The Greatest Films Never Seen

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ABSTRACT

This chapter turns to a particular historical example that illustrates how copyright and archival practices have intertwined with one another for as long as film itself has existed.

KEYWORDS
Paper Print Collection, film history, Brighton FIAF Congress 1978, ‘activation’ of copyright
In the preceding chapters, we explored copyright in relation to archival practices and administrative procedures, highlighting the role human agency plays in these processes. However, before the final chapter draws some conclusions from this analysis, this chapter turns to a particular historical example that illustrates how copyright and archival practices have intertwined with one another for as long as film itself has existed.

This example hails from the formative years of the film industry, a time when (prior to the 1912 Townsend Amendment in US copyright law) motion pictures could not be registered as such for copyright protection. In order to guard their creative products against competitors, filmmakers printed their films onto photographic paper and deposited them for copyright as a series of individual photographs at the US Copyright Office, now collectively known as the Paper Print Collection. This method of complying with a technicality in the copyright law inadvertently led to the preservation of the earliest chapter in US motion picture history – one that would otherwise have been lost to us.

The chapter then goes on to examine the historical significance of the relationship between copyright and archival practices, and some of the consequences of this relationship for the study of film history. It demonstrates not only how (circumventions of) mandatory copyright formalities were instrumental in safeguarding the early film titles, but also how, in turn, the films later played a pivotal role in the landmark 1978 International Federation of Film Archives (FIAF) Congress in Brighton (UK), a crucial turning point in film historiography.

**CLOSE-UP: THE PAPER PRINT COLLECTION**

The following ‘close-up’ tells the story of how filmmakers in the US circumvented the early-20th century mandatory copyright formalities, leading to the formation of the Paper Print Collection. The collection (approximately 3000 film titles) was formed in the US Copyright Office at the Library of Congress between 1893 and 1915, where it is still housed today.

The arrival of film is often presented in a somewhat compressed and oversimplified manner, starting with the Lumière Brothers’ first public screening (with the first paid admission) in Paris in December 1895. The processes of
invention and technological innovation, however, are infinitely more complicated. Film did not arrive as a ready-made invention: the landscape in which it emerged at the end of the nineteenth century was made up of a complex interaction of events and personalities from across the fields of science, technology, art, education, and entertainment (Punt, 2000). The argument that the invention of film was therefore a process that took place over time is borne out by the history of the various experiments in registering the copyright of its early productions.

At the time the new medium was taking shape, around the end of the nineteenth century, US copyright law laid down a series of mandatory formalities, which remained in place until the US became a party to the Berne Convention in 1989. However, the law made no specific provision for motion pictures: celluloid film was still in the process of invention and could not be registered as such. It took time to figure out whether film was an extension of existing media or a new medium that required new regulation. When it was eventually recognized as a medium in its own right, the 1909 US Copyright Act was revised with the Townsend Copyright Amendment in 1912 to allow for the express protection of motion pictures. Peter Decherney (2012, p. 21) argues that the changing methods of applying for copyright ‘reflected the battles to define what film [wa]s, and to define standards of originality in filmmaking’, and, more importantly, to ‘stem the tides of piracy’.

In the US, during the late nineteenth century, Thomas Edison (1894, p. 206) attempted to devise ‘an instrument which should do for the eye what the phonograph does for the ear’. Before he entered the film market, however, Edison’s work was widely pirated: as his phonograph records were proprietary, they were frequently copied in order to bypass the technologies that tied them to the players (Decherney, 2012). Early film formats were also proprietary: they only fitted with particular devices, preventing an effortless exchange between the discrete apparatuses. Sprocket holes, for instance, were located in different places on the actual film strips. The lack of standardization was an important motivation behind early film-copying practices: only by re-photographing each film frame – known as ‘duping’ – could these proprietary systems be copied into each other. But it was not merely a lack of standardization that led to the duping of existing films, an arguably more important reason was the fact that it was less expensive than producing an original film. Sometimes films were copied one-to-one and resold as such, sometimes they would be copied, recut, and sold as a new story under a new name. In order to avoid a repetition of his previous experiences with the phonograph, Edison devised innovative ways to protect his work against competitors, one of which he appears to have discovered by chance.\footnote{In order to illustrate his company’s new motion picture technology for...}

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a promotional article in *Harper’s Weekly*, Edison exposed the negative for a Kinetoscopic Record of a Sneeze on strips of bromide photographic contact paper and affixed them to a cardboard backing. Decherney (2012) argues that it must have occurred to someone that they had transformed a film into an object that could be protected by copyright. Edison’s assistant W.K.L. Dickson sent the object to the Copyright Office to be registered – not as a *film* but as a *photograph*. EDISON KINETOSCOPIC RECORD OF A SNEEZE shows one of Edison’s engineers, Fred Ott, inhaling some snuff and then sneezing violently (hence, the piece is colloquially known as *Fred Ott’s Sneeze*); it is the first surviving paper print at the Library of Congress, dated January 1894.4

So it was that a chain of historical ‘accidents’, which must have seemed of little significance at the time, were crucial to the formation of the Paper Print Collection. First, a clerk at the Copyright Office decided that the paper print could be registered as a photograph (Mashon, 2013); moreover, the paper print was not just registered as a photograph, but a *series* of photographs were registered as *one* photograph. Second, although there were experiments with other registration methods, such as registering representative frames of each scene of a film,5 the practice of registering films as photographs went unchallenged for nearly a decade. Third, the paper prints were handled in much the same way as other Library of Congress registration records: they were filed and put into storage in the basement of the Library’s Jefferson building. Finally, upon opening the basement door many years later, someone saw the potential worth of what they found there and made a case for the prints’ revival (Walls, 1953; Loughney, 1988; Grimm, 1999; Paletz, 2001).

There is yet another historical accident that should not be overlooked in the larger story of the Paper Print Collection. Around 1915, actual motion pictures began to be registered, but, because of the inflammable nature of the nitrate stock, they were photographed and printed on, the decision was made not to keep these films. This policy changed in the late 1940s when the Library of Congress acquired appropriate storage facilities for the inflammable nitrate material (Mashon, 2013). As a consequence, the library initially contained a wealth of film material from before 1912 but little from 1912 to the late 1940s. Undoubtedly, there were many more such moments that carried an unanticipated significance for the formation and survival of the collection.

The rediscovery of the Paper Print Collection is another story replete with serendipitous connections, this time involving both credited and uncredited contributors.6 It encompasses voluntary contributions to the collection’s initial compilation of an inventory; grant applications for restoration; external collaborations with other film archives, such as the UCLA Film Archive7 and the Academy of Motion Picture Arts & Sciences; and a special Academy award for the collection’s restoration efforts. Unlike the (lost) films from which they
were copied, the paper prints could not be projected, but had to be copied back onto film. As they had been kept rolled up for several decades, it was necessary first to restore their pliability – a process that was complicated by the early equipment’s lack of standardization. This account cannot detail the frame-by-frame restoration of the 2.5 million feet of paper rolls, as the main focus here is on some of the legal concerns affecting the public accessibility of archival material, but it is important to note that issues of restoration also play a part in impeding or facilitating access to the film material.

This section can only give a glimpse of the richness of the Paper Print Collection’s contents. The collection not only illuminates a pioneering chapter of film history, with the earliest examples of ‘actualities’ (documentaries showing everyday life), preserving an astonishing record of American industrial life at the turn of the 20th century, but it also provides an exceptional insight into the evolution of narrative film. It contains examples of the development of film from what Tom Gunning (1990, pp. 232-233) has termed the ‘cinema of attraction’ through to its ‘narrativization’ in the first few decades of the 1900s. Highlights of the collection include such landmark films as Edwin S. Porter’s THE GREAT TRAIN ROBBERY (US 1903), widely considered to be one of the first Westerns, as well as a significant part of the oeuvre of filmmaker D.W. Griffith.

It is worth restating at this point that it is of course only possible to study films if they have survived and are (made) publicly accessible, and this has an obvious effect on film history. Film history is generally understood as the history of films, whereas cinema history is the history of film’s relation to society or culture (Punt, 2000; Strauven, 2013). Cinema history can be told without the films themselves – for instance, through architectural records, patent registrations, and trade papers. Film history can also be told without the films, but once we focus on a critical understanding of the more aesthetic side of the story, such as the development of (continuity) editing, the study of film form, or the evolution of storytelling, the films themselves have to play a key role. An individual researcher can of course consult a large majority of titles on the premises of an archive; however, what is at stake here is the wider accessibility of films that is crucial to constructing more comprehensive frameworks of meaning.

Following initial restoration efforts, film prints of some of the titles first started to become available in the late 1960s; they began to circulate among libraries and universities as 16mm compilations (Bordwell, 1997). The films went on to become a staple of the American avant-garde in the 1960s and 1970s: filmmakers such as Ken Jacobs, Hollis Frampton, and Ernie Gehr reused films from the Paper Print Collection in their artworks in the process of interrogating and exploring the different dimensions of narrative, authorship, and ownership (Testa, 1992). The films also played a fundamental role as
primary source material in the FIAF Brighton Congress in 1978 (briefly mentioned in Chapter 1). Both the archival and the academic film communities view this conference as the cornerstone of what has come to be known as the ‘New Film History’ (Chapman, Glancy, and Harper, 2007).

The Brighton Congress was a groundbreaking collaborative venture between archivists and film scholars, who were gathered together as a group for the first time. Over the course of several days, they watched hundreds of fiction films, in chronological order, from the period between 1900 and 1906. Prior to the Brighton Congress, film history had generally consisted of recording handed-down recollections: ‘Georges Sadoul, Jean Mitry, and other post-war historians [...] wrote their vast tomes on the basis of [...] memories, not intensive [...] viewing’ (Bordwell, 2013, p. 73). The so-called New Film Historians who emerged from the Congress questioned the sources of their predecessors, as well as the particular use of those sources. By contrast, their aim was to return to the archival films, using them as a primary source with which to challenge previously unquestioned notions about film itself. This project entailed, on the one hand, a revision of already familiar material, and, on the other, a wider exploration of the film archives in search of uncharted material.9

The films shown during the Congress were provided by several large international archival institutions, such as the Museum of Modern Art, but, by far, the largest number was supplied by the Library of Congress from the archive of films submitted for copyright to the Paper Print Collection (Bowser, 1979). The screenings and the subsequent scholarship led to a fundamental reevaluation and revision of the early silent film period. Of course, the oeuvres of later individual filmmakers, such as Alfred Hitchcock or Howard Hawks, have been revised over the years, but no other major period in film history has been subjected to so systematic a revision based on the available filmic source material. The new approach to history – based on actually watching the films – changed the conception of the film archive from terra incognita to a repository of historical artefacts and filmic source material.

It is now (at the time of writing) a little over 120 years since Fred Ott’s sneeze was captured on film, and it has recently been added to the National Film Registry (Barnes, 2015) – a list, started in 1989 (see Chapter 2), which each year adds a further 25 films deemed to be of outstanding cultural, historic, or artistic value. Although, at the time of the prints’ rediscovery in the early 1940s, they struggled to ‘transcend individual estimations of their significance as history’ (Paletz, 2001, p. 79), there is now little doubt that the oldest surviving paper print has true historic worth.

Thus, an ‘ingenious method of complying with a technicality in the copyright law [...] became the inadvertent means for recovering film history’ (Paletz, 2001, p. 71). But the story of the Paper Print Collection continues to be a work-in-
progress. Film preservation is never done. The discovery and recovery of film history is similarly a continuing story of cultural reinterpretation. John Arnold (2000, p. 122) argues that ‘history is an argument, and arguments present the opportunity for change’. Despite ongoing digitization efforts, less than 20% of the collection is widely accessible for viewing: some 500 titles are available online, while currently all the other titles of the collection have to be consulted in Washington. Only if it is publicly accessible, can this material provide the opportunity for debate and argument, for reassessing, revising, and writing history.

THemes AND TENSIONS

There are three components in the story of the Paper Print Collection that are of particular interest in light of the larger relationship addressed in this book between the film archive, copyright, and film historiography: (1) the historical accidents that take place in archival practice, which can be called the ‘activation of IP’; (2) the public domain status of the collection at the moment of its reuse; and (3) the public accessibility of the material that leads to the films’ potential for history-making, including reinterpretations of what has gone before.

1. Archival practice, and the ‘activation of copyright’

Archival access is not only controlled by those who own the rights, but also by those who own the physical assets. As argued earlier, copyright is a guiding filter for digitization and archival access practices, and is enhanced by certain key factors inherent to institutional archival practice, including the active choices of its archivists. Human agency is clearly expressed in the example of the Paper Print Collection: someone decided that a series of photographs could be registered for copyright as a single photograph; someone decided not to keep the nitrate film copies once it was possible to deposit celluloid for copyright; and someone fought for the films’ restoration. This ‘activation of copyright’ can be discerned particularly within the confines of an archival institution.
2. Public domain status

Mandatory copyright formalities have been instrumental in the preservation of the earliest chapter in US film history. The legal context in which the films emerged, however, is only part of the story. The copyright status of the material at the moment of its reuse (public domain) plays a vital role in the films’ wider accessibility for further study, and is perhaps as important as their fascinating content.

As the two examples of the reuse of films from the Paper Print Collection (mentioned earlier) show, their public domain status was a crucial yet far less acknowledged catalyst in the events. Aside from the use of their marvelous content for détournement, the importance of found-footage films to the American avant-garde movement was partially economic: there was no need for a camera and no costs attached to purchasing or processing the films, so the budget could be relatively low. There were also no costs for copyright permissions in the case of the Paper Print Collection, as these films were in the public domain. The same applied to the films screened at the FIAF Brighton Congress. The Congress has often been framed in revisionist terms in its relation to early cinema. But film researchers and legal scholars alike have failed to notice the crucial role that the copyright status of the film material plays in the process. The systematic revision of a particular period of film history was undertaken with the material that was easiest to use, legally speaking; the same sort of revision of periods still under copyright would be significantly harder to prepare and organize.

3. The potential for (film) history-making

What the example of the Paper Print Collection makes clear is that film history is composed of archival lacunae: any films that survived were registered for copyright, but it is not hard to imagine that there must have been many more films produced. The collection represents the so-called ‘survivors of film history’ (Mashon, 2013). There is no accurate record of how many films were produced during the earliest days of film, nor is it known what particular percentage survives worldwide. The Paper Print Collection itself represents a significant portion of the percentage of titles that survived in the US. However, we can only study those films that survive if they are publicly accessible. Some of the filmmakers and companies that are well-represented in the collection can be studied simply because their material is available, and, as a result, we tend to endow it with qualities that are possibly erroneous – for example, the reason there appear to be so many ‘firsts’ in the collection is undoubtedly due to the fact that it is the only material that is available.
What the example of the Paper Print Collection also makes clear (partially through the exposure of its archival lacunae) is that it is essential to take a critical stance towards source material. This is perhaps even more the case at present, a time of seemingly ubiquitous access, when the landscape of the place of storage for filmic sources is changing in response to digitization and funding pressures. Placing the source material in its historical context – understanding what factors influence its accessibility, including its legal provenance – is crucial to the analysis of that part of the archival collection that is publicly accessible.

The creation of the Paper Print Collection was due not to the mandatory copyright formalities, but to their circumvention. Over several decades, the films have shifted in nature from registration records to historical artefacts and primary source material for film-historical research. It was the legal context and copyright status of the material, plus the human agency behind the ‘activation of IP’ during the process of circumvention that allowed the film material to express its potential for further history-making. Thus, the material itself embodies the history of copyright in relation to archival practices and administrative procedures. The example of the Paper Print Collection confirms that, when copyright is used to analyze public access, it helps bring to light these archival practices, and (paradoxically) shifts the focus of the debate away from an exclusively legal one.

Although archives, and particularly public-sector archives, are essential to the safeguarding and preservation of film material, they are not neutral institutions. Extant material is not necessarily available and available material is not necessarily publicly accessible. A certain fragmentation takes place in the archive that results in a narrow(er) and fragmentary view of its holdings, and, as such, the archive can be seen as a mediator between copyright and the potential for history-making.

**THE ARCHIVE AND ‘DOING’ HISTORY**

The films in the Paper Print Collection played a paramount role in the New Film History. These revisionist historians criticized the chronology and teleology of traditional historiography, whose main topic was the ‘history of film as a progressive development from simpler to more complex forms, treated according to that biological analogy of birth/childhood/maturity’ (Bordwell, 1997, p. 9). Classical film history was therefore based on the assumption that a succession of individual filmmakers were responsible for the evolution of film in an orderly and linear fashion into an increasingly nuanced art form, and the resulting historiography comprised a description of creative movements...
associated with directors and their masterpieces. In radical contrast to this, the New Film Historians aimed to study film 'from its own point of view, not simply as part of an evolutionary scheme' (Horak, Lacasse, and Cherchi Usai, 1991, p. 282).

These historians also questioned the material sources their predecessors based their histories on, as well as their use of those sources: what marks out New Film History is its call for a return to archival primary sources, both filmic and (specifically) non-filmic. Up to the late 1970s, however, one of the greatest difficulties was the lack of material available for intensive viewing. David Bordwell (2013, p. 68) states that, partly due to the nature of the material, ‘[f]or about eighty years, the study of film history was dominated by an economy of scarcity'. Consequently, the writing of film history traditionally comprised a theoretical reconstruction without recourse to the material evidence of the films themselves; it was based instead mainly on catalogues, clippings, and recollections. The call for primary research, however, precipitated a return to the material filmic sources (Elsaesser, 1986). In a transcript of a roundtable discussion ten years after the Brighton Congress, Tom Gunning highlights the conference’s importance in this respect – and the excitement it generated:

The exciting thing for me [...] was the possibility of really seeing the films, for a period that was largely legendary. It was covered in almost every basic history, but often these histories, particularly the ones available in English, were several decades old. [...] The importance of looking at the films themselves [...] was equally important to working out production histories and social histories. To actually look at the films themselves and to understand how they were operating became in many ways the most crucial focus of the new work. (Gunning, cited in Horak, Lacasse and Cherchi Usai, 1991, p. 282)

The emphasis on the reevaluation of existing histories was corroborated by Jan-Christopher Horak in the same roundtable discussion:

When I think back on Brighton it seems [...] important just in terms of my view of film history. Having previously been to graduate school, where even though there was a concentration on film and film history, you really only saw the canon of film history, which meant you got to see, at best, a few Méliès, a Lumiére or two, THE GREAT TRAIN ROBBERY, maybe LIFE OF AN AMERICAN FIREMAN (the old version), and that was about it. And here, for the first time you got not a horizontal view into film history, but really first vertical and then horizontal in a way that has changed my thinking completely on the history of cinema. It’s had an enormous impact, because
for me the term primitive cinema is no longer a part of my vocabulary since Brighton. (Horak in Horak, Lacasse, and Cherchi Usai, 1991, p. 283)

Horak also underlines how the event’s remit crucially included the attempt to identify historical gaps, to indicate the importance of films previously considered insignificant, and potentially to discover archival rarities through an exploration of the uncharted territory of the film archive:

[I]t made me realise that if it’s true for this early period, it was probably true for every period of film history. You could learn from every kind of film, whether it was the worst trash, or a film that was considered high art, because here we were looking at a period that, according to the classic historians, was in fact not worth considering at all, and we were finding all these gems. And I think that just that change in the attitude towards film history, was a very important experience. (Horak in Horak, Lacasse and Cherchi Usai, 1991, p. 283)

As James Chapman, Mark Glancy, and Sue Harper (2007, p. 7) claim, the revisionist film history’s call for primary research also ‘expanded the range of primary sources available to the researcher’. For example, there was a renewed focus on different kinds of sources – that is, other, previously ignored non-filmic primary sources, such as patent registrations or architectural records, that could potentially shed light on the history of film. In his landmark essay, ‘Writing the History of the American Film Industry: Warner Bros and Sound’, dating from just before the Brighton Congress, Douglas Gomery states:

[W]e must not simply trust the old bibliographies or faulty recollections, but go out and seek the evidence wherever it may be. [...] We must [...] begin to search out new sources of primary data [...] to challenge the usual conclusion, as well as the terms in which that explanation is written. (Gomery, 1976, p. 119)

The New Film Historians were interested in revealing the existence of different kinds of histories, other than that of the ‘masterpiece tradition’, as Robert Allen and Douglas Gomery (1985, p. 71) call canonical film history. These other histories included the history of film technology and of film’s relationship with society or culture. The renewed focus on non-filmic sources, the ‘contextual aspects of film history beyond the film artefact’ (Gosvig Olesen, 2017, p. 76), led to a new discipline, cinema history – that is, ‘the history of cinema as institution, as exhibition practice, as social space (as opposed to film history, which is, generally speaking, a history of masters and masterpieces)’
(Strauven, 2013, p. 5). As recently as 1975, film history was considered to be the history of films, and it was written as if films had no audience or were seen by everyone in the same way (Kuhn and Stacey, 1998). But, as Thomas Elsaesser (1986, p. 248) says, ‘[t]o do film history today, one has to become an economic historian, a legal expert, a sociologist, an architectural historian, know about censorship and fiscal policy, read trade papers and fan magazines’.

One final but key point in which the New Film Historians differed from their predecessors was their collaboration with film archives and archivists, a result of their newfound interest for archival sources. Former Museum of Modern Art film curator John Gartenberg argues:

[T]he scholars’ awareness about materials held [was limited]. On their part, researchers have often relied on their memories and secondary sources, including other written film histories, rather than digging into primary resource materials in the archives. [...] Scholars have often viewed archivists as unnecessarily secretive about their holdings. Conversely, archivists have viewed scholars as largely unaware of the workings of a film archive and of the delicate role the archivists play as mediators between the owners of the films [...] and the users of the product. This kind of collaboration between film archives and universities and archivists and film scholars is significant not only for the recent Brighton publication, but also in the model it established for future interactions on similar such projects involving intense study of neglected areas of film history. (Gartenberg, 1984, pp. 6-13)

FIAF Brighton was the first time that archivists intervened in film history by curating a film programme that allowed film historians to draw new conclusions. This changed the relationship between academics and archivists from a vendor-client one to a cooperative venture. The Orphan Film Symposium, a biannual gathering of film scholars and archivists with the aim of studying ‘all manner of films outside the commercial mainstream’, is a contemporary example of this sort of collaboration. This gathering focuses on viewing these films (in a revisionist spirit) in order to study neglected areas of film history.

Thus, the availability and public accessibility of archival film material remains a topical concern:

The Brighton meeting was itself symptomatic of a new urgency felt by film archives about the preservation and accessibility of materials from the early period. [...] As so often in historiography, new criteria of pertinence necessarily affect the hypotheses historians forge, consciously or unconsciously, about the data in question. (Elsaesser, 1990, pp. 2-3)
In the context of the film archive, this means that different stories can be told using the same body of work. Perhaps more importantly, a different kind of film history to that of the canonical textbook variety emerges when the researcher takes into consideration the archive’s material holdings. The primary source material can be used for reinterpretations, arguments, and opportunities for change – in short, it holds the potential for history-making.

Canonical film history is driven by the notion that only a small portion of all films is worthy of serious study. But, as we saw earlier, there is often a serious discrepancy between textbook film history and the actual holdings of an archive. In many ways, the New Film Historians, in their ‘return to the archive’, rejected the whole notion of a canon as a central guide to writing history. The film archive itself is a testament to the fact that the records that survive into the present are always incomplete: it is impossible to collect everything that has been produced, and it is impossible to preserve everything that has been collected. The problem is that the sheer volume and quality of the world’s film archives – from national institutions (such as EYE) to local and private collections – conveys a sense of archival completeness. Recently, this misleading impression has, to some extent, been exacerbated by developments in digitization and a shift in focus towards digital access.

In the preceding chapters, we looked at copyright ownership as one of the factors impacting archival access. Other factors include the institutional context of the archive, and its acquisition policies and preservation activities. The process of digitization of analogue material – the migration of digital files, the creation of video masters in different sorts of formats (ranging from cinema projection to streaming), and ensuring the formats are compatible – is a costly affair. Hence, funding issues, especially when the investment in preservation is tied to providing online access, have become arguably the most fundamental impediment to access.

In this context, it is worth revisiting some of the archival practices and administrative procedures that underpin the fragmentation of the archive. Film historians construct a version of film history based on those films that film museums have collected, restored, and provided access to over the course of the years (Lameris, 2007). This visible part of the archive, however, is only part of the picture; for various reasons, be they political, economic, or curatorial, ‘historians are not seeing most of the films that exist to be studied’ (Streibl, 2009, p. ix). Indeed, in 2000, Paolo Cherchi Usai (p. 69) claimed that ‘less than 5 percent of all the film titles preserved in the average film archive is seen by scholars […] and much of the remaining 95 percent never leaves the shelves of the film vaults after preservation has been completed’. More recently, Janna Jones (2012) has chronicled how current preservation practices help shape cinematic heritage. She echoes Allen and Gomery (1985) when she highlights
certain ‘masterpiece’ restoration practices and addresses what can be seen as a process of canonization within the archival practice:

Archives do have a relatively small collection of archival gems that they rely upon to help commemorate and acknowledge the cinematic past, but they do not have the time or the money to construct identities and cinematic meanings for most of their material. [...] Until an archive can construct frameworks of meaning, moving images are merely celluloid matter that requires care and maintenance. Cinematic abundance suggests potential for the writing of future histories, but most unidentified film cannot speak for itself. Filmic material cannot reach its potential for history making until its biography unfolds. [...] It is often the case that the materials with an already stable identity receive the most attention and their biographies continue to grow. [...] Films deemed important by the archive circulate more easily, helping to reify their cultural and historical meanings. Films that have not yet been considered for preservation tend to remain obscure and unseen. [...] Current restoration discourse and practices literally assemble and help to shape cinematic history and reveal how the moving image archive influences the ways that a film history is understood. (Jones, 2012, pp. 112-137)

As Ian Christie (2013, p. 42) observes, this process of canonization is ‘self-reinforcing, since canonic works tend to be shown most often, to be selected for restoration by archives, and to be used in education’. However, Bordwell (2013, p. 81) has recently suggested that the canon has ‘largely collapsed’ and that ‘there are no longer “minor” films. Every movie is potentially an object of veneration for some audience, and an answer to some research question. [...] [T]he economy of scarcity has become an economy of glut.’ Archives still ‘harbor a great many uncelebrated films that can shed light on the history of cinema art. If you are asking certain questions, no film is uninteresting’ (p. 68).

New technologies have been and are being created to use and distribute collections in new ways, leading to heightened expectations of accessible collections that are ‘universal, instant, online, and free’ (Enticknap, 2007, p. 15). Chapter 4 also looked at issues of digitization, in particular the ‘digital skew’ (the disparity between analogue and digitized collections) in relation to works in the public domain. The issue of what could be called a ‘cultural skew’ is obviously far larger than the case of the public domain works suggests. As Horak (2007, p. 30; p. 40) states, only a ‘minute amount of material in relation to the total holdings of public archives has been digitized. [...] [T]he rest remains invisible to all but a handful of specialists.’ In 2007, 82% of the National Film Registry was not available to general audiences in any digital format (Horak,
This percentage includes silent films, documentaries, avant-garde films, and independent films by ethnic minorities. Their unavailability has an immediate effect on the ways in which these sources can be used:

This limited access to our collective film history severely constrains the scope of what can be taught to students now that the majority of college faculty teach primarily from DVDs. Thus, the construction of film courses is increasingly limited to a canon according to the market logic of Blockbuster Video. [...] Given these restrictions, students are confronted with a fragmented, incomplete, and distorted view of film history, based on what commercial distributors deem to be viable in the marketplace rather than what scholarship has ascertained as important. (Horak, 2007, p. 39)

This relatively limited range of available archival sources not only impacts teaching, especially the teaching of film history, but also has more long-term consequences for historical research, and the construction of the history of film that relies on these sources, and film historiography.

**THE ‘RESEARCH PROGRAM’**

‘The basic problems about “doing” film history are the same as with any other form of history: what is the object of study, what counts as evidence and, finally, what is being explained?’ (Elsaesser, 1986, p. 247) Paul Grainge, Mark Jancovich, and Sharon Monteith describe the challenge of film-historical research as follows:

Research is always about finding a focus. The attempt to capture and reproduce the richness and fullness of the historical past is not only impossible but seeks to mirror its object of study, rather than identify a purpose for studying it and studying what is relevant or irrelevant to that purpose. As a result, the intense conflicts over the relevance and irrelevance of specific details, or over what is significant, is not simply a conflict over absences or omissions but over the appropriate focus and purpose of historical research. (Grainge, Jancovich, and Monteith, 2007, p. x)

David Bordwell and Kristin Thompson (1994, p. xxxiii) call the particular framing of the film-historical enquiry the ‘research program and its questions’. This term moves the focus away from a desire for historical ‘completeness’ to the critical framing that is expressed in the historian’s deliberate choices as he or she is (of necessity) forced to select from a wealth of material.
Written history always requires the intervention of a human interpreter (Manoff, 2004), and, as a result, it is a process that will always be partial, provisional, and written from the viewpoint of the present. For this reason, the most interesting histories are those that challenge the usual conclusions. Christian Keathley (2006) claims that Thomas Elsaesser was one of the first historians to encourage the exploration of so-called counterfactual film histories. Counterfactual history is a form of historiography that pursues the what if questions: that is, ‘histories that would mine undeveloped or unconsidered points of entry into the cinema as object of study’ (Keathley, 2006, p. 133). According to Elsaesser (cited in Keathley, 2006, p. 134), ‘[s]uch a counter-factual conception of history is not the opposite of a “real” history, but a view prepared to think into history all those histories that might have been, or might still be’.

Both the 1978 Brighton Congress and the Nederlands Filmmuseum, which, in the late 1980s and early 1990s began to focus on the aesthetics of its own archival collection instead of following established historical categories, are examples of events or policies that led to the rewriting of history and the birth of counterfactual film histories. Both examples asked the question what if? In the case of the Brighton Congress, the main question underpinning the endeavour to screen as many surviving fiction films from 1900 to 1906 as possible was: what if the actual films are screened, viewed, and examined? Will they upturn accepted notions of this so-called ‘primitive’ period of cinema? Whereas the question the Nederlands Filmmuseum posed was: what if the preservation and presentation of the archive’s collection is based on the archivists’ personal understanding of what is beautiful or pleasurable (in contrast to the focus of other institutions)? How will this impact the established canon of film?

When the same material is ‘reshuffled’, a different story emerges, and a new point of entry into cinema as an object of study appears, and when the usual conclusions based on archival sources are challenged, their true potential for history-making is revealed.

NOTES

1 As recently as 2011, the invention of cinema was portrayed this way in Martin Scorsese’s HUGO (US, Paramount Pictures).

2 During the 1908 Berlin Revision of the Berne Convention, mandatory copyright formalities, such as registration, renewal, notice, and deposit, were abolished. They were gradually eliminated in all the signatory countries and copyright protection nowadays is automatic upon creation, and exists separately of formalities.
A more detailed account of the period remains outside the scope of this book. For an excellent examination of the period, see Peter Decherney (2012). Pascal Kamina (2016) states that films raised two series of questions in terms of copyright protection. The first concerned the protection of films against infringement by competitors and unlicensed theatre owners; the second, the possibility of infringing preexisting works, mainly novels or dramas, through cinematography. The second concern, however fascinating, also remains outside the scope of this book.

The production date of the film is 7 January 1894; the copyright registration date is 9 January 1894.

In comparison, the British Film Copyright Collection consists entirely of individual frame enlargements and representative frames of each scene. It cannot be used for the study of film (form) in the way that the US Paper Print Collection can be used. The UK frames are the only surviving records of the subjects and researchers have unearthed the names of some previously unknown producers. The ‘collection’ has mainly been used to correct information about dates, titles, and names. For more background on the British Collection, see Richard Brown (1996).

Whether the discovery of the collection should be called a ‘discovery’ at all is open for debate. Although there is some evidence that Library of Congress staff knew that these artefacts were in the library’s basement, nothing was really ever done with them (Grimm, 1999). What is important to note in this context, however, is that, when the titles were rediscovered and reused (depending on which precise date is chosen), they had already fallen into the public domain. This information was provided by Mike Mashon in a personal email to the author on 27 August 2015.

This is now the UCLA Film & Television Archive.

For a descriptive analysis of the collection, see Patrick Loughney (1988).

The issue of demand is also discernible here: until film historians began reevaluating early film history, there was virtually no interest in these films, and therefore there was no institutional will to preserve them or make them accessible.

Available at: http://blogs.loc.gov/now-see-hear/2014/05/where-it-all-began-the-paper-print-collection/ The other titles can be consulted at the Motion Picture Television Reading Room, Motion Picture, Broadcasting and Recorded Sound Division, Library of Congress, Washington, DC (accessed on 18 October 2017).

A recent point of historiographic interest is that the material of the screenings in black and white at the Conference, ‘which had so energetically revamped the study of early cinema, had originally been in colour’ (Delpeut, 2018, p. 25).

David Pierce (2013) has meticulously researched the survival rate in the American context.

Available at: http://www.nyu.edu/orphanfilm/ (accessed on 23 April 2016).


Christie, Ian (2013) ‘New Lamps for Old: What Can we Expect From Archival Film Festivals?’, in Alex Marlow-Mann (ed.) *Film Festival Yearbook 5: Archival Film Festivals*. St Andrews: St Andrews Film Studies, pp. 41–53.


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