to lessen competition in distribution in the interest of major companies.

The Cooper Organization set up Film Boards of Trade in each key city in Canada. Through these affiliated trade associations, almost all motion picture marketing was organized to deal with independent exhibitors according to prescribed
rules. The net effect of this mechanism was to reduce competition in the distribution market in the interest of the vertically integrated large American film producers. For instance, an independent exhibitor in Calgary sold his theatre to another company and became an employee of the new owner. Under the rules of the Standard Exhibition Contract, the new owner had to play all the pictures that were contracted by the previous owner of the theatre. When the ownership changed hands, two American distributors, Fox and Universal, sold some of their pictures and made new contracts with the management. However, that was not acceptable to the Cooper Organization, and it ordered those two distributors to cancel their new contracts which they obeyed.

Interestingly enough, the U. S. Supreme Court declared the activities of the Film Boards of Trade in that country illegal under the Sherman Act on November 24, 1930. Mr. Justice McReynolds summarized how the Film Boards of Trade were acting not in the public interest of competition but serving monopoly:

Ten producers and distributors of films, controlling 50 percent of the business, agreed to contact with exhibitors only according to Standard Form and then combined through thirty-two local Film Boards of Trade with other distributors, who with themselves control 98 percent of the entire business. The Film Boards appoint Credit Committees and these operate under the rules of above outlined. The obvious purpose of the arrangement is to restrict the liberty of those who have representatives on the Film Boards and secure their concerted action for the purpose of coercing certain purchasers of theatres by excluding them from the opportunity to deal in a free and untrammeled market.

In the Canadian motion picture industry, the American production-distribution companies controlled almost 95 percent of the
distribution market at that time, according to Commissioner White. The American Supreme Court Justice's language in his statement applied to the Canadian industry quite well. But the concerted action of the American film industry cartel, pronounced illegal in the domestic market, was in fact encouraged by the Webb-Pomerene Act of 1918 which legalized American corporate cartels operating in foreign markets. As shall be shown, Canada's anti-trust law was ineffective in dealing with the American film industry cartel.

The Cooper Organization was an effective mechanism set up by the large vertically integrated American motion picture production-distribution companies to serve their monopoly interest in this country. Its successor today is the Canadian Motion Picture Distributors Association, the activities of which are discussed in Chapter VIII.

Combines Investigation

The oppressive market conditions faced by the independent exhibitors and independent producers, the latter almost nonexistent in the Canadian motion picture industry due to the monopoly control of the American film industry cartel, led to an inquiry under the Federal Combines Investigation Act in September 1930. There possibly was another important reason which may have pushed the government to institute such an investigation. Important because the government had turned a deaf ear to the complaints voiced by the independent exhibitors all along. In August of that year, Paramount Famous-Lasky by way of stock
manipulation had acquired majority control of Famous-Players and the American corporation's president remained at the head of Famous Players' board directing its policy. This stock deal had caused considerable discontent among a sizable minority of Famous Players' stock holders in Canada who were unhappy about losing complete control of the company to the American firm. Whatever were the reasons, the inquiry into an alleged combine in Canada's motion picture industry, in itself a significant development, was initiated by an Order-in-Council on September 23, 1930. Mr. Peter White was appointed as the Commissioner to conduct the investigation and after seven months of inquiry, he submitted his Interim Report to his supervisors. It was in turn transmitted to the Minister of Labour in Ottawa.

Mr. White's general conclusion was that a combine existed in the motion picture industry within the meaning of the Combines Investigation Act, at least since 1926. He named all the U. S. distributors and also Regal Films Limited, which was a Canadian company, and Famous Players and some of its affiliates as parties to the combine. The Cooper Organization was also included in that list of companies. It was, however, not until 1932 that a suit under the Combines Investigation Act against those offenders was filed in an Ontario court. How did a federal combines investigation end up as a provincial government suit in a provincial court? Apparently, there was some confusion in those days as to who had the constitutional authority to administer justice in Canada. The provinces claimed that the British North America Act (Canada's constitution) gave them exclusive rights to administer the laws, including those of the federal government. That
issue was finally resolved in the 1940s.

The Attorney General of Ontario filed a suit under the Combines Investigation Act against seven distributors, the Famous Players and some of its affiliates, and the Cooper Organization, for operating a combine or conspiring to restrain trade in that province. That is the history in brief of the only combines investigation that has occurred in Canada's motion picture industry. But as argued below, the combines law could not curb monopoly abuses in the industry.

On March 18, 1932, Mr. Justice J. Garrow, in the Ontario Supreme Court, cleared the accused companies of all the charges. The court held that the standard exhibition contract with compulsory arbitration was legal under the Canadian law. The Crown made a weak presentation of evidence because on the one hand, it relied heavily on U.S. antitrust laws and judgements, and on the other hand, the evidence presented did not prove in the judge's opinion that a combine existed in the province of Ontario. The court recognized that Dewees, one of Famous Players' affiliates in British Columbia, had monopolized all the supply of film in 1929 with full cooperation from the U.S. distributors to eliminate competition from an independent. But it did not hold the distributors responsible for their conduct. It was Dewees who was responsible, according to the court. Though the judge recognized that Famous Players monopolized the supply of films in British Columbia, he did not permit the Crown to use that as evidence against Famous Players in Ontario. Famous Players and the American distributors were acquitted on the basis that the prosecution could not establish that the alleged combine was
detrimental to the public interest as the ticket prices did not go up in the period under consideration. 93

Why did the federal government fail in stopping monopoly abuses in the Canadian motion picture industry? Some of the reasons lie in the content of the Combines Investigation Act itself. Mergers and monopolies in themselves were not illegal under the Act. Conspiracy to restrain trade had to pass the stringent test of complete or virtual elimination of competition in the market. Further, the prosecution had to demonstrate that participation in mergers or monopoly were detrimental to the public interest in competition. 94

Horizontal combination between Famous Players and its competitors was not illegal as far as the courts were concerned. Horizontal monopolies such as the Boards of Trade and related associations, their policies and practices did not constitute illegality for the court for the following reasons. Firstly, the prosecution had to prove that agreements between the distributors lessened competition unduly. The word 'unduly' meant that the case made by the prosecution had to prove that competition was virtually eliminated in the distribution market. Secondly, and equally importantly, Section 32 of the Act which prohibits agreements to lessen competition covered only production and distribution of goods and not certain services. The defense in this case argued that exhibition of films to patrons in a theatre was a service which was not covered by the act. This gaping hole in the act was not plugged until 1976 when the Combines Investigation Act was amended to include services. 95

Why did the Ontario government not appeal the court decision?
Why did the federal government not amend the Act to give it more power to deal with monopolistic practices in the industry? The two questions are inter-related and the answers must be found in the political and economic realities of Canada when the Combines Investigation Act was passed by the Parliament. During 1897-1929, the Canadian economy had experienced a capitalist expansion. From a predominantly agrarian economy, it was growing into a manufacturing one. Large industrial manufacturing giants--Canadian General Electric, International Harvester, Canadian Westinghouse, and the auto and tire corporations--created during that period came to dominate their respective industries. The concentration of economic power in such corporations had caused great concern among small businesses, which often were the victims. The first anti-combines act of 1888 in Canada was apparently introduced by a small businessman. But the act did not provide for investigations of alleged combines.

The steadily-rising prices of commodities and accumulation of wealth in a handful of corporations had alarmed the public and the small businessmen in Canada. The response of the Liberal government to mounting pressure by the public was a bill that the Minister for Labour, Mackenzie King, guided through the Parliament in 1910. The new act provided for investigations of alleged combines and stipulated that the reports of investigations be made public but no fines be levied unless the offender continued operation after the publication of the report. The act did not require a restraining order by the courts.

Although hailed by the Liberal government as a major piece of legislation to correct monopoly abuses in the industry, the
Act was never intended seriously to eliminate monopolies. Because MacKenzie King believed that big trusts might be beneficial and argued that "this measure seeks to afford the benefits which arise from large organizations of capital for the purpose of business and commerce." King further assured his fellow politicians and businessmen in Montreal and Toronto (more often than not, they were one and the same) that,

... this legislation is in no way aimed at trusts, combines and mergers as such, but rather only at the possible wrongful use or abuse of their power, of which certain of their combinations may be guilty. 102

Prime Minister Sir Wilfrid Laurier's Liberal government had advocated free trade with the U.S., while direct investment from the U.S. was on the rise. The U.S. businessmen were not going to invest in Canada if there were stringent laws against monopolistic corporations. The consumers, small businessmen, and the workers complained to the government because, they felt that it was out of their hard-earned money that the financial interests were profiting. Again, the government policy was to create the illusion of acting on a problem, while in reality that act was ineffective. Only one inquiry was undertaken under the authority of the Act, which dealt with the shoe industry monopoly, but nothing came of it. 103 The Act remained on the Statute Books until 1919 when it was repealed for reasons unknown to me.

According to some researchers, anti-combines policy in Canada has been historically ineffective in dealing with the monopoly power of oligopolies. 104 The ineffective character of the Combines legislation in Canada should be seen primarily in light of the interest of the two dominant political parties in
attracting American direct investment to Canada. That fact sug-
ggested a general economic policy for Canada, which has endured
the times. The Liberals strongly advocated it in the early
1900s and by 1911, American direct investment had enveloped
approximately a quarter of all Canadian manufacturing enterprises.
The Conservatives' election slogan in 1911, "no truck or trade
with the Yankees" had merely been campaign rhetoric. During the
1930s' Depression, the Conservatives were in power, and their
leader, R. B. Bennett, proposed several legislative measures to
offset the economic chaos in the country. They included certain
measures against monopolies and unfair business practices.105
But Bennett's economic program could not be implemented fully
because of opposition from within his party and also from the
opposition parties.106 In the Federal election of 1935, the
Liberals assumed power once again. MacKenzie King, the Prime
Minister, pressed on with his party's policy of free trade and
increased direct investment from the United States.107 In
courting American investment dollars, the political/economic
establishment in the country had disregarded all public concerns
about monopoly effects on indigenous enterprises.

Domestic production of cultural goods such as motion pictures,
was not perceived by the Canadian state as important for the sur-
vival of Canada as a nation. The politicians from the dominant
parties looked to Great Britain for cultural inspiration and
leadership. They perceived themselves as mere consumers of im-
perial culture rather than producers of a culture indigenous to
Canada. The economic imperatives at the time of continentalism,
advocated by the dominant parties, gave no expression of national-
ism. As such, the Combines Investigation in 1931 in the Canadian motion picture industry and the decision of the Ontario Supreme Court did not alter the monopoly control by the American film industry. But an illusion had been created by the state as though something had been done about the problems in the motion picture industry.

As discussed earlier, the U. S. antitrust laws were not vigorously enforced in the U. S. motion picture industry either in the period before 1938. It was not until 1948 that the vertically integrated monopoly structures were broken up and a certain degree of competition introduced into the market at least for a short period of time. In Canada, however, the motion picture industry was vertically integrated with U.S. oligopoly firms, and, the law and the courts did not restructure the industry. Failure of the Combines Investigation Act and the courts to deal with the foreign-monopoly control of the Canadian theatrical film market meant increasing control of the market by the American film industry cartel.

Summary

The Canadian motion picture industry, ever since its beginning, has relied on imported films. The early exhibitors and distributors set the pattern of obtaining exclusive franchises of films produced outside Canada, thereby allowing the monopolization of Canada's screens by foreign production firms. This monopolistic practice reduced competition in the distribution market in the interest of monopoly firm(s) and to the detriment of independent, Canadian-owned exhibition and production enterprises.
Between 1920-40, the Canadian theatrical exhibition industry was vertically integrated with an American monopoly corporation, thus becoming a conduit to supply profits for film production in the U.S. studios. Capital in the form of loans from bankers rests on profitability of the production enterprise. So availability of Canadian capital for film production in Canada rests on the dubious profit possibilities for such films, in the restricted monopoly market, not a free Canadian market. Market pré-emption by U.S. interests foreclosed the profitability of Canadian films and hence capital availability. As the analysis of the American film industry pointed out, vertical structures became necessary to control the markets in order to ensure profits in an industry with ever-rising costs of production. In Canada, however, vertical integration occurred not to produce films domestically but to produce profits for the major U.S. film company at the time. This has been the principal contradiction in Canada's motion picture industry.

The indigenous production sector never got off the ground, although attempts were made early to produce films in Canada. While the profits and talent were freely being drained out of the country to the U.S., Canadian film production companies found it difficult to make films in the absence of effective access to domestic and international distribution and exhibition markets. Among the few films produced in the country, a smaller number of them were theatrically released as the screen time was monopolized by American production companies.

Canadian theatrical and distribution markets grew in the
shadow of the American monopoly firms which expanded into markets throughout the world between 1920-1940. American methods of operation and organization have characterized the Canadian film industry since its early days and, particularly since the vertical integration of the dominant chain with the largest American production company of the times. The independent theatre companies were rendered vulnerable to competition from the vertical structure established in the Canadian film industry.

The Canadian motion picture industry developed from its early days as though there were no borders between the two countries. The Canadian state adopted a policy of laissez-faire in an industry which was under monopoly control of a foreign corporation. This policy foreclosed the development of an indigenous film industry in Canada. Unlike the British government, which encouraged local production by quota legislation at that time, Canadian government(s) paid no attention to what the public saw in their theatres, although at times it supported the idea of more British pictures in Canadian theatres for imperial propaganda purposes. It largely relied on voluntary participation of the theatrical and distribution sectors of the industry to make playing time available even for war propaganda films. Quotas were contemplated by certain provincial governments but were never legislated due to successful lobbying from the American film industry. The only inquiry the government of Canada conducted into monopoly practices in the film industry in 1930 brought no cure to monopoly abuses in the industry. It is reasonable to conclude that due to the strong political/economic ties that had developed between Canada and the U.S., the Canadian
ruling class paid only lip service to British Empire films, and actually let the exhibition of American pictures flourish unhindered.

In the next chapter, the structures and market relations in the Canadian film industry after 1940 are examined.
ENDNOTES


3. Ibid., p. 20.


7. Morris, Peter, op. cit., p. 47.


15. Morris, Peter, op. cit., p. 64.

16. Morris, Peter, op. cit., p. 64.


40. Kirwan Cox, in his interesting account of the circumstances that precipitated the sale of Allen Theatres circuit states that 35 theatres were sold for a low price of $650,000. Whereas the White Report lists only 20 theatres having been sold. I have taken the White Report to be accurate because it was based on testimony presented at a judicial hearing.


43. The Bryce Commission Papers, Hearings Before the Royal Commission on Corporate Concentration, April 1976.


50. Quotes on this page and next page are from The White Report, op. cit., pp. 43-44.


9. The White Report, op. cit., p. 191. 'Protection' meant that the distributor agreed not to exhibit a given picture in the opponent's theatre after the first-run for a certain period of time.


15. United Artists was a company that represented several artists in the U.S. who made their own pictures. Most
of their artists, if not all, insisted upon having made
their contracts independently of the other artists, so
that pictures sold in block by United Artists would be of
one artist and not the whole of the pictures they distri-
buted or a block of the total distribution. See The White

74. The White Report, op. cit., p. 30. It is to be noted that
Bragg and Cohen were both associated with Famous Players.
75. The White Report, op. cit., p. 211.
76. The White Report, op. cit., p. 211.
77. The White Report, op. cit., p. 211.
81. Commissioner White noted in his report that the word
'Canadian' in this message was a typographical error
and it should read 'British'. The White Report, op. cit., p. 159.
86. United States v. Paramount Famous-Lasky Corporation, et al.,
34 F. 2d 984 (S.D.N.Y., 1929); United States v. First Na-
tional Pictures Inc., et al., 34 F. 2d 815 (S.D.N.Y., 1929)
in Conant, Michael, op. cit., p. 28.


91. D. W. E. Partridge, Senior Combines Officer, Consumer and Corporate Affairs Canada, Ottawa, December 28, 1979 in a telephone interview.


95. Canada, Bureau of Competition Policy, op. cit., p. 2.


97. Ibid., p. 71.

98. Ibid., p. 72.

99. Ibid., p. 71.

100. Ibid., p. 71.


102. Ibid., p. 104.

103. Young, op. cit., p. 71.

104. Young, op. cit., p. 82. See also Henry, op. cit., p. 149, 151.


The purpose of this chapter is to examine the structure/policy in the Canadian motion picture industry between 1941-1978, tracing historically the patterns of monopoly and competition as affected by the U.S. and British film industries by applying the model on page 18.

The structure that was extended into the Canadian film industry during the years 1920-1940 by the American film industry was to endure with some minor shifts. Paramount Famous-Lasky, the leading vertically integrated firm in the U.S., had dominated the Canadian feature film market through Famous-Players' theatre monopoly as the analysis in Chapter VI revealed. This structure lasted until about 1941, when Odeon Theatres was organized as a circuit introducing some competition in the exhibition/distribution markets for a short period of time. But, as will be seen, the American major film companies reorganized the industry structure in Canada to eliminate competition between the two major circuits in order to control the Canadian exhibition and distribution markets. I will briefly examine how such reorganization came about. On the one hand, it is instructive as to how the Canadian capitalists cooperated with the American production and distribution monopolies for mutual benefit, and, on the other hand, it reveals how that cooperation affected the independent Canadian-owned exhibition, distribution and production firms in the Canadian film industry.
In 1941, several independent theatre owners, under the leadership of N. L. Nathanson, the Canadian entrepreneur who was used by Paramount Famous-Lasky in 1920 to establish its vertical monopoly control in Canada, formed a new circuit called the Odeon Theatres Limited. Some of those independents had been previously affiliated with Famous Players Canadian Corporation. Nathan-son's contract with Paramount had expired in 1940, and Barney Balaban, who succeeded Adolf Zukor as president of that company, sent his own man, J. J. Fitzibbons, to head the Canadian subsidiary's board. Nathanson had, however, protected himself while being the managing director of Famous Players, by including certain clauses into the contracts of affiliated circuits of Famous Players. Those clauses stipulated if Nathanson ever left Famous Players, the affiliated circuit could also leave as long as advance notice was served. Franklin-Hershorn circuit of St. John, New Brunswick, was one of such circuits which joined the Odeon.

There were reasons other than Nathanson's expired contract with Paramount for the creation of Odeon. In 1929, he was caught for swindling his business partners on the Famous Players' board of directors in a stock deal regarding that company's shares. Nathanson was forced to resign from the board. He tried to set up a new chain in partnership with William Fox, head of Fox Films, who had assured him the Fox franchise for Canada. However, Fox went bankrupt during the Depression, and the deal fell through.

Nathanson's brother Henry, managed Regal Films, which had exclusive franchises from a few American producers, including that of MGM, a major vertically integrated company in the
1930s. MGM had survived the Great Depression with many box office attractions. Nathanson succeeded in persuading several independents across Canada to join Odeon.

This raises at least two questions. If American monopoly power barred entry into the exhibition market in Canada, how could one man build a competing chain and obtain a share of that monopoly pie? Furthermore, if he could do it, why did the others not do the same? Kirwan Cox has suggested that Nathanson was successful in building another chain, mainly because he used the MGM franchise as the bait to persuade many independents to join his company.\(^3\) That argument seems weak, considering that Regal Films, holding that franchise, was a wholly-owned subsidiary of Paramount in 1931. No corporation would allow its own subsidiary to help build a theatre circuit which could potentially be a threat to its own monopoly power. It is possible that Paramount had sold its interest in Regal to Nathanson by 1940. Another plausible explanation is that the independents may have been induced with better terms. Whatever were the tactics used by Nathanson to create Odeon, he was successful and in May 1941 the circuit began its operations. Famous Players sued Nathanson over the ownership of this company in 1942. The case apparently dragged on after Nathanson died in 1943, but was dismissed in 1948 on the consent of all parties concerned.\(^4\) Why no one else did what Nathanson was able to do remains to be answered. No other exhibitor in Canada commanded the stature of Nathanson at the time. Having been the managing director of Famous Players for almost twenty years, he had dealt with the independents in
many ways. Films from a major American company was not an offer they could refuse. Apparently some of the independents deserted Nathanson when he could not deliver the MGM first-run product.5

In the months following the formation of Odeon, a battle between Famous Players and Odeon ensued over sharing of product from the American majors. It culminated in a meeting in New York at the office of Nicholas Schenck, who was the president of Loew's. It may be recalled that MGM was owned by Loew's. Others present were Nathanson, Fitzibbons, and Balaban. It was apparently decided at this meeting that Famous Players could keep MGM product but it would be distributed by Regal Films. Odeon theatres got a split of some of the smaller distributors' product. George P. Destounis, the current president of Famous Players, confirmed that such understandings did exist, and, explained how the two circuits monopolized first-run products of all the leading American producers:

Well, it's been an historical fact that . . . the major distributors aligned themselves with either one circuit or the other. People like Paramount and Warners and United Artists will play 100 percent Famous and people like Columbia and two thirds Universal and one third Fox would play Odeon. You must bear in mind that in the original set up there were companies like RKO (and) MGM as we know it and it was agreed I understand early (in the forties) how the break down (worked) when Odeon was first formed.7

These monopolistic agreements necessarily meant that the possibility of the Odeon circuit growing in size and importance to pose any competition to Famous Players was avoided. Without
the exclusive rights to a major producer's product, no circuit in Canada had flourished. Odeon would grow, but it could be controlled as long as it was sharing the first-run product with Famous Players. Thus, the integration of the new theatres chain with the Hollywood major producer-distributors was completed.

The presence of Odeon, another theatre circuit monopolized by major American film producers of the day, was history repeating itself for the independent exhibitors and producers in Canada. As Table 1 will demonstrate, the boom in theatre attendance during World War II years enriched the foreign-controlled circuits and the American distributors. The Canadian-owned single theatre operations and small chains suffered in that period. Not only did the single theatre operators decline in number, as indicated by the table, their share of the market shrunk considerably. On the other hand, the audience share of the large circuits during this period improved significantly. As an indication of that fact, Famous Players grew from 196 theatres in 1929 to 342 theatres in 1947. The two top chains added together controlled 60.8 percent of total box office receipts in 1947, which is an overwhelming concentration of economic power. No doubt it helped Famous Players sustain itself during the Depression years. The distributors' terms may also have been lower for that chain during those lean years. But when the industry went into a boom cycle during the World War II years, the two chains recovered quickly due to the availability of first-run
Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of All Theatres</th>
<th>Chains Percent of Total Box Office Gross</th>
<th>Percent of Total Audience</th>
<th>Single Theatres Percent of Total Box Office Gross</th>
<th>Percent of Total Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>1937</td>
<td>24.6</td>
<td>53.6</td>
<td>48.4</td>
<td>54.3</td>
<td>28.7</td>
</tr>
<tr>
<td>1947</td>
<td>23.7</td>
<td>60.8</td>
<td>57.0</td>
<td>52.8</td>
<td>18.4</td>
</tr>
</tbody>
</table>

Source: Canadian Film Weekly, December 1, 1948.

Note: Chains are defined as twenty or more theatres controlled by one company. Boxes do not add up to 100 because data with respect to chains consisting of between two and nineteen theatres was not available and hence not included.
films from the American distributors on an exclusive basis. The smaller independents, on the other hand, without the first-run films, were in an uncompetitive position to start with. Block booking, blind booking, and other restrictive factors, contributed to the weakening of their relative position in the market. Worsening of the economic situation for the independents finally resulted in an open political battle between the major theatre chains and the independent theatre operators, who were attempting to restore some competition in the exhibition/distribution sectors.

Independent Exhibitors Retaliate

The independent exhibitors had complained to the government all along about their deteriorating economic picture. The Combines Investigation Act and the courts had not altered the industry structure in any way. The oppressive situation in the motion picture market was not to be tolerated by the independent exhibitors any longer. Many of them had fought bitterly against the Famous Players and the American film industry cartel throughout the 1920s and 1930s. Several such cases of resistance, for example, the Fraser and the Rialto theatre cases in British Columbia, have been documented. However, there was no organized movement on behalf of the independents across the country prior to 1942. No exhibitors' associations seem to have existed until the early 1930s. The American distributors and Famous Players acted in unison through the Cooper Organization as the earlier analysis revealed. In 1935, Nat Taylor had formed the Independent Theatres Association, but the members and the officers of that
association had business connections with Famous Players. Taylor himself was a partner of that company. Hence, it did not seem to have earned the confidence of the independent exhibitors.

During World War II, the need for price control in the interest of the War brought the Canadian government into the motion picture industry scene via the Wartime Prices and Trade Board. It set a ceiling on ticket prices and film rentals and guaranteed that exhibitors would share product on a pro rata basis. This was the first structural policy intervention by the Canadian government since the aborted Combines law action of 1932. It was a direct blow to the American distributors' monopoly control of the Canadian film industry because if the Board were to succeed, the control of the market would shift from the American distributors to the Canadian government. Cooper and Fitzibbons, the then-president of Famous Players, brought heavy lobby pressure on R. J. McMullen, the director of Theatre and Film Section of the Board, to stop him from altering the distribution market in any significant way.

The Board afforded the independents a forum to get the government to remedy the past and present monopoly restrictions which the Combines Investigation Act and the courts had failed to deal with. The independents got organized in a new exhibitors' association in Ontario called the Independent Motion Picture Exhibitors Association. It held its first meeting in Toronto in January 1942. Over 40 exhibitors, who were not affiliated with the large circuits, attended the meeting and elected Barnett E. Laxer president. Laxer ran theatres in Kingston and Oshawa,
Ontario. He found out that McMullen did not want to deal with provincial associations, but only national organizations. Hence, the National Council of Independent Exhibitors of Canada was formed to deal with the Wartime Prices and Trade Board. Laxer was also instrumental in setting up a Quebec group called the Independent Exhibitors Association of Quebec in April 1942. This was in opposition to the Quebec Allied Theatre Industries Incorporated, which included the Famous Players and its affiliates.

Laxer's next move was to produce a pamphlet describing the adverse conditions faced by the independents, which was titled, "Memorandum of the National Council of Independent Exhibitors of Canada to the Wartime Prices and Trade Board and to James Stewart, its Administrator of Services." Seven provincial associations including those from the provinces of Nova Scotia, Ontario, British Columbia, Saskatchewan, Alberta, Manitoba, and New Brunswick, signed the memorandum dated March 26, 1942. It was later published as a booklet and widely distributed in the industry. The booklet charged with force:

Independents are being driven out of business at an unprecedented rate, while the surviving ones with good theatres are in danger of extinction.

Finding the avenue of theatre construction closed, the Chains have turned to the independent territory for extension in Canada. The weapon now employed by the Chains for absorbing Independent theatres is that of taking away their pictures, or as it may be otherwise stated, worsening the product for Independent theatres, by depriving them of the pictures of certain producers, by selecting the top bracket pictures, leaving the poorer pictures to the Independents, by taking away their runs of particular producers in short, by overbuying.

The attitude and conduct of the Distributors and Chain exhibitors appears to be one of disregard of the Government's plan and purpose as shown in
its Wartime Prices and Trade Board measures. The seeming intention of the Distributors and Chains to pursue their business as if no Wartime Board had come into being.10

The reaction of the dominant forces to the booklet was swift and fierce. Ray Lewis, the editor of Canadian Moving Picture Digest, attacked the independents' public debate as treasonous:

... why, in such a time as this, when all right-thinking men and women are directing their thinking, their man and woman-power towards a War effort, that a group of motion picture exhibitors should spend energy, time and man-power in kicking the Canadian Motion Picture Industry in the pants, instead of Hitler. ... We have been told, that since the publication of the pamphlet, some exhibitors have withdrawn from the Ontario group. It is very evident that the men responsible for the publication of the information contained in this booklet and its misinformation, definitely dislike motion pictures, save as a business for making money. It is evident that they are not interested in co-operating with the Canadian Motion Picture War Services Committee in its effort to unite the Industry for War Services; and it is also evident that they are not appreciative of the opportunity and privilege to remain in business, nor are they intent on making the titanic task of the Government in this War Emergency any lighter by leaving the Government free from internal industry disturbances, to carry on the business of the war.11

Furthermore, Ray Lewis refused to reprint anything from the booklet, or even to paraphrase the charges levelled against the Famous Players and the U. S. distributors. It is interesting to note that the independents' lobby effort was characterized as unpatriotic, although their booklet attacked foreign distribution companies and their affiliates. It is also amusing that Lewis found fault with the independents' motives. They were supposed to be in the movie business to make money whereas the monopoly firms were devoted to cinema art.
Ten days later, the following report appearing in another trade paper, pointed out growing reaction to the booklet within the ranks of independent exhibitors:

The full effect of the 32-page booklet . . . which condemns self-regulation today, the circuits and the distributors, is not yet known but already a wave of resentment from Independents and others is being felt about its untimeliness. . . .

No one denies that there is a certain amount of justice on the side of the Independents. How to obtain it is the great problem to which critics say the Laxer booklet contributes nothing:12

It seems that the independents were turning against Laxer and his association. Whether Lewis's attack on Laxer's move had something to do with it or whether they were given material inducements (better films, terms) is not known to me. The two chains swiftly reacted by setting up a new exhibitors' organization, one that included the independents also, which was a new strategy of cooperation. Nat Taylor's Independent Theatres Association was rechristened at an annual meeting in September 1942 as the Motion Picture Theatres Association of Ontario. Taylor, we may recall, was a partner of Famous Players at that time. Ray Lewis did not lose any time in approving the new organization:

We think it is an excellent idea to form such an association as we are of the opinion that an exhibitor is an exhibitor, regardless of whether he belongs to a circuit or is operating one or more theatres independently.13

In the first annual meeting of this Association, held on December 1, 1942, 65 members attended. Although the elected
board was headed by an independent, it was dominated by Famous Players' associates. The 1946 annual meeting of the Association was attended by 100 members, representing 306 theatres, including 102 independents. Fitzibbons, president of Famous Players, spoke to the meeting, suggesting that industry differences should be resolved privately. 14

The Independent Motion Picture Exhibitors Association vanished and the militant independents were destroyed as a force in the industry. The Motion Picture Theatre Association of Ontario continues to represent the exhibitors today. The Wartime Prices and Trade Board does not seem to have affected the distribution of films at all. Thus, another government attempt had failed in dealing with the American distributors' control in the Canadian motion picture industry.

Vertical Integration with Great Britain

The Rank Organisation of England, a vertically integrated corporation, was attempting to break into the U.S. and other markets controlled by the American major producers in the early 1940s. With the integration of the two largest Canadian circuits with the American production and distribution companies, entry for British films in the Canadian market had become increasingly difficult. Rank solved this problem by buying a 50 percent interest in the Odeon theatres, which was 100 theatres strong in 1944. Rank's product would now get played on Canadian screens managed by Odeon Theatres. 15 Paul Nathanson, who had inherited the Odeon circuit from his father, resigned from the Odeon board of directors, and sold his 50 percent share to Rank in
Thus, Odeon became a 100 percent owned subsidiary of Rank. By 1948, Odeon circuit had 180 theatres in its control.

The new Odeon board was largely in Canadian hands but its investment policies were not beneficial to indigenous film production. J. Earl Lawson was appointed president of the board. Lawson had been a prominent figure in Canadian politics. He had been a member of the cabinet under R. B. Bennett and a member of Parliament until 1940 when he retired from the House of Commons. Rank possibly wanted a man of power and influence in Ottawa to run his circuit in Canada rather than an old theatre hand. Some prominent Canadian industrialists, D. C. Coleman, the president of Canadian Pacific, and R. V. Lasueur of Imperial Oil, were on the board. Leonard Brockington of Ottawa (Rank's Canadian lawyer), George Beeton of Toronto (Odeon employee), T. J. Bragg of Toronto (Famous Players and later Odeon), and Paul Nathanson, were the other Canadians. The Canadianness of the board, however, did not change its policy of not investing in films produced in Canada. Practically no Canadian production companies making feature films in Canada existed, so the question of providing access to theatres did not arise. Rank's primary goal in acquiring Odeon was to secure a portion of the market for its own productions from Great Britain.

Rank was able to control a part of the Canadian first-run market as long as its studios produced films. This ended abruptly with the economic decline of the Rank empire in 1948 due to its inability to penetrate the U.S. market as discussed in Chapter IV. Rank's position did not improve until the mid-fifties.
This required Odeon to rely for its supply of films on American distributors. Thus the beneficial results of integration of a portion of Canadian theatrical market with the British film industry for the latter ended, although officially Rank still held control of Odeon.

What were the relations between the two seemingly competing theatre circuits? Did the timid giant, the Odeon theatres, alter the market in any way? As indicated in the statement made by George Destounis of Famous Players (p. 174), there was hardly any bidding for product from different U.S. distributors. The exclusive right to play a certain distributor's product eliminated any possible competition in the distribution market. This did not mean that the two circuits did not compete for the audience in various cities and towns where they were in competition with each other. However, there seemed to be no real competition for product as evidenced in this following report, printed in *Variety* on April 10, 1946:

An 'entente cordiale' between Famous Players-Canadian and Odeon, Canada's two top theatre circuits, has been set up to eliminate competitive bidding for product, according to indications reaching major U.S. distributors. With Canadian box office strong, the circuits have discovered, it is said, that there was considerably more profit to be made by not pushing up prices for product by bidding against each other. .. Arrangement--tacit or otherwise--between Odeon and FPC has come to light with efforts of U.S. companies to make deals on their product. They have discovered, they say that if Odeon refuses a contract because of terms and a sale is then attempted to FPC, the answer is automatically a nix. And vice versa.

With Canadian rentals so satisfactory and apparently nothing to be gained by any public squawk against the alleged Odeon-FPC 'entente, major distributors are just swallowing their annoyance and keeping quiet. No action of any sort is planned.
Not only has there been no competition between the two circuits for product as the above report states, the circuits have often acted as partners faced with economic downturns in the industry.

The mid-1950s' slump was one such occasion. In 1950, a peak year for the Canadian exhibition industry, the 1801 regular theatres and 62 drive-ins received a record number of paid admissions of 236 million. Ten years later, the total number of paid admissions fell by 60 percent to 117.7 million. This downward trend continued until the late 1960s, when the novelty of television seems to have worn off, and more young people turned to theatres for entertainment. During this economic crisis, the two chains set up a committee to decide which of their theatres in various markets would be closed. Famous Players alone closed 41 theatres between 1950 and 1960. The two chains acted as though they were partners, sharing profits and losses. Their goal was to survive the crisis in relatively good financial condition. "It was a monopoly, you could say but, the prices did not go up and the public did not suffer," said Chris Salmon, the current president of Odeon Theatres. It is not known to me whether the two chains keep one set of account books even today, but the committee overseeing the closure was abandoned with the rising theatre attendance in the late 1960s.

The growing popularity of television throughout the 1960s and the dwindling box office revenues had created a great deal of uncertainty in the motion picture industry in the U. S. and Canada. The corporate executives at Paramount had decided to keep their hands in the broadcasting industry, which they correctly perceived as a threat to the feature film industry.
Famous Players Canadian Corporation Limited had entered into the broadcasting business in Canada as early as 1954 by investing in television stations in Kitchener, Ontario and Quebec City, Quebec. By the year 1970, it held stock interests in six television stations, two radio stations, and twenty-one cable companies, all in Canada. Famous Players' president Fitzibbons declared, after obtaining the exclusive franchise for Pay-TV for Canada from the International Telemeter Corporation, a Paramount subsidiary in the U.S., "Telemeter was a means of keeping the flow of revenue to Hollywood so necessary to motion picture production." Once again control of the new medium was essentially a means to supply profits from the Canadian Pay-TV market to the American film studios rather than investing in local production of films.

The absorption of some of the major American film producer/distributor companies by U.S. conglomerate corporations in the 1960's affected Canada also. When Paramount was acquired by Gulf & Western Industries Inc., Paramount's Canadian subsidiary, Famous Players, became a part of Gulf & Western's holdings in the leisure industries. Due to the then Canadian Radio-Television Commission's regulations requiring that not less than 80 percent of the voting shares of any company having broadcast property interests in Canada be owned by Canadian citizens, Famous Players was reorganized in 1971. The divestiture of its broadcast interests was necessary if it was to keep its American connection intact. Famous Players disposed of its interests in a total of 14 companies related to the broadcasting business in Canada. The reorganization was not intended to do away with the principal
contradiction in the Canadian feature film industry, i.e., the American monopoly power in the Canadian market. Paramount held 51 percent of the total shares of Famous Players Limited, and Canadian Cablesystems Limited (more than 80 percent Canadian owned) held the rest after the 1971 reorganization of Famous Players. This again is a clear indication of how valuable the theatre circuit is to the U. S. production company and its parent corporation.

Odeon Theatres (Canada) Ltd., the other major circuit, remained in the Rank Organisation's control until January 1977 when that British multinational corporation decided to sell Odeon Theatres. The primary reason for this development seems to be that over the years Rank had ceased to be a film producer, unlike its counterpart Paramount Pictures. The Rank Organisation's Canadian agent for the sale of Odeon Theatres, George Plummer of Mitchell Plummer and Company, concurred with this view. He stated in a trade newspaper interview that Rank had become involved in a number of diverse, unrelated fields including North Sea Gas and Oil, Xerox operations in Europe and the United Kingdom, and major property interests in Canada. When Rank's production interests in Britain were phased out, its theatre organization became a free-standing investment, not linked to any of its other holdings.

The 170 screens, which made up the national chain, carried an asking price of $30 million, with several conditions such as non-Canadians being discouraged from bidding; and commitments to retain its employees. Michael Zahorchak, a pioneer in the drive-in theatre business in Canada, was the successful bidder at $31.2 million, which was financed by the Bank of Montreal. Zahorchak's
Canadian Theatres Group consisted of 47 theatres and 66 screens in Calgary, Edmonton, Winnipeg, Montreal, and several Ontario cities. By adding the 131 theatres and 170 screens of the Odeon Theatres circuit, the new chain, Canadian Odeon Theatres Limited, became 178 theatres and 236 screens strong, thus firmly establishing itself as the second largest theatre circuit in the country. As will be discussed, the monopolistic policies of Odeon continued although the circuit came to be owned by Canadian interests.

Size, Profits, and Investment in the Exhibition Sector

It is necessary for us to consider the size, profits, and investment policies of the two dominant theatre circuits at some length here, because they affect the economic state of film production in Canada.

The Circuits

Out of the 1,633 screens in 1977 in Canada, which include regular theatres and drive-ins, Famous Players Limited controlled 418 screens and Odeon Theatres (Canada) Limited operated 236 screens. To put it another way, Famous Players controlled 25.6 percent of the total number of screens, whereas Odeon Theatres 14.4 percent in Canada. A total of 40 percent of the total number of screens in Canada are under the control of the two largest circuits.

It is not simply the number of screens the circuits operate that established them in a position of dominance in the business, but rather their command of first-run U.S. films. It was
assured by the ownership and certain market relationships with the American majors. Most of the holding of the two chains are in prime urban markets such as Montreal, Toronto, Vancouver, Edmonton, Calgary and Winnipeg. The two circuits together virtually control all of the first-run houses in the country today.

Another important aspect of the two chains is their concentration in the Ontario market, which is the largest market for motion pictures in Canada. For instance, in 1976, the seating capacity in that province was greater than in any other province. Gross receipts from admissions in Ontario were $70,882,000 that year, which constituted 37 percent of total Canadian admission receipts, thereby exceeding box office receipts of any other province. Ontario had a total of 480 screens, of which 380 were regular theatres and 100 were drive-ins in 1976, or 30 percent of all screens in Canada. According to information made available to the Bryce Commission by Famous Players and Odeon Theatres in April 1976, their holdings were the greatest in Ontario. Famous Players had 113 theatres out of 292 or 38.7 percent of Ontario's theatres, and Odeon Theatres controlled 55 out of 292 theatres, or 19 percent of the theatres in that market, thus together representing 57.7 percent share of the total number of theatres in that market. The increase in the holdings of the two chains in the Ontario market between 1963 and 1976 was by 14.7 percent, a considerable figure, which indicates that the two circuits are trying to concentrate their operations in the most lucrative market of Canada. They thereby leave rural communities to be supplied by independent exhibitors. Premier Operating Corporation Limited in Ontario and Rothstein Theatres Limited in
Manitoba are such independent chains.

As a consequence of their dominant position, the two major circuits collect the greatest portion of the box office revenue in Canada. Table 2 provides the average per screen gross box office revenue for Famous Players, Odeon Theatres, and the independent theatre operators for the year 1975. Although the two big chains controlled only 40 percent of the screens, their share of the box office revenue was 57 percent of total Canadian box office revenue. 27 This fact clearly indicates the dominant position held by the two major circuits vis-à-vis the independent theatre exhibitors in Canada. The latter group, running 979 screens or more than half again as many screens as the two big chains, shared a smaller slice of the economic pie. If data were available, one could segregate the larger independent chains and demonstrate that the remaining independents are worse off. Concentration of economic power has paid off handsomely to the two major circuits. The various reasons for this state of affairs with regards to the independents will be discussed later in this chapter.

The analysis in Chapter IV pointed out how historically the first-run theatres assumed the most crucial position in the industry, replacing the system of monopoly on "stars" and crafts people in terms of their ability to generate maximum revenue. In the Canadian context, it is important to see how the profits from the first-run theatres are invested to arrive at an understanding of the relationship between investment of the major theatre circuits and the production of films in Canada. Total net earnings of Famous Players, which include rental income from real estate,
confection sales, and equity earnings in associated companies, in addition to box office revenues for 1978, were $9.45 million.  

Table 2

Average Per Screen Gross Revenue Shared by Two Major Circuits and Independents, 1975.*

<table>
<thead>
<tr>
<th>Circuit</th>
<th>Gross Admission Revenue</th>
<th>No. of Screens (1977)**</th>
<th>Average Per Screen Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Famous Players</td>
<td>$70,303,000</td>
<td>418</td>
<td>$168,188.00</td>
</tr>
<tr>
<td>Odeon</td>
<td>$50,534,000</td>
<td>236</td>
<td>$214,127.00</td>
</tr>
<tr>
<td>Independents***</td>
<td>$90,563,000</td>
<td>979</td>
<td>$ 92,505.00</td>
</tr>
</tbody>
</table>

Total $211,400,000 1,633 $129,454.00


** 1975 data on number of screens was unavailable to me.

*** Independents include chains and single theatre operators.
The company's annual report does not give a breakdown of its revenues. So it is hard to tell how much of its revenues are from candy sales and so on. However, Table 3 presents data regarding the gross revenue (includes confection sales) from theatre admissions for Famous Players. That company, in a five year period, has increased its gross theatre revenues consistently, due to its parent company, Paramount, releasing such big box office earners as *Godfather* (I & II), *Saturday Night Fever*, etc. Additionally, the average admission price increases in Famous Players' theatres have contributed to the overall growth of admission revenues. Its share of total box office revenues in Canada has gone up by nearly 10 percent of total Canadian theatrical revenues between 1972-77. Thus, Famous Players took 44.3 percent of the national box office gross in 1977.

The profits of Famous Players are largely invested in construction and development of many diversified operations. While Famous Players is modernizing existing theatres and building multiscreen auditoriums in new urban and suburban locations in Canada, it is growing into a multinational enterprise in its own right by investing considerable sums of money in Western Europe. The company declared in its submission to the Bryce Commission in 1976 that it believed, "that European countries constitute its best opportunity for future theatre expansion." It acquired a 100 percent equity interest in the Paramount-Opera Theatre, a leading motion picture theatre in Paris, France, as of July 3, 1971, which since then has been converted into a five screen auditorium complex. Famous Players also acquired a
Table 3

Market Share of Famous Players Limited, 1972-77.*

<table>
<thead>
<tr>
<th>Year</th>
<th>Famous Players Gross Theatre Revenue</th>
<th>Total Canadian Theatre Revenue</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>$ 48,494,000</td>
<td>$ 139,540,000</td>
<td>34.75</td>
</tr>
<tr>
<td>1973</td>
<td>$ 49,727,600</td>
<td>$ 150,602,000</td>
<td>33.01</td>
</tr>
<tr>
<td>1974</td>
<td>$ 60,510,000</td>
<td>$ 173,683,000</td>
<td>34.8</td>
</tr>
<tr>
<td>1975</td>
<td>$ 70,303,000</td>
<td>$ 211,400,000</td>
<td>34.29</td>
</tr>
<tr>
<td>1976</td>
<td>$102,557,165</td>
<td>$ 224,000,000</td>
<td>45.78</td>
</tr>
<tr>
<td>1977</td>
<td>$101,718,868</td>
<td>$ 229,700,000</td>
<td>44.28</td>
</tr>
</tbody>
</table>

*Source: For 1972-1975, The Bryce Commission Papers; for 1976, 1977, Audited Consolidated Financial Statements filed with Department of Consumer and Corporate Affairs Canada, Ottawa. (Note that gross theatrical revenue includes confection sales.)
50 percent equity interest in Parafrance S. A., a French company currently operating 47 screens in France. Parafrance is expected to be engaged in a major expansion program, which is planned to bring it to a 100-screen operation by 1982. Famous Players also owned some theatres in the United Kingdom, which have been sold, and it has considered the purchase of an interest in a major theatre exhibition circuit in Germany. 31

Famous Players, through its subsidiaries and affiliated companies, owns 62,150,000 square feet of land located in downtown and suburban areas of Canada. It has completed several major construction projects developing its real estate holdings. They include the Capital Square in Ottawa, a 15-story office tower; White Hall Square in Edmonton, a 600-unit apartment development, North Star Inn in Winnipeg, a 272-room hotel; Capital Square in Edmonton, a 20-story office tower; and, Capital Centre in Montreal, a 21-story office tower. 32 With one exception, each of the company's office buildings and hotel developments has incorporated theatres in its design, thus, replacing old theatres with office towers or other buildings, but, still providing for on-going theatre operations.

Other interests of Famous Players include General Sound and Theatre Equipment Limited, a wholly-owned subsidiary engaged in the selling of projection and sound equipment, and, supplying technical services to the motion picture industry. This company also supplies intercom installations and public address systems for commercial premises, schools, hospitals, and governmental buildings. Theatre Confections Limited is also a wholly-owned subsidiary of Famous Players, which supplies theatres, arenas,
amusement parks and other entertainment centres with a complete confection service.

In contrast to Famous Players' investment in all the above-named enterprises, its investment in the production of feature films in Canada is miniscule. In 1973, Famous Players advanced $12,500 for a French language production. In 1975, two other French language productions got $70,000 from Famous Players. Its total commitment for English language feature film production in 1975 was a mere $270,000, which was divided among six features. In 1976, Famous Players advanced a total of $599,540 for 14 pictures in all, some of which had received initial funding the previous year. 33

The financial details of Canadian Odeon Theatres Limited are largely unknown to me, as they could not be obtained from the company. It may be recalled here that Odeon's box office revenues for 1973 were $25.9 million or 17.2 percent of the total Canadian box office for that year. Odeon is a larger chain today than in 1973, and it is reasonable to predict that its share of the box office could also be slightly larger. Odeon to date has invested in four Canadian feature films, which totalled $600,000. By 1977, it had withdrawn from the voluntary investment program in Canadian films. 34

Market Relations Between American Distributors and Major Circuits in the 1970s

The basic structure of the industry has remained intact over the last 68 years. Although the British film industry attempted to vertically integrate with a junior theatre chain in
Canada, it was a short-lived alteration of the market structure. The major circuits in Canada are monopolized by the major American film companies, although minor internal shifts have occurred. Since 1975, Universal does not distribute to Famous Players. It has switched to Odeon. In the same year, United Artists switched from Odeon to Famous Players. The chains claim that these shifts are indicative of a certain level of competition between the distributors and exhibitors. What the chains ignore to point out conveniently is that the shifts are only internal. Moreover, the allocation policy of the American majors of their first-run films to the two circuits has not changed at all since 1941. Furthermore, the minor shifts are not easy to make, as explained recently by Columbia Canada's president Wayne Case:

Changes cannot be made, even if, for any reason, Columbia wished to switch. Famous is totally booked up with commitments from other major companies and probably couldn't handle the additional business. Every one is locked into the system without much margin for maneuvering.

Case was pointing to the central problem in the Canadian motion picture industry, i.e., the monopolization of screen time by the American major production and distribution firms. If Columbia, an important producer and distributor in the U.S., complained about the monopoly situation in the Canadian theatrical market, it is not hard to imagine the plight of Canadian producers in getting access to first-run theatres. That problem is discussed later in this chapter.
The block booking policy of the American majors has resulted in their monopolization of the first-run Canadian market. When I asked the president of Odeon Theatres whether the leading U. S. film producers offer him one or two potentially successful films and ten inferior pictures as a package, he replied,

No, it's not ... I think done quite as blatantly as that. But when he comes along, I mean, he might say this after noon I want to come see you. we will make a deal for JAWS, and I have got another half a dozen duds in my bag and you can't have JAWS without them. It's not done quite as rudely as that. But, they may be sold quite separately but if you don't want them, if you tell him, I don't want them, we have had JAWS and we have done very well with that. Come see me when next time you have a good one. He will just say, look chum, I am not going to see you next time when I got a good one. You want my next good one, you look after these, which you know is fair enough.

This method of distribution is block booking in essence. It not only creates a minimum market for lower-grade pictures, but also occupies any playing time on the major circuits that may have become available to the independent Canadian producers. This monopolistic practice, it may be recalled, was declared illegal in the U. S. by the U. S. Supreme Court in 1948.

By their block booking policy, the leading American producer-distributors control almost all of the screen time available in the Canadian first-run market. In other words, they get the major share of the film rental income. In 1977, among the 83 distribution companies operating in Canada, the eight largest corporations—all of them subsidiaries of American distributors—took in 77.8 percent of the total rental income.37
Those eight American subsidiaries paid 67.1 percent of their gross rental income as royalties to the producers of films they distributed in 1977. No Canadian producer received any royalties from those eight companies.

Canada has been a lucrative market all along for American major distributors, and the available data point out that Canada's importance as a market for American films is growing every year. Between 1963-1977, gross rental billings in the Canadian theatrical market by American major distributors rose from $16.8 million (U. S.) to $64.3 million (U. S.).

The interest of Paramount Pictures Corporation has been significant in Canada. Famous Players was created by Paramount as a dominant theatre circuit in Canada. Paramount's control over the Canadian box office did not diminish even in the fifties. According to one estimate, 52 percent of all film rental leaving Canada to the U. S. went to Paramount in 1952. Although that share has substantially diminished in the seventies, Paramount collected more rental from Famous Players than any other major U. S. distributor between 1971-1975, for which data are available. In the past, the major distributors in the U. S. have contended that 50 percent of their theatrical revenue came from outside the United States. However, 82 percent of Paramount's theatrical film rental revenue in 1978 was derived from the U. S.-Canada market. As the U. S. majors look to the North American market to maximize their profits, Canada will become even more important to them as a source of revenue.

As discussed in this chapter, the American major distributors are able to extract the largest share of the Canadian
theatrical revenues because of their market relationships with the two dominant circuits. The industry structure today on the one hand produces a disproportionate share of revenue to the eight American firms, and on the other hand, renders the independent Canadian-owned enterprises in exhibition, distribution, and production of feature films vulnerable to the competition of the dominant firms. The market relationships between the independent sectors of the industry and the dominant distributors and exhibitors in Canada are examined in the subsequent pages.

Relations Between Independents and Major Distributors in the 1970s

Although the independent exhibitors in Canada today operate about 60 percent of all screens in the country, their buying power is weak when compared with the dominant circuits. The independents are scattered throughout the country and they are an insignificant group in such large markets as Toronto and Vancouver. Few of these independents do get second-run films. However, they are exceptions to the rule. One such example is the Ridge Theatre in Vancouver, which operates as a community theatre, publishes a monthly schedule of films, and offers special services such as a 'crying room' for babies. In smaller cities and towns where there are independents operating in competition to the theatre(s) affiliated to the dominant circuits, the independents do not get any supply of first-run films from the major U. S. distributors. That is, the major American distributors, as a matter of policy, do not offer first-run films to independents in the same market(s) where either of the two major circuits are represented.
Rocca's Challenge

The general picture given above should not be mistaken for an acceptance of those economic relations by all the independent exhibitors in Canada. In the 1970s, a small theatre chain owner in the Maritime provinces, the Rocca Cinemas Limited, was to pose a direct challenge to the industry structure in Canada by filing a complaint with the Nova Scotia Amusements Regulation Board, charging the major distributors with discrimination in violation of the Nova Scotia Theatres and Amusements Act. In a press release, John Rocca, the owner, stated:

While in New Brunswick, we have been successful in obtaining some first-run films, although not a share of the top films. In Halifax, the situation is different. All the major distributors have refused to offer us a single first-run film, good or bad. . . . Two distributors told us they had an arrangement with Famous Players Ltd. or with Famous and Odeon Theatres (Canada) Ltd. whereby all their films would be played by these exhibitors. Most of the other distributors told us that was the best they would do for us.

The Board instituted an inquiry in May 1975 and after nearly three years of investigation and public hearings, R. B. Kimball, the inquiry officer, submitted his report to his superiors on May 14, 1978. The testimony presented at the hearings reveals how the structure of domination operates in Canada today.

Starting in 1973, Rocca, who had been a real estate developer, had built a total of six theatres including the Spryfield in the Maritimes provinces. The Spryfield, located in a shopping mall, was to be a first-run house with twin screens. According to Rocca's financial consultants, the Spryfield
cinema would have made a profit of $100,000 in its first year of operation if Rocca's plans had materialized in making it a first-run house. However, for the year ending December 31, 1975, there was a net loss before administration expenses of $65,638.00. According to the Board's report, the main obstacle to the anticipated success of the Spryfield theatre was the refusal of all the named distributors to supply first-run product on a regular basis:

I am, however, satisfied that none of the respondents were (sic) willing to provide the Complainant with first-run film product at its Spryfield Theatre at the time of its opening, and that this unwillingness, with the exception of United Artists and Paramount Pictures Corporation (Canada) Ltd., continued up to the laying of the complaints.

The thrust of the arguments presented by the Respondents was that the Spryfield theatre did not have a track record of grossing potential that equalled its competition theatres in the same market. The distributors argued that they adopted a policy of refusal to supply first-run films to that theatre only because of its history. However, the inquiry found that none of the distributors offered any first-run films to the Spryfield Theatre at its opening, which precluded its acquiring a good reputation and a respectable grossing capability in the market to compete reasonably with the Famous Players and Odeon. The Respondents' argument camouflaged the marketing agreements with the major circuits. The weakness of the distributors' arguments was recognized by the inquiry officer, who concluded:
Since all of the Respondents, with the exception of the above-mentioned two Respondents (and neither offered any valid reason for the lateness of their offers) were unwilling for the reasons stated above to offer any first-run product to the Complainant at any time during the period covered by the complaints, I would have no hesitation in finding each guilty of unjust discrimination were it not for the following circumstances. 47

The inquiry officer acquitted the Respondents on the basis that Rocca had written a letter to all the Respondents on July 25, 1974, requesting a firm commitment from all of them for first-run films for release in 1975, which would be a "fair and equitable distribution" of their product for that year, and "... every year after." 48 The inquiry officer held that Rocca was not entitled to a supply of first-run film product on a long-term basis because it was not proven that his opponents were given any such commitment by the Respondents. 49

The case presented here indicates that despite the apparent absence of written agreements between the major distributors and the major circuits in Canada, the mutually-beneficial business "understandings" are in fact their policies. In a judicial inquiry of this sort, however, "understandings," historical patterns of corporate behavior and policy, and policies of the same corporations in other provinces do not have any legal bearing. Rocca lost the case not because he could not prove that he was discriminated against by the major distributors vis-à-vis the circuits, but because he demanded a long-term commitment from the distributors which would have put him on an equal footing with the major circuits. In essence, Rocca challenged the system of monopoly control in the Canadian motion picture industry and
demonstrated once again that the legal means available to the independents in Canada today are inadequate in terms of dealing with the overall market structure that excludes them. Rocca was able to struggle against the theatre and distribution monopolies because he had the financial means to do so. But there are many smaller independents who do not have adequate financial resources to go through the already-weak legal system to redress the monopoly abuses in the industry. A letter printed in the Montreal Gazette, on February 10, 1976, written by another independent exhibitor commenting some eight individuals who had requested a Combines Investigation into the motion picture industry, attests to that fact:

I congratulate you on this action. It is about time this was done. Many small, independent, theatre owners have suffered because of these practices for many years, but taking legal action was a step beyond their means. I, myself, have been in the indoor theatre and drive-in business for thirty years and have experienced discrimination from the various film companies. . . . I have thought about suing Odeon Theatres Limited and the film companies but, as I previously mentioned, this is a very expensive proposition and would create problems for me that could put me into bankruptcy. . . . I feel that I would be able to give you a lot of information and proof in respect to the discrimination shown by the film companies in favour of Odeon Theatres Limited and Famous Players Theatres Limited and against small, independent, theatre owners.

Recently, another independent theatre operator who tried to thwart the monopoly power of the dominant companies in Canada was, however, successful. This case led to the conviction of Columbia Pictures of price maintenance under the Combines Investigation Act. The history of this case and the evidence presented
at the court by the Crown reveal how the distributors wield their power with the independent theatre operators.

In March 1976, Jack and the Beanstalk, a first-run film distributed by Columbia, played simultaneously at the Bijou Theatre in Scarborough, a suburb of Toronto, and certain Odeon theatres in the Toronto market. When the film opened at the Bijou, the admission prices were $1.00 for children and $3.25 for adults. The Odeon theatres charged $1.00 for children and $3.50 for adults. When the attendance figures for the first showing at the Bijou were disappointing to the independent owner, he reduced the matinee price for adult tickets to $1.00. Odeon lodged a complaint with Columbia about lower prices at the Bijou after one of their patrons had complained about paying more for the same film. Columbia instructed the Bijou theatre operator to bring up his ticket price to its previous level which he did, fearing that Columbia would cut off his supply of first-run product in the future. A letter dated March 22, 1976 was seized from Columbia Canada's head office in Toronto by an investigation officer with the Consumer and Corporate Affairs, a Federal agency which administers the Combines Investigation Act. Columbia's general manager, Harvey Harnick, wrote that letter to Mr. I. Levitt, the assistant general manager of that company, which points out the policy and the general attitude of the U.S. distributors towards the independent exhibitors:
March 22, 1976

Toronto

Mr. I. Levitt

Dear Dutch:

It is really remarkable that when we bend over backwards for independent exhibitors to play day and date with the Odeon chain the kind of troubles we are running into with their lack of co-operation.

As an example, Odeon's price for children is $1.50 and for adults, $3.50. Malton, Fireside Theatre, is charging 50 cents for all seats. One patron who took some children on Saturday took some other kids today but had to go to Weston because Fireside is closed and the difference he had to pay caused him to call Odeon and literally tear the skin off Bob Yeoman. At the same time, the Bijou Theatre is charging $1.00 for all seats, adult or children. The Universal Theatre double-billed and all of this is causing us nothing but untold grief.

It is one thing to get dates but another thing again to set up these dates without finalizing not only terms but admission prices, etc., so that they can be part of the overall break.

Under no circumstance will any of our forthcoming saturation pictures be allowed to play with any independents or circuits unless there is an agreed-upon general admission between all. I am not saying what the price should be but certainly it should be standardized and anybody who doesn't want to fall into that category can drop out.

Yours very truly,

HH: j

cc Sandra

PS. There is even trouble with Canadian Theatres in this regard and this notwithstanding the fact that I checked this out with Frank Price who assured me that the Canadian Theatre admission price would be consistent with the other theatres. It seems that somebody again disregarded their head office instructions.
Columbia was convicted on June 9, 1977, on a plea of guilty to a charge of unlawfully attempting to influence upward the price of theatre admission. The sentence imposed was a fine of $1,250.00 and a prohibition order against Columbia never to repeat the offense of enforcing its uniform ticket price policy in the future. The crown prosecutor appealed the sentence on grounds that the provincial court judge did not give sufficient consideration to the aspect of deterrence. The Ontario Court of Appeals quadrupled the fine to $5,000.00.

The relations between the independent distributors in Canada and the two dominant circuits are akin to the beggars and the rich. The analogy may be a bit harsh, but the reality in the Canadian industry which is under the monopoly control of the American multinational film industry cartel is quite harsh. The independent distribution sector in Canada has been important to the development of the production sector because while American major distributors did not release Canadian-made films in any significant number, the independents have by and large taken the financial risks involved in distributing Canadian films. A total of 100 films were distributed in Canada by eight independent distribution companies between 1967-1977. By comparison, the record of the U. S. major distributors of distributing Canadian films in the Canadian market and elsewhere is rather dismal. Between 1970-1978, Paramount has distributed one Canadian picture, Universal one, MGM one, Avco Embassy one, Columbia two, Fox two, Warner three, American International Pictures four, and United Artists none.
The U.S. major distributors charge comparatively more commission for distribution than the independents. The latter group of companies receive an average of 35 percent commission on film rental income, whereas the American-owned companies charge 42-45 percent commission.56

There seem to be serious problems selling distribution rights of Canadian films to the American major distributors. Crawley Films, a pioneer film production company in Canada which has its own distribution arm, has had bitter experiences in dealing with some of the U.S. distributors. Budge Crawley complained to me of blatant discrimination by Universal Pictures in distributing his 1975 film, Janice, in the U.S. market. Crawley's own firm distributed it in Canada successfully. The contract with Universal included a "best efforts" clause but according to Crawley, Universal did not honor the contract by pushing hard in selling his film. Janice opened in San Francisco in one theatre and ran for 14 weeks after which the distributor did not release it anywhere else in the U.S. Crawley alleged that Universal had big budget pictures of their own that year, which included the block-buster film, Jaws. As a result, Crawley's film was shelved despite the fact that it had a good track record of having recovered its costs of production in the Canadian market alone. "They figured, what can this small Canadian producer do. He can't take us to court," said Crawley. But Crawley did take the Universal Pictures to court and is waiting for the case to come to a hearing.57

The most important factor that renders the independent distributors in Canada vulnerable to competition from the American
film industry cartel is the latter's control over the first-run market. This fact is clearly evident if one looks at how the circuits allocate the playing time to their major suppliers versus the independents. In the motion picture business, one of the most important considerations in distributing a film is finding what are called the key play dates such as Christmas, Thanksgiving, Easter and the summer periods in the first-run houses. These dates assure a certain degree of box office success. In Canada, the two dominant theatre chains have allowed the American major distributors to monopolize those commercially attractive playing periods in first-run houses in all of the key cities for mutual benefit.

The play-dates in both the major circuits are pencilled in at least 3 to 12 months in advance of the picture's release. Moreover, when the major U.S. distributors release a big budget picture (most of them nowadays are) their contracts with the circuits call for a certain amount of what is called "committed playing time." This in effect locks in not just the best dates but almost the entire 52 weeks in a year. The victims in this system of monopoly are the independent distributors and thereby Canadian producers. Occasionally, a major's film does not do as well as it was expected at the box office. Then the circuits might request the distributor for the removal of the picture from the theatres. But the circuits' theatre(s) are still committed to the agreed playing time in the contract. The U.S. distributor may wish to release another of his films for those remaining weeks or settle to use them at another time. It is only in such circumstances that an independent distributor gets
playing time for his picture. Since most of the Canadian pictures are being distributed by the independents, they have to wait for a "hole" in the schedule of the two chains.59

When the author confronted the president of Odeon Theatres with the question why the major theatre chains discriminate against the independent distributors and thereby against Canadian pictures, his reply was:

I have to say from a purely commercial point of view, the people who are entitled to my spare playing time, are the people who provide us the 5'or 6 block busters, if they got other things that have not been played, as against somebody who has provided me with nothing. Either you know . . . to me that's not only fair but its logical. You know, if you are a Canadian producer and you don't have to be releasing through an American major distributing company, and you think, your picture is the greatest, and you tell him no, you can't get a Christmas date with Famous because they are all tied up with United Artists, Metro, Warners, Columbia, Universal, and so forth, you turn around and say, Jesus Christ, this is a conspiracy. I am being discriminated because I'm a Canadian. You are not being discriminated against because you are a Canadian, your are being discriminated against because your picture is no fucking good (laughter).60

Mr. Salmon's statement indicates a collective judgement in the Canadian distribution/exhibition system which is controlled by the American film industry cartel. This collective judgement applies to almost all Canadian films forthcoming. The system is structured to exclude almost all Canadian films except by chance.

Mr. Salmon uses the traditional argument that if there is a "good" Canadian film, it would get played. In other words, it is not the structure of the industry and the market relationships that preclude Canadian films in the national market, but it is their poor "quality." This argument is largely a myth.
perpetuated by the dominant distributors and exhibitors in Canada. Many Canadian films did not receive commercial distribution in Canada until they won impressive international awards. Claude Jutra's *Mon Oncle Antoine* and Don Shebib's, *Goin' Down the Road*, both released in 1970, are in that category. As Table 4 indicates, none of the seven top-grossing Canadian pictures produced between 1968-1978 were released in Canada during the best playing times. Furthermore, when a Canadian film is doing well at the box office, despite all the odds against it, the circuits have terminated the showing because of a locked-in booking with an American film distributor. A recent example of such practice which discriminates against Canadian pictures was the case of *In Praise of Older Women*, which had grossed $24,000 the previous week from a key theatre, when Famous Players abruptly ended its showing in order to accommodate *The Boys From Brazil*, a U. S. distributor's film. The independent distributor is thus at the mercy of the theatre chains in Canada. He is seldom prepared for the release when he gets that one call from the circuits. He seldom has the choice of theatre(s) that his film might need to maximize its grossing potential. His publicity materials may not be ready, due to lack of time. As a result, the Canadian picture is released "cold" without the necessary pre-release publicity, without the necessary planning, and timing. As can be expected, the result is more often than not disastrous to that film.

Some independent distributors have found it so difficult to operate within the system that they have had to go into the theatre business themselves. New Cinema Enterprises, a newcomer.
## Table 4
Release Dates for Seven Top Grossing English Canadian Feature Films in Three Key Canadian Markets.*

<table>
<thead>
<tr>
<th>Title</th>
<th>Toronto</th>
<th>Montreal</th>
<th>Vancouver</th>
<th>Gross Box Office**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprenticeship of Duddy Kravitz</td>
<td>April '75</td>
<td>April '75</td>
<td>May '75</td>
<td>$2.2 mil</td>
</tr>
<tr>
<td>Black Christmas</td>
<td>Oct. '74</td>
<td>Oct. '74</td>
<td>Nov. '74</td>
<td>$2.0 mil</td>
</tr>
<tr>
<td>Why Shoot the Teacher</td>
<td></td>
<td></td>
<td></td>
<td>$1.8 mil</td>
</tr>
<tr>
<td>Who has seen the wind</td>
<td>Nov. '77</td>
<td>Nov. '77</td>
<td>Nov. '77</td>
<td>$1.2 mil</td>
</tr>
<tr>
<td>Shadow of the Hawk</td>
<td>Aug. '76</td>
<td>Aug. '76</td>
<td>Aug. '76</td>
<td>$1.0 mil</td>
</tr>
<tr>
<td>Rabid</td>
<td>April '77</td>
<td>April '77</td>
<td></td>
<td>$910,000</td>
</tr>
<tr>
<td>Lies My Father Told Me</td>
<td>Oct. '75</td>
<td>Sept. '75</td>
<td>Nov. '75</td>
<td>$875,000</td>
</tr>
</tbody>
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* Source: CFDC.
** As of November 15, 1978.
in the industry, dealing mainly in art films and Canadian films, have leased three theatres since 1975 after finding it impossible to get dates for their pictures in the major theatre circuits. The rest of the independents who do not have the necessary capital to acquire theatres have to wait in line to get play dates for their pictures.

Summary

The structure of the American film industry, which was extended into Canada as though it were a state within the American Union, has remained intact since 1920. Britain attempted to establish its presence in Canada by vertically integrating a smaller but major circuit with the leading vertically integrated multinational British film company. But it did not endure long as the British film industry itself was vulnerable to American film industry cartel's competition at home and abroad.

Monopolization of the Canadian first-run market has diminished competition in the distribution market in the interest of the leading U. S. producer/distributor corporations and has limited the competition in the exhibition sector for product. Though not a single American firm dominates the entire exhibition and distribution market in Canada today as was the case between 1920-30, the theatrical distribution sector is dominated by the American oligopolies which operate as a cartel in Canada. A necessary by-product of this system of monopoly is rendering Canadian independent exhibitors, distributors, and producers in a vulnerable position vis-à-vis the American film industry cartel.
As the major American film distributors have shown little enthusiasm to distribute Canadian-made films, not only is access to the world market limited to them, any significant access to the home market which is dominated by the American film industry cartel is precluded. Canadian films, even the successful ones, have not been shown during what are considered to be the "best playing times" in Canadian theatres in the last ten years. The dominant circuits in Canada have discriminated against the Canadian films in the interest of giving the best exposure to their regular suppliers, i.e., the American production and distribution corporations.

Canadian film production companies are not in a competitive position with the U. S. film industry in the sense they are unable to provide a regular supply of films to the circuits. The restrictions on entry to the first-run market in the Canada-U. S. markets and also in foreign markets which are in the control of the American major production and distribution firms contributes to the Canadian production companies' inability to make films on a continuing basis. No vertical integration of production, distribution, and exhibition has occurred within the Canadian film industry, unlike in the U. S. and British film industries. To analyze the reasons for the lack of such indigenous integration, it is necessary to look at the policy of the Canadian government with respect to the domestic film industry which is the burden of the next chapter.
ENDNOTES


3. Cox, Kirwan, op. cit., p. 49.


5. Cox, Kirwan, op. cit., p. 50.

6. Kirwan Cox interview with Nat Taylor, a pioneer in the Canadian film industry and also president of Motion Picture Theatres Association of Ontario. No date.

7. Kirwan Cox interview with George Destounis for a Canadian Broadcasting Corporation television program called, "The Great Canadian Culture Hunt Series," televised on March 17, 1976. In a telephone interview with the author, Mr. Destounis confirmed the statement but insisted that Canadian films have been played in Famous Players' theatres. The question of access to theatres for Canadian films will be examined later in the chapter.

8. The Bryce Commission Papers, Hearings Before the Royal Commission on Corporate Concentration, April 1976.


10. Canadian Film Weekly, August 19, 1942.

11. Canadian Moving Picture Digest, August 22, 1942.

12. Canadian Film Weekly, September 2, 1942.

13. Canadian Moving Picture Digest, September 19, 1942.


26. These figures represent theatres and not screens which would be higher. Canadian Film Digest publishes that data but it is not used here because Famous Players and Odeon have various partnerships with some independent theatre operators. That information was not available to me from the Digest or the companies. The submissions made by the two chains to the Bryce Commission do not spell out those details. As a result, I have relied on the data made available by the circuits themselves.
27. Data for other years are not available in the public domain, and the circuits declined to entertain my request for the same.
34. C. R. B. Salmon, President of Odeon Theatres, in an interview with the author, Toronto, November 15, 1978.
37. *Statistics Canada, Annual*, #63-207, 1977, p. 20. The eight leading American distributors in Canada today are, alphabetically, Allied Artists Pictures Distributing Company, Ltd., Columbia Pictures of Canada, Metro-Goldwyn Mayer Ltd., Paramount Films Distributing (Canada) Ltd., Twentieth Century Fox Film Corporation, United Artists Corporation,
Ltd., Universal Films (Canada), and Warner Brothers Distributing (Canada), Ltd.


40. Council of Canadian Film Makers, *Brief submitted to the Royal Commission on Corporate Concentration*, also called the Bryce Commission, February 20, 1976.

41. Submission made by Famous Players to the Bryce Commission, April, 1976.


44. Rocca Cinemas vs. Bellvue Film Distributors, Ltd., Astral Film, Ltd., Paramount Film Service, Ltd., United Artists Corporation, Ltd., Universal Films (Canada), Warner Brothers Distributing (Canada), Ltd., Twentieth-Century Fox Film Corporation, Ltd., (1978). Hereafter referred to as the Kimball Report. It is to be noted that Bellevue had the exclusive franchise for Canada of Walt Disney films and Astral, the Rank and Avco Embassy Pictures films.


50. This practice of an independent running a first-run film with another circuit affiliated theatre in the same market is called "laying", "day and date," a relatively new policy which came into vogue in the 1970's. It probably became necessary because of shortage of theatres and play dates on the major circuits. The distributors release some pictures at several theatres in a given market accompanied by publicity on different media in the locality to get a wide response to it in the shortest time possible. "Day and Date" pattern of distribution is used for those pictures.

52. *Her Majesty vs. Columbia Pictures Industries Inc.* (1977): A criminal charge against Harvey Harnick was withdrawn by the government apparently due to his age and poor health.


54. Association of Independent and Canadian Owned Motion Picture Distributors, *Brief submitted to the Secretary of State*, 1977, Schedule A.

55. Canadian Motion Picture Distributors Association, *Submission to the Department of Finance*, July 1978, Schedule "C". This Association is the successor of the Cooper Organization discussed in the last chapter.


64. Linda Beath, partner, New Cinema Enterprises, interview with the author, Toronto, November 16, 1978. Linda said that in 1977 she could get a total of 12 play dates from the circuits, none of which were at the 'best playing times.' In 1978, however, she was able to secure more play dates because, in her opinion, the U.S. majors' films did not do as well as expected. But the situation worsened in 1979, as not a single date became available to her company.
In this new country where all forms of entertainment are scarce, moving pictures are welcomed, and there is no reason why the manufacturers of the United States should not control the business.


We are attempting at all times, as Canadians, to induce American capital and manufacturing interests to come into Canada and establish branch factories. I look on the American film industry much as a branch factory idea in so far as it affects Canada. American motion picture producers should be encouraged to establish production branches in Canada to make films designed especially for British Empire consumption. I do not entirely agree with the thought expressed in your letter that the experiment of allowing American producers to get a footing in Canada would be a dangerous one. We invite Americans to come over to Canada to make automobiles and a thousand and one other things, and why not invite them to come over and make pictures, but make them the way the British markets demand?

--Ray Peck, Director, Canadian Government Motion Picture Bureau, 1927.

The purpose of this chapter is to analyze state policy in Canada with respect to the domestic feature film industry as affected by the policies of the U. S. film industry cartel and the U. S. government.

Branch Plant Film Industry, 1928-1938

In the same year Ray Peck wrote the above-quoted letter to a concerned Canadian, events occurring outside Canada, this time in the United Kingdom, were to result in a branch plant film industry in Canada. The British Film Act of 1927 imposed a distributor's quota and a screen quota, which made the production of "British" films inevitable.
Just a year before, W. L. MacKenzie King, the Prime Minister of Canada, had spoken eloquently at the Imperial Conference in London, supporting the quota for British pictures in the Empire, and domestic production in the colonies. However, he seemed to have done nothing to implement his ideas at home. After 1925, the Government Motion Picture Bureau seriously attempted to bring American film companies to produce films in Canada, but it was not successful. However, with the passage of the British film quota law, American companies moved into Canada to produce quota "quickies." Pack's vision of a branch plant cinema industry appeared to be on the way to realization. Between 1928 and 1938, a total of 22 feature films were produced in Canada to circumvent the British quota. Remarkably enough, the government in Canada allowed this country to be used by the American film industry in its attempts to subvert the quota law in Britain. One wonders as to where the Canadian government placed its allegiance, with Imperial Britain or the Imperial United States? However, the 1938 Film Act in Britain excluded Dominion film productions from qualifying for the purposes of the quota and the Canadian branch plant film industry disappeared entirely.

The feature film industry in Canada became a policy issue to the Canadian government again in 1947 when the House of Commons under the Prime Ministership of MacKenzie King debated motion picture imports along with vegetables and other consumer goods from the U. S. The context in which the discussion in the House of Commons took place was the serious dollar shortage Canada was faced with that year. Canadian reserves of U. S.
dollars and gold had shrunk from $1,045 million at the end of 1945 to a mere $300 million in 1947. The government was considering imposing restrictions on various imported goods from the U.S. to avert an impending dollar devaluation. The motion picture industry in Canada contributed significantly to the balance of payments crisis in 1947. A total of $20 million left Canada of which $17 million went to the American companies and the rest to the British and French film companies. On November 17, 1947, the government passed the Emergency Foreign Exchange Conservation Act, which imposed sweeping import restrictions on a wide variety of American goods. Among the goods that were not affected by this legislation were motion picture imports. The House of Commons considered the motion pictures at length and the quota law of Great Britain was also debated but the American film industry lobby in Canada had convinced the Minister of Trade and Commerce, Clarence D. Howe, that an import quota would not be in the best interest of his government. Howe replied to a question regarding film quotas by a fellow member of the House of Commons:

It was thought that simply to ration United States films would not be a satisfactory solution. After all, there are other ways of meeting the situation which perhaps would be more profitable in Canada. At the moment extensive negotiations are going on between the government of Canada and the entire moving picture industry of Hollywood (MPEA) and I hope that within the next two or three weeks I shall be able to report a favorable transaction whereby we shall obtain a substantial return in publicity for Canada and possibly some more concrete returns as well.

Howe went on to emphasize that "a great many people in this
country like to go to the movies; therefore, if we can get a quid pro quo in some other way than by cutting down movie films, it seems the logical thing to do." The American film industry had convinced Howe that Canada was a free market, in which any other country could compete freely. When a member of the House of Commons asked Howe, why the government did not want to impose a quota favoring British films and encourage British film imports, Howe replied:

"I cannot think of any way, except to go over there and buy them, and bring them out. They are entirely free to come into this market."

The American film industry lobby consisting of Francis Harmon, vice-president of The Motion Picture Export Association of America (MPEA), and J. J. Fitzibbons, president of Famous Players Canadian Corporation, had met with Howe. They had sold him the idea that a quota on American films might infuriate the faithful movie-goers in Canada and that the MPEA would find a solution to correct the outflow of dollars. At a luncheon in the Rideau Club of Ottawa on January 14, 1948, the MPEA had won important allies in the government—Lester B. Pearson, Secretary of State for External Affairs, Donald Gordon, Deputy Governor of the Bank of Canada, and Earnest Bushnell of the Canadian Broadcasting Corporation. The MPEA sold what was essentially a public relations idea to the government, titled the Canadian Co-Operation Project (CCP), under which the American film industry cartel promised to make short subjects, newsreels, and some features in Canada. There was no clear commitment on the part of the MPEA as to the number of films or their budgets.
or where they would be distributed and exhibited. According to one researcher, most of those promises were never kept. The MPEA strategy was to make sure Canada would not follow Great Britain in imposing a film import quota or a duty on the rentals. The CCP took the place of those restrictions.

The Canadian government hailed the CCP as a major accomplishment and publicized it as a vehicle to establish a film industry in Canada. However, the American film industry had no interest in starting a film industry in this country. The following letter dated March 4, 1948, written after the Rideau Club meeting by Fitzibbons to Spyros P. Skouras, the president of 20th Century Fox, is testimony to that fact:

There are people in Canada—as in every other country where American films are released—who insist upon American companies building studios all over the world and scattering their production activities in an un-economic fashion. If we are to avoid extreme pressure for expensive and expansive studio operations in Canada, then we must demonstrate to the Canadian government our capacity really to do a good job for the Dominion.

In April of that year, the MPEA lobby met with Howe in Ottawa to discuss the production of motion pictures in Canada, which was publicized by the MPEA as a boost to local production. The Canadian Moving Picture Digest, the prominent trade paper, ran the optimistic headline, CANADA-US TO COOPERATE/EXPECT INCREASED PRODUCTION on April 17. They were, of course, public relations gimmicks to stall the Canadian government from legislating a screen quota.

The smokescreen created by the MPEA lobby through the CCP began to thin out in less than a year, and some government
officials in high positions were beginning to become suspicious. But at that point, the U. S. State Department came to the rescue of the American film industry.

One of the roles of the U. S. State Department in foreign countries is to make sure that a favorable climate exists for American businesses to operate unhindered by national governments. Gathering intelligence on potentially damaging legislation, public opinion or the opinions of key bureaucrats seems to be a day-to-day affair for American ambassadors and their personnel. Consider the following statement by William Benton, the Assistant Secretary of State, who was in charge of formulating and explaining the U. S. official policy of international relations in 1946:

The State Department plans to do everything within its power along political or diplomatic lines to help break down the artificial barriers to the expansion of private American news agencies, magazines, motion pictures, and other media of communications throughout the world.

In this general mode of operation, the American ambassador to Canada in 1949, Lawrence A. Steinhardt, earns a place in history. Ambassador Steinhardt alerted the MPEA by writing a letter to Francis Harmon dated September 7, 1949 regarding dissatisfaction expressed in certain government circles. In the face of further deterioration of Canada's dollar drain to the U. S., he warned the MPEA that the Canadian government was considering further restrictions on American imports. Steinhardt said:
To put it bluntly, the Canadian authorities appear to be under the impression that at least some of the American companies are running out on the Canadian Cooperation Project. . . . My informant says that according to the Canadian authorities, some of the members of the Association (MPEA) have seen fit to run out on the Canadian Cooperation Project since July 1, 1949, and to ignore the recent deterioration in the Canadian foreign exchange position, and to assume that they are in no danger of the imposition of severe restrictions under the Emergency Exchange Conservation regulations on the import of American pictures into Canada. In view of the foregoing, and because of my earnest desire to preserve the present satisfactory status of American motion pictures in Canada, I would be derelict in my duty were I to fail to invite your attention to the fact that unless all of the members of the Association (MPEA) take immediate steps to satisfy the Canadian authorities that each of them is participating wholeheartedly in the Canadian Cooperation Project, all of the members of the Association must be prepared for the imposition of restrictions on the import of American motion picture films into Canada, or, in the alternative be prepared to have at least a part of their earnings in Canada frozen. (Emphasis mine).

The MPEA reacted swiftly to the ambassador's warning signal. Collecting what could be presented as evidence of the American film industry's sincerity in the CCP to the Canadian cabinet, Francis Harmon arrived in Ottawa on September 26. In a meeting with Howe and other government officials, the MPEA assured them of the expansion and continuation of the CCP in the 1950s. Howe, under whose direct supervision the CCP operated, appeared satisfied with the Project and assured the MPEA that Canada would go on with it. A CCP report declared optimistically:

As a result of these meetings, we have the assurance of the Canadian government that no adverse action will be taken in the near future against the American Motion Picture Industry. . . . Although at no time did we commit the industry to any definite amount of production in Canada, we have indicated that at least three feature pictures will be produced in whole or
in part in Canada during 1950. This particular part of the Project makes the greatest impression on the Canadian government. The amount of money spent by the American companies is not really important, it seems, as the fact that they are there on location and are seen actually shooting a film.

What this quote implies is that the Canadian government might also have been looking for a public relations gimmick in the CCP. Howe, with an important portfolio, could not have been a gullible man. Originally, the government had agreed with the MPEA that the CCP would have five objectives:

1. To produce more American films in Canada.
2. To distribute more Canadian films in the U. S. market.
3. To provide opportunity for Canadian capital to participate in American production.
4. To promote tourist trade to Canada.
5. To present general information about Canada to Americans.

But the government did not seem to have pushed the MPEA to carry out all the objectives of the CCP. Following a visit to New York to meet with the officials of the MPAA, Donald Gordon, the banker, recommended to Howe that the highest priority of the CCP should be placed on the last two objectives. The CCP was being steered by the American interests to suit their goals and the Canadian government went along. Consequently, for a total of three possible films to be produced in Canada, the government was willing to allow the MPEA to extract $17 million a year from the country under foreign exchange crisis conditions.

The outcome of the CCP, a public relations scheme on the part of the American film industry, was the protection of American
monopoly in the Canadian film market. The Canadian government supported the project and made it a success. The American film industry never claimed that the CCP was going to help establish a film industry in Canada, but the Canadian government did. It was a way of covering up their lack of policy initiatives to encourage the production of indigenous films. The Canadian government did not propose any legislation to help create a national film industry until 1968. As will be discussed, the government failed to deal with the principal contradiction in the Canadian film industry, i.e., foreign control of the Canadian box office.

There was no fanfare, no public ceremonies, to bury the CCP officially. The project came to an end when the pressure on Canada's currency reserves eased with the post-war boom in the economy around 1951. American films continued to dominate the Canadian screens. In 1959, the U. S. film industry released 305 new pictures out of a total of 651 films released in Canada that year. There was only one domestically-made film.19 Film rentals leaving Canada to the U. S. continued unhindered. They amounted to $16.8 million in 1963 and by 1974 that figure had jumped to $34.4 million, giving Canada the distinction of being Hollywood's largest foreign market.20

Support for Film Production

The backdrop for the Canadian film production industry struggle since the 1950's has been the anxiety over loss of cultural sovereignty in both French and English speaking Canada. Although the film makers demanded government support, they had to wait until 1968.
The 1960's were years of intense political struggle in North America. In Canada, the French Canadians were boldly asserting their separate identity and culture and raising certain political questions about their survival within the country, which was dominated by English Canada. Television had provided a new outlet for film makers in Canada and particularly in Quebec a revival of all kinds of cultural industries was underway. The National Film Board, the predecessor of which was the Canadian Government Motion Picture Bureau, had trained a group of young film makers in both French and English Canada who were eager to produce feature films. But with the distribution and exhibition markets preempted by foreign monopolies, the Canadian film makers had difficulty finding investors. Some of them had to leave Canada to find employment elsewhere. Among them were Sidney Furie and Norman Jewison who emigrated to London and Hollywood respectively to become successful film makers.21

There were demands put on the government by English and French Canadian film makers in the 1960's to shore up the film production sector and the government had been promising an agency on the lines of the National Film Finance Corporation in England. In October 1965, the Secretary of State, who was responsible for cultural policy, announced that the cabinet had accepted an inter-departmental committee's proposal to set up a Crown Corporation with responsibilities for administering a $10 million revolving fund. It would act as a catalyst to stimulate production in Canada by investing in films and also have the power to provide grants and awards.
The Canadian Film Development Corporation (CFDC) created by an act of Parliament was charged with the responsibility to "... foster and promote the development of a feature film industry in Canada." It was to act as an investment bank for Canadian film makers, providing venture capital, which was difficult to obtain from private sources.

Over the last ten years, the CFDC has assisted in the production of 58 major English-language films with budgets in excess of $200,000. It has also provided funds for the production of 45 films costing less than $200,000 each. Only five English-language films, however, have returned a profit to the Corporation.

The critical factor in a film's commercial success is distribution. Most of the CFDC films were distributed by Canadian-owned independent distribution companies which had limited access to the first-run market in Canada, especially at the "best playing times." As discussed in the last chapter, the major U. S. distributors showed little interest in distributing the Canadian films in the Canada-U. S. and other markets. The policy makers were fully aware of the implications of creating an agency such as the CFDC without its films having any effective access to the market. When the Secretary of State outlined the creation of the CFDC, the Minister declared to the Parliament:
Many countries, in order to encourage the distribution of their own films, have applied quotas. We have chosen, however, not to introduce this kind of restriction in the (CFDC) Bill at this time. Canadian films, must, therefore, make it on their own merits. But in rejecting quotas we are counting on film distributors and cinema chains to give more than ordinary support to the aims of this program.24

This contradictory policy, which on the one hand supported laissez faire competition in a market dominated by a foreign film industry cartel, and on the other hand, recognized that Canadian films needed special treatment by those monopoly firms, was not going to yield any benefits to the Canadian film industry.

Since its inception in 1968, the CFDC films have had great difficulty finding access to theatres in the domestic and outside markets. The people of Quebec strongly supported the Quebecois films. Denis Heroux's J'ai Mon Voyage, which was distributed by an independent Canadian company, grossed $800,000 in the Quebec market alone. Two other notable films, The Rowdy Man, and Wedding in White, made in English Canada received wide critical acclaim, but not wide distribution in the Canadian market. There was also the problem of Quebec films not reaching the English Canadian market, and vice versa.25 Michael D. Spencer, executive director of the CFDC, was reported to have said, "Though Canada has been producing an average of 20-30 feature-length films annually, pix are finding it difficult to get proper exposure even in Canada--not to mention the States or abroad." He singled out distribution as "Enemy number one in any discussion of future growth" of Canadian film industry.26
Quotas and Levies

The film makers and the CFDC had urged the government to legislate a screen quota which would assure access to the domestic market for Canadian films. A box office levy was also strongly put forward by the production sector.

In the absence of a competitive distribution market, the government policy of encouraging production without dealing with the major problem of distribution, came to be accepted as unproductive by the government itself. The Secretary of State, in this following statement, emphasized the urgent need for a screen quota and a levy on box office receipts:

Despite the good films produced, pitifully few of them are ever seen by Canadian audiences outside a few large metropolitan areas such as Toronto and Montreal. The Liberal government would like to see guaranteed regular minimum of exposure for Canadian films, in commercial movie theatres across the country. Since theatres fall under provincial jurisdiction, we will initiate talks with the provinces to this end so that Canadians can see Canadian films, wherever they live. . . .

The question of jurisdiction had been posed as the main obstacle to intervene in the motion picture industry when the Canadian film makers demanded government legislation earlier. However, the increasing pressure put on by the film makers on the provincial and Federal governments seemed to have had some effect in 1974. Quebec, Ontario, and a few other provinces indicated their support for the principle of screen quotas, although they were somewhat reluctant to impose levies. However, the Federal government never pursued the quota legislation. Instead, it relied on the
American film industry to voluntarily yield screen time in Canada to Canadian films. That policy was to produce no benefits to the Canadian film makers.

In July 1973, the Secretary of State had reached an informal agreement with Famous Players and Odeon, the two major theatre circuits, to make two weeks of screen time available for English Canadian films (original or dubbed) in the three largest markets: Montreal, Toronto, and Vancouver. The CFDC was asked to subsidize the initial promotion costs of such films to help the independent Canadian distribution companies. But lacking legislated protective measures, financing for local films dwindled thus directly affecting the workers in the industry. The number of major English language productions sponsored by the CFDC fell from 13 in 1972 to six in 1973 and four in the following year. Unemployment within the English Canadian film industry was estimated by some to be running close to 80 percent. A newspaper report claimed that in a nine-month period during 1974-75, two well-known producers and nine directors had left Canada for Hollywood in search of work. An uncounted number of actors/actresses were reported to have emigrated to other film production centres of the world. Several industry groups including the Council of Canadian Film Makers (CCFM) and the Association of Canadian Television and Radio Artists (ACTRA) lobbied the Federal government and the Ontario government to pass screen quotas and box office levies to alleviate the crises in the industry. Nineteen industry spokespersons issued a public statement after a symposium on the Canadian film industry in Winnipeg in February
1974 which they called the Winnipeg Manifesto that made the industry's position clear to the government(s):

We, the undersigned film makers and filmworkers, wish to voice our belief that the present system of film production/distribution/exhibition works to the extreme disadvantage of the Canadian filmmaker and the Canadian film audience. We wish to state unequivocally that film is an expression and affirmation of the cultural reality of this country first, and a business second. . . . It is now clear that slavishly following foreign examples does not work. We need public alternatives at every level in the film industry. We must create our own system to allow film makers the option of working in the creative milieu of their choice . . .32

The struggle in French Canada reached its peak in November 1974 when the Association des Realisateurs de Films du Québec staged a sit-in at the offices of the Film Censorship Board. The film makers in Québec had grown weary of twelve years of patient and quiet lobbying with the provincial government to restructure the film industry. All that the government had done was to produce numerous studies and reports but not any legislated measures to provide access to the market for Québec films. The sit-in at the Censorship office was tactical and symbolic. Any film before it could be shown in Québec theatres had to pass through that office. With its closure, the film makers practically halted the distribution of films just one month prior to the commercially most attractive Christmas season. Their hope was to effectively reduce the flow of dollars to the U. S. In a press conference, the film makers issued the following statement produced here in part:
In spite of representations made to successive governments by the film industry since 1962, in spite of the internationally recognized quality of Quebec films, in spite of former and recent promises by the governments to administer the Quebec film industry, and in spite of the formal promise made by the current government of "cultural sovereignty" for Quebec, not only has Quebec not fulfilled its responsibilities in film, it has left film to federal organizations and foreign interests.

The sit-in received wide public and media attention. Many other unions and associations in the film industry sent supportive telegrams. Le Devoir, a daily, suggested that a 1962 bill on the film industry was halted by an "influential visitor from Ontario" (possibly a MPEA representative). The Minister for Cultural Affairs made no promises as to when he would table a new bill on the Quebec film industry, and went on to say, "... we cannot allow this sit-in to disrupt normal film distribution or the normal functioning of the cinema." After 11 days of intense political battle, the Minister agreed to negotiate with the film makers. But on the same day, the provincial police moved in to evict the film makers one by one while they shouted "Les Ordres". recalling Michel Brault's film of the same title which is an expose of fascist state machinery that had come into full operation in 1970. The eventful Christmas of 1974 passed by without a film law to preserve the Quebec film industry.

On the Federal level, what the Secretary of State chose to do was not what the Canadian film industry desired but what the American film industry cartel pressed for. Instead of a legislated screen quota and a box office levy, a compromise with the circuits had been reached, one that had not produced any favorable results for the Canadian film industry before.
Minister announced in August 1975 that he had signed agreements with the two dominant circuits in Canada to exhibit Canadian films voluntarily for four weeks per theatre per year and a voluntary investment in Canadian films of $1.2 million from Famous Players and $500,000 from Odeon in the coming year. Once again the American lobby had been effective in preserving the status quo in the industry. Such voluntary screen quotas, negotiated by three Secretaries of State since 1966, had failed to produce any favorable results for the Canadian film industry. The 1975 agreements were different only in the sense of specifying the number of weeks per theatre made available to Canadian films. The agreement stipulated theatres but not screens and, moreover, they were not specific to individual films. These measures infuriated the Canadian film industry which was faced with serious unemployment particularly in the production sector.

The Federal government, time and again had seen the need for intervening in the distribution sector, but left it to negotiations with the MPEA's Canadian arm, the Canadian Motion Picture Distributors Association (CMPDA).

In September 1976, Canada was to have a new Secretary of State and the scenario developed in this chapter was to be repeated. John Roberts, the new Minister, held out much promise to the Canadian film industry. But the American film industry was more successful in influencing his film policy which took him almost two years to prepare. Addressing the Standing Committee on Broadcasting, Film and Assistance To The Arts in 1978, Roberts stated:
A continuing concern to me is the degree to which
the revenues generated at the box office in Canada
are drained out of Canada and contribute very little
to the financing of Canadian productions. . . . I
have discussed these concerns with both the CMPDA and
its parent the MPAA. I have also brought home to them
that the present imbalance of rentals and the returns
on investment for Canadian productions cannot en-
dure. . . . I intend to assess over the next twelve
months their practical response to the problem I have
described and to judge to what degree they have met
our concerns. 39

The dominant lobby efforts had succeeded again in stalling any
radical restructuring of the industry. The CMPDA president de-
clared that Robert's film policy was "consistent with a lot of
the views which we presented." 40 The new Canadian film policy
was hardly new. Negotiation with the MPEA, voluntary quotas, and
voluntary investment, all tried previously and proven to be merely
a smokescreen, were to continue.

The sensitive position of the Canadian government and
the power of the American film industry lobby in the U. S. and
Canada was once again demonstrated when the new minister proposed
a tax measure to the Cabinet. John Roberts had tabled a proposal
to the Liberal Cabinet—a 10 percent tax on the American distrib-
utors' annual gross rental revenue from non-Canadian films in
the Canadian market, and a rebate conditional on their distribution
of Canadian films at home and abroad. This fiscal measure was
strongly opposed by the Finance Minister, who was reported to
have been under pressure from the MPEA lobby and also the U. S.
State Department. 41 According to Maclean's, a Canadian weekly
magazine, the U. S. State Department knew that Robert's proposal
would not win the approval of the Cabinet. However, a junior
officer was said to have called on the Canadian Embassy in Washington, D. C. to make it clear to the Canadian government that the American government would not like it if the tax measure passed the Cabinet. The CMPDA, in a brief submitted to the Department of Finance, had spelled out in no uncertain terms that the U. S. are likely to regard any significantly discriminatory taxation of the industry by this country as being capable of being regarded in the international community as a precedent. There would appear to us, therefore, to be a real risk of a serious U. S. reaction that would not necessarily be limited to the taxation of film royalties, indeed, the field of taxation.

The strategy of the MPEA in all foreign markets has been to shape film industry policies in favor of its member companies. In the case of Canada, the carrot at the end of the stick was, as also in other countries, the possibility of Canadian films being distributed in the most profitable market in the world, the United States. That market, as examined earlier, has been dominated by the MPEA companies and has been almost impossible to penetrate by Canadian and British films. The Secretary of State, knowing that the American film industry would not risk losing Canada, their largest single foreign market, had forewarned the Finance Minister when he presented his tax proposal:

The foreign distributors will rise up violently against the fiscal measures and will use their influence in Washington. The American government will probably threaten to take measures of reprisal, notably to exclude Canadian films from the American market.
That threat was a farce if one considered how many Canadian pictures the MPEA companies had distributed in the American and other markets in the past. However, the Finance Minister did not approve the tax and the 1978 version of Canadian film policy came out without any significant protective measures favoring Canadian films. The fragile Canadian political/economic entity was once again exploited by the MPEA to continue its domination of the Canadian feature film industry.

The Canadian government's sensitivity to a possible U.S. retaliation that may envelop the whole political economic fabric of the country has influenced its film policy significantly. Not only has it not restructured the film industry, which the government knows is needed, but also certain incentives for film investors have been created in Canada, which amount to subsidizing the American film industry.

The Capital Cost Allowance Program (CCA)

The CCA, a mechanism to stimulate investment in film production in Canada, offered 60 percent tax write-off prior to 1974 for feature film investors. This resulted in many low quality films because the investors started pictures only to take advantage of the tax benefits. Many of the films were not even completed. The program aggravated the already damaged reputation of Canadian films. Due to pressure from the Canadian film makers, the government amended the CCA regulations in 1974 and increased the tax write-off to 100 percent.
To qualify for the CCA, a feature film had to be certified as "Canadian," whereby the government intended to make sure the producer of the film was technically a Canadian, and not less than two-thirds of the key creative positions were held by Canadians. This policy left the door wide open to the investors to choose American directors, actors, and actresses, and leave the lesser-important roles to Canadians. Lacking any clear definition of Canadian content, several films were produced with American stars in leading roles. One such example is the film, *Wild Horse* Hank. The story deals with a recent American conservation issue of wild horses being slaughtered for dog food, and the protagonist in the film, a young girl (American star) wins her fight to preserve the wild horses.

The Canadian film industry groups complained to the government of the CCA rules which made no distinction between Canadian and other productions. In May 1976, the rules were amended once again, and a point system was introduced. Each key creative position was assigned a certain number of points and to qualify for the certification, a film had to get at least six points out of a total of ten. The director, screen writer, and the music director, carried two points each. This was to make it attractive for the investors to hire Canadians to fill those important positions. Film investors have gone after expatriate Canadians working in Hollywood/London to fulfill the CCA rules while well-known directors living in the country—Don Shebib and Claude Jutra—have had difficulty finding financial support.

The Canadian government's 100 percent tax shelter policy of 1976 coincided with the U.S. government abolishing similar
As a result, American film investors are beginning to flock to Canada. Additionally, the devaluation of the Canadian dollar in relation to the U. S. dollar has lowered production costs in Canada for films with U. S. investment, all of which means American investment dollars are abundantly available. According to a newspaper report, in 1978, an unprecedented sum of $40-50 million was spent in Canada on feature film production.50

Any evaluation of the tax shelter policy should include the following questions:
1. What objectives are achieved and what are not achieved?
2. What are the benefits to Canada and to whom in Canada?
3. What are the detriments to Canada and to whom in Canada?

The government's declared purpose for the CCA was to stimulate film production in Canada, particularly "films oriented toward the international market."51 There is little doubt that the CCA has achieved its general objective of spurring film production in Canada and especially films with high budgets. In 1974, a feature film in Canada cost, on the average, an estimated $250,000. By 1977, it had gone up to $750,000-$1,000,000.52 Budgets of $4-6 million are becoming common in the industry.

It is also a fact that some of the high budget films have attracted the leading American distributors who have bought distribution rights for those films in Canada, the U. S. and other markets. Meat Balls, Running, and Bear Island, to name a few, are such examples.53 A few of the CCA films have been sold to the American television networks, American Pay-TV, etc.
The government claims that the CCA has been a success in creating employment in the film production sector. As of March 1978, 73 films had been certified to qualify for the tax shelter by the Secretary of State. According to a government analysis, 92 percent of the directors working on the CCA films were Canadian, and 86 percent of the screen writers employed in those films were Canadian. However, only 56 percent of the highest paid actors were Canadian. Undoubtedly, many jobs have been created by the CCA, although the leading roles are invariably played by "international" stars.

Some critics of the CCA claim that these high budget pictures do not help create a national cinema that is an expression of Canadian issues and problems. But the fact is that the CCA was not necessarily intended to help develop a national cinema. The Canadian government had chosen this policy after its voluntary screen quota and investment policies had failed to produce any significant benefits to Canadian films. The CCA was a means to achieve what the government had not been able to do. If the American distributors could not be convinced to distribute Canadian films (which used to be low budget), why not encourage Canadian and other investors to finance high budget films that will be acceptable to the American distributors? In other words, if Canadian capital was not allowed to participate in the film industry profitably (by virtue of not having free entry into the distribution/exhibition), support it, and make it profitable by paying out of the public purse. And in so doing, if the American film industry could be enticed to distribute those films,
the outlook is even better for Canadian capitalists. The tax write-off policy is historically consistent with the Canadian government's policy of hands-off the American film industry monopoly power in Canada. It is a no-branch-plant-branch-plant system, or a hit and run branch plant system.

The critics of the CCA argue further that by producing films acceptable to the American distributors, the genuinely Canadian product will be forced to play in art houses, and film festivals, and consequently, it will not reach mass audiences. This argument is valid to a large extent if one considers the present investment policy of the CFDC. According to Michael McCabe, the director of the CFDC,

'It is no longer feasible to make films that will only be seen by a handful of people. If it takes stories with wide appeal and international stars to reach screens around the world, then that's what we'll invest in."

The CFDC was asked by the Secretary of State in 1978 to "establish a network for screening feature films in motion picture theatres, school halls, and other auditoria in order to provide a commercial outlet for films of cultural significance which existing theatres are unwilling or unable to exhibit." That policy was a complete reversal if one takes seriously what the Secretary of State had emphatically stated about films at the time the CFDC bill was passed in 1968:

Motion pictures are an important element in our cultural life. They should serve a national purpose and reinforce our Canadian identity.
Instead of doing something about the structure and the market relationships in the industry, which the government recognizes as the main constraints to the development of a national cinema, it has opted to shore up the private, commercial production sector in Canada.

Why has the government formulated such a policy which seems contrary to its stated goals in creating the CFDC? The policy of encouraging the capitalist production sector to grow is an outcome of the government trying to meet conflicting demands from the international capitalists (MPEA member companies), the indigenous capitalists (investors, independent producers, independent distributors, etc.), and the workers in the production industry. The tax shelter policy seems to have satisfied the international capitalists and a section of the national capitalists. Additionally, as there are more jobs in the production sector, workers seem generally satisfied.

The national capitalists and the workers are not however unified among themselves with respect to the CCA. A section of the national capitalists sides with the international capitalists, and another section looks after its own national interests in opposition to the international capitalists. These divisions can be observed in a group such as the Canadian Association of Motion Picture Producers (CAMPP) which represents the production interests. A section of these producers seem to believe that Canada can develop a viable film industry if it produces only internationally acceptable films, a view that concurs with that of the MPEA. Another section of CAMPP, perhaps a smaller one, argues that Canada
should make films that are expressions of Canadian culture and point out that the so-called international films are merely imitations of Hollywood films (City On Fire, The Silent Partner, etc.). They further argue that such films may get distributed worldwide only when the American distributors do not have their own or other films to distribute. Canadian labor is similarly split, but customarily willing to side with whomever offers a job, and in this case it can choose only between the national capitalists and the international capitalists.

In this turbulent environment in the film industry, the independent Canadian distributors have become uncertain of their future.

The recent sale of Meat Balls to an American major distributor by Cinepix, a Canadian independent production-distribution firm, points to the problems faced by the independent distributors. The film cost the producers $1.6 million to make and Paramount bought the rights to distribute the film in the U.S. for $3.3 million (excluding TV rights). In a separate deal, the producers sold the Canadian theatrical distribution rights also to the same U.S. distributor with an advance of $300,000. Andre Link, one of the producers of the film, stated that it was a difficult decision to make. Being a distributor himself, he would have liked to have his own company handle the Canadian distribution of the film. But with Canada's first-run market being almost inaccessible to the independent distributors, he had to make a pragmatic choice between potential loss and assured profits. Link explained what the Canadian rights sale meant to
Canadian independents:

It means hard times. Canadian distributors won't get the better pictures. There is not one Canadian company which could write a check for $300,000 today, and the situation won't change until there is a point count for a distributor in the definition of Canadian film.60

This controversy has led to intense lobbying by independent distributors in Canada, who feel that if the trend continues, all the big budget pictures would be sold for distribution to the major American film corporations. According to the independents, it is precisely those big budget pictures which might open up the Canadian first-run market for them. They argue that unless they can distribute big budget productions, Canadian content pictures are all they will be left to distribute.61 This they contend would mean a further deterioration of their already weak position in the domestic market. That may well be but the American distributors might not relinquish their control over the major circuits in the absence of a screen quota. With the major circuits placing their allegiance with the American film industry first, the "Canadian" films may not get distributed in the domestic market widely.

The government faces a difficult policy problem in this regard. If it supports the independent distributors who do not command any playdates with the major circuits, the investors and the producers of the films would be unhappy. The investment dollars would eventually dry up. It would mean then that the government would have to do something about the American film industry control over distribution and exhibition markets in Canada. The choice the government seems to have made is to

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disregard the concerns of the independent distributors and push forward with its policy of encouraging the U.S. distributors to acquire domestically-made films for distribution in the national and outside markets.

The recently reported sale to Universal of another big budget picture, Running, produced with CFDC financing has further angered the independent distributors. The film was budgeted for $3,650,000 in Canadian funds. The Universal deal calls for a payment of $2,250,000 in U.S. funds plus a percentage of the gross rental revenue. According to Mickey Stevenson, head of Astral Films, a Canadian independent production-distribution company, no Canadian distributor can outbid one of the majors. As the government is following the policy of encouraging big budget pictures made for international markets, the independent distributors are the losers.

Some critics argue that publicly financed films such as Running should be handled by a Canadian distribution company in the domestic market. And others claim if American companies were to become involved in distribution and production of films in Canada, it would amount to Canadian tax payers subsidizing those American companies. These critics point to the initiation of Silence of the North, a film to be made in Canada by Universal. It is the first "Canadian" film sponsored by a leading American company to get the CCA certification. Is this a subsidy to the American corporation from the Canadian tax payer? Obviously it is. But the government policy seems to be that if a strong private production sector could be created, even if it amounts
to subsidizing American corporations, it is the right policy.

Perhaps the most important effect of the tax shelter policy that is not being debated much in Canada is its undermining of the growth of a national cinema. Due to the CCA, big budget pictures with Elliott Gould, Sophia Loren, George C. Scott, etc., are being made in Canada. Some of them might get distributed by American major companies domestically and internationally. This would of course mean increased potential for making profits by the Canadian and other investors and producers. It also means "Canadian" films generally speaking will be of high technical quality. But at the same time, it would mean those "Canadian" films would look more like American films. The Silent Partner, or a Man Called Intrepid just happen to be made in Canada. They could have been made anywhere else in the world. The films of Canadian directors, such as Don Shebib (Goin' Down the Road, Between Friends) or Jean-Pierre Lefebvre (Le Maudits Sauvages) or Claude Jutra (Mon Oncle Antoine, Kamouraska), were personal visions but all comments on living in Canada. They are thus relevant to the country in which they were made. These and other films which have given Canadian cinema a distinct identity will in all likelihood become fewer, and as in the past, limited to a specialized audience. The present policy of the government seems to have done nothing to elevate them from their relative obscurity and establish them in the commercial distribution and exhibition markets. As a matter of fact, the government has chosen the policy of encouraging the production of big budget pictures which is consistent with the MPEA policy. In a 1976
document, the MPEA's Canadian branch stated clearly its position on films with Canadian themes:

If Canada is to build an economically sustainable feature film production activity, it is a prerequisite that parochialism be set aside and the objective be viewed and treated for what it is—a commercial enterprise from which a producer expects a return. The CMPDA further proposed that Canada should make fewer pictures with "more competitive budgets for purposes of attracting international box office success ingredients and supporting effective exploitation."

In other words, unless Canadian films look like American films, they are parochial and unacceptable to the MPEA companies. The Canadian government's present policy as to what Canada should produce is remarkably consistent with the MPEA policy.

It is particularly advantageous to the MPEA to lobby for such a policy because Canadian government will not restructure the market favoring independent companies under such policy. On the other hand, the government will have strengthened the monopoly power of the American film industry in Canada. Only the most potentially successful "Canadian" films would be picked for distribution by the American majors, which amounts to having a reserve of independently made films that can be used by them when it suits their interests best. Although it is premature to conclude the fate of the capitalist sector that the government is trying to bolster, it can be reasonably argued that since it will be subjected to the whims of the American majors, its growth is less promising.

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Summary

Policy formulation by the Federal government in the Canadian film industry is one of trying to meet conflicting demands from the international capitalists (the MPEA), indigenous capitalists (investors, producers, and independent distributors), and the industry workers. The government has shored up the capitalist production sector by its tax shelter policy as the market mechanism has largely failed in Canada's feature film industry. This policy, however, does not deal with the principal problem in the industry, i.e., the American film industry's occupation of the Canadian market, but in fact, appears to strengthen it.

The Canadian government has recognized in no uncertain terms that the present industry structure and the market relationships weigh against independent Canadian production and distribution companies. But it has failed to restructure the industry favoring the indigenous enterprises, particularly in distribution. The government tried since 1974 to pressure the MPEA to yield screen time to Canadian films but it failed. When the indigenous capitalists pressed for legislation to gain access for Canadian films to Canadian screens, the government succumbed to the lobby from the international capitalists. Instead of a screen quota, the Canadian film industry got what the MPEA had pushed for all along. The government's declared goal of creating a national cinema to reinforce Canadian identity through the Canadian Film Development Corporation was amended to promote the development of a commercial industry primarily intended for profit making purposes.
Other measures proposed by the government such as a box office levy to assist Canadian production have been dropped due to pressure from the MPEA. This American film industry cartel has been assisted by the U.S. State Department to take advantage of Canada's economic/political dependence on the U.S. to preserve the American film industry's domination of the Canadian feature film market.

With the present government policies, films made in Canada may have the Hollywood technical quality but the personal, distinctly Canadian films might become rare.
ENDNOTES


were not members of that association at the time. If those companies' rental revenues are included, the total film rental revenue going out of Canada to the United States would be higher.

21. For details on Furie's film career, see Cinema Canada, No. 26, March 1976. Jewison has had an illustrious career in Hollywood making a total of 14 feature films which have been nominated for 26 Academy Awards and have won nine. Some outstanding commercial successes to Jewison's credit are, Fiddler on the Roof, and Fist. For details, see The Vancouver Sun, September 23, 1977.


23. Canadian Film Development Corporation, Annual Reports, 1976-77 and 1977-78. The five films which are in a profit position are: The Apprenticeship of Duddy Kravitz, Heart Farm, Black Christmas, Shivers, and Death Weekend.


28. Canadian Film Development Corporation, Annual Report, 1974-75.


33. Spry, Robin, "Beyond Words! The Quebec Film Makers Occupation of the Censorship Office, Cinema Canada, No. 18, March/April, 1975.


35. Canadian Film Digest, 1976, p. 102.


37. Canadian Film Digest, ACTRA's Reaction, 1976, p. 103.
38. In a draft film policy which was to be presented to the Cabinet, the Secretary of State reported that negotiations were underway with the Canadian Motion Picture Distributors Association to persuade them with "moral suasion or fiscal measures" to provide for an equitable distribution of Canadian films in the Canadian market. See Cinema Canada, Draft Film Policy, No. 31, October 1976.

39. Notes For An Address by The Honourable John R. Roberts, Secretary of State To The Standing Committee on Broadcasting, Film and Assistance To The Arts, April 11, 1978.

40. Trade News North, April 1978, p. 11.

41. Ibid.

42. Maclean's, April 17, 1978; see also Variety, April 26, 1978.

43. Canadian Motion Picture Distributors Association, A Submission to the Federal Department of Finance, July 1978.


45. Trade News North, March 1978, p. 3.


47. Ibid.

48. Ibid.


50. Ibid.

51. Secretary of State, Notes For An Address By The Honourable John Roberts to The Standing Committee on Broadcasting, Film and Assistance To The Arts, April 11, 1978, p. 16.

52. Secretary of State, Memo From Dinah Hoyle, Film Policy Officer, December 7, 1977.

53. Variety, May 9, 1979, p. 448.

54. Secretary of State, Film Certification Office, op. cit.

55. Harcourt, Peter, "Film Making As a Cottage Industry," Canadian Forum, August 1979, p. 32.

57. Hansard, June 20, 1966.
59. Ibid.
60. Ibid.
61. Variety, February 14, 1979, p. 5.
62. Ibid.
63. Ibid.
64. Ibid, p. 41.
IX. CONCLUSIONS AND RECOMMENDATIONS

This thesis attempted to illustrate how Canada's feature film market was invaded by the expansionist American film industry in 1920, and has remained in its captivity ever since. The branch plant distribution/exhibition system, which has operated in Canada for well over a half century, was shown to have precluded the development of a Canadian feature film industry (production, distribution, exhibition). Until the Canadian government was pressured by the film industry workers in the sixties to finance film production in the country, Canada did not have any significant production of its own. American branch plant production had occurred sporadically. It was a no-branch plant-branch plant production industry. However, in the wake of recent tax shelter policies of the Canadian government, such American branch plant production might well take place. In that case, a branch plant production sector will be overlaid on the already existing branch plant distribution/exhibition sector. If that occurs, the consequences to Canadian talent, Canadian owned independent enterprises in distribution, production, and exhibition, and finally to the Canadian people at large will be devastating. All the important decisions affecting film production in the country—what will those films be about, who will make them, when will they be made, how they will be made, and for whose purposes—will pass into the hands of the American film industry. This is a ruinous proposition to Canadian cultural autonomy.

Canada is a nation, which has not yet established a national cultural identity. With French, English, and other
linguistic groups spread over a vast northern half of the continent, national integration has been an intractable policy problem for the Canadian government. The national control of radio has in fact encouraged American penetration via programs and advertising. The drive for profits has dictated programming policies in the television industry rather than autonomous cultural identity. Government policies in an equally important cultural medium, the feature film industry, have historically helped preserve the dominant position held by American cultural conglomerates.

This points to the central problem of policy formulation in a dependent country such as Canada. With its close economic, political, and military ties with the United States of America (U.S.), the Canadian government walks a tight rope in its relations with the U.S. Prime Minister Pierre Elliot Trudeau perhaps characterized those relations best when he once said that it was like going to bed with an elephant. Succumbing to the lobby power of the American film industry and the economic and political power of the U.S. government, Canada is attempting to shore up the capitalist production sector primarily to produce films for the American/international market. Instead of paving a way for the growth of an autonomous film industry which would serve the Canadian cultural/economic interests, the Canadian government is placing those interests squarely in the hands of the U.S. film industry. Thus, the Canadian film production sector will serve as a reserve source of films for the American major film companies. Under such conditions, it is highly unlikely that Canadian cultural and economic interests
will be served.

In industrial economies, political power flows from economic power. The policies of the oligopoly firms that wield monopoly power in the market essentially become national policies. The oil industry in the U.S. is one such example, where its profit priorities have undermined national priorities of conservation, inflation, recession, etc. The giant oligopoly firms based in the U.S., with their enormous concentration of economic power, have had the assistance of the various arms of the U.S. government in influencing domestic policies in foreign countries.

The U.S. State Department had recognized the important ideological role films and other media can play as early as 1946. American media products have had the status of ambassador and have had the diplomatic support of the State Department in their penetration of foreign markets. The member companies of the Motion Picture Export Association of America also benefitted by the U.S. Webb-Pomerene Act which encouraged cartelization of American industry abroad. The U.S. Government considered feature films and magazines (Readers Digest and Time) such important tools of persuasion that the Economic Cooperation Administration guaranteed conversion of distribution revenues into U.S. dollars earned by them in difficult currency areas.

Some would argue that the penetration and control of foreign markets by American media companies is motivated purely by their profit priorities. But such arguments fail to recognize the role played by the American government in helping to perpetuate that status, not merely in the interest of protecting American-
based companies, but also in its pursuit of an ideological hegemony in the world. A State Department document describes very clearly the U.S. interests in international communications in general:

The United States has national security, political, economic, and technological stakes in international communications.

Our national security is dependent on advanced telecommunications systems. Politically, we are committed to a broad exchange of information both domestically and internationally.

Our economic interest is obvious: our industrial base relies on adequate communications.

With control of the distribution channels firmly in American hands, the U.S. government can pay lip service to the ideal of exchange of information, whereas in reality, all it amounts to is a one-way flow of information and ideas—from the U.S. into all the countries around the world where the U.S. maintains diplomatic relations.

The American film industry has been a pioneer in setting the pattern for the one-way flow of cultural exports from the U.S. Film has been an early and fundamental stratum in the multi-levelled "free" flow of information, which includes wire services, computers, teleprocessing of data, books, magazines, television, and radio programs.

The American film companies have also set the pattern for exporting abroad the know-how, through their subsidiaries and investments, to produce imitations of the products they export as parts of the U.S. imperial structure. Economic invasion cannot be distinguished from cultural invasion. It is economically profitable to take over (or exercise monopoly power over)
Canadian publishing, advertising, magazine production, and film production, etc. But by taking them over for economic gain, they are also transformed culturally. Moreover, distinctly Canadian cultural products will be excluded from the main distribution channels controlled by U.S. companies which will prefer the imports or the imitations of the same produced in Canada. While the imported art will become the standard to gauge Canadian talent, any domestic art that does not measure up to that standard will be labelled provincial, and hence, unacceptable for universal distribution. The imperial culture of London, Paris, Rome, and New York is universal but Canadian (or any other importing country's) culture is not, according to that standard. It is a self-serving principle just as the "free" flow of information doctrine is, because the global distribution channels of information are largely controlled by the U.S. interests.

The "free" flow of information doctrine of the U.S. finds allies in most importing countries. In Canada, many vested interests and some liberal-minded people would argue that interference in the transnational corporations' monopoly domination of Canadian expression in films (and other media as well) amounts to limit free expression, and to deny Canadians the right to free choice. Just as the imperial U.S. claims that interference with its propaganda system is an interference with the "free" flow of ideas, its disciples in other countries voice the same arguments.

Although American economic and state power seems formidable in the realm of international communications, it is not without
opposition. The U.S. was isolated in the United Nations when that organization passed a resolution in 1972 with the support of some 100 countries reciting the benefits of satellite broadcasting and the need to respect the sovereignty of states in its use.\(^5\) Sharp differences emerged between the socialist countries and the Western capitalist countries on the issue of national cultural sovereignty in the 1976 Conference on Security and Cooperation in Europe held in Helsinki. But the final outcome of the conference, called the Helsinki agreement, included that participating countries "will respect each other's right freely to choose and develop its political, social, economic, and cultural systems as well as its right to determine its laws and regulations."\(^6\) An autonomous Canadian identity can only be pursued in light of such a declaration.

Not only are there strong ideological reasons to combat cultural imperialism; there are economic reasons as well. Unless Canada sets out clear-cut policies to assist the Canadian owned unintegrated enterprises in the feature film industry (and in other industries as well), the already weak position of those companies \textit{vis à vis} the American oligopolies will worsen. Canada's chances of establishing cultural autonomy will diminish even further. Consequently, recapturing the Canadian mass media by Canadians for national, economic, political, and cultural purposes is urgently needed.

**Recommendations**

It should be emphasized that there are no simple recipes to correct the market domination by the American film industry.
in Canada, to transform an unjust situation overnight to one that provides equal opportunities for Canadian talent and capital. As it is a product of a long history, the present situation in the industry cannot be set right quickly. Moreover, the problems in the feature film industry (and other cultural industries) are part and parcel of the larger problem of Canada's dependency on the U.S. A corollary of the new cultural policy would be a new economic/political/cultural order in the country--one that will shed the vestiges of neocolonialism.

The aim of the new film policy must be to initiate a process of change in the national interest at the federal, provincial, and regional levels. Effective, concrete measures are called for to set the Canadian feature film industry on a new course.

The recommendations fall into two general models or goals:

1. Policies that would ensure profitability for films produced in Canada within the domestic market, and
2. Policies that would ensure profitability for films produced in Canada for the international markets.

1a. Avoid U.S. Majors' Voluntary Participation.

Central to the domestic policy framework is the American film industry's control of the domestic market. A number of initiatives are needed to deal with that problem. First of all, the Canadian government should give up its policy of encouraging the American film industry participation on a voluntary basis in production, distribution, and exhibition of Canadian films in Canada. This policy has not only been ineffectual as I have
demonstrated in the thesis, but it also precludes finding alternative solutions to the problems.

b. **Discourage Branch Plant Production.**

The Canadian Federal government should stop coaxing the American film companies to make films in Canada as it will only result in a branch plant film industry, which will not serve the interests of Canada. Branch plant operations may bring a certain degree of short-term stability to the industry, but only as long as production suits the interests of the parent companies. When costs can be reduced or higher subsidies can be gained in another foreign country, branch plants may relocate there. In the long run, it will be detrimental to the development of viable film industry in Canada.

I would further argue against branch plant film production because the control of content effectively switches from Canada to the United States where the parent companies are based. Important production decisions—story, casting, location, creative and technical personnel, etc.—will be most likely made in New York/Hollywood and not in Canada. Furthermore, there is the question of such "Canadian" productions squeezing independently-made Canadian content pictures from the domestic market. That would only perpetuate the underdevelopment of a genuinely national cinema.

c. **Strengthen the Anticombines Law.**

Canada's anticombines policy has been ineffective in dealing with the U.S. monopoly power in the Canadian Film industry. Inclusion of service industries in the 1976 amendments to the Combines Investigation Act, which brought the
theatres under the provisions of the Act, has been a step in the right direction. The conviction of Columbia Pictures, in a price maintenance case recently, points to what can be done if the Act is strengthened.

New legislation is necessary not only to strengthen the Act further but also to make it applicable to transnational corporations. As it is, the act deals with primarily domestic corporations and not with international cartels. The U.S. government was able to break up the vertically integrated motion picture companies in 1948, but they were structures and policies pursued within the U.S. The Canadian government faces foreign corporations which have certain monopolistic market relationships with the major theatre circuits. So, the necessary changes in the Combines Investigation Act have to be made in order to effectively apply the Act to foreign films and their cartels.

d. Deal with the Monopolistic Market Relationships Squarely.

The existing market relationships between the American majors and the major theatre circuits in Canada are the principal mechanisms of domination. Block booking, blind booking, allocation of the best and most play dates to the American majors by the dominant circuits render the films made in Canada uncompetitive in their own home market. They leave the Canadian owned independent enterprises in distribution and exhibition in a weak bargaining position with the major circuits and the American major distributors. While a minimum market exposure and profitability is assured for films
distributed by the American majors, the Canadian independents are denied the same. In order to guarantee a degree of profitability for the Canadian films in the domestic market, the following policy measures are necessary.

(i) To eliminate block booking by the American majors, new solutions are needed. Today, as such decisions are often made on telephone, and no records may be kept of such decisions, it would be hard to police the major circuits and the distributors. Canada could create a buying combine which would be responsible for acquiring films abroad and for allocating films to the exhibitors at home on an equitable basis.

This policy would be strongly opposed by the U.S. interests and the major circuits in Canada. Even the independent distributors may oppose it. One would hear the cries of destruction of the "free" enterprise system (ironically in an industry where it is dominated by foreign oligopolies). But some socialist countries do have such national agencies despite the opposition of the Motion Picture Export Association of America. That association has occasionally refused to sell American films to such countries. However, in the case of Canada, the American majors may not like to lose the lucrative market by declaring an embargo.

An alternative solution would be to create an agency such as the Film Board of Trade in the United Kingdom, which would require all distributors to register their films, file records of transactions, etc. This agency could be made responsible to police the industry and to ensure that block booking is not
practiced. It could also see to it that the first run films are allocated to competing theatres on an equitable basis.

(ii) There should be compulsory trade shows of all films released in Canada prior to the actual booking of them in theatres. This would alleviate the problem of blind booking by the circuits and would open up some play dates for already completed Canadian pictures that are waiting for release dates. This policy was tried in the United Kingdom and was successful.

(iii) Legislated screen quotas are necessary for films made in Canada to reach the domestic market, which otherwise is difficult, and occurs only on a chance basis.

Some countries have distributor's quotas, whereby every distributor is compulsorily required to handle domestic films as a certain share of all the films he distributes annually. However, Canada is a signatory to the General Agreements on Tariffs and Trade which prohibits distributors' quotas but allows screen quotas. Canada should legislate a screen quota, whereby the exhibitors, particularly the major circuits, would be compelled to screen all films produced in Canada. This measure would assure a certain degree of exposure to all films produced in Canada in the domestic market. Once access to all Canadian films is guaranteed, the producers will not have the pressure to imitate American films and more films with Canadian content would be produced. The screen quota is particularly essential for Canadian content pictures because the major distributors and the major circuits have shown no interest in dealing with them.
(iv) Box-office levy is another policy instrument that could be used to generate revenues, which could be channelled into the production sector.

The United Kingdom collects such taxes from box office receipts to support domestic production. India levies an entertainment tax on each ticket, which is used by provincial governments to boost the production of regional language films. In some provinces such as Karnataka, the levy is as high as 33 percent of the ticket price. In the mid sixties, the government of Karnataka decided to assist producers of Kannada films because the exhibition and distribution markets were preempted by the glossy, big budget Hindi films, most of which were produced in another province. The box office levy funds were used by the Karnataka government to guarantee a minimum return on every film that was completed in the province. In addition, the government provided assistance to investors to build studios by supplying water, electricity, etc. at subsidized rates. It also created provincial awards for excellence in film production. The result was a vigorous production industry in that province, which in ten years, has grown into one of the most important film producing centres in the country, both for quantity and for films that have regional concerns.

Box office levy in Canada falls under the jurisdiction of the provinces. The federal government, through the offices of the Secretary of State, should assume the leadership and get such a measure passed in all the provinces. Some provinces, including British Columbia, already collect entertainment taxes from the box office receipts. This tax revenue could be
utilized by each province to promote local film production. The levy funds could be invested in story development, in initial investment (start-up money) for local films, and for subsidizing the building and operation of studio facilities. Other avenues, where these tax revenues could be useful are in setting up provincial film schools, seminars, and workshops to better the skills of the film makers, and to reward excellence in film production.

Several industry groups, particularly the unions of craft-persons, represented by the Council of Canadian Film Makers have in the past supported such a levy. The American film industry lobby may oppose it claiming that the measure would increase the ticket price. The average ticket price in Canada has been increasing steadily at the whim of the circuits. It has also meant more monies leaving Canada to the U.S. through the major distributors. So, it is time that Canada kept a part of it for strengthening the domestic industry.

(v) Government policy on film production since 1978 has gone through a significant and undesirable change. The Canadian Film Development Corporation's current policy is to produce films with certain box office ingredients to please the American majors. This policy contradicts the very purpose for which the corporation was established. The publicly funded corporation should concentrate its efforts in the area of producing films that would serve the national purpose of reinforcing Canadian identity and enhancing Canadian culture. Instead of the imitative films, the CFDC should assist the production of innovative Canadian films.
2. **Films Made for International Markets.** The trend in Canada today is to produce films with budgets of over $1 million in the hope of securing wide distribution at home and abroad. As the Canadian market is only a tenth of the U.S. domestic market, and as the costs of distribution are high, those big budget films have to rely on the international markets for recouping their costs and to generate a profit. However, the international market access is largely dependent on the existing distribution networks, which are controlled by the American majors. Those companies would distribute only those films that would suit their distribution pattern, meaning those films that they consider to have the greatest profit potential. Consequently, a concrete alternative is needed if Canada were to ensure the profitability of its big budget productions.

Some governments in the Third World assist their film companies in selling their films abroad, for instance the Film Export Corporation of India. But, no known government owned international distribution networks exist in the capitalist world. To compete in the international markets, Canada should create an organization which would operate around the world. It would act as the sole marketing agency for all films produced in Canada outside the country.

Presently, the Canadian Film Development Corporation and the Film Festivals Bureau, both of which are supervised by the Secretary of State do their own promotion and sales abroad. They could be combined under one federal agency with skilled personnel well versed in the international film marketing techniques.
This export cartel may be opposed by those few film producers in Canada who have sold their films to the American distributors. It would, however, be supported by many Canadian film makers who are unable to find markets for their films in the domestic and foreign markets.

It should be noted that a Canadian distribution cartel may lead to the production of the so-called international films (Hollywood imitations), which are not necessarily desirable from the viewpoint of creating a national cinema.

It is needless to stress that innovative film policy is called for to combat the American hegemony in film and other cultural industries and to liberate the productive forces in the country. One might ask how the Canadian government can successfully fight the American interests in light of the U.S. economic and state power. The government by itself may not be able to do so in the absence of strong support from the industry workers and the movie-going public in Canada. Independent entrepreneurs may support some or all of the policies recommended above. The unions in the film industry—actors, musicians, technicians, cinematographers, etc.—can play a decisive role in influencing government policy. The unions should also wage a public awareness campaign to gain the support of the Canadian public in their struggle with the government.

Much is at stake for Canada in not having the control over its consciousness industry. It cannot all be won overnight but effective, concrete policies in the film industry will be a good start.
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