

## Trade Papers at War

The first glimmer of the controversy and scandal that *Exhibitor's Trade Review* would unleash occurred in the fall of 1916, a few weeks before the paper's debut. The New York City branch of the Motion Picture Exhibitors League of America (MPELA) had gathered to address accusations leveled by two of its members against the national organization's recently elected president, Lee A. Ochs. The New York City exhibitors, Maurice Fleischman and Charles Goldreyer, owned theaters that competed against those run by Ochs. They accused Ochs of using his office as MPELA president to pressure Metro, Paramount, World, Pathé, and Mutual to cancel their distribution service with their movie houses and favor Ochs's own theaters instead. Fleischman and Goldreyer sent their letter of grievances to the executive board of MPELA and *Variety*, which reprinted it in its October 27, 1916, issue.<sup>1</sup>

New York City exhibitors gathered for a hearing to address the charges. According to *Moving Picture World*, "Ochs was in attendance, and for probably half the four and a half hour session was in the witness chair."<sup>2</sup> The hearing was supposed to focus on the specific allegations of official misconduct published in *Variety*. Tobias A. Keppler, however, attorney for Fleischman and Goldreyer, kept turning the line of questions toward *Exhibitor's Trade Review*. Keppler pressed Ochs to open the books of the new trade paper and turn over a list of its stockholders. Previously, Ochs promised that *Exhibitor's Trade Review* would be the official paper of the MPELA and wholly owned by exhibitors. Keppler was now challenging Ochs to prove that no manufacturer or distributor owned a financial interest in the paper. Ochs and his attorney kept evading the question. They claimed that they could not share the books because their associate who kept them was busy playing golf that afternoon and his office was closed. Next, they refused to turn over the books on the grounds that the current inquiry was unrelated to *Exhibitor's Trade Review*. Finally, an exasperated Ochs asked, "If the gentlemen feels the *Exhibitor's Trade Review* is so important, why doesn't he try to get it into court?"

"I'll make an offer to Mr. Ochs right now," Keppler responded. "A libel suit can be preferred. If Mr. Ochs will serve us today, Saturday, we will serve an answer Monday and we will consent to go to trial Wednesday morning. If Mr. Ochs wants to get a trial we'll go Wednesday morning."<sup>3</sup>

Two weeks later, Keppler and Ochs went head-to-head again at an MPELA branch meeting. *Moving Picture World* reported:

Keppler repeated his offer of two weeks ago to go to immediate trial of the libel suit of Ochs vs. Fleischman & Goldreyer. He said he had not yet seen a complaint. Mr. Goldsmith [Ochs's attorney] said he had it in his pocket.

"Then we can go to trial tomorrow," said Mr. Keppler. "There we can force witnesses to testify. We will be dee-lighted to meet this issue if you will give us our day in court."

"You annoy me," said Mr. Goldsmith. He did not accept the challenge, however.<sup>4</sup>

These heated exchanges at the MPELA branch meetings foreshadowed the larger fights involving *Exhibitor's Trade Review* that would soon follow. They also established the venue and tactics of the fights. Libel courts would become a battleground for industry reputations. Within this battleground, someone could claim to be injured and sue the publisher that defamed him. This remains the conventional relationship between libel lawsuits and reputation—the legal action serving as a means for a plaintiff to restore and improve his or her standing within a given community. Yet, as Keppler realized, something could be gained by being the defendant. Keppler was inviting a libel lawsuit, not trying to avoid one. Draw your opponent into the ring, expose him as a hypocrite, and walk away with your own reputation enhanced. The trade papers, like any number of lawyers and exhibitors, wanted to be perceived as strong, independent, and unafraid of a fight. *Exhibitor's Trade Review* and *Variety* would both attempt to enhance their reputations as the defendants of libel lawsuits, though their effectiveness varied significantly.

This chapter explores the libel lawsuits and related conflicts of *Exhibitor's Trade Review* and *Variety* in depth. *Exhibitor's Trade Review* became embroiled in a multifront war against the industry's establishment by defaming *Motion Picture News* editor William A. Johnston and attacking Universal Film Manufacturing. The fallout from these feuds disgraced *Exhibitor's Trade Review's* leaders and left a lasting rift among American exhibitor organizations. *Variety* fared better in playing the roles of defendant and fearless, independent trade publication. Lee A. Ochs ultimately took Keppler's bait and sued *Variety*, Fleischman, and Goldreyer for libel (Ochs appears to have lost).<sup>5</sup> But the far more significant libel lawsuit came from vaudeville actor Edward Clark, who was also a leader of the White Rats actors' union. Clark's lawsuit against *Variety* was one fight within a much larger vaudeville labor conflict, which resulted in a strike, blacklist, and Federal Trade Commission (FTC) investigation into *Variety* and the big-time vaudeville managers.

Sandwiched in between my case studies of *Exhibitor's Trade Review* and *Variety*, I address the other developments occurring at this historical moment, the most important of which was the First World War. Not everything that occurred in the trade papers from 1916 to 1918 involved fighting. I also use this chapter to discuss three constructive changes made by motion picture trade papers. The innovation of a daily trade paper, *Wid's*, and publication of yearbooks and annuals helped to solve the industry's information management problems. Additionally, *Motography's* popular section of exhibitor-written reviews, "What the Picture Did for Me," offered a solution to the perceived bias among the large trade paper's staff reviewers. All of these changes proved influential in the years ahead.

The metaphor of war for these conflicts among the trade papers may sound hyperbolic in light of an actual, devastating war occurring in Europe at this same time. And, yes, the war metaphor for the trade press is hyperbolic, perhaps even offensively so. But this was the motion picture industry and trade papers' own metaphor and hyperbole. "The war of the motion picture trade journals goes merrily on and there are libel suits galore," wrote *Variety* in March 1917.<sup>6</sup> The war was a brief one—the US's entrance into World War I in April 1917 had a humbling effect—but it left lasting impressions on the industry. The resulting rifts in the ranks of exhibitors lasted for decades. Additionally, exhibitors, manufacturers, and distributors all came to regard the status quo of the trade press as an industry problem, one that needed to be solved through the consolidation and elimination of papers. Because of these lasting consequences and what the conflicts can tell us about reputations within the culture of show business, the trade press libel war of 1917 demands our attention.

#### LIBEL, BLACKMAIL, AND REPUTATION—THE FIRST YEAR OF *EXHIBITOR'S TRADE REVIEW*

For a trade paper that generated so much controversy, the first issue of *Exhibitor's Trade Review*, published on December 9, 1916, looked fairly conventional. It contained exhibitor correspondences, reviews, and advertisements from manufacturers and distributors (though noticeably fewer than *Moving Picture World* or *Motion Picture News*). The editorial pages proclaimed the paper's devotion to the exhibitor and included an announcement that W. Stephen Bush would, beginning the next week, serve as the paper's first editor in chief. The announcement stated Bush was "known throughout the industry as 'THE EXHIBITOR'S BEST FRIEND,' the man who fought censorship to a standstill, the man who consistently advocated the cause of organization, the man who championed the cause of Sunday opening and who has always battled for exhibitor's rights."<sup>7</sup> The editorial pages also addressed the initial criticisms that had been leveled at *Exhibitor's Trade Review*. Toward the end of a column most likely written by managing publisher Merritt Crawford, *Exhibitor's Trade Review* turned the criticism back against the

rival trade papers: "Unlike a certain other journalist in this industry, whose polished periods and inspired utterances have often thrilled even as they have uplifted exhibitors and producers alike, the editors of EXHIBITOR'S TRADE REVIEW never hope to produce a 'Perfect Product.' This is only possible for one editor in the industry and—he is not on the staff of this paper."<sup>8</sup>

The "certain other journalist in this industry" was William A. Johnston, editor of *Motion Picture News*. Or was it? By keeping the remark somewhat vague, *Exhibitor's Trade Review* was protecting itself against accusations of libel. For libel to occur, the injured party must be identifiable in the publication. Johnston followed the same strategy in his own paper. Just two months earlier, *Motion Picture News* referred to "an editorial writer whose temperament, apparently, is exceedingly bilious. He barks at us constantly. He worries excessively—over our circulation, our editorial and reviewing policy, our advertising—over everything in fact we do. There are times when we gravely question his sincerity as well as his knowledge of the methods of better-class journalism."<sup>9</sup> The bilious, barking editorial writer would seem to be W. Stephen Bush, who was then still affiliated with *Moving Picture World*. But again, the reference is purposely ambiguous. In both of these examples, the lack of clarity guards against a potential libel lawsuit. At the same time, however, each encourages the reader to make a guess—reinforcing the trade papers' community gatekeeping function. Show business remains divided between insiders (who can get a reference or, at the very least, make an educated guess) and outsiders (who won't get it at all).

A victim of libel must be identifiable, but a perpetrating publisher also needed to meet the legal criteria of being "a malicious publication" that exposed a person to "hatred, contempt, ridicule, or obloquy." Nowhere in New York's legal definition was it stipulated that a libelous claim had to be a lie. Indeed, a libel could be true; a statement merely needed to defame someone and damage his reputation. But a libel could be justified if "the matter charged as libelous is true, and was published with good motives and for justifiable ends" and excused "when it is honestly made in the belief of its truth and upon reasonable grounds for this belief, and consists of fair comments upon the conduct of a person in respect to public affairs."<sup>10</sup> To return to the chapter's opening incident, Keppler knew that his clients had libeled Lee A. Ochs. But he welcomed the chance to prove in court that their libel was justified based on the truth: that Ochs had inappropriately used his office as MPELA president. The film trade papers had generally been less bold. They avoided making attacks on their competitors completely identifiable and, when they did, they made sure they had solid libel defenses based on evidence and the principle of "fair comment."

Over the next few weeks, though, a combination of internal and external forces changed the dynamics at *Exhibitor's Trade Review*. Internally, the new paper was in financial trouble. To pay the high salaries promised to Crawford and Bush and stay afloat, the paper needed to immediately attract advertisers and subscribers. When

*Exhibitor's Trade Review* sent a solicitation letter to members of the newly formed trade organization National Association of the Motion Picture Industry (NAMPI) on December 23, 1916, the publishers included financial details that revealed the paper's survival depended on overnight success. *Exhibitor's Trade Review* wrote that "the officers of this company estimate that with 75 pages of advertising at \$75 a page and a circulation of 10,000, the expenses of the paper are assured, and that any sums realized over and above this amount will be profit to be divided as above set forth" (the first \$50,000 in profits divided among the paper's stockholders; the next \$50,000 divided among advertisers; and any profits beyond \$100,000 divided 50/50 between stockholders and advertisers).<sup>11</sup> An estimate of seventy-five advertising pages per issue was aggressive, to say the least. In 1916, *Moving Picture World* and *Motion Picture News* both had a median of eighty-two pages of advertising per issue—a record high for both papers. To merely break even, *Exhibitor's Trade Review* would need to equal the best year in advertising that its two strongest competitors had ever achieved.

Moreover, the paper's value to its advertisers depended on its circulation, and ten thousand subscribers was an ambitious target—higher than the estimated 1916 circulation of *Motion Picture News* (6,800), though lower than the circulations of *Moving Picture World* (17,200) and *Motography* (18,501).<sup>12</sup> The actual circulations of all of these publications probably fell below their estimates, but regardless of the actual numbers, none of them achieved a circulation of ten thousand overnight. Yet this was exactly what *Exhibitor's Trade Review* was proposing to do and needed to do to stay solvent. To sell more subscriptions, Bush went on tour across America. He called his trip a "service tour"; he offered to speak to local exhibitor organizations and help them address their local problems.<sup>13</sup> The overriding goal, though, was subscribers, and they did not come cheaply. According to *Variety*, Bush's travel costs amounted to \$12 for every \$1 subscription that he sold.<sup>14</sup>

In the midst of all this, William A. Johnston kept gloating in the pages of *Motion Picture News*. Johnston had relished the hearings that placed Ochs in the hot seat, declaring, "Lee Ochs' Trial Is a Thrilling Affair."<sup>15</sup> Moreover, he was winning the advertising game, hands down. The 1916 Christmas issue of *Motion Picture News* ran more than two hundred pages. For *Exhibitor's Trade Review*, the yuletide was less bright; its first Christmas annual ran only seventy-eight pages, fewer than its debut issue just three weeks earlier. In the editorial columns of *Motion Picture News'* Christmas issue, Johnston thumbed his nose at Ochs and his new publication. Just the previous week, Johnston had categorized the MPELA as a "pitiful failure," utterly incapable of rising above petty politics to serve the exhibitors it claimed to support.<sup>16</sup> Picking up this same thread in the holiday issue, Johnston said that what "we would like for Christmas" is "an exhibitors organization," and he endorsed Ochs's rival Sam Trigger for the presidency of the New York branch of the MPELA.<sup>17</sup> Johnston also used the opportunity to announce his New Year's resolution: "We shall get out this year more than ever before a—service paper. Service

to the exhibitor. . . . This policy we shall pursue in an utterly impersonal, independent manner. We are tied to no one, no branch, no organization of the industry. We are unbiased.”<sup>18</sup> The message was clear: the independent, unbiased *Motion Picture News* served exhibitors better than the partisan trade paper of the MPELA.

Across two incendiary issues—published on January 27 and February 3, 1917—*Exhibitor's Trade Review* went on the attack and ridiculed Johnston as a hypocrite. First, in an editorial entitled “Sweet William and Dear Old Frank,” *Exhibitor's Trade Review* called out Johnston by name and referred to him as “Sweet William, the pink cheeked editor of the quality (oy, oy) circulation trade paper.”<sup>19</sup> The following week, *Exhibitor's Trade Review* published an even more scathing attack on Johnston. In a piece entitled “Motion Picture Exhibitors League of America vs. William A. Johnston,” *Exhibitor's Trade Review* wrote:

The impudence and arrogance of Johnston and his manufacturers' organ in coolly declaring that we have “ceased to recognize” Ochs as President of the Exhibitors' League should not be allowed to pass unchallenged by that body, or by any of its State branches and locals.

The fact that Lee A. Ochs happens to be the man attacked by our perfumed pen-pusher has nothing to do with the matter. It might just as well have been anyone else—so long as it wasn't an advertiser. Needless to say, Sweet William would not “cease to recognize” Carl Laemmle as President of the Universal Film Manufacturing Company, for instance, no matter what Mr. Laemmle did. But, except for advertisers, William is perfectly neutral. He doesn't care who he ceases to recognize—as long as he doesn't lose any advertising by it.

The point is this: That Johnston has been meddling in matters that do not concern him, and he should be promptly, severely and permanently put in place.<sup>20</sup>

Ochs, Bush, and Crawford understood that perceptions mattered in the film industry. In these two editorials, they simultaneously assaulted Johnston's reputation while bolstering their own credibility as strong and fearless publishers. But they had also crossed a line—issuing personal attacks that abandoned the typical caution exercised by trade papers.

The ink had barely had time to dry on *Exhibitor's Trade Review's* editorial page before Johnston and his attorney were in court. On February 13, 1917, Johnston filed a libel complaint against *Exhibitor's Trade Review*, demanding \$100,000 for the damage done to his reputation. Johnston's complaint called particular attention to phrases loaded with gender and sexual innuendo, such as “Sweet William, the pink cheeked editor,” “the sweet-scented one,” “perfumed pen-pusher,” and “keyed in the high falsetto that tickles Sweet William's left ear.” Johnston's attorney argued that the innuendo was “intend[ed] to ridicule the plaintiff, and place him in an odious position by likening him to an effeminate, vulgar and immodest man.”<sup>21</sup>

How did readers interpret the characterization of Johnston? Historian George Chauncey has demonstrated that the category of the “fairy,” an effeminate man who had sex with other men, existed in early twentieth-century American



FIGURE 11. A dramatic staging of a courtroom scene in *Back of the Main* (1917), a Triangle film in circulation during the same period of William A. Johnston's libel lawsuit. Photograph courtesy of the Wisconsin Center for Film and Theater Research.



culture.<sup>22</sup> *Exhibitor's Trade Review's* editorials can certainly be interpreted as personal attacks on Johnston's sexuality (the "effeminate, vulgar and immodest man" conjured in his complaint). But the complaint also emphasized that *Exhibitor's Trade Review* was "likening" Johnston to this man. The editorials operated, in other words, on the level of metaphor: *Motion Picture News* was an effeminate, weak, and unscrupulous trade paper that lied to exhibitors and kowtowed to the demands of manufacturers. In contrast, *Exhibitor's Trade Review* attempted to represent itself as possessing stereotypically masculine qualities: strong, resolute, unafraid of a fight. The author of the incendiary editorials, Merritt Crawford, had served in the Spanish-American War and would soon become appointed a captain in New York's State Regiment.<sup>23</sup> He regarded himself as an emblem of masculine strength, even as his enemies portrayed him as a fat windbag (*Motion Picture News* had written the previous year that the "floor sagg[ed] in where Merritt Crawford stood" during an exhibitor event).<sup>24</sup> Regardless of whether readers interpreted the columns literally or metaphorically, however, Johnston could convincingly claim that his reputation had been damaged.

Faced with the lawsuit, *Exhibitor's Trade Review* dug in its heels even more. The goal all along, after all, was to win a battle of perception; the worst move in such a situation would be to back down. Because the libel complaint included interpretations for the innuendo, *Exhibitor's Trade Review* deemed it "the best humorous and original reading since the days of Artemis Ward and Josh Billings."<sup>25</sup> After Johnston filed additional libel lawsuits against Crawford and Lesley Mason, another former *Motion Picture News* junior editor who had gone to the new paper, *Exhibitor's Trade Review* continued to exhibit a cavalier attitude about the whole affair.<sup>26</sup> *Exhibitor's Trade Review* reprinted the new complaint against Mason "in the hope that it will charm our readers as it has delighted us."<sup>27</sup> Publicly, *Exhibitor's*

*Trade Review* acted completely unshaken by the affair and portrayed Johnston as a thin-skinned coward.

In their legal papers, though, *Exhibitor's Trade Review* took a far more cautious tone. The paper's lawyers argued the columns were "fair comment," downplaying the harsh language used in the editorials. They also attempted to introduce a novel defense: "It is important to note that this action differs materially from the ordinary action or libel, in that in effect this is an action by one editor against another editor."<sup>28</sup> Ultimately, the New York City judge hearing the case was not persuaded, finding "the publication in suit is libelous, as involving a personal attack upon the plaintiff beyond the scope of fair criticism directed to his work as editor."<sup>29</sup> On June 15, 1917, the judge issued a summary judgment in favor of Johnston. *Exhibitor's Trade Review* lost its appeal, and it is unclear how much the paper paid out to Johnston in damages (though we can be sure it was less than the \$175,000 Johnston had cumulatively sought).<sup>30</sup>

Despite losing the libel suit against Johnston, *Exhibitor's Trade Review* had succeeded in publicly humiliating its most loathed rival and portraying itself as strong and fearless. At this same moment, however, a far greater scandal was bringing down the paper that Ochs, Bush, and Crawford were trying to build up. In the same January 27, 1917, issue that ridiculed "Sweet William, the pink cheeked editor," *Exhibitor's Trade Review* had issued a public attack on a more dangerous enemy: the Universal Film Manufacturing Company. In an open letter, Lee A. Ochs charged Universal with spreading "CONTEMPTIBLE LIBEL" about the exhibitors of America. The inflammatory statement in question had been published two years earlier in the *Universal Weekly*. Universal president Carl Laemmle had written that he "discovered that at least half and maybe sixty percent [of exhibitors], want the pictures to be 'risque' which is a French way of saying 'smutty.'" Advocates of censorship had seized on Laemmle's remarks, reproducing them widely. *Exhibitor's Trade Review* wanted to make it clear to exhibitors that their reputations had been smeared by Laemmle. Universal was to blame for the growth of censorship laws. Ochs was pursuing this "libel" in the court of community opinion rather than any legal court; he encouraged exhibitors to demand the ouster of Universal executive Pat Powers from NAMPI's recently formed committee addressing censorship. Ochs also used the opportunity to trumpet the greatness of *Exhibitor's Trade Review* and insult his competitors. Writing in eye-grabbing CAPS, Ochs remarked: "I CONFESS WITH SHAME THAT THERE HAS NOT BEEN, UP TO THIS MOMENT, ENOUGH COURAGE AND INDEPEDENCE IN MOTION PICTURE JOURNALISM TO SPEAK THE PLAIN TRUTH IN THIS MATTER. ON THE CONTRARY, EVERY MOTION PICTURE TRADE PUBLICATION HAS CONCEALED THE FACTS IN THE CRAVEN FEAR OF LOSING A PAGE OR TWO OF ADVERTISING."<sup>31</sup> Like its attack against Johnston, *Exhibitor's Trade Review* was attempting to enhance its own reputation as a strong, independently minded voice for the exhibitor as it tore apart the reputations of its enemies.



Just days before the publication of Ochs's open letter, however, Universal advertising executive Bob Cochrane presented a different set of "FACTS" to the motion picture industry. And Cochrane's facts were very much related to the issue of trade paper advertising. Cochrane wrote his account as a two-page "statement" that he intended for wide distribution. Because it offers a rare primary source account of the trade press from the perspective of a film executive, Cochrane's statement merits reproduction at length. Here is the story, as Cochrane tells it:

On Wednesday, Jan. 17th, Mr. Lee Ochs called at my offices and solicited advertising from the Universal Film Mfg. Co. for the Exhibitors' Trade Review, in which Mr. Ochs has a proprietary interest.

After listening to all that Mr. Ochs had to say, I called his attention to the fact that he had not given me any reason why the Universal Company should advertise in his publication. I likewise called his attention to the fact that unless he wanted the Universal Company to pay his publication some money for either charity or blackmail, there was nothing for our company to gain by advertising in his columns. He denied that he wanted either charity or blackmail.

He then asked me if I did not believe in reciprocity to the extent of giving advertising to the Exhibitors' Trade Review (Mr. Ochs' paper) because exhibitors pay money to the Universal Company for film rental. I replied that every exhibitor who paid money to us got full value for it; and that whenever he did not get full value, he transferred his business to some of our competitors; that I would not buy advertising space on any but business grounds; and that if we could not hold the exhibitors' business on the merit of our film we surely would not try to hold it by advertising in Mr. Ochs' publication.

This was on Wednesday January 17th.

On Thursday, January 18th Mr. Ochs wrote a scurrilous letter to various trade papers, making a bitter attack on the Universal Company as a whole and on the officers in particular.

From various sources the Universal Company has heard that if it did not support the Exhibitors' Trade Review, scores or even hundreds of exhibitors would cancel their orders with Universal exchanges. I have forgotten how many thousands of dollars per week was to be taken from us. This has been threatened ever since the Exhibitors' Trade Review (Mr. Ochs' paper) first entered the field of trade papers.

The Universal Company does not believe that the Exhibitors' Trade Review is owned by exhibitors. Neither does it believe that the exhibitors of this country would approve of the methods used by Mr. Ochs to compel the Universal, and other companies, to buy advertising space in his paper.

Mr. Ochs, however, endeavors in every way to make it appear the exhibitors of the country either own his paper or are backing it. For example, the letter in which he attacks the Universal was written on stationery bearing the imprint of the Exhibitors' League of America but was mailed in an envelope bearing the imprint of Exhibitors' Trade Review.

In his letter he rakes up an editorial which was published in the Universal's own weekly publication a year or more ago. It was an article on smutty pictures and was a part of a series of articles, the intention of which was to bring forth from exhibitors

a storm of protest against such pictures. It accomplished its end, but ever since then it has been used by pro-censors as an argument for censorship. To do this they resorted to the old trick of quoting only extracts from the series, instead of the whole. Before the articles were published in our house organ, we showed them in proof form to Mr. Stephen Bush, then employed on *Moving Picture World* and now working for the Exhibitors' Trade Review and explained the campaign to him. Mr. Bush instantly saw what the plan was and called it a good thing. I feel confident that Mr. Bush will bear me out in this statement, regardless of the fact that he is interested in the Exhibitors' Trade Review at the present time.

Kindly remember, Mr. Ochs' remarkable letter was written the day after the Universal refused to advertise in his paper.<sup>32</sup>

Cochrane's story was immediately picked up by the other motion picture and theatrical trade papers. Ochs had attempted to bait the fellow trade papers with his letter dredging up Laemmle's comments on "smutty" pictures. But his efforts backfired. Now, Ochs's letter became evidence in a much more sensational story—one about a self-righteous exhibitor and trade paper publisher who was actually a hypocritical, corrupt blackmailer. *Billboard*, *New York Clipper*, *Variety*, and *Moving Picture World* all covered the Ochs-Universal feud.<sup>33</sup> As we might expect, *Motion Picture News'* coverage of the scandal was especially rich in schadenfreude. Johnston's paper covered the play-by-play of the feud throughout the month of February 1917. It was "Time for House Cleaning," wrote Johnston, who demanded the ouster of Ochs from the presidency of the MPELA.<sup>34</sup> Interestingly, Johnston gave far less attention in his paper's columns to his ongoing libel suit against *Exhibitor's Trade Review*, perhaps wagering that the Universal scandal would do far more damage to the reputation of *Exhibitor's Trade Review* than his personal dispute possibly could.

The Ochs-Universal feud damaged *Exhibitor's Trade Review* irreparably. Ochs and Bush had spent the previous year attacking *Motion Picture News* for allowing advertisers to dictate news, editorial, and review content. *Exhibitor's Trade Review*, it turned out, was just as advertiser-oriented, though in a far more destructive and nasty manner: pay us or else. Many exhibitors were outraged by Ochs's behavior and the thought that his trade paper spoke for them. When the Universal scandal hit, Bush was on his "service tour," attempting to sell new subscriptions. Although his columns don't directly say it, he must have had exhibitors confront him. Why should they subscribe to a paper that practiced extortion? Why should they have to pay for a paper published by their dues-collecting national organization? Why would Bush go into business with a scoundrel like Ochs? What does seep through in Bush's columns is a humbling. Bush promised, "*Exhibitor's Trade Review* eliminated all waste from its columns. The paper has been made to order for the exhibitor and meets his practical needs."<sup>35</sup>

Meanwhile, in New York City, Ochs and Crawford continued to fight with any and all perceived enemies. They tried to frame the conflict as being about a trade paper's right to free speech, an extension of the battle against screen censorship.<sup>36</sup>

Increasingly, they saw themselves as the victims. In a March 1917 editorial titled “Warfare Below the Belt,” *Exhibitor’s Trade Review* alleged that unnamed trade papers had conspired to push it out of business by (1) pressuring its engraver to drop the paper as a client; (2) convincing its printer that it wasn’t creditworthy; and (3) persuading the US Post Office to deny *Exhibitor’s Trade Review* second-class mail status.<sup>37</sup> Ochs and Crawford refused to quit without more of a fight.

Nor did Ochs go gentle from his post as MPELA president. When the national MPELA convention met in Chicago in the summer of 1917, Ochs rigged the election to ensure he remained the organization’s head.<sup>38</sup> Ochs’s election scandal—combined with the controversies involving *Exhibitor’s Trade Review* and other allegations of abuse of power—had a lasting detrimental effect on exhibitor trade organizations. In 1918, the American Exhibitors Association (AEA) formed in opposition to Ochs’s MPELA. As Deron Overpeck relates in his excellent history of exhibitor trade organizations, Ochs’s leadership caused “ruptures in the exhibition ranks that would shape the national trade association from 1920 until 1947.” During those years, the leading manufacturer-distributors acquired their own theaters, building the vertically integrated corporations that we now recognize as the Hollywood studios. Too much time that exhibitors could have used to act in unison was instead squandered on internal fighting.<sup>39</sup>

As for *Exhibitor’s Trade Review*, its founders lasted barely a year. They had lost the feud against Universal and run out of money. Merritt Crawford and Stephen Bush both left in March 1918. *Variety* reported that Bush still had four years on contract, at a salary of \$6,500 per year plus expenses.<sup>40</sup> Ochs left the paper the following month to head United Picture Theaters of America, which was to be another lightning rod of controversy and source of more libel lawsuits.<sup>41</sup> With the founders ousted, and their high salaries cleared from the books, a new owner stepped into the picture—A. B. Swetland.<sup>42</sup> Swetland was the brother of Horace Swetland, the president of the Federation of Trade Press Associations of the United States, and the man who, in 1923, literally wrote the book about trade publishing.<sup>43</sup> The Swetlands’ company, Class Journal Publications, controlled trade publications such as *Iron Age*, *Motor Age*, *Distributing and Warehousing*, and the flagship American retail paper *Dry Goods Economist*.<sup>44</sup> The establishment was attempting to take over the film industry’s trade press.

## NEWS, COMMERCE, AND INNOVATION DURING WARTIME

The motion picture trade papers did more from 1916 to 1918 besides fight among themselves. Some of the most lasting changes made by the trade press were constructive rather than destructive in nature. Before turning toward the vaudeville industry and *Variety*’s legal battles, we should take stock of the other developments taking place simultaneously within the journals, industry, and nation.



FIGURE 12. Motion picture superstar Charles Chaplin speaks to a large crowd at a New York rally for War Bonds in 1918. Photograph courtesy of the Motion Picture Academy of Arts and Sciences, Margaret Herrick Library.

The major event—and one that seemed to briefly quiet the bickering editors—was the US's entrance into World War I. On April 2, 1917, President Woodrow Wilson called on the US Congress to declare war against Germany, officially involving the nation in the war that had been ravaging Europe for the previous three years. In her history of the US film industry during World War I, Leslie Midkiff DeBauche describes how members of the industry followed a path of “practical patriotism,” seeking to do their part for the war effort while continuing to maintain, and ideally grow, their businesses. “Cooperation with the government’s efforts on the home-front cast both national and local members of the film industry in a favorable light,” writes DeBauche. “It offered local film exhibitors the opportunity to validate their businesses within their communities, and it offered the film industry at the national level the chance to garner good publicity and so enhance its image.”<sup>45</sup> The trade papers document these industry activities on the local level (stories of Kentucky exhibitors using slides to encourage military enlistment and enrollment in the Red Cross) and national stage (coordinated efforts between NAMPI and the Treasury Department to sell Liberty Loans, including personal appearance tours by Mary Pickford, William S. Hart, and other stars).<sup>46</sup>

The war influenced the trade papers’ discussions of other policy matters, including taxation. Shortly before the US entrance into World War I, NAMPI proved it was more effective than its predecessor, the Board of Trade, when it brought different wings of the industry together to defeat New York’s proposed admissions tax.<sup>47</sup> Wars are expensive, though, and the government needed to finance US participation in World War I. To achieve this, Congress passed the War Revenue Act of 1917, which among other measures included a 10 percent admissions tax on theaters.<sup>48</sup> Exhibitors knew it would look bad if they publicly opposed the tax, but they used

the trade press to debate the fairness of the tax falling on them and strategies for passing it on to their theater patrons.<sup>49</sup> Discussions of tax policy would play out extensively in the pages of the film industry trade papers for the next century, especially following the increase of income tax rates in the early 1930s.<sup>50</sup>

The trades also covered the global influenza pandemic of 1918, which caused major disruptions to the film industry and bears many similarities to the COVID-19 pandemic of 2020. The conditions of World War I—overcrowded military camps, mass movements of people across the country and world—accelerated the spread of this vicious strain of influenza, which produced deadly cases of pneumonia at such alarming rates that many at the time believed they were living through a return of the plague. During the spring of 1918, major influenza outbreaks spread in Philadelphia, Boston, and other eastern American cities. The flu then struck again with even greater force during the winter of 1918–19.<sup>51</sup> Recognizing that movie theaters were ideal sites for the virus to spread and find new hosts, many municipalities ordered theaters to temporarily close.<sup>52</sup> Theaters that remained open played to smaller crowds. The trade papers reported on the public health crisis while generally maintaining an upbeat attitude, projecting confidence that things would soon get better. The dissonance between the trade papers' functions as industry boosters and conveyors of the news was especially evident in the juxtaposition of "situation improving" reports and the obituaries of members of the industry community who had died of pneumonia. In some cases, these notices appeared within pages of each other.<sup>53</sup>

The trade papers covered other industry developments during this period that had little directly to do with the war or pandemic. The editorial pages of *Moving Picture World*, *Motion Picture News*, *Motography*, and *Exhibitors Herald* all took stands opposing the advance deposit system—the prepayments manufacturer-distributors demanded from exhibitors and then used to finance new productions.<sup>54</sup> But the trade papers and their exhibitors came down more unevenly on the new distribution policy of "open booking"—a term used to describe a variety of distribution practices but especially the renting of films to exhibitors on a one-off basis rather than as part of programs.<sup>55</sup> Larger exhibitors tended to like the selectivity and star power that open booking allowed. Smaller and midsized exhibitors wanted the features of stars available for open booking, but they often could not afford the higher rental fees and preferred the earlier model of renting a year's worth of films from a distributor for the bulk of their bookings. Moreover, selling pictures one at a time was an inherently less efficient system than selling programs of forty or fifty pictures.<sup>56</sup> Beyond the higher transaction cost of renting a single picture, every feature distributed under the booking system needed to be advertised to exhibitors. The trade papers benefited from the enhanced need to advertise and differentiate individual productions, even as their editors paid lip service to exhibitor complaints that theaters were being asked to bear too much of the growing expenses from the open booking system.

But the most successful film trade papers of the period did not simply sit back and wait for advertising dollars to roll in, nor did they extort manufacturers to advertise. Instead, the most successful papers were entrepreneurial problem-solvers. They identified industry problems, including some of their own making, and found constructive solutions that could make them money. The biggest problem they constructively addressed between 1916 and 1918 was the management of information. How could exhibitors and other industry readers efficiently pick out the important bits of information from the advertising-and-puff-loaded 180-page issues of *Moving Picture World* and *Motion Picture News* that landed at their doors with a thud every week? How, too, could they return to back issues and reports that they later realized they needed? The motion picture trade press devised two methods for helping the industry organize and access its data. The first was a daily trade paper, the second yearbooks and trade directories.

Wid Gunning had launched a weekly film review publication in 1915, but over the next two years, he tweaked the format of his sheet. He kept the emphasis on reviews, publishing appraisals of the latest films in a Sunday issue running eight to sixteen pages. But Gunning and Jack Alicoate, his managing editor, began publishing brief four-page issues throughout the week. The paper, *Wid's Film and Film Folks*, contained short announcements and news stories. Borrowing a technique from the theatrical trade papers, it also published cards of "Prominent Film Folk." Directors, writers, and other production personnel paid *Wid's* to "keep [their] name before the right people" and act as their answering service. Whereas William A. Johnston continually boasted about the growing size of his weekly paper, *Motion Picture News*, Gunning and Alicoate understood that brevity and speed could be equally powerful assets. "WID'S DAILY IS READ NOT SKIMMED," explained the paper in July 1918, shortly after changing its title to *Wid's Daily*.<sup>57</sup> In 1922, the paper would change its title again to the one that stuck for the next five decades: *Film Daily*. Film historian Douglas Gomery has likened *Film Daily* to "a headline service, a *USA Today* for the film business."<sup>58</sup> In the context of solving an information management problem, we can understand Gomery's characterization less as a pejorative than as a statement of *Wid's Daily's* strategic advantage: it condensed information into brief, digestible segments and distributed these segments more quickly than its competitors.

*Wid's Daily* also became a leader in the publication of industry yearbooks, though, like so many other developments, Johnston's *Motion Picture News* was the first to bring this trade publishing practice to the film industry. Johnston published *Motion Picture News's* first *Studio Directory* in January 1916 and the first *Trade Annual* in July 1917. *Wid's* caught up with its first yearbook at the end of 1918.<sup>59</sup> Elegantly bound and hundreds of pages long, industry yearbooks may seem like the polar opposite of a slim daily trade sheet. But they represented two sides of the same information management coin. By aggregating and organizing data about theaters, manufacturers, and industry personnel, the yearbooks offered an



efficient system for industry participants to retrieve information. They were also advertising bonanzas. The publishers encouraged manufacturers, distributors, theaters, equipment suppliers, and individual industry workers to purchase half-page or full-page advertisements. The value gained by the advertiser was not the immediate sale of a product. Instead, the yearbooks offered advertisers something more amorphous yet enormously important in show business—the opportunity to position oneself as an insider and a legitimate member of the industry community (a topic explored more in this chapter in relation to *Variety*).

The daily trade paper and annual directories found success not just within the immediate industry but also among the growing number of newspapers and magazines that covered the movies for a much wider readership. As film historian Richard Abel has shown, newspapers across the US expanded their coverage of the movie industry during the early to mid-1910s.<sup>60</sup> There was a push and pull in the flow of news. Motion picture manufacturers and distributors *pushed* advertising and publicity items to newspapers across the country. Their publicity departments sent out mass mailings, for example, promoting the production of a star's new films. Yet there was also a *pull* factor: local readers were interested in movie news, and newspapers sought out and reprinted the stories they thought would most appeal to their readers. Some newspaper editors preferred reprinting stories from the motion picture trade papers over publishing the publicity stories received by mail. The news published in trade papers had undergone some minimal level of vetting, and an editor could more efficiently comb through and pluck out the items of interest from a four-page issue of *Wid's* than a stack of letters. Additionally, as newspaper and magazine editors prepared stories for print, the annuals served as indispensable reference books, containing biographical details of players and personnel and information about the industry's performance from the previous year.

One of the magazines most excerpted and reprinted by newspapers and magazines during the mid-1910s was *Motography*.<sup>61</sup> In 1914, *Motography's* "Gallery of Picture Players," "Brevities of the Business" page, and Mabel Condon's profiles of movie stars were well suited for general interest newspapers. Indeed, Robert Grau praised the Chicago-based paper, claiming "no more readable and informing periodical dealing with the industry from all angles is to be found anywhere." Yet *Motography's* breadth was also its problem. The paper lacked focus as a trade publication. One of Condon's star profiles might appear next to a report about a Cincinnati exhibitor convention. While the paper was more readable for the movie fan, it was inessential to the nation's leading manufacturers, distributors, and exhibitors. As noted in the previous chapter, *Motography* trailed far behind *Moving Picture World* and *Motion Picture News* in advertising sales.

In 1915 and 1916, *Motography* tried to revamp its format and become more exhibitor-oriented. The paper continued to struggle to find a niche until it found a creative solution to a long-standing problem. How could exhibitors trust that trade paper reviewers were being truthful? How could they be sure reviewers

were not going soft on the films of advertisers? On October 7, 1916, *Motography* published a half-page column titled "Reviews' by Exhibitors." The word *reviews* appeared in quotation marks to emphasize the novelty, even humor, of allowing exhibitors to pass judgment. Six exhibitors, five from Chicago and one from north-west Indiana, shared their personal experience playing movies to their patrons. George H. Moore of Chicago's Orpheum offered the following appraisal of Lois Weber and Phillips Smalley's *Saving the Family Name*: "While it is a fair picture it is nothing for one to lose one's mind over. We have been having a fair crowd all day." Meanwhile, Moore had clearly lost his mind over Theda Bara, reporting that the Fox star's latest picture, *Her Double Life*, "played to capacity houses all day long." The appeal of these "reviews" lay in their plain language, business-oriented perspective, and attribution to a member of the exhibitor community. They were also models of brevity. Louis Feuillade's *Fantomas* serial has generated hundreds of pages of critical writing over the past century, but George Madison of the Kozy told his fellow exhibitors everything they needed to know in nine words: "It's a great picture. It made money for me."<sup>62</sup>

One week later, *Motography* repeated the section with a new title, "What the Picture Did for Me," and promised "Actual Criticism of Films by Exhibitors, from a Business Standpoint."<sup>63</sup> This new section quickly snowballed into the most successful department in the history of *Motography*. By April 1917, six months after its launch, "What the Picture Did for Me" occupied four full pages at the front of the paper. Roughly half of the reviews still came from Illinois exhibitors, but theater managers from across the country also wrote in. *Exhibitor's Trade Review* imitated the department with its similarly titled section, "How Did That Picture Go at Your Theatre?"<sup>64</sup> But *Motography* warned its readers not to accept any knockoff: "'What the Picture Did for Me' was the first department of its kind in any trade paper, and exhibitors say it is the best trade paper feature there is."<sup>65</sup> *Motography* had found a solution to the perceived bias of trade paper reviews by having exhibitors write reviews themselves. And in doing so, the paper united a supportive, trustworthy community of exhibitors at the same moment the MPELA was polarizing theater owners and the industry. When *Exhibitors Herald* purchased *Motography* in 1918, the "What the Picture Did for Me" department and its passionate community of writers and readers were some of the most valuable assets that *Herald* publisher Martin Quigley acquired.<sup>66</sup>

The motion picture journals were not the only trade papers experimenting with a daily edition at this time. In December 1916, *Variety* began publishing a daily bulletin every day except Sunday and Friday (the day it published the weekly edition).<sup>67</sup> The vaudeville industry was in a state of crisis with a labor strike waiting in the wings. *Variety's* bulletin disseminated the latest news quickly, but it also reinforced its reputation as the leading vaudeville paper. As we will see, *Variety* was simultaneously a reporter of the crisis, its scorekeeper, and one of its leading players.

## VARIETY, THE WHITE RATS, AND PERFORMING INDEPENDENCE

The news that *Variety* expected to publish in its daily bulletin that winter was that the White Rats actors had gone on strike. Although the union had insufficient numbers to shut down the US vaudeville industry, the White Rats' strike and the managers' retaliatory threat of a blacklist had polarized the vaudeville community. The full history of the vaudeville wars is beyond the scope of this book, and readers should turn to the detailed research of Arthur Frank Wertheim for a complete account.<sup>68</sup> Yet understanding *Variety's* role in the conflict is important for two reasons. First, and most important, the White Rats strike was a key moment in the formation of *Variety's* reputation as an independent paper that claimed allegiance to no single constituency or industry. *Variety's* reputation became a key asset that it leveraged toward expanding its presence in the film industry in the 1920s (a transformation discussed in chapter 4). Second, the White Rats' allegations that actors felt compelled to purchase self-promotional ads in *Variety* foreshadowed what was to become a booming business for the motion picture trade papers. Like the budding genre of film yearbooks and studio annuals, *Variety* became a space in which industry players sought to shape perceptions of themselves and prove that they belonged to the show business community.

*Variety's* relationship with vaudeville labor in general and the White Rats in particular was a complicated one. As discussed in my introduction, *Variety* used its first editorial column in 1905 to articulate its values: it was to be "an artist's paper," and "ALL THE NEWS ALL THE TIME" and 'ABSOLUTELY FAIR' [were] the watchwords."<sup>69</sup> *Variety's* emphasis on fairness, artists, and the separation between editorial and advertising were intended to distinguish it from the theatrical trade papers (especially *New York Clipper* and *New York Morning Telegraph*), which it implied were management-oriented and organs for their advertisers. Throughout its first year in print, *Variety* largely followed its stated mandate. One example occurred in the summer of 1906 when B. F. Keith and his general manager, Edward Albee, merged the Western Vaudeville Association and the BF Keith Booking Agency to create the United Booking Office (UBO). It was a key moment in the consolidation of the vaudeville industry, coinciding with the expansion of theaters controlled by Keith and Albee to roughly 130. Additionally, the UBO continued the controversial practice of charging artists a 5 percent booking fee. The *New York Clipper* praised Keith, saying he was a man of "courage, determination, [and] inflexible purpose" to have built "this great superstructure of vaudeville."<sup>70</sup> In contrast, *Variety* analyzed what the consolidation and new booking agency would mean for performers. The paper cynically remarked on the intent behind the name United Booking Office: "The Keith executives think that the name of 'Keith' left off the title would in a measure remove the red flag from the artists' sight."<sup>71</sup> And in his editorials, *Variety* publisher and editor Sime Silverman kept raising the red flag

again and again, arguing for the need for vaudeville artists to organize and stand up to Keith and Albee before it was too late.<sup>72</sup>

For someone supportive of artists' rights, though, Silverman had an ambivalent and frequently antagonistic relationship with the leading vaudeville union—the White Rats. The White Rats had formed in 1900 as a union for white male vaudeville performers under the leadership of George Fuller Golden. The name derived from the British actors' union the Water Rats and the backward spelling of the word *Star*.<sup>73</sup> *Variety's* earliest mention of the White Rats occurred in the paper's second issue, published December 23, 1905. Silverman editorialized that “the White Rats, with an hysterical head and no definite aim or stability, won a great victory—which they immediately afterward lost. A new organization, if formed, should be framed up on enduring lines and officered by some cool headed man rather than a glowing enthusiast.”<sup>74</sup> Silverman's enthusiasm for the White Rats ebbed and flowed over the next few years, but it took a decisive turn toward the negative in 1910 and 1911 during Harry Mountford's leadership of the organization. An English actor and labor organizer, Mountford joined the executive board of the White Rats and pushed the organization toward a more aggressive course of action against managers. Mountford affiliated the union with the American Federation of Labor, expanded the membership to an all-time high of twenty-five hundred, lobbied for the state of New York to regulate booking fees, and demanded the vaudeville managers agree to a closed shop. Keith, Albee, and the other vaudeville managers vehemently opposed all of these measures.<sup>75</sup> Mountford also began an official journal for the White Rats, *The Player*, which he promised would be clean of the promanager propaganda that filled other theatrical trade papers.

Silverman wanted better conditions for vaudeville artists, but he objected to Mountford's militant tactics. “He has brought the managers to believe that actors are their enemies. . . . He has brought the actor before the public as an agitator,” wrote Silverman in January 1911. Silverman wanted a more conciliatory approach; in fact, his journal depended on it. *Variety* spoke to managers and artists as part of a broad community and sold considerable advertising to both parties. Silverman regarded *Variety* as occupying a middle ground of fairness between the White Rats' sheet, *The Player*, and the trade papers biased toward the managers, such as *Clipper* and *Morning Telegraph*. To Mountford, though, it must have seemed like Silverman wanted to have it both ways—better conditions for the actor without enduring the labor struggle needed to achieve them. Mountford escalated the fight with Silverman when he remarked that actors were being “held up” by *Variety* to purchase advertising. Silverman exploded, calling Mountford a liar and a fool. “We did not gamble on our future and our time for five years to establish a journal under a new policy to have an Englishman (who may yet be unnaturalized for all we know) come along in an attempt to undo what we had done,” wrote Silverman.<sup>76</sup> In this column and many others, *Variety* brought up Mountford's English origins

to attack him. *Variety* was playing its gatekeeping function. The paper depicted Mountford as an outsider who needed to be expelled from American vaudeville.

Later that same year, in 1911, Silverman obtained his wish. The White Rats' board pushed out Mountford for being too militant and uncompromising. *Variety*'s relationship with the White Rats and vaudeville artists improved with Mountford out of the picture. Meanwhile, *Variety*'s relationship with the managers worsened. Silverman openly criticized the UBO and mocked its head, Albee. In response, Albee implemented a blacklist against music publishers and vaudevillians who advertised in *Variety*.<sup>77</sup> The feud lasted for roughly two years, until August 1914, when *Variety* and UBO reached a détente.<sup>78</sup> Midway through the feud, in November 1913, the White Rats ceased publication of *The Player* and began publishing a four-page section, "White Rats News," in *Variety*. Silverman explained to readers that "White Rats News" was editorially separate from *Variety*, but its inclusion represented an alliance with the post-Mountford Rats.<sup>79</sup>

Unfortunately for the White Rats' members, *Variety*'s support did little to materially improve their lot. Without the "agitator" Mountford at the helm, the White Rats organization weakened, and conditions for artists only became worse. Vaudeville artists still had major grievances with management: a broad "cancellation clause" in their contracts that made it easy for managers to fire them; the expense of railway transportation from one city to another (they, not the managers, paid for their tickets); the 5 percent commission fees to their agents and the UBO's booking office; and, excepting the biggest stars, salaries that remained flat or declined during the 1910s. It continued to be a hard life, with many nights spent in freezing cold dressing rooms and filthy flophouses, conditions that bred tuberculosis and other illnesses.<sup>80</sup> In October 1915, the White Rats invited Mountford to return, and he leapt at the opportunity to reignite American vaudeville's labor movement.

Tensions between labor and management quickly escalated again.<sup>81</sup> In June 1916, White Rats performers joined a strike in Oklahoma that members of fellow AFL (American Federation of Labor) union, IATSE (International Alliance of Theatrical Stage Employees), had called against theater management. The prospect of a wider White Rats strike felt imminent. In the fall of 1916, the Vaudeville Managers' Protective Association (VMPA), a trade organization that counted the Keith-Albee and Orpheum chains as its leading members, cancelled the engagements of White Rats actors and blacklisted them from their theaters.<sup>82</sup> Soon after, *Variety* began publishing its daily bulletins, which tracked who was blacklisted, how the White Rats responded, and what the developments meant for nonunion performers. In February 1917, the much-anticipated strike began. White Rats members picketed theaters in Boston, Chicago, East St. Louis, and New York that refused to sign closed shop agreements. They formed picket lines and, when non-striking actors crossed the lines to perform, they hurled fruit and eggs at the scabs. The strike lasted until the US declared war on Germany on April 6, 1917, an event that prompted the AFL to call on its unions to halt all strikes.<sup>83</sup>

All the theatrical trade papers lined up in opposition to Mountford before, during, and after the strike.<sup>84</sup> *Variety* stated emphatically that it was “against Mountford.”<sup>85</sup> If any reader had missed this point in a column, he or she would have surely gotten it from one of *Variety*’s full-page cartoons, illustrated by Edward Marshall. “The Moth and the Flame,” a cartoon published in December 1916 before the strike, portrayed “Mountfordism” as a candle and “strike” as its flame. Gullible performers were the moths flocking to the light, unaware they were being led to their ruin (see fig. 13). A second cartoon, published during the strike in March 1917, offered a peek inside Mountford’s famously high forehead (fig. 14). According to Marshall and *Variety*, Mountford’s mind was filled with his luxurious lifestyle, lies, and Hun-like leadership techniques—all at the expense of doing anything for the benefit of the actor.

In retaliation for these and other slights, Mountford sought to damage *Variety*. He chose the law as his venue. Mountford asked the recently formed Federal Trade Commission (FTC), established in 1914, to investigate a monopoly conspiracy carried out by the UBO, VMPA, and *Variety*. He is probably also the reason why Edward Clark, a member of the White Rats, sued *Variety* for libel. Clark was among the leaders of the White Rats and helped organize a ball to raise funds to support the strike. In a March 23 column, *Variety* reported: “Eddie Clark, who is connected with ‘You’re in Love,’ at the Casino, is said to have reserved two boxes for members of that company for the White Rats’ ball last Friday night, then sent each member a bill for the proportionate share of the cost. The last reports were the principals had refused to be held up.”<sup>86</sup> A few weeks later, Clark filed a libel suit against *Variety*, claiming \$25,000 in damages. He insisted that he bought and gave away tickets for the ball, never insisting that his cast members pay.<sup>87</sup> It’s unclear whether or not it was intentional, but the libelous phrase was identical to the one that had infuriated Sime Silverman six years earlier: actors were being “held up.”

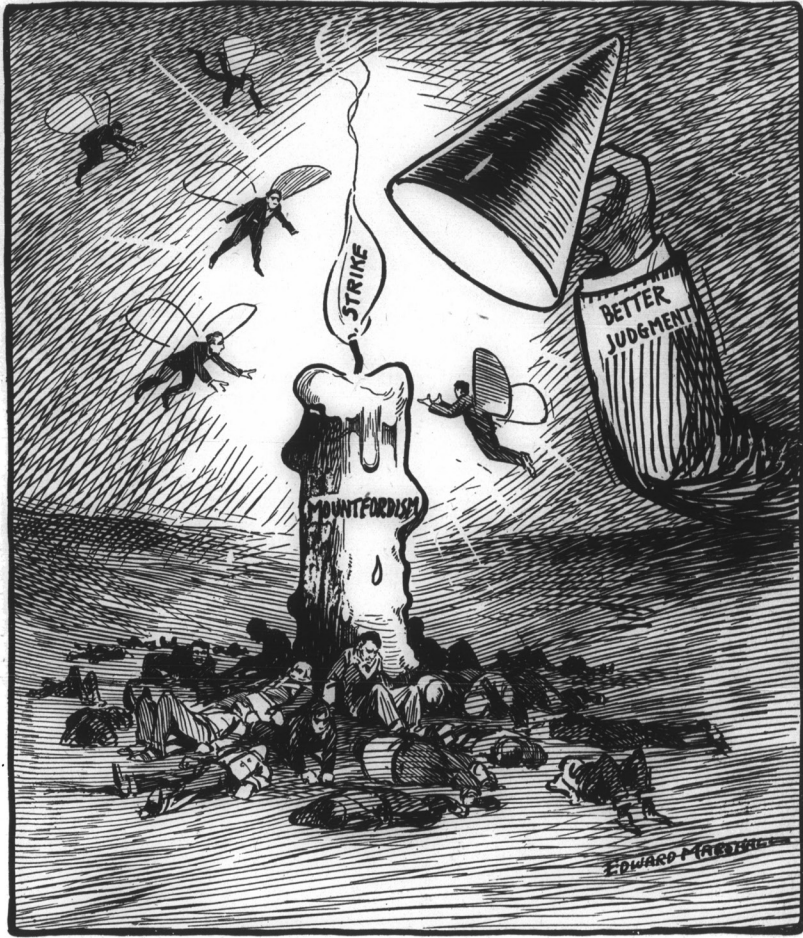
Faced with Clark’s libel complaint, Silverman had several options about how to respond. He could defend his remarks as “fair comment” or minimize them by arguing that readers interpreted them in jest (they appeared as part of a column called “The Funny Side”). He could also issue a retraction or even, simply, an apology. Instead, *Variety* went on the counterattack. In a June 2, 1917, news item entitled “Eddie Clark Feels ‘Damaged,’” *Variety* ridiculed Clark and his lawsuit:

Edward Clark as the complaint describes the defendant, was born Issy or Isadore Balty. He is a Hebrew and has been in show business for a number of years, going on the stage from the race tracks. When known as Issy Balty, the present “Clark” was a frequenter of the tracks throughout the country and it is said that it was his experiences on those tracks that assisted him to a stage debut where he did a race track tout in vaudeville.

Under the name of Edward Clark he also has an action pending against the United Booking Offices and associates, alleging he has been prevented from appearing in vaudeville through a conspiracy, although in the Marinelli suit, Clark, when



## VAUDEVILLE



## "THE MOTH AND THE FLAME"

FIGURE 13. Edward Marshall's anti-Mountford illustration, "The Moth and the Flame," appeared in *Variety* on the eve of the White Rats strike in December 1916. Source: Edward Marshall, "The Moth and the Flame," *Variety*, Dec. 29, 1916, 7, [https://lantern.mediahist.org/catalog/variety45-1916-12\\_0344](https://lantern.mediahist.org/catalog/variety45-1916-12_0344).

testifying, was obliged to admit that his acts were "shown" in U.B.O. houses but could not secure bookings.

Nourishing his grievances against vaudeville managers who did not think his act was suitable to their stages, Clark joined the White Rats. During the recent White Rats strike he was one of the organization's principal agitators. It was during the



### “THE MIND OF MOUNTFORD” (Nothing in it for the actor)

FIGURE 14. *Variety* published this satirical cartoon by Edward Marshall during the White Rats’ strike in March 1917. The cartoon illustrated “The Mind of Mountford,” emphasizing there was “Nothing in it for the actor.” Source: Edward Marshall, “The Mind of Mountford,” *Variety*, March 30, 1917, 5, [https://lantern.mediahist.org/catalog/variety46-1917-03\\_0252](https://lantern.mediahist.org/catalog/variety46-1917-03_0252).

White Rat troubles that the order held the ball for which Clark swears he bought some tickets and gave them away.<sup>88</sup>

It was a nasty piece of writing that was designed to humiliate Clark, the very definition of libel. *Variety* was flexing its strength to the vaudeville community: you go after us; we go after you. In the process, *Variety* had published a new libel that

dwarfed the original. Clark and his lawyer filed a second libel complaint that included the references to racetracks, the Marinelli lawsuit, and inability to book performances with UBO theaters.<sup>89</sup> *Variety*'s lawyers responded that the piece was published "without malice, but in the spirit of good-natured ridicule." Furthermore, *Variety* argued to the court that it had the facts on its side: Clark was Jewish (as was Silverman), and he was known to frequent racetracks.<sup>90</sup>

The lawsuit remained tied up in the New York county court system for the next two and a half years. Ultimately, in January 1920, the two parties reached a settlement. *Variety* agreed to pay Clark \$600, plus legal expenses. The paper also agreed to publish a retraction on the cover of its next issue.<sup>91</sup> In a story headlined "Clark Suits Settled," *Variety* acknowledged: "Subsequent developments proved that both articles were founded on misinformation and untrue. Clark did not ask his guests at the White Rats Ball to reimburse him, nor did he testify in the Marinelli suit as reported."<sup>92</sup> By this point, however, *Variety* had already won in the court of industry perception. Silverman used his position as a libel defendant to project his independence, fearlessness, and appetite for a fight.

Silverman was able to further advance the perception of *Variety* as strong and independent when *Variety* became a defendant in a larger legal case related to the White Rats. During the period of escalating tension that led up to the 1917 strike, Mountford and lawyers for the White Rats had argued that the actions of the big-time vaudeville managers violated the Sherman Antitrust Act. When the FTC issued its formal complaint in the spring of 1918, *Variety* was listed as one of the defendants. The FTC reproduced the same argument that Mountford made in 1911: *Variety* disseminated the managers' "propaganda" to vaudeville artists; in the return, the managers and their organizations "require that actors patronize the advertising columns of the publication to such an extent that in holiday numbers and special issues of 'Variety' it contains approximately two hundred pages of advertising by actors and their 'personal representatives' which is paid for at the rate of approximately \$125 per page."<sup>93</sup> *Variety* denied the allegations and, what's more, distanced itself from the managers during the legal proceedings. The archival court records reveal that the VMPA, UBO, and other defendant companies were all represented by the same attorneys and filed joint briefs. *Variety*, however, insisted on its own defense. Silverman incurred higher legal costs to make it clear that he and his journal were independent of the VMPA, UBO, and the managers. The case resulted in hearings over a period of several months in 1919. As Wertheim describes: "The case revolved around a key question: Were performances by vaudevillians interstate commerce as interpreted in the antitrust laws?" Ultimately, the commissioners ruled the performances were a form of labor, not commodities, and therefore not subject to antitrust regulation.<sup>94</sup>

The FTC's distinction between labor and commodities in vaudeville was highly problematic. Vaudeville managers packaged acts like commodities, arranging a program of ten or eleven acts like a stack of blocks. One act might even be a motion

picture, which was a commodity according to the FTC. More relevant for this study, *Variety* and the other theatrical trade papers encouraged performers to promote themselves like commodities. The ads they purchased frequently appeared on the same page as advertisements for furniture, pianos, and lights. And, much like those other commodities for sale, the performers needed to distinguish their product benefits and uniqueness of their acts. Unlike a chair or piano, however, these actors also needed to prove they were members of an entertainment community. An advertisement in *Variety*, vaudeville's gatekeeper with its reputation for taste and independence, was a mark of belonging. Based on my reading of the archival FTC documents, I do not think that *Variety* participated in the conspiracy alleged by Mountford—which is to say, I do not think *Variety* agreed to do favors for the managers in exchange for having managers demand their performers take out ads in *Variety*. What is indisputable, though, is that actors felt pressure to advertise in *Variety*. Some of this pressure may have come from managers, but more of it came from their industry environment, which was extremely competitive and valued visibility and community membership.

Although studying vaudeville's industrial history may seem like a digression from the motion picture trade press, it is important for understanding the development of the Hollywood studio system, the migration of theatrical trade press practices to film, and *Variety*'s 1920s transformation into the film industry's leading class journal. Two of the heads of major Hollywood studios, Marcus Loew and William Fox, owned small-time vaudeville theaters (which, unlike the big-time vaudeville of Keith and Albee, devoted as much as half their programs to motion pictures).<sup>95</sup> Other studio moguls imitated the vaudeville industry's consolidation and management techniques and eventually acquired the big-time theaters to exhibit their motion pictures. Similarly, motion picture trade papers adopted practices from the theatrical trade press—evident in *Motion Picture News Studio Directory*'s and *Wid's Daily*'s emphasis on selling advertisements directly to actors, directors, writers, and other film production personnel. As for *Variety*, the paper emerged from the vaudeville wars with its reputation for strength and independence enhanced. And it was this reputation, more than any other asset, that it would leverage toward becoming a leading voice within the motion picture industry.

#### CONCLUSION: THE PROBLEM OF TOO MANY TRADE PAPERS

The trade paper war of 1917 was both climax and prologue. The fight between *Exhibitor's Trade Review* and *Motion Picture News*, as well as the fight between *Variety* and the White Rats, punctuated long stretches of growing animosity. But the trade paper war is more significant to study for the new conflicts it established, conflicts that continued for the next fifteen years. Despite the trade papers'

constructive solutions to some of the industry's information management problems, *Wid's Daily* and the annuals were, at the end of the day, more publications claiming to serve the film industry, asking for subscriptions and advertisements. To a growing number of industry insiders, trade papers themselves were the problem. "Buying space in publications of various sorts simply to avoid incurring the enmity of such publications has been one of the worst and most costly evils we have all had to contend with," wrote a Universal executive during the Ochs feud.<sup>96</sup> The industry suffered from too many trade papers chasing after the same purse of advertising dollars.

The last trade paper fight of 1917 directly addressed the problem of too many trade papers. In a December 1917 column, *Motion Picture News*' William A. Johnston argued the industry needed to eliminate waste and eradicate all but two trade papers. "Once [*sic*] is enough to reach properly and completely the purchasing power of the field, but two are necessary to preserve a desirable balance of competition," wrote Johnston. "All advertising expenditure outside of two papers is waste pure and senseless. There is absolutely no excuse for the good natured maintenance of a dozen papers WHERE ONLY ONE CAN BE READ, and the proposition stands right up to the manufacturer and distributor for instant action."<sup>97</sup> Presumably, Johnston thought that his paper should be one of the two permitted to survive in the industry's new, efficient era.

*Variety* pounced on Johnston and his comments. In an editorial entitled "Which Two?," *Variety* criticized Johnston for his apparent interest in only the advertising function of the trade press; there was no mention of how many papers were needed to communicate the news to the various constituencies of the film industry. *Variety* also used the editorial as an opportunity to call out—and, in some cases, insult—the other film and theatrical trade papers, most of which it found preferable to the *News*. *Variety* reserved its harshest assessment for its most direct competitors, trade papers that covered film alongside theater and vaudeville. *Dramatic Mirror* was "once theatrical paper, now haphazarding it"; the *Morning Telegraph* "published reams of the picture press agents' press publicity piffle without wasting the time to edit it"; and *Billboard* "threw away its chance some years ago to be the leading film sheet, as it has thrown away its chance to become even a theatrical medium."<sup>98</sup> *Variety* was willing to burn the other film and theatrical trade papers, but it was circumspect about its own role within this environment. "*Variety*, not professing to be a film trade publication, may discuss 'The News' statement calmly and impartially," wrote the paper. *Variety*'s comments were accurate on a purely quantitative basis; the paper in 1916 and 1918 devoted roughly three times the amount of space to vaudeville as it did to film. Despite the claim of not being a film trade paper, though, the primary takeaway from the editorial was the reassertion of *Variety*'s authority among the increasingly crowded entertainment industry press.



Two weeks later, in its December 28 edition, *Variety* published an even more forceful critique of Johnston's call for only two papers. This time, the remarks were those of Leander Richardson, who had been Sime Silverman's boss years earlier at the *Morning Telegraph*. In the time since then, Richardson had left his post as an editor to work for the publicity department of World Film Corporation (W. Stephen Bush and Merritt Crawford both made similar transitions to film company publicity departments after leaving *Exhibitor's Trade Review*, and the revolving door continued for decades that followed). In the pages of *Variety*, Richardson proposed his own solution:

What we really need in the motion picture business is ONE trade paper, not two.

Look over the other industries—iron, for example. Take a good look.

You will find one real trade paper to every real trade. Where there are others, they merely feed on the crumbs from the rich man's table; and this is precisely as it should be, and as it will be when the motion picture business becomes more tangible and less sensitive to ghosts.

And, as a parting thought, Mr. Johnston, the one paper that will survive in the motion picture industry will be a paper of character, that does not spend its entire force upon its one or two editorial pages; that does not split itself up into a few cut-and-dried departments; that does not give up its columns to the drivel of incompetent boosters; that does not go drilling along a fixed course of so-much-for-so-much; that plunges out to find the real news of the industry—that, in a word, has something behind it which means more than getting to press.<sup>99</sup>

Nowhere in the piece did Richardson reference *Variety* or Silverman by name. And *Variety* did not prioritize motion pictures over vaudeville until 1926, by which point the vaudeville industry's profitability had declined significantly.<sup>100</sup> But Silverman and his allies may have already been aware that *Variety's* reputation for independence—hard-earned through libel lawsuits and public feuds—could serve its efforts to become a leader in the film industry.

Meanwhile, the idea of "ONE trade paper" representing the film industry seized the imaginations of several ambitious publishers. After acquiring control of *Exhibitor's Trade Review*, the Swetlands named their new holding corporation "United Motion Picture Publications," a sign of their intent to consolidate the film industry's trade publications in the same manner they had done for the automotive and iron industries.<sup>101</sup> But the Swetlands would have to compete for the crown against William A. Johnston (*Motion Picture News*), the Chalmers family (*Moving Picture World*), and an outspoken young Chicago publisher, Martin Quigley (*Exhibitors Herald*). For the next twelve years, the dream of consolidation and control animated the actions of the film industry trade papers, as well as, more famously, the film manufacturers and distributors that they chronicled.

Yet a fallacy inhered in Richardson's proposal, a fallacy that continually pushed the dream of "ONE trade paper" out of reach. For one trade paper to represent the



motion picture industry, there needed to be consensus about what the industry was and what it should be. No such consensus was reachable. Exhibitors resented manufacturers and distributors, who, in turn, distrusted exhibitors. And within the ranks of exhibitors, the conflicts between factions only grew across the following two decades. As the national exhibitor organization splintered, local exhibitor organizations and the regional trade papers that spoke to them only became more important. Additionally, the writers, directors, producers, and actors living and working in Southern California came increasingly to regard themselves as belonging to their own community. This production community was distinct from the cluster of industry executives in New York, and each community found publications that served its needs. The trade paper war of 1917 was an explosion of long-simmering tensions, enhancing and damaging industry reputations in the process. Ironically, though, it did not have the effect of putting any trade papers out of business. In fact, the opposite occurred. As we will see in the next two chapters, the number of film industry trade papers doubled over the next five years.