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# **An American Tragedy**

## **Theodore Dreiser's Fight against Intellectual Censorship and Early Hollywood**

By

Brittany Jolles

History 496z  
Thesis Seminar  
Prof. Crosby  
May 13, 2010

## **An American Tragedy:**

### **Theodore Dreiser's Fight against Intellectual Censorship and Early Hollywood**

#### **A. Introduction**

On July 14, 1906, a young man named Chester Gillette was arrested for the murder of a young woman, Grace Brown, who had three days earlier drowned on Big Moose Lake in the Adirondacks of New York State. Gillette's arrest, and the criminal trial that followed, resulted in a media frenzy that carried to people all across the United States the dramatic story of a young man, who in order to escape a pregnancy and climb the social ladder, plotted and murdered his young girlfriend. One person that was especially affected by this particular story was Theodore Dreiser.

Dreiser was an American writer who first worked in the newspaper industry, but began his career as a novelist following the publication of his first book, *Sister Carrie*, in 1900. However, Dreiser experienced only limited success from his works because many regarded his subject matter to be immoral and indecent.<sup>1</sup> But Dreiser's fortunes changed in 1925 with the highly successful publication of his sixth novel, *An American Tragedy*, which relied heavily on the circumstances surrounding the life of Chester Gillette. However, despite many real similarities between Chester Gillette's life and *Tragedy's* main character, Clyde Griffiths (note that the initials remain the same), Dreiser created for his novel a back story separate from that of Gillette's, and with it a message of the negative, unpleasant, and little talked about realities of American society. Critics at the time praised Dreiser's work and overall theme as an honest depiction of human nature and American life, with one reviewer calling it "a thing to marvel at if

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<sup>1</sup>W.M. Frohock, *Theodore Dreiser* (Minneapolis: University of Minnesota Press, 1972), p. 11. University of Minnesota Pamphlets on American Writers.

not to delight in.”<sup>2</sup> And it was the integrity of this particular message which Dreiser would sue to protect.

Following the great success of *An American Tragedy*, Dreiser’s “reputation and financial fortunes changed overnight.”<sup>3</sup> He was offered deals to convert the tale into both a stage production and a film version. The studio that purchased rights to the film, Famous Players (later Paramount), gave Dreiser a record amount of \$90,000 for the screen rights, and later an additional \$55,000 for sound rights as Hollywood converted to “talkies” in the late 1920s. In light of the novel’s exorbitant price tag, it must have shocked many people when Dreiser filed an injunction in New York’s Westchester County against Paramount in July of 1931 to halt the release of the film.

The resulting case, *Theodore Dreiser v. Paramount Publix Corporation* failed to help Dreiser block the film’s release, but today serves as an invaluable lens in which to view issues within American society, and specifically the film industry, in 1931. Primarily, *Dreiser v. Paramount* shows that censorship in movies was largely accepted, and in many cases desired by the American people, as well as being willingly perpetuated by a burgeoning film industry. It was through this system that Dreiser thought his novel had been stripped of its overall theme, leading him to seek protection through the courts.

Despite Dreiser’s anger, the issue of film censorship was not new in 1931; in fact, it was an offshoot of Progressive Era ideals, which stressed that the rights of individuals may have to be forfeited for the good of the community. Movies were considered to be at their inception a particularly dangerous form of entertainment because they could negatively influence “the most

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<sup>2</sup>Paul A. Orlov, *An American Tragedy: the Perils of the Self-Seeking Success* (Cranbury, 1998), p. 43.

<sup>3</sup> *Ibid.*, p. 39.

impressionable members of society: children, immigrants, the uneducated and un-chaperoned.”<sup>4</sup> They also quickly became widely watched; by 1910, twenty-six million people in the United States, more than one-fourth of the population, went to the movies every week.<sup>5</sup> In 1931 at the time of the scheduled release for the film *An American Tragedy*, numerous cities and states, including New York where Dreiser’s injunction was filed, had censorship boards with the power to approve or block the showing of films. The film industry in Hollywood, in order to insure their movies would pass such a review process and show in as many theaters as possible so as to reap the greatest possible profit, established the Motion Pictures Production Association (MPPDA) in 1922 as a form of self-regulation;<sup>6</sup> and in 1930 they accepted an offer by two prominent Catholics to compile a set of regulations, known as the Production Code, of exactly what shouldn’t be shown in a movie theater.<sup>7</sup>

It was this Code, and the approval of censorship boards, that Paramount had in mind when adapting *An American Tragedy* from print to screen. Therefore, not only is *Dreiser v. Paramount* distinctive in that it is the product of a unique series of events, including a famous early twentieth century murder trial and an enduring American novel, but it speaks directly to state of society at the time, which viewed films as business rather than art and remained generally complacent to policies that created what amounted to a period of intellectual censorship in Hollywood moviemaking.

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<sup>4</sup> Laura Wittern-Keller and Raymond Haberski, Jr., *The Miracle Case: Film Censorship and the Supreme Court* (Lawrence, Kansas: University of Kansas Press, 2008), p. 11.

<sup>5</sup> Gerald R. Butters, Jr., *Banned in Kansas: Motion Picture Censorship 1915-1966* (Columbia: University of Missouri, 2007), p. 5.

<sup>6</sup> Richard Maltby, “To Prevent the Prevalent Type of Book: Censorship and Adaptation in Hollywood, 1924-1934,” *American Quarterly*, 44 (1992), p. 559.

<sup>7</sup> Wittern-Keller and Haberski, *The Miracle Case*, p. 20.

## **B. Historical Fact: The Criminal Case of Chester Gillette**

Before looking to the novel that Dreiser created, it is important to look briefly at the real-life case that inspired *An American Tragedy* because, it is within this criminal case that Dreiser found inspiration for his highly regarded American novel and the artistic message he sued to protect.

The body of Grace Brown was discovered on the twelfth of July in 1906, but the foundation of the relationship that led her to that untimely end on Big Moose Lake began a year earlier in Cortland, New York. A fairly small city with a population of 15,000 and a few small industries, Cortland was home to the Gillette Skirt Factory where in the summer of 1905 Grace Brown met Chester Gillette; Chester worked in the stockroom, and Grace, directly next to it, in the cutting room. Chester was the nephew of the Skirt Company's owner, an association that elevated him in the eyes of the community, and Grace was the daughter of Upstate New York farmers. After getting to know each other for a short while at work, Chester began calling on Grace outside the factory where she lived with her older sister.<sup>8</sup>

The exact progression of the relationship between Chester and Grace is difficult to pin down, but according to an account by Chester later, he attempted unsuccessfully to seduce her many times. She finally relented sometime in late summer or early fall, after which sex became a regular part of their relationship.<sup>9</sup> A letter written by Chester on October 17, 1905 gives some indication as to the closeness of the couple: “I went to bed about nine, but laid awake two hours

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<sup>8</sup> Joseph Brownell and Patricia Wawrzaszek, *Adirondack Tragedy: The Gillette Murder Case of 1906* (Utica, NY: Nicholas K. Burns Publishing, 1996), chpt. 6.

<sup>9</sup> Craig Brandon, *Murder in the Adirondacks: An American Tragedy Revisited* (Utica, NY: North Country Books, 1986), p. 68.

thinking of everything, principally you. ... Hurry back as you don't know how lonesome it is here. With Love, Chester”<sup>10</sup>



**Chester Gillette and Grace Brown**  
(The Historical Society of the Courts of the State of New York Online)

However, despite his written affection and visits to the home where Grace was staying a few times a week, the two were never seen out in public together. And, in that same autumn of 1905, Chester began calling on and taking out other girls besides Grace which was, no doubt, an issue of contention. Only six months after Chester's October letter signed "with love," Grace and Chester exchanged letters signaling a cooling off in their relationship. Grace wrote "...I hope you are satisfied and having what you call a good time now that you have succeeded in making me leave Cortland for a time. It makes me feel badly, dear, to think that you think I don't know why you wanted me to come home. I know I may be awfully green, but as you say, 'I ain't no fool.'" <sup>11</sup> He writes back: "As to the numerous accusations you make, they are all true, so

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<sup>10</sup> Chester Gillette as quoted by Craig Brandon in *Murder in the Adirondacks*, p. 70.

<sup>11</sup> Grace Brown as quoted by Brownell and Wawrzaszek in *Adirondack Tragedy*, p. 59.

perhaps I had better not come at all.”<sup>12</sup> This attitude of apathy appears to have remained even after Grace informed Chester that she was pregnant sometime in April or May of 1906.

The options for a 19-year-old pregnant, unmarried woman in 1906 were limited. If Grace’s condition had been discovered, she would have been pointed to as a symbol of immorality and a lesson for other girls to learn from. Abortions were illegal though technically available if a doctor could be found to perform one. However, doctors risked their licenses and reputation should they be found out; therefore, typically only the rich could successfully pursue this avenue. The last option was marriage.<sup>13</sup> However, Grace’s pregnancy was discovered at a time when it seemed as if the young couple would end their relationship. Chester seemed more interested in other girls and Grace, as her letters show, had become resentful.

But, news of a pregnancy changed things. Grace returned home again in June for an extended stay and whether or not this was due to Chester’s pushing or a mutual agreement is unclear. However, Grace continued to write letters to Chester, almost daily, giving some insight as to her thoughts on their situation and feelings of desperation: “[Grace’s letters] are loving, yet firm, full of praise for him, yet constantly reminding him of his duty to do the honorable thing.”<sup>14</sup> They also reveal that Chester appears to be uncommitted to Grace even while pregnant, as he continued to call on other girls:

This p.m. my brother brought me a letter from one of the girls [at the factory], and after I read the letter I fainted again. Chester I came home because I thought I could trust you. I don’t think now I will be here after next Friday. This girl wrote me that you seemed to be having an awfully good time and she guessed that my coming home had done you good, as you had not seemed so cheerful in weeks. She also said that you spent most of your time with that detestable Grace Hill. ... You told me – even promised me – that you would have nothing to do with her while I was gone.<sup>15</sup>

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<sup>12</sup> Chester Gillette as quoted in *ibid.*

<sup>13</sup> Brandon, *Murder in the Adirondacks*, p. 75.

<sup>14</sup> Brandon, *ibid.*, p. 83.

<sup>15</sup> Brown, as quoted by Brandon, *ibid.*, p. 87.

Chester's letters are much less frequent than Grace's, but she is quick to forgive him when he writes her that her source of information had exaggerated his connection with the other girl.<sup>16</sup> Whether or not this is true, Grace's quickness in forgiving and forgetting is yet another illustration of how much she cares for and how dependant she is on Chester, since only his agreement to marry her could honorably save her from her pregnancy.

Though her letters give some valuable insight, they are equally as frustrating for what is omitted or glossed over. For instance, the closest she gets to writing of her pregnancy is constant references to being ill:

You tell me not to worry and think less about how I feel, and have a good time. Don't you think if you were me you would worry? And as for thinking less how I feel, when one is ill all the while, some days not able to get downstairs, one naturally thinks about one's self and the good time. If one can have a good time when one is ill and stays in ones room dressed in a kimono all the time, I fail to see where the good time comes in...<sup>17</sup>

There are also no concrete references in any of her letters as to future plans, such as a possible marriage, but just vague preparations for a trip together. There is, however, in her last letter to Chester, evidence that she would be meeting him for what she believed would be a permanent trip away from her home and family:

I have been bidding goodbye to some places today. There are so many nooks, dear, and all of them so dear to me. I have lived here nearly all of my life. ... Oh dear, you don't realize what all of this is to me. I know I shall never see any of them again. And Mama! Great heavens how I do love Mama! I don't know what I shall do without her. She is never cross and she always helps me so much. Sometimes, I think if I could tell Mama, but I can't. She has trouble enough as it is, and I couldn't break her heart like that. If I came back dead perhaps, if she does not know, she won't be angry with me. I will never be happy again dear. I wish I could die.<sup>18</sup>

It is both sad and ironic that Grace would indeed get her wish.

Grace left her home July 9, 1906, and met Chester on a train from DeRuyter, NY to Canastota, though the two did not sit together. They then took another train to Utica staying the

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<sup>16</sup> Brandon, *ibid.*, p. 98.

<sup>17</sup> Brown, as quoted by Brandon, *ibid.*, p. 94.

<sup>18</sup> Brown, as quoted by Brandon, *ibid.*, p. 109.

night in the Hotel Martin, registered as “Charles Gordon and wife, N.Y.”<sup>19</sup> The next night, at Tupper Lake, they again registered at a hotel under an alias, this time “Charles George and wife, New York, N.Y.”<sup>20</sup> The following day, July 11, the two took a train headed to Old Forge; during the train ride Chester wrote a postcard addressed to the Gillette Skirt Company which read: “Please send five dollars to Eagle Bay, N.Y. so that I can get it on Friday.”<sup>21</sup> This card was later used as evidence that Chester had planned the murder out, finding that Eagle Bay was just south of Big Moose, therefore he knew that he could be there by Friday.<sup>22</sup> Instead of continuing on the train all the way to Old Forge, despite that Grace’s bag was checked to that station, the two stopped at Big Moose Station, “several miles from the lake and was very much out in the wilderness. There were only two or three houses nearby and it was not a very inviting place to stop unless one was looking for seclusion.”<sup>23</sup> At the request that they be taken to a place where small boats may be rented, the two were driven up to the Glenmore Hotel where Chester signed the hotel ledger as “Carl Grahm, Albany and Grace Brown, South Otselic,”<sup>24</sup> another detail later brought up in his trial as evidence of premeditation.

Chester and Grace then set off for their boat trip, along with Chester’s suitcase and attached to it, his tennis racket. Exactly what happened on the boat trip cannot ever be fully known because the only surviving witness, Chester, gave several different accounts as to exactly what happened on the lake. However, the end result was that on July 12, 1906, Grace Brown’s body was pulled from the lake with bruising to her face and head, while the only clue as to the missing man was a floating straw hat with its lining ripped out. Eventually, in combination with

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<sup>19</sup> Ibid., p. 119.

<sup>20</sup> Ibid., p. 122.

<sup>21</sup> Gillette, as quoted by Brandon, *ibid.*, p. 124.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid., p. 130.

Grace's real name written in the Glenmore Hotel's ledger, and general knowledge at the Skirt Factory of Grace and Chester's relationship, Chester was arrested for her murder on July 14 at the Arrowhead Hotel where he had continued his vacation following Grace's death.<sup>25</sup>

Upon arrest, Chester offered two versions of what happened while on that lake: first, that Grace's drowning was an accident, and second, while on trial in November, he claimed she committed suicide. But the prosecutor, District Attorney George Ward, offered his own version of Grace's death. He helped secure the public opinion of thousands of newspaper readers by being extremely generous with reporters, providing them with Chester's trip itinerary, and his own personal viewpoint: "“This fellow [Gillette] is a degenerate, and all circumstances point to the belief that he knocked the girl senseless and threw her overboard.””<sup>26</sup> At the trial, Ward first provided the jury with a possible motive for Chester Gillette to kill Grace Brown: that Grace's pregnancy complicated for Chester his aspirations of social climbing. Ward even attempted to create the effect of a love triangle between Chester, Grace, and a young woman named Harriet Benedict, the daughter of a prominent Cortland attorney.<sup>27</sup> Ward also hypothesized as to how exactly Chester had killed Grace: that Chester had used the tennis racket, which investigators had found buried in the woods, to beat Grace over the head and then throw her in the water.<sup>28</sup> To support this theory the prosecution presented 83 witnesses<sup>29</sup> and 101 physical pieces of evidence.<sup>30</sup> Some of the evidence included bringing the boat Chester and Grace had taken out on Big Moose Lake into the courtroom, and a failed attempt to admit the fetus as evidence of Grace's pregnancy (instead, the jar it was contained in remained wrapped to all except the doctor

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<sup>25</sup> Ibid., p. 141.

<sup>26</sup> Ward as quoted by Brandon, *ibid.*, p. 105.

<sup>27</sup> Ibid., p. 192.

<sup>28</sup> Ibid., pp. 134-35.

<sup>29</sup> Ibid., p. 194.

<sup>30</sup> Brownell and Wawrzaszek, *Adirondack Tragedy*, p. 129.

testifying who identified it as a fetus).<sup>31</sup> All in all, Ward's prosecution was very convincing: "He [DA Ward] proved that Chester was a pathological liar, that he had a motive to kill Grace and the opportunity to do it, that he had made many efforts to conceal himself and that he had run away from the scene of the crime."<sup>32</sup> Though the evidence was circumstantial, the sheer amount of it as well as the general unsympathetic nature of Chester convinced the jury of Chester's guilt, and he was sentenced to death in the electric chair.

What followed this verdict was two years of unsuccessful attempts to overturn the jury's decision. Chester's first stop was the New York State Court of Appeals who decided on February 18, 1908, that despite the largely circumstantial nature of the evidence, the volume presented by the prosecutor pointed to Chester's guilt. In the unanimous opinion of the court, it was stated that if the facts had stood alone the justices may have doubted Chester's guilt, but "all taken together and considered as a connected whole, they make such convincing proof of guilt that we are not able to escape from its force by any justifiable process of reasoning."<sup>33</sup>

Following this decision, a plea of clemency from Chester's mother to the New York Governor, Charles Evans Hughes, was attempted, as well as a presentation of evidence to the Governor that Grace was epileptic and her drowning could have been the result of a seizure.<sup>34</sup> However, the Governor was not convinced, stating that Gillette himself had never mentioned anything about a seizure while the two were on Big Moose Lake, and therefore there is "no ground upon which I could be justified in interfering with the execution of the judgment of the court."<sup>35</sup>

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<sup>31</sup> Brandon. *Murder in the Adirondacks*, p. 197.

<sup>32</sup> *Ibid.*, p. 195.

<sup>33</sup> *People v. Gillette* (191 NY 107), found at [www.courts.state.ny.us/history/cases/p\\_gillette.htm](http://www.courts.state.ny.us/history/cases/p_gillette.htm)

<sup>34</sup> Brandon. *Murder in the Adirondacks.*, p. 287.

<sup>35</sup> "No Reprieve for Gillette," *The New York Times*, March 30, 1908, found using Proquest.

Chester Gillette was then executed in Auburn Prison on March 30, 1908. Following his death, the *New York Times* reported that his spiritual advisors, Reverends Henry McIlravy and Cordello Herrick, released a statement which seems to justify his execution and confirm the question of his guilt: ““Because our relationship with Chester Gillette was privileged, we do not deem it wise to make a detailed statement, and simply wish to say that no legal mistake was made in his electrocution.””<sup>36</sup> Both in light of such a statement, and in historical retrospect, most people have accepted that Chester did indeed murder Grace Brown, his actions towards her in life being both unkind and seemingly unfeeling.

### **C. The Novel: *An American Tragedy***

Having now briefly recounted the fate of Chester Gillette and Grace Brown, it is now possible to explore the story of Dreiser’s Clyde Griffiths and Roberta Alden. It will now also be impossible to miss the parallels between fact and fiction. However, it is the differences that must be carefully observed, for it is in these subtle details, where Dreiser abandoned the story of Chester Gillette, that the novel’s theme was carefully crafted.

Published in 1925, *An American Tragedy* was so large, topping 800 pages, that it was originally printed in two separate volumes and priced at \$5. Despite the size and cost, it sold fifty thousand sets in the first year as well as receiving much critical acclaim.<sup>37</sup> For just one example, *The New York Times* ran a review of the novel by Robert Duffus on January 10, 1926, praising the “steady and inevitable movement” of the work, as well as stating that “the machinery of his [Dreiser’s] novel is as authentic as that of Aeschylus.”<sup>38</sup><sup>39</sup> In the review Duffus, like most other

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<sup>36</sup> “Gillette Dies; Guilt Admitted,” *The New York Times*, March 31, 1908, found using Proquest.

<sup>37</sup> Orlov, *An American Tragedy: The Perils of the Self-Seeking Success*, p. 19.

<sup>38</sup> Aeschylus – “the first of classical Athens’ great dramatists, who raised the emerging art of tragedy to great heights of poetry and theatrical power.” From Britannica Online Encyclopedia.

critics, also touched on defects of Dreiser's style of writing, but conceded that the overwhelming strength of the theme, and realistic depiction of society, negated any problems in the writing style itself.

However, in contrast to those who wrote rave reviews of the novel's artistic merits, there were others who were not so impressed. Even a personal friend of Dreiser, H.L. Mencken, negatively wrote that the novel was "a shapeless and forbidding monster – a heaping cartload of raw materials for a novel, with rubbish of all sorts intermixed – a vast, sloppy, chaotic thing."<sup>40</sup> In addition to negative reviews by critics, many negative opinions of the novel came from ordinary citizens less concerned with the artistic value of the work, but who were scandalized by the novel's subject matter. In fact, the book was completely banned in Boston shops and libraries; one man representing Dreiser's publisher was even arrested in April 1927 for selling a copy of the book, and charged with "manifestly tending to corrupt the morals of youth"<sup>41</sup>

What the novel contained, which might be construed as attempting to "corrupt the morals of youth," was frank writing about issues of immorality. Dreiser described in his novel brothels, drinking, sex, abortion, and murder, and in doing so broke what is referred to as the "genteel tradition" which makes the novel have an important historical, as well as literary significance. This "genteel tradition" had for a long time been an informal gag on literature, repressing ideas of what *was* in favor of what *should* be: "People were supposed to be guided by conscience, but the lives he [Dreiser] observed, including his own, were shaped by the blind, inescapable

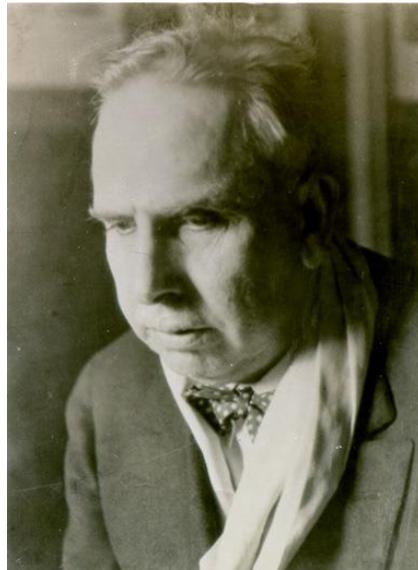
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<sup>39</sup> "Dreiser's Undisciplined Power: his new novel contains a haunting study of crime and punishment," *The New York Times*, Jan. 10, 1926, found using Proquest.

<sup>40</sup> Mencken, as quoted by Orlov, *An American Tragedy: The Perils of the Self-Seeking Success*, p. 44.

<sup>41</sup> *Ibid.*, p. 42.

“forces” of nature.”<sup>42</sup> Dreiser’s observations, combined with the fact that he was “constitutionally unable to say he saw what he did not in fact see, what wasn’t there to be seen,”<sup>43</sup> combined to create *An American Tragedy*, which presented a new and critical view of American society.



**Theodore Dreiser, photographed by H.L. Davis, in 1929.  
(Dreiser Collection, Vol. 432 Image 31, Rare Book and Manuscript Library,  
University of Pennsylvania online.)**

The vehicle with which Dreiser explored what he saw to be wrong with American society was his main character, Clyde Griffiths, heavily influenced by Chester Gillette. Dreiser follows Clyde from a very young age until the time of his death, brick by brick laying the groundwork for his inevitable execution. Clyde’s life and the novel are divided into three thematically different sections or “Books” each of which contribute to the overall narrative of Clyde’s life as a product of predetermined factors, slowly leading him to an unavoidably tragic end similar to the one that befell Chester Gillette; the major difference is that Chester Gillette was not a sympathetic victim, but Clyde was, due to Dreiser’s careful planning.

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<sup>42</sup> Frohock. *Theodore Dreiser*, p. 6.

<sup>43</sup> *Ibid.*, p. 5.

Book One, however, contains a story independent from that of Chester Gillette. Instead, it establishes in minute detail Clyde's poor, uneducated and religious background, (which also served to create a more sympathetic character), much of which scholars credit as being drawn from Dreiser's own childhood experiences.<sup>44</sup> In the opening chapter, the narrator introduces Clyde and the rest of the Griffith family who are singing religious songs on the streets of Kansas City to try and spread the message of God and promote their mission work. That Clyde is different from the rest of his family is immediately made clear by his feelings of embarrassment and resentment at being involved in such a situation: "...he and his parents looked foolish and less than normal – 'cheap' was the word he would have used if he could have brought himself to express his full measure of resentment of having to participate in this way – and that he would not do it anymore if he could help."<sup>45</sup> These feelings of inferiority would remain with Clyde for the rest of the novel, as well as encourage him to dream of success.

In addition to Clyde's feelings towards his family's position in life, two events within Book One are important to highlight: first, his sister Esta's pregnancy outside of marriage and her abandonment. Not only does Clyde fail to sympathize with his sister fully, but it serves to embarrass him more as to his family's position: "To think of his being part of a family that was always poor and so little thought of that things like this could happen to it – one thing and another – like street preaching, not being able to pay the rent at times, his father selling rugs and clocks for a living on the streets – Esta running away and coming to an end like this. Gee!"<sup>46</sup> The same characteristics that led Esta to such a fate, the insufficiency of her religious upbringing and a lack of education, are a part of Clyde's background as well. Thus this event foreshadows the

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<sup>44</sup> Ibid., p. 8.

<sup>45</sup> Theodore Dreiser, *An American Tragedy*, 4<sup>th</sup> ed. (New York: The World Publishing Company, 1964), p. 12.

<sup>46</sup> Ibid., p. 99.

inevitability of what is to come for Clyde, when he himself is in a similar position with Roberta Alden.

Another important event, again foreshadowing Clyde's later tragedy, is his pursuit of Hortense Briggs and the car crash in which the two are involved. Clyde, after gaining a position as a bell-boy at the Greene-Davidson, the largest hotel in Kansas City, is introduced to a world of wealth and immorality he had never known. Through another bell-boy, he meets Hortense to whom he is immediately attracted: "Here was youth and geniality and freedom and love of life."<sup>47</sup> To Clyde, Hortense represents all he has been denied in his strict religious upbringing. However, Hortense's only attraction to Clyde is that he willingly buys her things, including an incredibly expensive fur coat which Clyde funds following her promise to "yield herself to him,"<sup>48</sup> instead of paying for his sister's doctor. As the situation of the fur coat illustrates, Hortense's character vividly establishes Clyde's irrational weakness for women, a trait that will lead to his downfall. Clyde's relationship with Hortense is cut short following a car crash the two of them and some other bell-boys are involved in, and in which a little girl is hit and killed. The car crash effectively ends both Clyde's relationship with Hortense and his childhood as he is forced to flee Kansas City to avoid arrest. With the end of his childhood, so ends Book One.

With the opening of Book Two, three years have passed since the car crash. Clyde is again employed as a bell-boy, this time in Chicago, and by chance meets his wealthy uncle, Samuel Griffiths. Samuel owns a collar factory and partially through guilt, having received a greater inheritance from his father than did his brother, Clyde's father, he offers Clyde a job in Lycurgus, a fictional Upstate New York city "of some twenty-five thousand inhabitants."<sup>49</sup> It is

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<sup>47</sup> Ibid., p. 74.

<sup>48</sup> Ibid., p. 108.

<sup>49</sup> Ibid., p. 146.

in *Lycurgus* that Clyde meets several important characters that alter his future and lead him closer to his tragic ending.

Once in *Lycurgus*, Clyde finds himself in a unique situation: his wealthy relatives think he is beneath them and therefore don't socialize with him (this is especially due to the insistence of Clyde's cousin Gilbert, a pretentious young man who resembles Clyde physically but whose fortunes of circumstance offer an interesting contrast to Clyde). The people Clyde works with believe because Clyde is a Griffiths, that he is socially above them and that it would be presumptuous to attempt to entertain him. This combination then creates in Clyde a state of loneliness, weakening him beyond his normal state. It is in this weakened condition that he first meets Roberta Alden, the character based on Grace Brown. Clyde's physical and mental attraction to Roberta, combined with his extreme loneliness, compels him to desire her despite a strict rule that a supervisor is not to get involved with a factory girl; however, "his was a disposition easily and often intensely inflamed by the chemistry of sex and the formula of beauty. ...he was surely tempted at times, especially in these warm and languorous summer days, with no place to go and not an intimate to commune with."<sup>50</sup> After a chance meeting outside of the factory, the two begin a secret relationship, mainly walking together through the city. Their situation becomes more difficult as the weather gets colder and Clyde pushes Roberta to allow him to call on her in her room and consummate their relationship. Roberta is torn, but eventually makes a conscious decision to give into Clyde's advances because she does not want to lose him.

Soon after this development in Clyde and Roberta's relationship, another chance encounter occurs, this time between Clyde and Sondra Finchley. Sondra, a character loosely

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<sup>50</sup> *Ibid.*, p. 239.

based on the real life Harriet Bennedict, is the daughter of a wealthy local family and encourages Clyde to hope for a partner of better standing than Roberta. Sondra invites him to various social events, at first simply to annoy Clyde's cousin Gilbert, but then begins to be genuinely interested in Clyde despite his lack of wealth or social standing. At the same time, Roberta senses Clyde's growing distance, and while he begins to wonder how best to break it off with her, she realizes she is pregnant.

Their first reaction is to try to abort the pregnancy, but despite the airs that Clyde tries to exude of worldly knowledge, he was at a loss of what to do: "In this crisis he [Clyde] was an interesting illustration of the enormous handicaps imposed by ignorance, youth, poverty and fear as one could have found."<sup>51</sup> First, Clyde acquires pills from a pharmacist that fail to work, then has Roberta unsuccessfully approach a doctor who was rumored to have helped the daughter of a rich family in the past. Roberta suggests, believing it to be justified, as well as their only option, that Clyde marry her. However, he views such an option as ruinous: "Should he lose all this for such a world as he and Roberta could provide for themselves – a small home – a baby, such as a routine work-a-day life as taking care of her and a baby on such a salary as he could earn, and from which most likely he would never again be freed! God!"<sup>52</sup>

Roberta's demand that Clyde marry her was unthinkable to Clyde and made him desperate for an escape from Roberta and her pregnancy. In an attempt to stall, he suggested Roberta take time to visit with her family and have some new clothing made, making it easier to see Sondra and try to come up with alternative plans. While away, Roberta wrote Clyde numerous letters, paralleling those sent by Grace Brown to Chester Gillette. Unlike Grace's letters though, Roberta's were "characterized by a restraint and concern with morality that are

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<sup>51</sup> Ibid., p. 384.

<sup>52</sup> Ibid., p. 414.

absent from Grace's. . . . Furthermore, her [Roberta's] letters are streaked with a sense of shame and guilt."<sup>53</sup> This shame motivates Roberta to push harder for Clyde's consent to marry her as it is the only honorable solution. But, Clyde never agrees to marry Roberta, mentally fighting against it while hoping for any possible alternative.

It was in that frame of mind that Clyde chanced to see an article in the newspaper titled "Accidental Double Tragedy At Pass Lake – Upturned Canoe And Floating Hats Reveal Probable Loss Of Two Lives At Resort Near Pittsfield – Unidentified Body of Girl Recovered – That Of Companion Still Missing."<sup>54</sup> For approximately the next fifty-pages, Clyde wrestles with this alternative solution which is morally repugnant to him, but increasingly seems to be the only way to allow him to stay with Sondra and thereby realize his dreams of social and financial success. He eventually agrees to meet Roberta and the two take a trip to the Adirondacks reminiscent of Chester Gillette and Grace Brown; registering at hotels under false names, and renting a rowboat on a secluded lake and taking with him his luggage and a camera.

The difference between Chester Gillette and Clyde Griffiths, is that the reader is privy to the inner workings of Clyde's mind, so when Roberta's drowning takes place, Clyde's guilt remains questionable:

And then, as she drew near him, seeking to take his hand in hers and the camera from him in order to put it in the boat, he flinging out at her, but not even with any intention to do other than free himself of her – her touch – her pleading – consoling sympathy – her presence forever – God! Yet (the camera still unconsciously held tight) pushing at her with so much vehemence as not only to strike her lips and nose and chin with it, but to throw her back sideways toward the left wale which caused the boat to careen to the very water's edge. And then he, stirred by her sharp scream, (as much due to the lurch of the boat, as the cut on her nose and lip), rising and reaching half to assist or recapture her and half to apologize for the unintended blow – yet in so doing completely capsizing the boat – himself and Roberta being as instantly thrown into the water.<sup>55</sup>

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<sup>53</sup> James L. Baird. "The Movie in our Heads: An Analysis of Three Film Versions of Theodore Dreiser's *An American Tragedy*." PhD diss., University of Washington, 1967, p. 56.

<sup>54</sup> Dreiser, *An American Tragedy*, 4<sup>th</sup> ed., p. 438.

<sup>55</sup> *Ibid.*, pp. 492-3.

And it is with Roberta's death, and the question as to Clyde's guilt or innocence, that Book Two ends.

Book Three then consists of the aftermath of Roberta's death, including Clyde's arrest, trial, and eventual execution. What is striking about this section is the closeness with which Dreiser followed the real trial of Chester Gillette; in some cases, using exact phrases and lines of questioning used in the real trial. For instance, in the novel's opening statement by the fictional Defense Attorney Orville Mason, he states that "He [Clyde] has been called by his council and others in the newspaper, a boy, over and over again. He is not a boy. He is a bearded man."<sup>56</sup> This phrase "bearded man" is exactly what prosecutor Ward called Chester Gillette in his opening statement to jury, fearing that the newspaper's reference to him as a 'boy' would prejudice the minds of the jury.<sup>57</sup>

However, despite sounding like a Gillette trial transcript at many points in the section, Dreiser makes several significant changes. First, the fictional prosecutor Mason, is a much more vicious character than the real person on which he was based, George Ward. Claiming to care about justice, his real motivation for making such a thorough case against Clyde is because he sees potential to "revive a wavering political prestige"<sup>58</sup> as well as his own personal feelings of "angry social resentment against men of means in general."<sup>59</sup> Because Clyde is a Griffiths, Orville believes that Clyde is socially privileged and therefore resents him; however, this is not the case at all and it is Clyde's bad luck to have the same last name as his rich relatives that brings the personal wrath of the prosecutor down on him.

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<sup>56</sup> Ibid., p. 642.

<sup>57</sup> Brandon. *Murder in the Adirondacks*, p. 182.

<sup>58</sup> Dreiser, *An American Tragedy*, 4<sup>th</sup> ed., p. 504.

<sup>59</sup> Ibid., p. 517.

A second change by Dreiser is the location where the trial takes place. The trial of Chester Gillette was held in Herkimer County, New York, which had a population made up of a mix of industry workers and farmers. In the novel, Clyde was tried in Bridgeburg, which had a very small population of 2,000, of which all were extremely rural.<sup>60</sup> By decreasing the size of the location, (and having increased the size of Lycurgus to one larger than Cortland), Dreiser increases the juxtaposition between their way of life and therefore the social norms against which Clyde will be judged, but which he was not raised under:

Clyde becomes trapped in and victimized by the differences between two sharply dissimilar spheres of influence: after having his goals and behavior shaped and encouraged by the dominant modern values of the cities in which he had lived, Clyde is judged and condemned by a rigid (moral) conservatism in a rural realm where covert resentment of his relatives' wealth helps further assure his sentence of death.<sup>61</sup>

Again, it is Clyde's bad luck in setting and name that stacks the deck against him.

Another change made by Dreiser, which helps assure Clyde's death sentence is one that reflects Dreiser's negative feelings about the American legal system and ideas of social justice. Before Clyde's trial, a small character named Burton Burleigh plants false evidence to help "prove" Clyde's guilt: "Burleigh slyly threading two of Roberta's hairs in between the door and the lens of the camera, so that Mason and Heit a little while later unexpectedly coming upon them and wondering why they had not seen them before – nevertheless excepting them as conclusive evidence of Clyde's guilt."<sup>62</sup> This specific piece of evidence, along with Roberta's letters, was the most damaging to Clyde while on trial; it is ironic and more bad luck on Clyde's part that what helped to convict him was falsified evidence.

Following Clyde's sentence, he is taken to Auburn prison's death house, at which time he attempts his appeals, observes the workings of the death house, including the execution ritual the

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<sup>60</sup> Ibid., p. 495.

<sup>61</sup> Orlov, *An American Tragedy: The Perils of the Self-Seeking Success*, p. 74.

<sup>62</sup> Dreiser, *An American Tragedy*, 4<sup>th</sup> ed., pp. 575-76.

condemned go through and establishes a relationship with a Reverend Duncan McMillan. It is to Rev. McMillan that Clyde, who is questioning his guilt, recounts the true series of events leading to Roberta's death and McMillan decides that in Clyde's heart, having not made an effort to save Roberta, he was guilty. However, even until the time of his execution, Clyde continues to doubt his guilt:

He had a feeling that he was not as guilty as they all seemed to think. ... They had not been harassed, tortured, mocked by the ill-fate of his early life and training, forced to sing and pray on the streets as he had in such a degrading way, when his whole heart and soul cried out for better things. How could they judge him, these people, all or any one of them, even his own mother, when they did not know what his own mental, physical and spiritual suffering had been?"<sup>63</sup> ... "Would no one ever understand – or give him credit for his human – if all too human and perhaps wrong hungers – yet from which so many others – along with himself suffered?"<sup>64</sup>

That doubt, even in the face of a jury's guilty verdict, remains plausible to the reader even past the point of Clyde's execution because the reader has the advantage of access to Clyde's thought processes throughout the novel. Clyde's inner turmoil over Roberta's death, combined with the knowledge of his early life and circumstances creates sympathy for Clyde, and begs the question: had some of the conditions in Clyde's life been different, would this tragedy have happened to him? It is this question, forcing an inquisitive look at societal norms and what society teaches young people to want out of life, which was Dreiser's aim in writing the novel.

As should be clear from the basic outline of the novel above, Dreiser relied heavily on the example of Chester Gillette. However, he changed details to mold a message. All in all, the similarities between Chester Gillette and Clyde Griffiths boil down to this: that each came from a poor background but aspired to financial success, worked in their uncle's factory in Upstate New York, became involved with and impregnated a girl in that same factory, who, after she wrote pleading letters, he finally murdered to keep alive his own aspirations of social and financial

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<sup>63</sup> Ibid., p. 798.

<sup>64</sup> Ibid., p. 808.

advancement, after which he was tried and executed.<sup>65</sup> And there are some very real, almost exact parallels between Chester and Clyde's trial, as well as Grace Brown and Roberta Alden's letters.

However, according to Dreiser in his essay "I Find the Real American Tragedy," Chester Gillette was merely one of many sources of inspiration for the novel. Though Gillette obviously had the greatest impact, Dreiser claims that Clyde was a composite of young men that he noticed formed a pattern in American culture: that their desire for material gain pushed them to commit crimes to keep that dream alive. Dreiser believed then that it was not the fault of the young man that he was driven to a crime such as murder, but it was society itself, which had caused and encouraged their desire for such a goal. Therefore, Dreiser says, in analyzing the "American tragedy" pattern, that

...society misunderstands each real-life counterpart of Clyde Griffiths: each youth who kills while pursuing the prize of "success" through a desired girl's love is unjustly seen by society (and its laws) as a cold-blooded murderer, whereas he is driven to the desperate deed by the lure of wealth combined with the chemically explainable force of sexual instinct. This force is so overwhelming in effect, writes Dreiser, that it makes each "American Tragedy" murderer a victim of extreme emotions which he cannot control and which he did not create. They were created by contacts, and so came upon him as a disease may come upon you.<sup>66</sup>

This type of pattern of murder "seemed particularly American to Dreiser because the murder was dictated not so much by the boy's personal, human motives as by the desire for material and social success forced onto him by his environment."<sup>67</sup>

Therefore, in the creation of Clyde Griffiths, Dreiser's main purpose was to make him the product of his environment. Clyde lacked education, a huge character flaw and "because of this lack, he [Clyde] is unable to compare, evaluate and learn. His own course is changed by the

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<sup>65</sup> Orlov, *An American Tragedy: The Perils of the Self-Seeking Success*, p. 57.

<sup>66</sup> Dreiser as quoted by Orlov, *Ibid.*, 91.

<sup>67</sup> Baird, "The Movie in our Heads," p. 41.

shifting position of the two goals he has set for ...himself- the attainment of wealth and sexual success,'<sup>68</sup> goals which society taught him to strive for.

Not only was Clyde the product of his environment, but also he was relatable and pitiable. In comparison the Chester Gillette, both in the circumstances of his life and the crime itself, Clyde Griffiths is a character which one feels sorry for: Clyde did not see a string of girls while seeing Roberta, but Chester did while seeing Grace. Clyde did not bring a tennis racket on his boat trip with which to hit Roberta over the head and then throw her into the water as it is presumed Chester did to Grace; instead, Clyde brought a camera and accidentally hit Roberta with it. And Clyde, unlike Chester, was the victim of small town moral conservatism and resentment in his trial. Dreiser combined together chance and fate, heredity and environment, to create Clyde, a victim of all of those things.

It was these subtle differences between the Gillette story and the Griffiths story that allowed for Dreiser's message of an unfortunate situation, based not on an individual's selfish desires to social climb, but a product of the society in which he was raised. However, these same details, which won the novel so much praise from critics, were left out of the 1931 film version, diminishing it to an account of a criminal, not the everyman. And that is exactly why Dreiser sued.

#### **D. The Battle: Dreiser's Suit Against Paramount**

On July 13, 1931, Dreiser applied for an injunction *pendente lite* against Paramount Publix Corporation in an attempt to stop the showing of the film adaptation of his novel *An American Tragedy*, which was scheduled to be released on August 5 of that year. Dreiser claimed that the movie violated his agreement with Paramount that they were to faithfully

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<sup>68</sup> Ibid., p. 48.

represent the novel, and if it were shown to the public, it would damage his reputation. In a close examination of the affidavits presented to the court by both sides, it is clear that what underlies Dreiser's points of contention are the generally accepted censorship ideas of the day, and Hollywood's willing perpetuation of them, sacrificing art for business.

The origin of Dreiser's suit can be traced back to March 19, 1926, the day that he sold the rights of *An American Tragedy* to Famous Players - Lasky Corporation (later, Paramount Publix Corporation) for \$90,000, of which \$80,000 went to Dreiser, and the other \$10,000 went to Horace Liveright, the novel's publisher.<sup>69</sup> The contract transferred over to the Corporation: "all the motion picture rights in and to said novel, together with the sole and exclusive *right to use, adapt, and change said novel in the making of motion picture photoplays....*" (emphasis added)<sup>70</sup> The idea behind this phrase would later become an issue in *Dreiser v. Paramount*, because it conflicted with Dreiser's claim that there was an explicit understanding between himself and Famous Players that "the picture would be a fair and honest presentation of the novel and of the characters therein portrayed."<sup>71</sup> However, the two ideas are not mutually exclusive.

Furthermore, Jesse Lasky who was at that time the Vice President of the Famous Players- Lasky Corporation would later recall no such agreement:

The only discussion between Mr. Dreiser and me was as to price. I did not state to Mr. Dreiser... that the novel would be faithfully portrayed or that it would be honestly presented or that the characters would not be misrepresented. The only statement which I made to him in this connection was that the novel would be produced as a high-class, feature motion-picture and that every effort would be made to make it successful both artistically and financially.<sup>72</sup>

It therefore appears that at the very onset of an agreement between the two parties, there was a failure to understand one another's ideas of how the picture was to be produced. That

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<sup>69</sup> Dreiser's affidavit, exhibit a, p. 3, as quoted in *Theodore Dreiser v. Paramount Publix Corporation*, found at <http://www.courts.state.ny.us/history/Gillette.htm>.

<sup>70</sup> Dreiser's affidavit, exhibit a, p. 2, as quoted in *ibid*.

<sup>71</sup> Dreiser's affidavit, p. 2, as quoted in *ibid*.

<sup>72</sup> Lasky's affidavit, p. 2, as quoted in *ibid*.

miscommunication would carry throughout their relationship together up until Dreiser's lawsuit in July of 1931.

Despite having paid such a large sum of money for the rights to make *An American Tragedy* into a motion picture version, the studio let it lie dormant for several years. This delay was due to one thing: the novel's content. *An American Tragedy*, as detailed above, dealt with topics that the movie industry typically shied away from: sex, abortion, a sympathetic portrayal of crime, and criticisms of organized religion and the justice system. Paramount's concern resulted in light of censorship threats that had the potential to cut into their profits. These censorship threats came from two places: first, censorship threats outside the movie industry such as civic groups, religious groups and city and state censorship boards. The first censorship board was formed in Chicago in 1907 and, by 1922, six states (Pennsylvania, Ohio, Kansas, Maryland, New York and Virginia) had their own censorship boards with the power to reject scenes or entire movies. Though the exact language of each state's movie censorship law differed, they all generally prohibited material that was indecent, obscene, immoral, sacrilegious, or likely to incite crime. However, the statutes failed to define what constituted indecency, obscenity, immorality, sacrilegiousness or incitement of crime, therefore it was up to the personal opinions or preferences of individual officials what to censor, most of whom were volunteers or patronage appointees. Therefore, non-elected officials wielded tremendous power over the distribution of films and Hollywood had to be very cautious in what they produced so as to make sure it passed various state tests.<sup>73</sup>

In addition to outside control, censorship existed within the industry itself by way of the organization known as the Motion Picture Producers and Distributors of America (MPPDA). The

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<sup>73</sup> Wittern-Keller and Haberski, *The Miracle Case*, p. 16.

MPPDA was formed in 1922 as a culmination of several factors. This idea of self-regulation in the interest of better business was not new; the Motion Picture Patents Company had been established in 1908 for exactly that purpose of ensuring a suitable product for mass audiences to view. Its censoring body the National Board of Censorship was run by volunteers from civic groups and successfully held cries for larger censorship at bay until 1915.<sup>74</sup> In that year, two important events occurred that would change the way that movies were perceived and controlled until the 1950s.

First, in 1915, *The Birth of a Nation* directed by D.W. Griffith was released. Though artistically advanced for its time, the racist subject matter instigated what one scholar would refer to as a “censorship furor” throughout the United States.<sup>75</sup> Critical acclaim for the technical aspects of the film versus the public’s negative reception of its narrative revealed the conflicting understandings of the motion picture industry’s influence; movies as an outlet of artistic expression and movies as an idle amusement that should be controlled for the good of society.<sup>76</sup>

Griffith responded to criticism and cries for censorship in a pamphlet entitled *The Rise and Fall of Free Speech in America*. In it, Griffith explained his views of filmmaking as an art form and framed his criticisms of censorship as an unconstitutional attack on that art. At the beginning of the pamphlet, in order to quickly grab the reader’s attention and illustrate his point, Griffith evoked patriotic symbols of America’s struggle for the right to free speech: the Revolution, the Constitution and the Bill of Rights. But in contrast to these revered parts of American history, he also describes the 1798 Sedition Act, a low point in the history of the First Amendment in that it criminalized any criticism of the government by print publications. It is to

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<sup>74</sup> Maltby, “To Prevent the Prevalent Type of Book,” p. 558.

<sup>75</sup> Wittern-Keller and Haberski, *The Miracle Case*, p. 14.

<sup>76</sup> *Ibid.*

the Sedition Act that Griffith compares film censorship in order to frame the present threat of film censorship as a parallel to a reviled historical law and the dangers inherent in suppression of ideas. The entire pamphlet is filled with cartoons, each one arguing his point in a new way: where would the classics have been with censorship? If film censorship is allowed, how long before the presses are censored? What's to stop censorship from changing the way history is presented? All in all, Griffith believed censorship was dangerous and resulted when "this new art was seized by the powers of intolerance as an excuse for an assault on our liberties."<sup>77</sup>



A cartoon from D.W. Griffith's pamphlet *The Rise and Fall of Free Speech in America* (David W. Griffith, *The Rise and Fall of Free Speech in America*, (Los Angeles, 1916). Found at <http://google.books.com/>.)

The realization of Griffith's fears of an "assault on our liberties" was the second event of 1915 that altered how motion pictures were perceived: the Supreme Court's decision in *Mutual Film Corporation v. Ohio Industrial Commission*. In this case, the interstate film exchange Mutual Film Corporation, challenged an Ohio state censorship law on the basis of free speech, and unconstitutional restraint of interstate trade. Though the corporation framed their argument in terms of free speech and cited film's positive social functions and potential for education, the motivation for the suit was mainly economical since distribution delays and censorship fees threatened their developing national distribution. On the other side of the issue, the state of Ohio

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<sup>77</sup> David W. Griffith, *The Rise and Fall of Free Speech in America*, (Los Angeles, 1916). Found at <http://google.books.com/>.

argued that the state's police powers allowed them to police cinema because film subject matter had the potential to corrupt as opposed to educate. It was this latter argument that the Supreme Court most identified with and unanimously cited; that though films may have the potential to educate, they also may be used for evil or appeal to the "prurient interest" and it was that possibility that the Ohio statute was designed to protect against.<sup>78</sup>

But most damaging to the film industry was the Court's decision that movies also did not constitute speech as protected by the First Amendment. In the Justice's eyes, motion pictures were "mere representations of events, of ideas and sentiments, published and known," thereby declaring that movies did not constitute original thought and were "a business pure and simple."<sup>79</sup> By validating Ohio's censorship board and without the ability to argue protection under the First Amendment the Supreme Court effectively legitimized prior restraint, which left the film industry open to censorship before the release of their films.

The purpose of prior restraint was to prevent potentially harmful and non-mainstream ideas from entering the public sphere. Americans have historically disapproved of this practice, especially in newspapers, believing free speech and exchange of ideas to be central to the functioning of a representative government and courts today allow prior restraint only in cases of national security. However, in 1931 when Dreiser filed his suit, as a result of *Mutual v. Ohio*, film was restricted under prior restraint and censored before being allowed out into what Justice Oliver Wendell Holmes called "the marketplace of ideas." Books and newspapers on the other hand, were simply released and if believed to be a danger to society, could be brought to court and judged by a jury. Therefore, any censorship of print was done after the publication and,

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<sup>78</sup> Lee Grieveson. *Policing Cinema: Movies and Censorship in Early-Twentieth-Century America*, (Berkeley and Los Angeles: University of California Press, 2004), pp. 198-201.

<sup>79</sup> *Mutual v. Ohio*, as quoted by Maltby, p. 558.

unlike film censorship, largely an open and public process. Movies on the other hand were required to submit their product, pay a fee, and wait to hear whether they were approved or not. However, not all censorship boards worked quickly and it caused problems for distributors because release dates were uncertain, premiers and advertising could not be finalized until they were granted exhibition licenses. And if they were not granted a license, distributors would have to make cuts and resubmit the film for review again or turn to the legal system that on average took at least a year.<sup>80</sup>

In light of *Mutual's* authorization of prior censorship, the cries for an industry regulating body for the protection of economic interests grew throughout the late 19-teens, but the last straw in the foundation of the MPPDA was the 1921 arrest of famous comedian Roscoe "Fatty" Arbuckle. Not only was he involved in a party that featured bootleg liquor, but a woman was found dead in his hotel room and he was accused of her murder. This famous comedian became "a symbol of everything objectionable" about Hollywood and scapegoat for those that desired stricter morals in the film industry.<sup>81</sup> The scandal continued to increase when during the trial a Hollywood director, rumored to be the third party in Roscoe and the murdered woman's love triangle, was murdered in his home.<sup>82</sup> To save face and clean up their image, the MPPDA was founded in 1922 under the direction of William H. Hays, a prominent Presbyterian and previously postmaster general under President Harding, who served the dual purpose of Hollywood regulator and public relations manager.

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<sup>80</sup> Wittern-Keller and Haberski, *The Miracle Case*, pp. 17-18.

<sup>81</sup> Stephen Vaughn, "Morality and Entertainment: The Origins of the Motion Picture Production Code," *The Journal of American History*. 77:1 (June, 1990), p. 41.

<sup>82</sup> Wittern-Keller and Haberski, *The Miracle Case*, p. 19.

The entire motivation behind the formation of the MPPDA was defensive.<sup>83</sup> First, it worked to mold a better public image and stave off any attempts at a federal film censorship law which were attempted in 1914 and 1916 and would be attempted twice after the MPPDA's formation.<sup>84</sup> Second, in 1924 the MPPDA institutionalized the regulation of film content with the adoption of "the Formula," which asked studios to present their scripts to the MPPDA for approval in an attempt to anticipate how external agencies like state censorship boards and civic groups would react to their films.<sup>85</sup> The Formula also discouraged the adaptation of books which contained "'salacious or otherwise harmful' subject matter for fear that it might have 'a deleterious effect on the industry in general.'"<sup>86</sup> The MPPDA increased this regulation in 1927 with the "Don'ts and Be Carefuls" list, administered by the MPPDA's Studio Relations Committee in Hollywood.<sup>87</sup> Included in the "Don'ts" category was "profanity, nudity, "illegal traffic in drugs," sexual perversion, white slavery, miscegenation, "sex hygiene and venereal diseases," scenes of childbirth, children's sex organs, "ridicule of the clergy," and "willful offense to any nation race or creed."<sup>88</sup> And subjects that studios were advised to "be careful" with were "arson, sedition, showing methods of crime, marriage, the "deliberate seduction of girls," and "excessive or lustful kissing, particularly when one character is a 'heavy.'"<sup>89</sup> Though Hays had little means of enforcing these guidelines, they served as a tactic for studios to increase

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<sup>83</sup> Lea Jacobs, "An American Tragedy: A Comparison of Film and Literary Censorship," *Quarterly Review of Film and Video*, 15:4 (1995), p. 90.

<sup>84</sup> Wittern-Keller and Haberski, *The Miracle Case*. p. 19.

<sup>85</sup> Jacobs, "An American Tragedy: A Comparison of Film and Literary Censorship," p. 90.

<sup>86</sup> Maltby, p. 561.

<sup>87</sup> *Ibid.*, p. 562.

<sup>88</sup> Vaughn, "Morality and Entertainment: The Origins of the Motion Picture Production Code," p. 44.

<sup>89</sup> *Ibid.*

their chances of being granted a distribution license and projecting an image that the film industry was trying to clean up their act and gain legitimacy.

But, even “the Formula” and the “Don’ts and Be Carefuls” couldn’t stop a new wave of cries for censorship following the advent of talking films. More prevalent use of sound “had the immediate effect of “disrupt[ing] the silent cinema’s mechanisms of ambiguity and visual innuendo and to render the objectionable more explicit.”<sup>90</sup>It also made the prospect of censorship all the more expensive and inconvenient. If a short scene in a silent film was objected to, provided that it wasn’t too crucial to the plot, it could be cut out without being noticed by the audience. But with sound came increased expense of cutting and then re-synchronizing the film for the purpose of continuity. It was this transition to sound, along with political, social and economic developments of the late 1920s that led to the adoption of the Production Code: “A Code to Maintain Social and Community Values in the Production of Silent, Synchronized and Talking Motion Pictures,” which was a stricter and more explicit set of MPPDA guidelines for the film industry.<sup>91</sup> The fact that the studios all agreed to them, and by association sacrificed freedom of content, is due to outside pressures of the time.

Social threats to the industry were still coming from civic and religious groups. They continued to criticize film’s content and were spurred by the introduction of sound that they saw as further enhancing film’s illusion of reality, and thereby increasing potential sway over the most vulnerable citizens in society. Politically, the industry was under attack from the Justice Department who threatened antitrust action against them. This was due to the fact that studios exerted tremendous control over movie theater owners by selling several movies as a package, a practice known as block booking. This way, if a studio had several small low budget movies with

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<sup>90</sup> Maltby, p. 564.

<sup>91</sup> Vaughn, “Morality and Entertainment” pp. 41-42.

relatively unknown actors, they could be packaged together with a heavily advertised, star studded film. The threat of legal action to stop the monopolistic practice had the potential to cut into a studio's profits, which made many studio executives anxious. In conjunction with the onset of the Great Depression, which decreased ticket sales and cut further into profits, the industry was more desperate than ever to make sure that their films passed censorship boards and quickly gained a profit from their movies. A further economic motivation was the role of investment bankers in Hollywood. With the onset of sound technology many theaters had to be upgraded to feature the new technology, and the studios had turned to banks to foot the bill. However, they did not expect the Great Depression and with its hard realities, bankers increasingly pressured the film industry to adopt a code as a way to promote stability and insure their investments.<sup>92</sup>

In light of these outside threats, Hollywood was in a weakened state and jumped at the opportunity to have two prominent Catholics, Father Daniel Lord and Martin Quigley, write a moral code to replace the "Don'ts and Be Carefuls."<sup>93</sup> Over a period of several months the new Code was written, presented to Hollywood executives, negotiated, unanimously approved by studio heads, and on March 31, 1930, ratified by the MPPDA's Board of Directors.<sup>94</sup> Still relatively weak in terms of enforcement, the Code nevertheless much more explicitly spelled out what was and what was not appropriate for the screen. The Code itself was based on three "General Principles" outlined at the beginning of the document: first, films shouldn't lower an audience's moral standards, "hence the sympathy of the audience should never be thrown to the side of crime, wrongdoing evil or sin;" second, only "correct standards of life" were to be

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<sup>92</sup> Ibid., pp. 41-58.

<sup>93</sup> Wittern-Keller and Haberski, *The Miracle Case*, p. 20.

<sup>94</sup> Vaughn, "Morality and Entertainment," pp. 52-56.

depicted: and thirdly, neither natural or human law should be made fun of in any way, “nor shall any sympathy be created for its violation.”<sup>95</sup> Not only did this code tell studio’s what they couldn’t do, but it served to lower their industry, by their own admission, to one of pure entertainment. This had previously been declared in *Mutual v. Ohio*, but this was the first time that the studios declared that art was secondary to entertainment in their profession.

With the adoption of this Code, the adaptation of *An American Tragedy* looked even more hopeless than it did when it was purchased in 1925 under the MPPDA’s Formula. What motivated the sale at that time was due to a large and positive response from readers and critics alike. But with censorship concerns, it existed in a state of limbo for several years, representing a paradox in that the novel’s “financial success made [it] commercially desirable and culturally appropriate for adaptation, but [its] content made that adaptation extremely problematic.”<sup>96</sup>

But, in 1929, after four years had passed without a screen production of his novel, Dreiser became impatient with what was then Paramount Publix Pictures (previously Famous Players-Lasky Corporation) and their trepidation. He voiced his opinions on the matter in an article, stating that artists in the United States were “faced with one of the most fanatical and dangerous forms of censorship that ever existed because the effect of all such activity is to reduce all human intelligence to one level... that of a low-grade (not even high grade) moron!”<sup>97</sup> And in 1930 he threatened a lawsuit if they continued to put production of the film off.<sup>98</sup> However, with the adoption of the MPPDA Production Code that year, the studio was under even more pressure than in 1925 to create the novel under prescribed ideas of morality: it explicitly stated that “the

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<sup>95</sup> The Motion Picture Production Code of 1930, [www.artsreformation.com/a001/hays-code.html](http://www.artsreformation.com/a001/hays-code.html)

<sup>96</sup> Maltby, p. 559.

<sup>97</sup> Dreiser, as quoted by Raymond Haberski, Jr. *It's only a Movie!: Films and Critics in American Culture* (Lexington: University Press of Kentucky, 2001), p. 68.

<sup>98</sup> *Ibid.*

latitude given to film material cannot... be as wide as the latitude given to book material” due to the screens vivid depictions, and the wide audience of people that will experience the film.<sup>99</sup>

Despite this concern, in June of 1930 Paramount invited Soviet director Sergei Eisenstein to come to the United States and draft a screenplay of *An American Tragedy*. Dreiser, who had met the director in Russia in 1927 was extremely pleased with this move on Paramount’s part, having been “very impressed with the Russian’s desire to present life truthfully in his films, as Dreiser had attempted to do in his novels.”<sup>100</sup> While Eisenstein worked on his screenplay, Paramount began negotiations with Dreiser for the purchase of talking rights for his novel,<sup>101</sup> eventually securing a contract in January of 1931 for the additional price of \$55,000;<sup>102</sup> this then brought the total amount of money paid to Dreiser up to \$145,000.<sup>103</sup>

However, while at the beginning of negotiations for the talking rights Dreiser believed Eisenstein would be the writer and the director of the adaptation, this changed in October of 1930 when Paramount executives were given the script to review. Jesse Lasky, B.P. Schulberg and David O. Selznick thought the script was an accurate account of the novel, but they doubted its potential commercial appeal, and therefore monetary value to the studio, a major concern in light of the great depression:

In October 1930, Selznick wrote to Schulberg that Eisenstein’s work was “the most moving script I have ever read... positively torturing. When I finished it, I was so depressed I wanted to reach for the bourbon bottle.” But “as entertainment,” he added, “I don’t think it has one chance in a hundred.” Selznick doubted “that Paramount could risk so radical an interpretation in so important a project.” The executive argued that “the advancement of the art” in cinema was “not the business of this organization,” nor was offering a miserable two hours to millions of happy-minded young Americans.<sup>104</sup>

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<sup>99</sup> The Motion Picture Production Code of 1930, p. 7.

<sup>100</sup> Baird, “The Movie in our Heads,” p. 79.

<sup>101</sup> Schulberg’s affidavit, p. 1, as quoted in *Dreiser v. Paramount*.

<sup>102</sup> Dreiser’s affidavit, exhibit B, p. 7, paragraph eleventh, as quoted in *ibid*.

<sup>103</sup> According to <http://www.westegg.com/inflation/> that would be equivalent to \$1,848,994.70 in 2009.

<sup>104</sup> Haberski, *It’s only a Movie!*, p. 69.

Not only was the content contrary to what the executives would have liked, but the length of the screenplay was abnormal by Hollywood standards as well. As described by a lawyer for the Paramount Corporation in his *Dreiser v. Paramount* affidavit, the Eisenstein prepared script was “so voluminous as to be utterly impractical. It had been so written that it would, if produced, have consisted of forty reels of film, whereas the ordinary feature picture averages only nine reels.”<sup>105</sup>

However, the fears of censorship, as well as extreme length of the film, accurately reflect Dreiser’s tome of a novel; since his novel faced censorship and critics due to its length, it seems fitting that an accurate film adaptation should also have issues with censorship boards and be uncharacteristically long. In Dreiser’s affidavit, in his suit against Paramount, he states over and over again that when he signed the contract with Paramount, he was “chiefly interested in the proper presentation of the novel, I made it clear that I wished my work *honestly presented or not presented at all.*”<sup>106</sup>(Emphasis added) Though Eisenstein was never able to make his version of *An American Tragedy*, his script is closer to the ideas within the novel that when later left out of the film adaptation, Dreiser would feel compelled to sue. Dreiser described his novel in the following terms:

In general, the book is an indictment of our social system under which individuals are overwhelmed by forces outside themselves, react in certain ways which are due largely to their background and environment, and individually pay the penalty. In the course of the novel Clyde is found guilty of murder, but that is merely an incident. The importance of the book lay in its ideology, development of psychology in the presentation of the problem and the final resolution.<sup>107</sup>

Eisenstein in his adaptation, choose to focus predominantly on the psychological aspects of the novel, often deviating from the exact situations as written by Dreiser, but adapting their psychological impact to the screen in a way to be visually appealing while reproducing the

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<sup>105</sup> William Powers’s affidavit, p. 2, as quoted in *Dreiser v. Paramount*.

<sup>106</sup> Dreiser’s affidavit, p. 3, as quoted in *ibid*.

<sup>107</sup> Dreiser’s affidavit, pp. 1-2, as quoted in *ibid*.

sociological pressures Dreiser described. An example of just one change that Eisenstein made was in Clyde's mother's plea for clemency to the Governor to save her son. In the novel, the Governor asks Reverend McMillan if he believes Clyde to be innocent. The Reverend, to whom Clyde has confessed that he wanted Roberta to die, does not think Clyde to be innocent and therefore does not answer the question directly, thereby making up the Governor's mind to allow the execution to take place as planned. But in Eisenstein's screenplay, he made it so that Clyde confessed his guilt to his mother, and not Reverend McMillan, who due to her fundamentalist Christian beliefs, believes that thinking evil is the equivalent of doing evil. It is then his mother, who when questioned by the Governor, is unable and unwilling to save her son because she does not believe him to be innocent. Clyde's mother, and by extension her religion, then becomes a target of the screenplay's sociological message; religion and his mother represent both the force that raised him and then destroyed him. This one alteration made by Eisenstein is representative of several others in that he still manages to maintain and amplify Dreiser's attack on the American social system.<sup>108</sup> But these ideas were not what Hollywood executives wanted to see. As one scholar concisely observed, "Every page of Eisenstein's *An American Tragedy* crackles with sharp, fierce criticism of American society – too much criticism for American society at the time, and from a Bolshevik at that."<sup>109</sup>

Despite Dreiser's approval of the Eisenstein screenplay, in light of both censorship fears and issues of length, it was rejected. "The official reason was that the scenario was too long and the million dollar budget could no longer be afforded in the depths of the depression. Eisenstein said that the Paramount officials also told him that they would have preferred a 'boy meets girl'

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<sup>108</sup> Baird, "The Movie in our Heads," pp. 98-100.

<sup>109</sup> *Ibid.*, p. 103.

story ending in a ‘whodunit’ mystery.”<sup>110</sup> In light of Eisenstein’s failure to satisfy Paramount executives, director Josef von Sternberg requested to be assigned to the task. “Because of his success in dealing with the subjects of sex (*The Blue Angel*, *Dishonored*) and crime (*Underworld*), the Hollywood producers thought that von Sternberg would be a “natural” to film *An American Tragedy*.”<sup>111</sup> On December 18, 1930, Von Sternberg was assigned to begin work immediately collectively with the scriptwriter, and a personal friend of Dreiser, Samuel Hoffenstein.

But, the assignment of von Sternberg created some scheduling problems for Paramount. At the time of the on-going contract negotiations, he was finishing the cutting and editing of the movie *Dishonored* in which Marlene Dietrich starred. Dietrich, a German citizen, was scheduled to return to the United States on April 15, 1931 to begin shooting another movie directed by von Sternberg. Therefore, the company wanted the writing, directing, cutting, and editing of the 800-plus-page novel’s adaptation to be completed by mid-April, in order to make von Sternberg available for his next project. Dreiser was not entirely happy with this arrangement, but after the inclusion of clause “Tenth” in the January 2, 1931 contract, he felt satisfied that he would have some input in the creation of the film. This clause specifically states that:

The Purchaser [Paramount] agrees before production of the first motion picture photoplay to be made pursuant hereto to submit to the Seller [Dreiser] the manuscript intended to be used as a basis of or from which there may be adapted said motion picture photoplay for such comments, advice, suggestions or criticisms that the Seller may wish to make with respect thereto and to afford the Seller the opportunity of discussing with the scenarist of said motion picture the manuscript thereof and *the Purchaser agrees it will use its best endeavors to accept such advice, suggestions and criticisms that the Seller may make insofar as it may, in the judgment of the Purchaser consistently do so.*<sup>112</sup> (Emphasis added)

Despite Dreiser’s confidence that he would have a significant role in going over the script, the wording of this clause is, as described by a Paramount attorney, more of a “courtesy

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<sup>110</sup> Ibid., p. 80.

<sup>111</sup> Ibid., p. 114.

<sup>112</sup> Dreiser’s affidavit, exhibit B, p. 7, as quoted in *Dreiser v. Paramount*.

paragraph,”<sup>113</sup> in which the corporation *could* listen to the advice of Dreiser, but still maintained the final discretion as to the movie’s content.

Thus, once Hoffenstein and von Sternberg completed the first script, known as the “yellow script,” on January 29, 1931, they attempted to contact Dreiser to elicit his opinion. Hoffenstein sent to Dreiser on February 9, 1931, a telegram stating his intent to meet with him where he lived in New York City in order to deliver and discuss with Dreiser the manuscript.<sup>114</sup> However, Dreiser was at that time away on a tour of the southern coast and unable to be reached. This was not a promising development if Dreiser’s opinions were going to be fairly considered given Paramount and von Sternberg’s tight schedule.

In the meantime, Hoffenstein and von Sternberg completed the second, or “white script,” on February 11, 1931. When Hoffenstein was finally able to get into contact with Dreiser in Florida, he sent him a telegram which began a series of cool correspondence, which Dreiser thought was the beginning of the corporation’s attempt to establish a means under which to ignore his suggestions and advice. The telegram, dated February 17, 1931 reads:

Your wire received stop regret you did not advise us that you were leaving New York prior to your departure and of your itinerary as could have arranged to see you any point in United States during this week... *it is now too late for me to go over script with you as we commence photographing next week and production can not be delayed because of production casting and other studio requirements stop* understand script was delivered to Pell in your absence by Paramount New York Office stop when you arrive at New York suggest you read script and wire or air mail any suggestions you have immediately as they will be seriously and honestly considered and there *may* still be time to adopt such suggestions as you make as may be approved here stop think you will like script as text has been carefully and sympathetically followed regards.<sup>115</sup> (Emphases added)

Dreiser interpreted this as an attempt to speed through the production of the film, rather than “taking the time and having a script prepared which would indicate some of the pains which I took during the two years in which I was at work on the novel... I was shocked at the idea that

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<sup>113</sup> Herzburn’s affidavit, p. 5, as quoted in *ibid*.

<sup>114</sup> Hoffenstein’s affidavit, p. 4, as quoted in *ibid*.

<sup>115</sup> Hoffenstein’s affidavit, pp. 5-6, as quoted in *ibid*.

the matter had become fixed and that there was a question as to whether there was time even to consider my suggestions.”<sup>116</sup> Dreiser responded with his own message, dated February 19, 1931: “The usual Hollywood swill and bunk sorry to see your name attached waited until February one for word then left address if sincere can meet you New Orleans next week otherwise rush script at once general delivery Mobile Alabama My respect for movies increases hourly.”<sup>117</sup>

Yet, in response to Dreiser’s telegram, and to allow for some time in which Hoffenstein and Dreiser could look over the script together, the studio pushed back the first day of filming from February 23 to March 2, 1931. However, even if Hoffenstein and Dreiser ever ended up going over the script together, it is likely that they would have been too preoccupied by their growing rift to get much accomplished, as evidenced by Hoffenstein’s February 20 telegram to Dreiser:

Resent very much offensive implications in your wire stop providing how absurdly wrong you are in your prejudiced attitude towards studio they nevertheless want me to go to New Orleans to meet you stop I must therefore go but please understand I go as violently opposed to your attitude as you seem to be to script without reading it stop if you still wish to see me wire where and when to meet you in New Orleans to receive your ideas for transmission to studio.<sup>118</sup>

The situation between the two former friends and by extension, Dreiser and the studio, continued to cool, but the relationship between Hoffenstein and Dreiser became brittle and broken on February 26, 1931. On that day, Hoffenstein was scheduled to meet with Dreiser in New Orleans to discuss the script. However, when Hoffenstein arrived at their agreed on meeting place, waiting for him was only a letter written by Dreiser:

My dear Hoffenstein:  
On my arrival here I found the proposed scenario [yellow script] for “An American Tragedy”, forwarded from New York and have just read it. To me, it is nothing less than an insult to the book, its scope, actions, emotions, and psychology. Under the circumstances, and to avoid saying personally how deeply I feel this, I am leaving New Orleans now without seeing you. You will understand I am sure. If, at any time, the studio should permit the construction of a script representative of the book and will seriously

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<sup>116</sup> Dreiser’s affidavit, p 5, as quoted in *ibid*.

<sup>117</sup> Hoffenstein’s affidavit, pp. 6-7, as quoted in *ibid*.

<sup>118</sup> Hoffenstein affidavit p. 7, as quoted in *ibid*.

agree to work along the lines I know to be most valuable for this purpose, I will be glad to cooperate and at once, but not before.

Very truly,  
Theodore Dreiser<sup>119</sup>

Dreiser's main issue with the script, to which he is referring when he says that the script ignores the novel's "scope, emotions and psychology," was the fact that it completely omitted Book One of his novel. Without the information of his family's circumstances and his poor, uneducated upbringing, Clyde would appear to be a selfish youth as opposed to a victim of circumstance. It was the introduction of this specific aspect of Clyde's story that Dreiser would fight to have included, but still feel was inadequate prompting him to sue.

At the same time that Paramount was dealing with Dreiser's increasing displeasure, they also had to balance the concerns of the MPPDA.<sup>120</sup> Clyde's seduction of Roberta, his visit to her room, her pregnancy and their discussion of having "tried" everything (a euphemism for attempting an abortion), and the prosecutor's political motivations during the trial were all significantly toned down from the novel, but were still considered by the MPPDA to be too risqué for the screen. In addition to trimming certain scenes, Hays advised the studio to shift the focus of Clyde's fate from tragedy to a moral lesson: that Clyde's situation was one that any young man might find himself in if he wasn't morally strong.<sup>121</sup> This suggestion was in direct conflict with Dreiser's desire to have the script follow the message of the novel more closely. What this in effect did was begin a sort of tug of war, with Paramount in the middle and Dreiser and the MPPDA on opposing sides; Dreiser was seeking an indictment of American society, while the MPPDA sought keep in check any topic relating to sex or criticisms of American institutions.

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<sup>119</sup> Hoffenstein affidavit p. 8, as quoted in *ibid.*

<sup>120</sup> Mandy Merck, *Hollywood's American Tragedies: Dreiser, Eisenstein, Sternberg, Stevens* (New York: Berg, 2007), p. 78.

<sup>121</sup> Hays, as quoted by Merck, *ibid.*, p. 77.

With both the MPPDA and Dreiser's displeasure still to consider, von Sternberg began shooting on March 2, 1931. Eight days later, on the tenth of March, Dreiser wrote a letter to Jesse Lasky, Vice President in charge of Production at Paramount, explicitly expressing his irritation with Hoffenstein and von Sternberg's script, stating that they "botched" his novel. Dreiser's biggest point of contention was that the script misconstrued the character of Clyde: "They have made Clyde an unsympathetic 'smart aleck' who only cares for one thing – a girl, any kind of girl. ... Clyde is a creature of circumstance, not a scheming, sex-starved 'drug-store cowboy.'"<sup>122</sup> He also especially resented the portrayal of the drowning and how big of a role the trial scenes were given in the script:

Sternberg and Hoffenstein are in a rush to reach the drowning, so much so that the boy's antecedents, his early life, etc. are all brushed aside. The drowning then becomes the act of a temporarily crazed youth, instead of the planned culmination of a series of inescapable circumstances, as shown in the novel. And their hurry is for what reason? To give over the major portion of the picture to a trial scene, which is, on the basis of proportionate importance, not so relevant at all! It doesn't warrant that much film or dialogue.<sup>123</sup>

In light of his displeasure, Dreiser suggested that he be given four weeks to prepare a suitable script for the Corporation to consider.

In reply, Lasky wrote a very restrained, legalistic letter in which he carefully went over the facts of how the studio continually attempted to contact Dreiser, but as he had not left a forwarding address, it was due to his error that the studio had been unable to consult with him and no fault of Paramount. Dreiser construed this as yet another attempt for the studio to shut him out of involvement with the picture and to rush its production along. But, in his reply, for the first time Dreiser points out an issue besides paragraph Tenth of their contracted agreement; the potential damage a poor adaptation may have on his authorial and artistic reputation:

"...the talking version that you propose cannot possibly fail to give the impression to the millions of people throughout the world who will see this picture, that the novel on which it is based is nothing short

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<sup>122</sup> Dreiser's affidavit, exhibit 7, p. 1, as quoted in *Dreiser v. Paramount*.

<sup>123</sup> *Ibid.*

of a cheap, tawdry, tabloid confession story which entirely lacks the scope, emotion, action and psychology of the book involved. Here is an inequitable infringement of a vested property.”<sup>124</sup>

In order to try to regain and redeem his “vested property,” Dreiser made a trip out to Hollywood with his assistant, H.S. Kraft, to discuss the film in person.

The result of Dreiser’s trip, during which he meet with the director von Sternberg, and two of Paramount's attorneys, Henry Herzbrun and William Powers, was several meetings and the viewing of some unedited film material (during this time Dreiser also refused to see Hoffenstein, which Powers would later state was “childish”<sup>125</sup>). The end results of these meetings are mixed according to the affidavits on the side of Paramount and that on the side of Dreiser. According to von Sternberg, Dreiser quizzed him personally on his interpretation of the psychology within the novel and, once Dreiser was satisfied that the director properly understood his artistic message, Dreiser made a string of irrelevant suggestions. These included adding scenes which were already written into the screenplay, indicating he had not carefully read the script, and objecting to the length of the trial scene, which von Sternberg pointed out, was proportionally the same as the book, as well as using language almost verbatim from his writing. In response, Dreiser shouted, “Damn the book!” an expression repeated several times. In general, von Sternberg believed the suggestions made by Dreiser to be unhelpful and if used, problematic for the Corporation, particularly in terms of potential censorship:

That various suggestions were made by said Dreiser and said Kraft which deponent [von Sternberg] considered would be if reproduced the proper subject of action by censorship authorities or which would be purposefully and unnecessarily offensive to churches or which purposefully and unnecessarily reflected upon the administration of justice in the United States and upon American institution, at the same time having no value in the telling of the story of the novel AN AMERICAN TRAGEDY or in the depiction of its characters in the photoplay, and that said Dreiser with great irritation and emphasis stated “*the censors and all the rest be damned*” and that said Dreiser was only interested in on the screen an unrelenting picturization of AN AMERICAN TRAGEDY as he saw it without regard for the opinions and duties of anyone else and without consideration of the prescribes customary length of

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<sup>124</sup> Dreiser’s affidavit, exhibit 9, p. 3, as quoted in *ibid*.

<sup>125</sup> William Powers affidavit p. 13, as quoted in *ibid*.

photoplays as exhibited in theatres or of the financial investment in the production of said photoplay.<sup>126</sup>  
(Emphasis added)

However, “damning the censors” was not what Paramount had in mind when they purchased the rights for the novel. As the above statement illustrates, Dreiser appeared to have an unrealistic grasp on what the movie industry was willing to do in the making of the adaptation.

Dreiser’s account of these meetings differ slightly in that, unlike von Sternberg, he gives no specific details of what was said or what he suggested be added to the film. He merely sums the experience up by saying that the meetings were a formality put on by Paramount in which “they continued to go through the form of permitting me to talk without any serious intention whatever of observing any comments, advice, suggestions or criticisms from me.”<sup>127</sup>

In order to ensure his suggestions were formally received, Dreiser put them into writing and delivered them to the studio. In total Dreiser suggested twelve additional scenes, the majority of which were concentrated on Book One of the novel in order to give more information about Clyde’s origins and create sympathy for his character. Most of the suggestions Paramount believed to be unnecessary; for example, Dreiser suggested a scene between Clyde and his mother in order to highlight Clyde’s dissatisfaction with his family’s life and missionary work. Paramount rejected this proposal believing that they already had a scene that conveyed the same point. Their version, which was included in the final release version, takes places after Clyde’s involvement in the automobile accident in which Clyde’s mother prays for God to protect her son, stating that: “We’ve always been so terribly poor. We’ve never been able to give him the happiness, the simple joys and pleasures that should come to every young boy. All his life long his young eyes have seen only misery and evil. Even the very strongest among us stray from thy

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<sup>126</sup> von Sternberg’s affidavit, p. 10, as quoted in *ibid*.

<sup>127</sup> Dreiser’s affidavit, p. 9, as quoted in *ibid*.

path without happiness or contentment.”<sup>128</sup> Paramount believed that this prayer was enough for viewers to understand Clyde’s poor background and dreams of a better life; however, Dreiser was not convinced that a minute long monologue could accomplish what it took him 145 pages to establish.

Other suggestions that Dreiser made were expressly omitted for fears of immorality and censorship. For example, Dreiser suggested that they include a scene in which Clyde is shown working at a party in the hotel and receives a tip from a man who comments, while throwing his arm around a girl, “I’ve got to save my strength.”<sup>129</sup> Paramount executives saw this as too suggestive of immoral activity to put into the film. Instead, they believed that a similar scene “in which Clyde takes mother and daughter of breeding and refinement to their rooms and attracts favorable comments from daughter... Clyde’s romantic inclinations are shown by his desire after such comments from such girl to avoid a road house party with a chambermaid.”<sup>130</sup> They also feared possible response to Dreiser’s suggested concluding scene in which he wanted to show Clyde walking to his execution chamber, towards a door glowing with “the vague effect of a cross” and a ministerial voice asking “all who believe in God to cast their eyes on him.”<sup>131</sup> Their official reason for omission was described by a Paramount attorney who stated that the scene was “capable of interpretation as a sardonic attack upon religion.”<sup>132</sup>

But this reason was only given later at the time of the civil suit. While Dreiser was still in Hollywood, instead of making any official decisions, Paramount and Dreiser put into writing, on April 1, an agreement that they would wait until von Sternberg completed and edited the film to

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<sup>128</sup> *An American Tragedy*. Directed by Josef von Sternberg. 1931, Los Angeles, CA.

<sup>129</sup> William Powers affidavit, p. 6, as quoted in *Dreiser v. Paramount*.

<sup>130</sup> *Ibid.*, pp. 6-7.

<sup>131</sup> *Ibid.*, p. 8.

<sup>132</sup> *Ibid.*

see if any aspect of the novel needed “amplification.” Paramount also reiterated the fact that “our intention and desire are to make as honest and truthful a presentation of your book as is compatible with the requirements of censor boards and other constituted authorities throughout the world.”<sup>133</sup>

Dreiser however, did not seem satisfied with this agreement as is evidenced by telegrams and interviews he gave soon after. On April 4, while still in Hollywood, he sent a telegram to MPPDA director Hays calling his trip to Hollywood a complete waste of time and money (though Paramount had footed the \$3,200 bill including hotels and transportation),<sup>134</sup> as well as the agreement that his suggestions might be considered after the film had gone through some editing “shear bunk and official fake.”<sup>135</sup> He also communicated his determination that the film not be issued the way that it stood, his first written threat to file a suit, and his intention to attack the whole business in the press.

Dreiser followed through with this threat to discuss his unhappiness with the papers and on April 12 two interviews with Dreiser appeared in which he attacked the movie industry. In the *New York American* he began his negative assessment of the film industry by calling Hollywood “Hooeyland” and said Paramount had not adapted *An American Tragedy* but “traduced” the novel.<sup>136</sup> He also openly discussed the potential for legal action stating “I’ll see whether a writer cannot prevent himself from being misrepresented before the public.”<sup>137</sup> In reference to film censorship, Dreiser seemed frustrated that Paramount wanted to exclude what he believed to be key scenes. One scene Dreiser believed to be particularly important was the concluding one

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<sup>133</sup> Dreiser’s affidavit, exhibit 11, p. 1, as quoted in *ibid.*

<sup>134</sup> S.R. Kent’s affidavit, p. 1, as quoted in *ibid.*

<sup>135</sup> Dreiser’s affidavit, exhibit 12, p. 1, as quoted in *ibid.*

<sup>136</sup> Frederic E. Rusch and Donald Pizer, ed., *Theodore Dreiser: Interviews*, (Urbana & Chicago: University of Illinois Press, 2004), p 234.

<sup>137</sup> *Ibid.*

where Clyde goes to his execution. The Corporation believed that this death house scene would be too gruesome for the American public, which Dreiser declared to be nonsense since “the play [adaptation] has been packing them in, with that scene intact, for three years.”<sup>138</sup>

In the *New York Herald Tribune* Dreiser continued his assault on Hollywood, describing it as “a small town with mistaken notions about life.”<sup>139</sup> He again highlighted his rights as an author, proclaiming that “I have a literary character to maintain, and I contend that I have a mental equity in my product and the character of my product. Even though they buy the right of reproduction, they don’t buy the right to change it into anything as they please.”<sup>140</sup> This idea of the author’s right in the adaptation of their work or “author’s equity”<sup>141</sup> as Dreiser referred to it, was one which many other authors were anxious to gain in the film industry. Several authors therefore waited excitedly to see if Dreiser would take a stand and what sort of precedent would result. A popular adventure writer Rex Beach even wrote a letter to William Hays, observing that

I have had stories mangled, plots emasculated, titles changed, and suffered all the shocks and surprises conceivable in viewing pictures made from my stories but I have never felt that I would gain anything by protesting. I’d be glad to see Mr. Dreiser carry his case through and have the courts determine just how far a producer can go. It would be a great help to every author.<sup>142</sup>

With the support of authors like Beach, Dreiser then continued on in his dealings with Paramount, all the while preparing the take his issue to court.

June 12, one month after Dreiser’s heated interviews were published, he sat down to preview the first rough-cut of the film at a private projection room in Paramount’s New York offices. Shooting for the film had ended on April 8, and after some cutting and editing, several changes were made including swapping the actress that played Clyde’s mother for another

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<sup>138</sup> Ibid.

<sup>139</sup> Ibid., p. 238.

<sup>140</sup> Ibid., p. 236.

<sup>141</sup> Maltby, p. 565.

<sup>142</sup> Rex Beach, as quoted by Merck, *Hollywood’s American Tragedies*, p. 82.

without an accent and lisp, and adding a few of Dreiser's suggested scenes. According to Lasky, after the first screening Dreiser declined to comment on what he thought of the film. However in Dreiser's affidavit, he explicitly expressed his displeasure, the belief that none of his comments had been considered and the overall opinion that the movie was an ordinary murder case, but not, an American tragedy.<sup>143</sup>

Three days later, on June 15, Dreiser returned to view the film again, but this time brought with him some of his "associates." Dreiser's purpose in asking them to accompany him was so that they could decide "whether or not the picture sufficiently carries out the ideology of the book as to hold me free from any personal or artistic harm before the world."<sup>144</sup> Dreiser invited men that he thought were "recognized writers, critics and men of fair judgment,"<sup>145</sup> including Patrick Kearney, writer of *An American Tragedy's* stage adaptation; Ralph Fabri, a Hungarian painter and architect; Dr. A. A. Brill, a psycho-analyst; and James D. Mooney, President of General Motors Export Corporation. Following the screening, ten wrote letters to Dreiser expressing their belief that the film had in fact misrepresented his novel.

Despite that this group of men was biased due to their personal connection to Dreiser, and the interests as artists and critics were in conflict with promoters of mass culture,<sup>146</sup> some of their observations were quite perceptive and bring attention to the thematic differences between the film and novel. For instance, Fabri, the painter and architect succinctly described why in the film the audience has no sympathy for Clyde: "The picture is no "American tragedy", not even a local one. A few minutes after having left Roberta, Clyde tells Sondra that he has no girl friend. From

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<sup>143</sup> Dreiser's affidavit, p. 11, as quoted in *Dreiser v. Paramount*.

<sup>144</sup> Dreiser's affidavit, exhibit 16, p. 1, as quoted in *ibid*.

<sup>145</sup> Dreiser's affidavit, p. 12, as quoted in *ibid*.

<sup>146</sup> Haberski, *It's only a Movie!*, p. 72.

that moment on, he is a cheap, common liar and so all through the rest of the picture.”<sup>147</sup> And Kearney, the writer of the stage adaptation, who was no doubt the most knowledgeable about the novel of all the men that Dreiser invited, stated that including scenes of Clyde’s early life would not even help gain his character sympathy; that Paramount had so distorted Clyde, that no “amount of doctoring could make him into [the Clyde from the novel].”<sup>148</sup> Kearney also, as a point of pride, pointed out that the limitations of the stage were greater than that of the screen, and yet the stage production had been successful, both in depicting the novel and with audiences. However, he fails realize, or just chooses not to acknowledge, that the stage is not the subject of censorship boards. Just as Kearney fails to see the direct connection between censorship and the film’s poor representation of the novel, so too does Dreiser. Instead, Dreiser mistakenly targeted Paramount, when really the problems with the film, as he perceives, them originated with the MPPDA.<sup>149</sup>

In addition to comments about the inadequacies of the film, two men also highlighted in their letters to Dreiser the unprecedented nature and potential gain of Dreiser’s legal dispute.

Burton Rascoe, a critic, said

You are making history – as you have done before – in art and literature by your conscientious stand in this matter. It may mean the artistic (and financial) redemption of the motion picture business. And it certainly means re-defining the relationship between the author of a novel and the motion picture firm which exploits the success of that novel, as a novel, by adopting it for the screen.<sup>150</sup>

This sentiment was echoed by Samuel French in his letter, mentioning the potential gain for authors and their intellectual property: “If you could test your rights in this case I believe you would be performing an invaluable service.”<sup>151</sup> Armed with this support, and bolstered by the

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<sup>147</sup> Dreiser’s affidavit, exhibit 18, p. 1, as quoted in *Dreiser v. Paramount*.

<sup>148</sup> Dreiser’s affidavit, exhibit 16, p. 2, as quoted in *ibid*.

<sup>149</sup> Maltby, p. 567.

<sup>150</sup> Dreiser’s affidavit, exhibit 21, p.1, as quoted in *Dreiser v. Paramount*.

<sup>151</sup> Dreiser’s affidavit, exhibit 23, p.3, as quoted in *ibid*.

concurring opinions of other men, Dreiser filed an injunction against Paramount on July 13, 1931.

A special term for motions of the Supreme Court of New York was then scheduled for July 22 at which time Paramount was instructed to show just cause why an order should not be made to permanently restrain the Corporation from showing *An American Tragedy* as it was currently prepared. Paramount worked quickly to prepare their answering affidavits, interviewing the Corporation's executives B.P. Schulberg, S.R. Kent and Jesse Lasky along with the film's director and writer, von Sternberg and Hoffenstein. They also took depositions from Paramount attorneys William T. Powers and Harry Herzbrun who had negotiated the contracts between Paramount and Dreiser in which the rights to the novel were obtained. Overall the Paramount answering affidavits depicted Dreiser as a childish and stubborn zealot whose cooperation with the Corporation was completely erratic.<sup>152</sup> In addition and in response to Dreiser's ten letters denouncing the film, Paramount collected affidavits from sixteen individuals whose opinions of the film were favorable. Not only did Paramount trump Dreiser in the number of opinions they collected, but also in the caliber of the individual's expertise on the subject of literature and the potential it had to be adapted to film. Of the sixteen, eleven were published writers, and two of the eleven had had their works adapted to the screen. Additional experience among them was in the areas of publishing, editing and play production.

As a whole, Paramount's affidavits of support for the film describe the movie as an accurate depiction of and occasionally an improvement on Dreiser's work. Representative of them is a quote from the affidavit of Corey Ford, a writer and literary critic: "...the photoplay is infinitely more entertaining and more convincing than the book upon which it is based. I consider

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<sup>152</sup> Merck, pp. 83-4.

it a decided improvement in every way upon Mr. Dreiser's efforts." In addition to approving of the adaptation thematically, many reviewers believed the film to be a success purely for its entertainment value. Though this is a sign of success for the studio in that entertainment will most likely lead to greater ticket sales, the adaptation's entertainment value is not what was at issue in the suit; Dreiser was suing over the message and theme of the film.

Several other affidavits are also worthy of notice in that they acknowledge the pressures of censorship, and qualify the success of the *American Tragedy* adaptation in light of the censorship restrictions. For example, Arthur B. Reeve declared, "in my opinion [the film] reproduces the spirit of *An American Tragedy*, as it was written, as faithfully as it could be done and is kept within the bounds of propriety admitted by censorship and public opinion."<sup>153</sup> The "bounds of propriety" were explicitly outlined in the MPPDA's Production Code. Several situations forbidden by the Code, which were candidly discussed in Dreiser's novel, included criminal activity, sex (specifically seduction), and unsympathetic religious officials.

Another affidavit in support of Paramount which alludes to censorship is that of Owen Johnson, an author and playwright stated that "[the movie] seems to me to be an unusually sincere attempt to reproduce the vital qualities of the novel, *insofar as the motion picture traditions and audience will permit*."<sup>154</sup>(Emphasis added) The "motion picture traditions" Johnson mentions are an allusion to traditions of censorship, which were first articulated by the Court in *Mutual v. Ohio*, and then seriously confronted by the film industry with the establishment of the MPPDA. In time, the MPPDA conformed to the *Mutual* decision and established its own industry-regulated censorship guidelines against which Dreiser was so adamantly opposed but did not fully comprehend.

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<sup>153</sup>Arthur B. Reeve's affidavit, p. 2, as quoted in *Dreiser v. Paramount*.

<sup>154</sup>Owen Johnson's affidavit, pp. 2-3, as quoted in *ibid*.

It was with a lack of understanding that Dreiser entered into his lawsuit against Paramount. Dreiser hired an ideal lawyer for the case, Arthur Garfield Hays, who not only had experience with censorship cases, but also had literary aspirations and was part of the literary society of New York. However, Garfield Hays warned Dreiser that they would most likely lose: “it is the old question of a contest between property rights and personal rights... money invested will weigh much heavier than the author’s right to have his work properly presented.”<sup>155</sup> But even a loss in court would at least call attention to the little acknowledged problem that authors were powerless in maintaining the integrity of their work in Hollywood and Garfield Hays vowed at least to make it “a damn good fight.”<sup>156</sup>

At the injunction hearing of July 22, Garfield Hays argued for author’s equity on the basis of the case *Curwood v. Affiliated Distributors* (1922). In *Curwood*, the court ruled that “there is an obligation upon the elaborator [the adaptors/producers of the film] to retain and give appropriate expression to the theme, thought, and main action of that which was originally written.”<sup>157</sup> But Paramount’s attorney Humphrey J. Lynch counter argued that Dreiser’s novel was “cold-blooded plagiarism”<sup>158</sup> of the Chester Gillette case, which angered Dreiser to the point that he was reprimanded several times.<sup>159</sup> However, Dreiser’s lawyers replied by asking why if Dreiser had plagiarized Paramount hadn’t just make a movie out of *People v. Gillette* instead of paying so much money for the motion picture rights.<sup>160</sup>

Despite the verbal bickering, only two issues were up for interpretation by Justice Graham Witschief: whether producers of motion picture rights could “produce a picture which

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<sup>155</sup> Arthur Garfield Hays as quoted by Merck, p. 83.

<sup>156</sup> Ibid.

<sup>157</sup> Ibid.

<sup>158</sup> Ibid., p. 84.

<sup>159</sup> Haberski, *It’s Only a Movie!*, p. 74.

<sup>160</sup> Merck, p. 84.

fails to carry out the intent, purpose and psychology of the novel and omits a large part of the story” and if that answer was no, whether Paramount had done so with their adaptation.<sup>161</sup> Justice Witschief issued his decision on August 1, and declared that in the contract between the two parties, Paramount had only agreed to accept Dreiser’s suggestions when they believed it was possible to do so and that Paramount had made a “greater than reasonable effort” in listening to and adopting Dreiser’s advice.<sup>162</sup> Instead of directly confronting whether or not Paramount had remained true to Dreiser’s thematic message, Witschief simply expressed that novels are open to interpretation:

The difficulty in picturing such a viewpoint of the book is apparent. That view depends upon the frame of mind of the individual, upon his outlook upon life, and whether a fatalist or believer in the power of the individual to overcome weaknesses of character, to rise about his environment, to subdue his physical desires, and to be the master of his body, rather than be mastered by it.<sup>163</sup>

Had Witschief stopped here, his decision would have rested solely on the fact that Dreiser had contractually agreed to allow Paramount to *adapt* his work, and due to inevitable individual differences they had just adapted it in a way that was didn’t exactly fit his artistic design.

But, Witschief continued and spoke directly to issues of film production, stating that in adapting a novel, producers must keep in mind that “the great majority of the people, composing the audience before which the picture will be presented, will be more interested that justice prevail over wrongdoing than that inevitability of Clyde’s end appear.” It is in this statement that Justice Witschief, knowingly or not, echoes the *Mutual* decision’s declaration that movies are a “business, pure and simple,” and the Production Code’s assertion that “theatrical motion pictures... are primarily to be regarded as ENTERTAINMENT.”<sup>164</sup>

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<sup>161</sup> Ibid.

<sup>162</sup> Merck, p. 85.

<sup>163</sup> Justice Graham Witschief, as quoted by Merck, p. 85.

<sup>164</sup>The Motion Picture Production Code of 1930, p. 5.

With the threat of an injunction behind them, Paramount went on the release the film as scheduled, on August 5.



**A shot of Clyde (Phillips Holmes) as he reads about the discovery of Roberta's drowning in Paramount's 1931 version of *An American Tragedy*. (Merck, p. 93)**

However, it was not favorably received. In a *Variety* review, it was described as a “slow, heavy and not always interesting” drama. The review went on to state that the film more closely resembled the Chester Gillette case than the story of Clyde Griffiths (a direct result of the film’s lack of sympathy for Clyde), but that under a system in which studios are “limited...by censors and the ever-present problem of running time,” the book could never be accurately reproduced.<sup>165</sup> Though the legal system rejected Dreiser’s claims of authorial right, film critics recognized the de facto system of intellectual censorship that existed as an unintended consequence of protecting the most vulnerable classes and guarding against “the prurient interest.”<sup>166</sup>

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<sup>165</sup> Review of *An American Tragedy*, directed by Josef von Sternberg, *Variety*, Aug. 11, 1931, in *Variety's Film Reviews*, Vol. 6 (R.R. Bowker).

<sup>166</sup> *Mutual v. Ohio* as quoted by Grieverson. *Policing Cinema*, p. 200.

## **E. Conclusion**

Following Dreiser's loss, the film industry continued on as they had before, defining films as entertainment rather than speech or respecting them as art. It would not be until the 1952 Supreme Court ruling *Burstyn v. Wilson* that the film industry would begin to break free from the restrictions of censorship boards and prior restraint.<sup>167</sup> But, Dreiser's case remains as an interesting way of looking at the multiple issues at work during the film industry's early days.<sup>168</sup>

Paramount took Dreiser's *An American Tragedy*, which the *Nation* described as "the greatest American novel of our generation,"<sup>169</sup> and turned it into "an ordinary program effort with an unhappy ending."<sup>170</sup> The final film version took all 145 pages of *Tragedy's* Book One, which outlined Clyde's family's circumstances, his ignorance, inexperience and dreams of success, everything that determined his future tragedy and separated him from his real life counterpart Chester Gillette, and crammed it into eight minutes. The film continued to shift the novel's focus by turning Book Two, which consisted of 438 pages and was a majority of the writing, and squeezed it into thirty-nine minutes; this then left only forty-eight minutes, or half the movie's running time to cover Book Three, with particular emphasis on the courtroom scenes. By adapting the film this way, Paramount was able to maintain the outline of Dreiser's plot and title the film *An American Tragedy* to attract more customers by name recognition and therefore get more money, all while dodging censors and the MPPDA. The film breezed past the controversial issues of Roberta's seduction, attempted abortion and death, and instead focused on

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<sup>167</sup> Wittern-Keller and Haberski, *The Miracle Case*.

<sup>168</sup> Haberski, *It's Only a Movie!*, p. 64.

<sup>169</sup> Merck, p.30.

<sup>170</sup> Review of *An American Tragedy*, directed by Josef von Sternberg, *Variety*, Aug. 11, 1931, in *Variety's Film Reviews*, Vol. 6 (R.R. Bowker).

creating a courtroom drama which stripped away any of the content which might have been construed as violating the Production Code.

Therefore, Dreiser's negative reaction to the film, both before and after some of his own suggestions were included, was a direct result of the demands of censorship. Paramount was warned by the MPPDA to handle the adaptation with care, and it was with this warning in mind that the Hoffenstein/von Sternberg script was created; but even certain scenes from the first toned down version were too much for the MPPDA.<sup>171</sup> It is curious that in a fight against intellectual censorship, Dreiser failed to identify the true organization that was censoring his work: it wasn't the studio, von Sternberg or Hoffenstein, but it was the MPPDA, and in extension the *Mutual v. Ohio* decision. But, because Dreiser only dealt with Paramount's production branch he blamed those that he'd been in contact with and failed to recognize where the root of his problem laid.

However, Dreiser did create many problems for himself. The inability of the studio to contact him while he was on vacation was no fault of theirs. When the two were finally in contact over the script, he childishly refused to see his former friend Samuel Hoffenstein or to recognize the legitimacy of the claims that the studio had to be mindful of censorship boards; but in the midst of the Great Depression they could not afford to lose several thousand dollars worth of investments. Dreiser wrongly assumed that in a time of extreme economic hardship and institutionalized traditions of film censorship that Hollywood would break the mold for him and focus more on "championing a heroic creative individualism" rather than "the industrial logic of responding to consumer demand."<sup>172</sup> And though he claimed he wanted the movie to be true to the novel or not made at all, that it would damage his reputation if it were produced poorly, he

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<sup>171</sup> Jacobs, p. 92.

<sup>172</sup> Maltby, p. 568.

never suggested that they cut their losses and agree to return any of the money Paramount had paid him for the novel's rights.

Instead, Dreiser sued, lost, and denounced the film and Hollywood in general. The bitterness of the experience and existence of his grudge against *Tragedy's* film version still remains after his death; in Dreiser's short about the author section of *Tragedy*, there is a seemingly insignificant statement that "[the novel] was *successfully* dramatized by Patrick Kearney [who adapted it to the stage]." (emphasis added)<sup>173</sup> But taken in the context of Dreiser's passionate opposition to Paramount's film, this is a direct jab at the studio and von Sternberg who he felt unsuccessfully portrayed Clyde.

Dreiser's unrelenting fight in defense of his artistic message, though unsuccessful in court, was nevertheless groundbreaking in 1931. He represented authors across the United States that wanted to increase their exposure in the movies, while still maintaining the integrity of the works they had created. While the majority of American citizens was complacent about film censorship or worried about the influence it might have on the most vulnerable members of society, Dreiser, in the tradition of D.W. Griffith, was concerned about the harm that a restricted flow of ideas would have on the society. All in all, Dreiser's role in his fight against Paramount, though largely pursued for self-serving reasons, was pivotal in representing a minority of the American population that were against censorship in film. But, *Dreiser v. Paramount's* greatest impact was that in 1931 it brought the issue of author's rights to light, and today serves as a means by which to explore early Hollywood's institutionalization of *Mutual v. Ohio* through the MPPDA and their complacency with the censorship status quo.

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<sup>173</sup> Dreiser, *An American Tragedy*, 4<sup>th</sup> ed.

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