



THE JOHNSON-JEFFRIES FIGHT
100 YEARS THENCE:
**THE JOHNSON-JEFFRIES FIGHT AND
CENSORSHIP OF BLACK SUPREMACY**

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In April 2010, the Supreme Court handed down its decision in *United States v. Stevens*, in which the Court struck down a federal law that banned the depiction of conduct that was illegal in any state. Exactly one hundred years earlier, without any federal law, censorship of conduct illegal under state law and socially condemned mushroomed in most towns and cities across the country.

In the summer of 1910, states and municipalities adopted bans on prizefight films in order to censor black supremacy in controversial sport that was illegal in most states. It was one of the worst waves of movie censorship in American history, but it has been largely ignored and forgotten.

On the Fourth of July, 1910, the uncompromising black heavy-weight champion, Jack Johnson, knocked out the “great white

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hope," Jim Jeffries, in what was dubbed by the press and promoters as "the fight of the century." Jeffries, a former heavyweight champion himself, returned to the ring after a five-year retirement to try to reclaim the heavyweight championship for the white race. He failed.

The knock out that sent the great white hope down to the floor shook the nation, prompted deadly racial riots, and induced one of the most disturbing waves of movie censorship in American history.

This Article brings to light the story of a national movement to censor black supremacy, a movement that had significant success. The Article is a tribute to Jack Johnson and should serve as a contemporary warning about the risks and threats of content regulation, with lessons to the controversy over "community standards" in censorship.

I. PROLOGUE

In July 1910, a legal wildfire scorched the rights of blacks and entrepreneurs, but left close to no marks in the legal literature. During the three days following Independence Day, numerous states and municipalities adopted laws and policies to ban prizefight films in order to censor the black supremacy of one of the greatest athletes in history – Jack Johnson.

This Article chronicles the events that prompted this disturbing wave of movie censorship, and it explores how so many legislators, governors, mayors, and other public decisionmakers simultaneously acted to suppress content in a racist fashion. One of the oldest legal debates over obscenity is the role of "community standards."¹ The central question in this debate is whether censorship rules should be derived from local or national cultural and moral standards. This Article demonstrates how the adoption of community standards may inflate costs for a suppressed industry (such as the motion picture industry) and, consequently, deter it from challenging socially undesirable standards.

¹ See, e.g., *Miller v. California*, 413 U.S. 15 (1973). See also FREDERICK F. SCHAUER, *THE LAW OF OBSCENITY* (1976).

On July 4, 1910, James “Jim” Jeffries stepped into the ring to fight John “Jack” Arthur Johnson. Jeffries was the former heavyweight champion of the world. In May 1905, he retired undefeated from boxing because no white man was left to fight him.² Johnson was the heavyweight champion of the world. He was black and the only man who could arguably challenge him was Jeffries.³

Sixteen months earlier, Jeffries explained the motivations for his return to the ring: “I feel obligated to the sporting public at least to make an effort to reclaim the heavyweight championship for the white race. . . . I should step into the ring again and demonstrate that a white man is king of them all.”⁴

Jack Johnson was the son of emancipated slaves. He ignored many social conventions, defeated whites in the ring, had claims for and gained a prime manhood symbol—the boxing heavyweight championship, and had public relationships with white women.⁵ Johnson was widely regarded as a “bad nigger,” a status that came with many traits, most of which were related to lack of conformity with social order and norms.⁶ Johnson perfected the qualities of the “bad nigger” and, worst of all, disregarded danger and interracial taboos.⁷ To add insult to injury, Johnson was intelligent, strategic,

² See *infra* Part I.

³ For analysis of sports experts of the time, see *What is He Going to Do?*, WILKES-BARRE TIMES, Nov. 5, 1903, at 11; *Ring Honors to Negro Race*, CHI. DAILY TRIB., Jul. 3, 1910, at C3.

⁴ *Jeffries Will Meet Johnson*, L.A. TIMES, Mar. 1, 1909, at I12. See *infra* Section II.B for a detailed discussion of the circumstances that led to Jeffries’ return from retirement.

⁵ Many biographies tell the story of Jack Johnson. The most notable one is GEOFFREY C. WARD, UNFORGIVABLE BLACKNESS: THE RISE AND FALL OF JACK JOHNSON 5, 47, 88–89, 211 (2004).

⁶ See, e.g., Della Burt, *The Legacy of the Bad Nigger*, 5 J. AFRO-AM. ISSUES 111 (1977); JERRY H. BRYANT, BORN IN A MIGHTY BAD LAND: THE VIOLENT MAN IN AFRICAN AMERICAN FOLKLORE AND FICTION (2003).

⁷ See, e.g., AL-TONY GILMORE, BAD NIGGER! THE NATIONAL IMPACT OF JACK JOHNSON 13 (1975):

Many characteristics of the “bad nigger” have been listed [in the literature] and Johnson qualifies for all of them. Important among these qualities is an utter disregard of death and danger. Primarily because of this feature, one white writer of the late nineteenth century was moved to write that the “bad nigger” was “the most horrible creature upon the earth, the most brutal and merciless.” Surely many whites must have felt this way about Johnson as they watched him risk his life by merely stepping through the arena ropes in front of a predominantly

undefeated, good looking, articulate, and sent his white rivals bleeding to the floor. In the racist United States of the turn of the century,⁸ Johnson was the ultimate “bad nigger.”

Promoters and the press touted the Johnson-Jeffries match as “the fight of the century.”⁹ Leading into the fight, gamblers believed in Jeffries’ supremacy. Indeed, the bets were overwhelmingly in his favor.¹⁰

An article in *Current Literature* provided “scientific” support to the gambling market’s prediction. In the week of the Johnson-Jeffries fight, *Current Literature* published the article, “The Psychology of the Prize Fight,” predicting a win for Jeffries.¹¹ The article showed that Jeffries’ whiteness blessed him with intellectual superiority, while Johnson’s blackness burdened him with an emotional streak that would prove advantageous only for short pugilistic encounters.¹²

white audience to do battle with a white man. In this sense, Jack Johnson was truly the archetype twentieth century “bad niggers.”

(footnotes omitted).

For his relationships with white women, Johnson was the first to be convicted of violating the White-Slave Traffic Act of 1910 (the “Mann Act”), 36 Stat. 825, codified as amended at 18 U.S.C. §§ 2421-2424. The Act prohibited interstate transportation of “woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose.” *Id.* § 2. Senator John McCain is leading a campaign to pardon Johnson and has secured multiple concurrent resolutions urging the President to Pardon Jack Johnson. *See, e.g.*, S.Con.Res. 16 Expressing the Sense that the President of the United States should exercise his constitutional authority to pardon posthumously John Arthur “Jack” Johnson for the racially motivated conviction in 1913 that diminished the athletic, cultural, and historical significance of Jack Johnson and unduly tarnished his reputation (Apr. 1, 2009).

⁸ There are many ways to think about racism in the United States during the early twentieth century. One way is to read this Article. Another is through the rise of the Ku Klux Klan. *See, e.g.*, DAVID M. CHALMERS, *HOODED AMERICANISM: THE HISTORY OF THE KU KLUX KLAN* (3rd ed. 1987); WYN CRAIG WADE, *THE FIERY CROSS: THE KU KLUX KLAN IN AMERICA* (1987).

⁹ *See, e.g.*, *Fight of Century, Says Jack London*, PHILADELPHIA INQ., July 2, 1910, at 10.

¹⁰ *See, e.g.*, *Betting is Peculiar*, WASH. POST, July 4, 1910, at 2; *10 to 6 on Eve of Fight*, N.Y. TIMES, July 4, 1910, at 14; *Jeff Rules Favorite, 100-60*, CHI. DAILY TRIB., July 4, 1910, at 11; *Bet \$40,000 on Jeffries*, WASH. POST, July 4, 1910 at 2; *Wall Street Slow to Place Bets on the Fight at Reno*, N.Y. HERALD, Jul. 2, 1910, at 2; *How Betting Goes All Over the Country*, PHILA. INQUIRER July 3, 1910, at 8; *Betting Favors Jeffries; Odds of 10 to 6 1-2 Offered*, ATLANTA CONST., Jul. 4, 1910, at 9.

¹¹ *The Psychology of the Prize Fight*, 49 CURRENT LITERATURE 57 (Jul. 1910).

¹² *Id.*:

The nation closely followed the preparations for the Johnson-Jeffries fight. In May 1910, *Harper's Weekly* published an article examining the finance and economics of the fight.¹³ The article concluded that:

No longer are ring heroes addressed as "Human Thunderbolt" and the "Fighting Cyclone." Instead we read of Jeffries as the "Hope of the White Race," and Johnson as the "Negroes' Deliverer." When pugilists, no matter what their size or ability may be, are thus introduced to the public, it is but a step to "Billionaire Battlers."¹⁴

A key aspect of the fight's economics was its commercialization through film. *Harper's* estimated that receipts of the Johnson-Jeffries Fight Film would be at least \$1,000,000,¹⁵ an astounding blockbuster success for moving pictures in the early twentieth century. A Syndicate of twelve companies invested the funds to produce a film that would allow people around the world to watch the fight of the century.¹⁶ These companies consisted of prominent pioneers and entrepreneurs who built the motion picture industry.

Expert opinion has inclined to the theory that the negro is the strongest man physically. . . . The superiority of the brain of the white man to that of the black, we are told, is undisputed by all authorities. The white man's brain is a finer intellectual instrument than that of his black brother. . . . [A] white man fighting with a negro to whom he is not physically inferior ought not to be defeated if the contest be prolonged. The explanation is that in the first onslaught of a pugilistic encounter the emotional element preponderates. The negro is more emotional than the white man. Therefore, in a brief encounter, the negro would have the advantage. With the prolongation of the conflict the intellectual power of the antagonists functions.

See also *Intellectuality of the New Pugilism*, 44 CURRENT OPINION 130 (1913) (arguing that Johnson was less useful than Jeffries in the "scientific attitude" since he was "a cotton-picking negro," but "like so many of his unhappy race" he was a "true musician," and concluding that music gave Johnson patience, allowed him to train in the "modern style," and "had its therapeutic effects upon his artistic temperament.").

¹³ Edward B. Moss, *In the Ring for a Million*, HARPER'S WKLY, May 14, 1910, at 13.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ For information about the formation of the Syndicate, see Dan Streible, *Fight Pictures: A History of Boxing and Early Cinema* 218-20 (2008).

Analyzing the financial prospects of the fight, Harper's considered the possibility that racism would hurt box-office receipts through some forms of censorship:

Since there is objection to Johnson's color in the South, however, the moving-picture receipts will not be so large. If the word of the Kentucky Colonels' Association is to be accepted—no offence intended—the films will not be shown south of Baltimore. In fact, the [Syndicate] has stated that they will not be worth more than \$500,000, at most. This is a serious handicap to Johnson, but his brethren believe that he will rise superior to mere monetary influences and to use a Virginia colloquialism, "bring home the bacon."¹⁷

Approximately three weeks before the match, on June 18, 1910, the leading magazine of the Moving Picture Exhibitors' Association, *The Moving Picture World*, published its prediction about the box-office prospects of the Johnson-Jeffries Fight Film:

It is no exaggeration to say that the entire world will await a pictorial of the fight. [With] the unmistakable victory of Jeffries, these pictures should prove in the current locution, a "gold mine." This is the wish that is father of the thoughts of hundreds of millions of white people throughout the world.

[But] if Johnson wins? It is commonly believed that the pictures [will] then be of comparatively little value, especially among the white section of the community.¹⁸

In the roped arena, on July 4, 1910, "[o]nce again ... Johnson sent down to defeat the chosen representative of the white race, and

¹⁷ Moss, *In the Ring for a Million*, *supra* note 13.

¹⁸ *Pictures of the Jeffries-Johnson Fight*, *Moving Picture World*, Jun. 18, 1910, at 1039.

this time the greatest of them.”¹⁹ Johnson knocked out Jeffries in the fifteenth round.²⁰ Johnson’s victory over the great white hope shook the nation, prompted deadly racial riots throughout the country, and led to a massive, decentralized wave of censorship of boxing films.

On July 7, 1910, three days after the fight, many states and cities already declared that they would not allow the exhibition of the Johnson-Jeffries Film in their jurisdictions. Siegmund Lubin, a prominent moving-picture pioneer who headed the Syndicate,²¹ realized the censorship mania put the Syndicate’s significant investments at risk and threatened the future of the motion picture industry. He released an announcement to the press, stating:

We have spent too much money not to make a fight to exhibit our pictures and we are confident that the effort to prevent us showing them will not succeed when the courts interpret the laws bearing on the case. We spent upward of \$200,000 to get perfect pictures of that fight. We had special lenses made and twelve machines at the ring. After all that expenses and trouble we do not mean to yield to our opponents without a struggle.²²

Without troops or artillery, such war declarations are often ceremonial. Indeed, when Lubin made this statement, the Syndicate was already defeated. The censorship wave had already spread, with states and municipalities taking action in response to pressure from social groups and the public. Lubin and the Syndicate could not afford to fight the laws and policies of every

¹⁹ Jack London, *Johnson Winner Over Jeffries in Fifteen Rounds*, Phila. Inquirer, Jul. 5, 1910, at 1. For the quest for white hopes who could defeat Jack Johnson, see, Graeme Kent, *The Great White Hopes: The Quest to Defeat Jack Johnson* (2005).

²⁰ W.W. Naughton, *Johnson Rends Jeff to Pieces in 15 Rounds*, Washington Post, Jul. 5, 1910, at 1.

²¹ Lubin was a Jew who, like most other Jews of his time, struggled with anti-Semitism. There are no indications that link his role in the Syndicate to the distribution of the Johnson-Jeffries Film. Lubin’s biography discusses his struggles with anti-Semitism and his role in opening the motion-picture industry for Jews, but it does not even mention the Johnson-Jeffries Fight Film. See Joseph P. Eckhardt, *The King of the Movies: Film Pioneer Siegmund Lubin* (1997).

²² *Picture Agents to Take Issue Into Courts*, Wilkes Barre Time-Leader, Jul. 7, 1910, at 2.

censoring community. Thus, only a day after Lubin's battle cry, the Syndicate admitted defeat:

No efforts will be made to show the pictures in any city or town where adverse legislation has been taken. It will not be necessary to get out injunctions, for this combine does not intend to buck the law in any city or state. We do not think these pictures are any different from those which have been displayed of the [other Johnson's] fights, but if we find that popular sentiment is against them we will lay them on the shelf and not show them at all.²³

Another top executive of the Syndicate explained the situation:

This fight against the pictures affects us only indirectly, as in most instances we will sell the privileges outright. Of course, the bidders have to take chances, and will probably rely on political influence to help them out in some cases. Our company has gone a little out of our line with the fight pictures, and we do not expect that all our patrons will want them, especially those who run shows simply for women and children. However, we do not anticipate any difficulty in . . . making some money.²⁴

Not all Syndicate members shared this confidence. Another member told reporters: "It cost us around \$250,000 to get the pictures. If Jeffries had won they would be invaluable, but as Johnson won their value is problematical, as it depends to a large extent on the attitude of the authorities."²⁵ Facing a public-relation catastrophe, the Syndicate adopted a self-censorship strategy: it announced that the Johnson-Jeffries Film would be exhibited only in "stags" –

²³ *Fight Film Men Will Bow to Law*, Chi. Daily Trib., Jul. 8, 1910, at 5. The statement was published in many other newspapers. See, e.g., *Not to Show Films Where Law Forbids*, Wash. Times, Jul. 8, 1910, at 9; *Picture Men Talk*, Ogden Standard, Jul. 8, 1910, at 1; *May Withdraw Fight Pictures*, LA Times, Jul. 9, 1910, at 16; *Fight Men Will Wait*, Wash. Post, Jul. 9, 1910, at 4; *May Withdraw Fight Pictures*, L.A. Times, Jul. 9, 1910, at 16.

²⁴ *Fight Pictures Arrive*, N.Y. Trib., July 9, 1910, at 14.

²⁵ *Id.*

theaters that bar children and allow women, but warn them in advance “of the character of the performance.”²⁶ In a highly-publicized press release, the Syndicate emphasized that “[i]t is a great mistake to look on the pictures as brutal. . . . [They are] quite a different thing from the fight itself, for, however brutal that may have been, the brutality is not displayed by the films. [We] do not think that any fair-minded person could object them.”²⁷

One hundred years have passed since the summer of 1910, when old moralist objections to prizefighting intertwined with racist panics about the eroding status of the white man.²⁸ Several film historians have written about the disturbing crusade to censor Johnson’s black supremacy,²⁹ but thus far the legal events of the summer of 1910 have not been systematically studied. This Article uncovers the political and legal mechanisms of one of the darkest waves of movie censorship in American history.

The Article stresses that social and content regulations are socially risky and can result in legal wildfires, even when public decisionmakers act independently. The Article also highlights one problem that community standards for content regulation create: increased costs in challenging standards because of the adoption by multiple jurisdictions and, consequently, greater persistence of standards that otherwise could have been successfully challenged.

Censorship of depiction of certain socially condemned acts has remained a theme with which our legal system struggles. In 2010, a century after the Johnson-Jeffries fight, in *United States v. Stevens*,³⁰

²⁶ See, e.g., *At “Stag” Houses Only*, N.Y. Daily Trib., July 11, 1910, at 3; *To Bar Children from Fight Films*, Wash. Times, July 11, 1910, at 10; *Fight Films to ‘Stags,’* Des Moines Daily News, July 11, 1910, at 8; *Fight Pictures for “Stags” Only*, Evening Observer, July 11, 1910, at 6; *Children Won’t See Pictures*, Lincoln Neb., July 11, 1910, at 2.

²⁷ *Id.*

²⁸ Movie censorship was born with objections to prizefighting. See Barak Y. Orbach, *Prizefighting and the Birth of Movie Censorship*, 21 Yale J. L. & Human. 251 (2009).

²⁹ Film historian Dan Streible specialized in fight pictures and wrote, among other things, about aspects in censorship of the Johnson-Jeffries Fight Film. See, e.g., Dan Streible, *Race and Reception of Jack Johnson Fight Films*, in *The Birth of Whiteness: Race and the Emergence of U.S. Cinema* 170 (Daniel Bernardi ed. 1996); Streible, *supra* note 16, at 210-38. See also Lee Gieveson, *Policing Cinema: Movies and Censorship in Early-Twentieth Century America* 121-50 (2004); Gilmore, *Bad Nigger!*, *supra* note 7, at 75-94.

³⁰ 130 S.Ct. 1577 (2010).

the Supreme Court examined the intersection of content and social regulation. At stake was a 1999 federal statute that prohibited depiction of a particular illegal conduct—animal cruelty.³¹ When signing the bill into law, President Clinton stated his understanding of the statute: “the Act would prohibit the types of depictions . . . of wanton cruelty to animals designed to appeal to a prurient interest in sex. I will direct the Department of Justice to enforce the Act accordingly.”³² The Act, however, was poorly drafted and censored depiction of conduct that was illegal “under Federal law or the law of the State in which the creation, sale, or possession takes place, regardless of whether the [illegal conduct] took place in the State.”³³ Writing for the majority, Chief Justice Roberts held that several applications of the 1999 federal statute were unconstitutional, since it also applied to common depictions of ordinary and lawful activities, such as hunting. In his dissent opinion, Justice Alito criticized the Court’s decision, noting that the Court struck down in its entirety “a valuable statute that was enacted not to suppress speech, but to prevent horrific acts.”³⁴ The Court struggled with a poorly drafted statute and considered the underlying policy of censoring “crush films” and other depictions of animal cruelty,³⁵ while drawing analogies to child pornography, which it identified as the major category of speech that was fully outside the protection of the First Amendment.

The *Stevens* Court appeared to seek illustrations of censorship of illegal conduct but the resulting decision only vaguely mentioned obscenity and child pornography. American Movie censorship began in 1897 with bans on exhibitions of prizefight films,³⁶ because of the illegality of the sports. As such, this Article also contributes to the literature on the censorship of depiction of illegal conduct.

³¹ 18 U.S.C. § 48.

³² 1999 U.S.C.C.A.N. 324 (Dec 9, 1999). The target of the legislation was “crush films” that show animals crushed to death, often by women wearing high heeled shoes. Punishing Depictions of Animal Cruelty, H.R. Report 106-397 (Oct., 19, 1999).

³³ 18 U.S.C. § 48(c)(1).

³⁴ *Stevens*, 130 S.Ct., at 1592.

³⁵ See *supra* note 32.

³⁶ See Orbach, *supra* note 28.

The Article continues as follows. Part I describes the color line in boxing and the difficulties Jack Johnson encountered to secure a fight for the title. Part II explains why Jeffries reluctantly returned from retirement as the “great white hope” to reclaim the title from Johnson. Part III studies the politics and law of the censorship wave that formed in July 1910. The Epilogue concludes. The Appendix summarizes prominent politician’s justifications for their decisions to censor or not to censor the Johnson-Jeffries Fight Film.

I. JEFFRIES, JOHNSON, AND THE COLOR LINE

A. *Jeffries Wins Heavyweight Championship*

Jeffries became the heavyweight champion of the world at age 24, taking the title from Robert Fitzsimmons on June 9, 1899.³⁷ Fifteen months earlier, in March 1898, Jeffries knocked out the “Black Prince,” Peter Jackson, the black fighter whom several champions, prominently John L. Sullivan, refused to fight supposedly because of his race.³⁸ Authoritative boxing commentators point out that Sullivan drew the color line only to evade a match with Peter Jackson who was the world’s most esteemed fighter in the late 1880s.³⁹ When Jeffries and Jackson met in the ring in 1898, Jeffries was a young boxer in his prime who was trying to earn his right to fight for the title. By contrast, Jackson was an old boxer and a shadow of

³⁷ See W.W. Naughton, *Fitzsimmons Is Knocked Out*, Chi. Daily Trib., Jun. 10, 1899, at 1; *Fitz Meets Master*, Washington Post, Jun. 10, 1899, at 1; *Jeffries A Kingpin*, LA Times, Jun. 10, 1899, at 3; *The Overthrow of Fitzsimmons*, SF Call, Jun. 10, 1899, at 2.

³⁸ See *Jackson Is Beaten*, Chi. Daily Trib., Mar. 23, 1898, at 7; *Jackson Was Knocked Out*, Dallas Morning News, Mar. 23, 1898, at 3; *Jackson Out In Third*, Washington Post, Mar. 23, 1898, at 8. For Peter Jackson and his inability to secure a fight for the heavyweight title, see A.G. Hales, *Black Prince Peter: The Romantic Career of Peter Jackson* (1931); Tom Langley, *The Life of Peter Jackson* (1974).

³⁹ See, e.g., Nat Fleischer, *The Heavyweight Championship: An Informal History of Heavyweight Boxing from 1719 to the Present Day* 103 (1949); Langley, *id.*, at 20 (1974). See also *The Recent Great Battle and the Possibilities of a Colored World’s Champion*, Wash. Bee, July 20, 1889, at 1 (“If Sullivan concludes that he is still the best man alive, he must abolish his unbecoming prejudice and give this show [with Peter Jackson]. If Sullivan declines to fight Jackson, he will inaugurate a new departure in fistic traditions, *i.e.*, he will choose whom he shall fight.”); *The Black Champion*, Salt Lake Herald, Nov. 15, 1889, at 1.

the "Black Prince" he once was.⁴⁰ Thus, in his youth, Jeffries did not hesitate to fight black boxers, or at least old ones.



New York Journal, March 22, 1898, at 1.

B. The Champion's Color Line

As a champion, Jeffries followed the steps of his predecessors and drew the color line. He was only willing to fight white men, and most of all he was unwilling to fight Jack Johnson. Using these principles, Jeffries was unable to find worthy opponents and regularly knocked out his rivals in a few rounds. In August 1903, he announced: "When there are no more white men to fight I will quit the business."⁴¹

Sport critics often ridiculed champions for avoiding black fighters to shield their titles. Such cowardice was viewed as hurting the sport. For several years, at least some of the critics seemed to believe that the undefeated Jeffries was an exception. For example, in

⁴⁰ See *Poor Old Peter Fights To-Night*, *Phila. Inquirer*, Mar. 22, 1898, at 4; *Dissipation and Jeffries Down Jackson*, *S.F. Call*, Mar. 23, 1898, at 14.

⁴¹ *Champion Jeffries Draws Color Line*, *Fort Worth Telegram*, Aug. 22, 1903, at 6.

October 1903, *The Washington Post*, explained why Jeffries' reluctance to fight "blackbirds" was sensible:

Out in San Francisco they are making heroic efforts to force Jeffries to fight a colored man, but so far the champion has turned a deaf ear to all propositions in which the withdrawing of the "color line" is a prominent factor. He has declared himself that unless the public in general made a demand that he should meet a colored man he would under no circumstances enter the ring against one.

This is the same stand that John L. Sullivan took when he was the champion. There is only this difference, that when Sullivan was champion we had a colored fighter named Peter Jackson, who, as later events proved, could have disposed of John L. But [there is no] colored man in the business that can even make Jeffries extend himself. The color line has been a disturbing element for years among the fighters. It has served as a shield from defeat in many cases, and then again, some of the fighters have been on the level when they declared against it. Some fighters are either born in the South or are from Southern parents, and therefore cannot overcome the prejudice against a black man that is virtually installed into their minds from childhood. ...

So it must appear that in drawing the color line against these men it is nothing more or less than a case of fear. With Jeffries, however, it is different, because the same circumstances do not exist that existed then. If the champion has really made up his mind to refuse to meet the "blackbirds" it is nobody's business but his own, and his refusal . . . will not cause any loss of prestige.⁴²

Other critics felt that Jeffries' position did not serve the sport and that he should have fought Johnson. For example, in the same month, October 1903, *The Los Angeles Times*, published the following analysis:

⁴² *Ring and Mat*, *Washington Post*, Oct. 4, 1903, at E3.

It's "Up to You," Champion Jeffries

Jack Johnson is now the logical opponent for Champion Jeffries.

Easily the master of his race at the boxer's game, possessed of undeniable ability. . . . The color line gag does not go now. It is "pay or play" in the fighting business. Johnson has met all comers in his class: has defeated each and every one. . . . Jeffries thus far has met all comers. Will he turn down this one? Hardly. He cannot afford to do it. . . .

The public . . . demands a fight from the champion on behalf of Jack Johnson. Jeffries must heed the call. He wants one hard fight for the championship to show he is in that exalted position by ability as well as by the kindness of nature. Johnson is the man who will give him a chance to show the best that is in him. If he can beat the negro, Jeff need never fight again.⁴³

Jack Johnson was hungry for the heavyweight title and his accomplishments in the roped arena only increased his appetite. He even knocked out Jeffries' brother Jack Jeffries.⁴⁴ Beginning 1904, he publicly demanded Jeffries to meet him in the ring. His challenges were unequivocal and provocative. For example, in October 1904, he announced: "I want Mr. Jeffries next. I think I am entitled to a fight with him. . . . I am faster than ever and bigger, and stronger. . . . I guess everybody knows it."⁴⁵ Jeffries dismissed all the challenges and announced:

⁴³ *It's "Up to You," Champion Jeffries*, LA TIMES, Oct. 29, 1903, at 12. Other boxing critics joined this call. See also *What is He Going to Do?*, WILKES-BARRE TIMES, Nov. 5, 1903, at 11 (concluding that the only viable opponents Jeffries and Johnson have is each other and that Jeffries prevented the fight).

⁴⁴ *Jeffries Knocked Out*, FORT WORTH REGISTER, May 17, 1902, at 6. Jack Jeffries had a reputation as a strong boxer but never had a career, other than a sparring partner for his famous brother Jim.

⁴⁵ *Johnson Has Shown Class*, LA TIMES, Oct. 19, 1904, at A3. See also *Jack Johnson Wants a Show*, LA TIMES, Sep. 4, 1904, at B4 ("Jack Johnson has announced his desire for a fight with Champion Jeffries in unmistakable terms, and backs his requests

I pass Johnson up because he is colored. I have said I will never box a colored fighter, and I won't change my mind. If any white man, no matter who he is, makes a good enough showing in the business to satisfy me that he would draw enough money in a fight with me, I will gladly take him on. I'm ready to fight, and will defend the title at all times and against all comers.⁴⁶

In February 1904, when the public pressure for a fight with Johnson grew, Jeffries explained to a reporter his reasons for his firm racism:

I don't think the public wants me to defend my title against any one but a white man. Don't think I am afraid of a negro. I'm not. They can be licked just as easily as anybody else. I simply have promised myself that I would fight only white men, and I won't break my word.⁴⁷

C. *Jeffries' Retirement and the Rise of Tommy Burns*

Two months later, in April 1904, Jeffries and his manager announced that he would retire in a year.⁴⁸ The announced retirement only increased the criticism against Jeffries' unwillingness to fight Johnson. Demands from the public and the press, however, did not affect Jeffries' position. He remained firm on the color line. In March 1905, two months before the promised retirement, Jeffries provided yet another explanation for his reluctance to fight Johnson:

No other heavyweight champion every fought a colored man for the title, and I'll tell you right now that I'm not

with an array of arguments that some day the big fellow will have to answer in the ring."); *Johnson Is On Jeffries' Trail*, CHICAGO DAILY TRIBUNE, Nov. 3, 1903, at 8; *Jack Johnson After Jeffries*, OMAHA WORLD HERALD, Nov. 9, 1903, at 3.

⁴⁶ *Jeffries is Restless*, WILKES-BARRE TIMES, Dec. 15, 1903, at 11; see also *Jeffries Again Refuses to Take on Jack Johnson*, PHILA. INQUIRER, Dec. 16, 1903, at 10.

⁴⁷ *Jeffries Won't Fight Johnson*, PHILA. INQUIRER, Feb. 6, 1904, at 10.

⁴⁸ See, e.g., *King Jeff to Retire After One More Year*, OMAHA WORLD-HERALD, May 1, 1904, at 18.

going to set the fashion. As long as there are white men to fight I will defend my title, but otherwise I'll retire.⁴⁹

Jeffries kept his promises. He did not fight Johnson and he retired undefeated in May 1905. At retirement, he told the press: "I have concluded to retire because there is no one in sight capable of giving the public a run for its money, and as I never took any money on false representations it is too late to begin now."⁵⁰ A month later, Jeffries announced that he would surrender his title to the victor of the match between Marvin Hart and Jack Root that was to be held in Reno on July 3, 1905.⁵¹ Jeffries, however, expressed his contempt to the future champion, announcing that he would refuse to honor the tradition of giving the title to his successor as a gift.⁵² Jeffries spelled out his thoughts: "they have hardly qualified for it, and there are other and better men who are entitled to a look-in for it. The man who wears it after me must fight good and hard for it, and I don't think it will fall to either Root or Hart to wear it."⁵³ Nevertheless, Jeffries did not give Johnson a chance to fight good and hard for the title.

On July 4, 1905, Marvin Hart became the world's heavy-weight champion after knocking out Root in the twelfth round.⁵⁴ Hart was indeed a forgettable champion. In February 1906, he lost the title to Tommy Burns.⁵⁵ Burns was the last white champion that stood in Johnson's path to glory.

⁴⁹ *Jeffries Shies at Johnson's Color*, PHILA. INQUIRER, Mar. 28, 1905, at 10.

⁵⁰ George Siler, *Champion Jeffries' Pugilistic Career Is Ended*, CHI. DAILY TRIB., May 14, 1905, at A4.

⁵¹ *Jeffries Ready to Surrender Title*, S.F. CALL, June 30, 1905, at 10.

⁵² *Title Goes Not With Coming Bout*, WASH. TIMES, June 30, 1905, at 11.

⁵³ *Id.*

⁵⁴ *Hart Gains Championship in the Twelfth Round*, SF CALL, Jul. 4, 1905, at 7; *Hart Wins in Twelfth Round*, LA HERALD, Jul. 4, 1905, at 3.

⁵⁵ *Champion Hart Loses His Title*, LA HERALD, Feb. 24, 1906, at 3; *Hart Loses Decision to Tommy Burns*, THE WORLD, Feb. 24, 1906, at 6; *Marvin Hart Loses to Burns on Points*, SF CALL, Feb. 24, 1906, at 7.

D. Jeffries Reconsidering a Comeback

Lucrative financial offers quickly seduced Jeffries into reconsidering his retirement. In December 1906, he published the following announcement:

I have decided to enter the ring again. The only provision I make is that a purse of \$50,000 be hung up, and some man selected as my opponent by those who are able to judge of the abilities of various fighters. The only other provision I make is that the man who faces me in the ring shall be a white man. . . . God made me a white man, and I am willing to fight any man in the world. Some are willing to fight negroes, and the story of the prize ring shows that the white man is at least the equal of the negro. But first, last and all the time, please quote me as saying that I draw the color line—I always have and always will.⁵⁶

No worthy white opponent picked up the challenge and Jeffries remained at his California farm.⁵⁷ Eight months later, in August 1907, he was already out of shape but played with the idea to return to the ring. Jeffries told reporters: “I will fight any white man . . . if I can . . . get in shape. . . . The only man I bar of the ring at present is Jack Johnson. I will not fight Johnson or any other negro, and that is final.”⁵⁸

Johnson followed these statements and used the media to tease and irritate Jeffries. For example, in November 1907, he told reporters:

I am sorry Jim Jeffries ever drew the color line, because I hate to see him retire from the ring forever without first whipping me and then have a clear title . . . You see so many people believe that Jeffries would lick me in a punch, that it seems rather tough on me to have it on all

⁵⁶ *Jeff Will Fight White Man Only*, PHILA. INQUIRER, Dec. 23, 1906, at 13.

⁵⁷ See, e.g., *No Worthy Opponent*, WASHINGTON POST, Nov. 4, 1906, at S3 (“there is no pugilist in sight capable of giving [Jeffries] an interesting encounter, except Jack Johnson.”)

⁵⁸ *Jeffries Ready to Fight Any White Man That Lives*, FORT WORTH TELEGRAM, Aug. 4, 1907, at 6.

the other fellows except Jeffries, and then to have no chance to win the honor, providing I am the man who can do it. I wish he would come back and take me on. He did not draw the color line because he was afraid. He drew it because he did not want to fight me on account of my color. But I believe I ought to be given a chance.⁵⁹

II. THE JOHNSON-JEFFRIES FIGHT

A. *Johnson Becomes the Heavyweight Champion*

Jack Johnson never took the new champion, Tommy Burns, seriously. He told reporters: "Tommy Burns . . . knows [that] he is a joke, and that is why he is dodging me. If he were a real champion he would show it. But he is just an accident."⁶⁰

Burns rejected Johnson's challenges with the excuses that his wife vetoed a fight against Johnson. The match became possible when Burns "overruled" his wife's objections in August 1907.⁶¹ In August 1907, they signed an Articles Agreement to fight a forty-five round fight for a purse of \$25,000. After some delays, Burns and Johnson met in Sydney, Australia in December 1908.

Three days before the Burns-Johnson fight, Jeffries expressed his position about the possibility that a black man would hold the heavyweight title. He told reporters "If that coon comes around here and challenges me to fight him if he wins from Burns I'll grab him by the neck and run him out."⁶² When reporters asked Jeffries to explain what he meant by that, Jeffries declared he was "not willing to see the championship of the division go to a negro, and rather than allow Johnson to carry off the belt he will reenter the ring and whip him."⁶³ A day later, Jeffries withdrew this statement, announcing that "[i]f that big coon comes around me with his big talk about challenging

⁵⁹ *Johnson Would Like to Fight Jim Jeffries*, WILKES-BARRE TIMES, Nov. 19, 1907, at 6.

⁶⁰ *Id.*

⁶¹ Burns argued that his wife vetoed a fight against Johnson. The match became possible when her objections were "overruled" in August 1907. See, e.g., *Burns-Johnson Match*, S.F. CALL, Aug. 5, 1907, at 10; *Tad, Burns Comes Off Color Line Perch*, WASH. TIMES, Aug. 5, 1907, at 8; *Burns Agrees to Fight Johnson for \$25,000 Purse*, EVENING WORLD, Aug. 5, 1907, at 6; *Johnson and Burns Signs Articles to Fight*, WILKES-BARRE TIMES, Aug. 6, 1907 at 3.

⁶² *Jeff' Will Fight If Johnson Wins*, CHI. DAILY TRIB., Dec. 24, 1908, at 6.

⁶³ *Id.*

me, I will take him by the neck and throw him into the street.”⁶⁴ *The Washington Post* clarified that “Jeff offered to get into the cellar with Johnson, lock the door, and let the best man walk out after a finish fight, but adheres to his determination to retire, and would not fight a negro, even if he decided to fight again.”⁶⁵

On December 26, 1908, Jack Johnson defeated Tommy Burns in Sydney, Australia, and became the heavyweight champion of the world. The police stopped the fight in the fourteenth round after seeing Burns unable to defend himself from the “savage blows of his opponents.”⁶⁶ The Articles of Agreement provided that in the event of police intervention, the decision would be rendered on points. The referee “without hesitation declared the black man the winner for all through the fight he had shown himself Burns’s master in every style of fighting.”⁶⁷ After the fight, “Johnson appeared fresh . . . , while Burns’s eyes were badly puffed and his mouth swollen to twice its normal size.”⁶⁸ In an interview at his dressing room, Burns admitted: “I did the best I could and fought hard. Johnson was too big and his reach was too great.”⁶⁹

Jack London, a boxing fan who was not shy about his racist preferences, was in Sydney and reported about the Burns-Johnson contest:

The fight; there was no fight. No Armenian massacre could compare with the hopeless slaughter that took place in the Sydney stadium today. It was not a case of “Too much Johnson,” but all Johnson. A golden smile tells the story; and a golden smile was Johnson’s. The fight . . . had all the seeming of a playful Ethiopian at loggerheads with a small and futile white man—of a grown man cuffing a

⁶⁴ *Jeff Won’t Come Out*, WASHINGTON POST, Dec. 25, 1908, at 8.

⁶⁵ *Id.*

⁶⁶ *Jack Johnson Wins; Police Stop Fight*, N.Y. TIMES, Dec. 26, 1908, at 8. See also *Tom Burns Beaten*, WASH. POST, Dec. 26, 1908, at 1; *Johnson Beats Burns in 14 Rounds; Police Stop Fight. Englewood Loses*, CHI. DAILY TRIB., Dec. 26, 1908, at 8; *Champion Burns Is Decisively Defeated By Big Jack Johnson*, DULUTH NEWS TRIB., Dec. 26, 1908, at 1; *Negro Winner of Championship in 14-Round Contest*, LEXINGTON HERALD, Dec. 26, 1908, at 1.

⁶⁷ *Jack Johnson Wins*, *supra* note 66.

⁶⁸ *Id.*

⁶⁹ *Id.*

naughty child; of a monologue of one Johnson, who made a noise with his fists like a lullaby, tucking one Burns into his little crib in sleepy hollow; of a funeral, with Burns for the late deceased, Johnson for undertaker, grave digger and sexton.⁷⁰

Jack Johnson proved that in the ring he was the master of the white man.⁷¹

B. Jeffries Returns from Retirement

Johnson's victory marked a new era in prizefighting: the end of white supremacy in boxing and, possibly much worse for many people at the beginning of the twentieth century, the rise of undefeated proud blackness. *Chicago Daily Tribune's* editorial of the day that followed the Burns-Johnson fight captured this sentiment:⁷²

New Champion Has Yet to Prove Class

The victory of Jack Johnson over Tommy Burns in Australia yesterday dethroned the white man from the place he appeared destined to hold as long as the game of fisticuffs held its existence. [T]he fact that the black defeated a white man points out only too plainly the lack of class in the present day crop of heavyweights. . . . There has been and is a talk of the negro being as clever as Jim Corbett [the former champion], but the records fail to show where he did anything of note in the fighting line. . . . There is talk of inducing Jeffries to return to the ring and meet Johnson for the title, despite the fact that he has seen his best days in ring service. Even so, the great majority of fans are of the opinion he would beat the negro.

The public, not content with Johnson's championship, therefore began a quest for a white hope that could return the title to the

⁷⁰ Jack London *Describes the Fight and Jack Johnson's Golden Smile*, S.F. CALL, Dec. 27, 1908, at 1.

⁷¹ See, e.g., *Johnson Is Master of Burns at Every Style of Fighting*, S.F. CALL, Dec. 26, 1908, at 13; *Negro Winner of Championship in 14-Round Contest*, *supra* note 66.

⁷² See, e.g., *New Champion Has Yet to Prove Class*, CHI. DAILY TRIB., Dec. 27, 1908, at B1.

white race.⁷³ The “white hopes” failed one after another. Johnson defeated them all.⁷⁴ Jeffries was the greatest white hope, although some experts questioned his ability to get back to the ring.⁷⁵ Jeffries declared before the Burns-Johnson fight that he would not fight Johnson.⁷⁶ Immediately after Johnson’s victory, Jeffries reiterated his objections to fight Johnson:

I have stated and repeated five thousand times within the last ten days that I will not re-enter the ring for any inducement. . . . I am not going to fight Johnson or any other negro or any white man, big or little. When I retired, I retired. I have been out of training for four years, and doubt if I could ever get back to my old condition. I do not like to see the highest honor of pugilism rest in the hands of a black man, but it is not my fault that it does, and it is not up to me to wrest the championship belt from the negro. I advised Burns . . . and other young fighters to draw the color line and not to take on Johnson or Langford, and thus endanger the championship.⁷⁷

Despite Jeffries’ unequivocal reluctance to fight Johnson, he faced a growing public pressure to fight Johnson. James Corbett, the former champion who lost his title in 1897 and was already 42 years old, kept announcing in the press that he would fight Johnson to return the title to the white race, “if other whites are unavailable.”⁷⁸ No one

⁷³ See KENT, *supra* note 19.

⁷⁴ *Id.*

⁷⁵ See, e.g., Ruhlin Says There’s No One to Fight Johnson, PHILA. INQUIRER, Dec. 31, 1908, at 10.

⁷⁶ See *supra* notes 64-65 and accompanying text.

⁷⁷ Jeffries Won’t Fight, N.Y. TIMES, Dec. 28, 1908, at 5.

⁷⁸ See, e.g., James J. Corbett, Corbett Makes Known His Stand, CHI. DAILY TRIB., Jan. 3, 1909, at B1 (“I am not anxious to fight a negro, but it galls me to see a black champion.”); “If Not Jeffries, I’m On” – Corbett, DALLAS MORNING NEWS, Jan. 4, 1909, at 11 (“I am in better condition than Jeffries or any of the others. . . . [I] felt badly to see a negro man the champion, [and] I did not know of any man who had a better chance with Johnson than myself, unless it should be Jeffries.”); James J. Corbett, Corbett Talks of Johnson Battle, CHI. DAILY TRIB., Jan. 17, 1909, at B1 (“Jeffries undoubtedly is the choice of the American people to fight the big black. . . . But Jeffries has said time and again that he was through with the ring. He does not care to indulge in any more championship tasks and . . . his ideas and principles about fighting a colored man are so set that . . . he would never agree to

in the sport really believed that Corbett stood a chance against Johnson,⁷⁹ but his publicity exercise put pressure on Jeffries. A week after the Burns-Johnson fight, *The Washington Post* reported that Jeffries received “so many letters and telegrams from persons who want[ed] him to meet Jack Johnson in the ring that it look[ed] as if he [was] being smoked out gradually.”⁸⁰ Other newspapers echoed this report.⁸¹ Jeffries sustained early pressures and issued a public announcement, stating that he had no reason to fight Johnson since he had never relinquished the title, either by title or defeat, but took it into retirement.⁸²

In mid-February 1909, Jeffries softened his veto. He told reporters that he would be willing to fight Johnson if he lost thirty pounds and got back in shape.⁸³ On March 1, Jeffries passed through Omaha, Nebraska, on a vaudeville tour and released the following statement:

face Johnson. . . . I am ready to sacrifice something to prove to the world that the negro fighter is not superior to the white man.”); James J. Corbett, *Corbett Willing to Meet Johnson*, OREGONIAN, Feb. 7, 1909, at 7. For the 1897 championship in which Corbett lost the title to Robert Fitzsimmons, See Orbach, *supra* note 28. On August 14, 1903, Jeffries knocked out Corbett in ten rounds.

⁷⁹ See, e.g., *Corbett's Offer Not Well Received*, GRAND FORKS DAILY HERALD, Jan. 6, 1909, at 2.

⁸⁰ *Jeffries Talks Fight*, WASHINGTON POST, Jan. 5, 1909, at 8.

⁸¹ See, e.g., W.J. Petrain, *Cry Is for Jeff*, OREGONIAN, Jan. 31, 1909, at 4 (“From every portion of the land comes the clamor for the big boilermaker’s re-entry into the square arena and the demand he splice the tinware on Arthur ‘Jack’ Johnson.”); *Facts Regarding Jack Johnson’s Ring Career*, WASHINGTON POST, Feb. 7, 1909, at S4 (discrediting Johnson’s accomplishments and announcing that “[i]f Jeffries ever meets Johnson and is in his old trim, experts believe that Texas Jack will not last more than ten rounds. But can Jeffries come back?”).

⁸² James J. Jeffries, *Jeffries Talks Fight*, WASHINGTON POST, Jan. 5, 1909, at 8; *Jeffries in Denial*, OREGONIAN, Jan. 10, 1909, at 5; *Jeffries Is Champion*, WASHINGTON POST, Jan. 17, 1909, at S4; *Jeff Gets Many Letters*, WASHINGTON POST, Feb. 14, 1909, at S4 (quoting Jeffries saying: “as a plain matter of fact Jack Johnson would not be the heavyweight champion where I to re-enter the ring. I would be the champion and Johnson the challenger.”)

⁸³ Harvey T. Woodruff, *Jim Jeffries Has Significant “If,”* CHI. DAILY TRIB., Feb. 14, 1909, at B1. Jeffries argued that his weight was 240 pounds, although he looked much heavier. Reporters did not appear convinced. *Id.* See also *Jeff Declines to Get on Scales*, DULUTH NEWS-TRIBUNE, Jan. 15, 1909, at 11 (noting that Jeffries’ weight was close to 270 pounds, but nobody knew his exact weight because he did not measure it for four years).

I will arrange to meet Johnson as soon as my twenty weeks' engagement is over. I feel obligated to the sporting public to at least make an effort to reclaim the heavy-weight championship for the white race. I was through with the fighting game until Johnson butted in the first place, but so long as I have not been defeated I think it no more than right that I should step into the ring again and demonstrate that a white man is king of them all.⁸⁴

The next day, Jeffries withdrew from this willingness to fight and conditioned it on his ability to get into proper condition. "I will fight Jack Johnson for the heavyweight championship of the world if I am able to get into condition to do myself justice," he told reporters.⁸⁵ Jeffries added that "[t]he story from Omaha that I said that I would fight Johnson as soon as I finish my vaudeville engagement is not true. . . . I have never said definitely I would fight Johnson, and I am not ready to do so now."⁸⁶ On March 3, Jeffries arrived in New York City on his vaudeville tour. A crowd of 5,000 fans was waiting for him, encouraging him to fight Johnson, while blocking the streets around Grand Central Station.⁸⁷

Johnson did not lose an opportunity to tease Jeffries. In an interview with Associated Press, he said:

I am willing to meet Jeffries; I am willing to meet any man in the world, and I do not think anyone can get a decision over me, much less put me out. It tires me to hear this talk about Jeffries claiming the championship. Why, when a mayor leaves office, he's an ex-mayor, isn't he?

⁸⁴ *Jeffries Is Willing*, SYRACUSE HERALD, Mar. 1, 1909, at 16. This announcement was published and discussed in many newspapers. See, e.g., *Jeffries Will Meet Johnson*, *supra* note 4; *Jeffries Now Says He Will Fight*, SAN JOSE MERCURY NEWS, Mar. 1, 1909, at 7.

⁸⁵ See, e.g., *Jeff Will Fight Johnson*, WASHINGTON POST, Mar. 2, 1909, at 8; *Jeffries in City, Is Non-Committal*, CHI. DAILY TRIB., Mar. 2, 1909, at 6; *Jeffries May Fight*, DAILY PICAYUNE-NEW ORLEANS, Mar. 2, 1909, at 10; *Jeffries to Meet Negro Champion*, ATLANTA CONST., Mar. 2, 1909, at 4; *Jeffries Will Fight If Fit*, NY TIMES, Mar. 2, 1909, at 7.

⁸⁶ *Johnson to Meet Negro Champion*, *supra* note 78.

⁸⁷ *Oh, You Jim, Cries Crowd to Jeffries*, NY TIMES, Mar. 4, 1909, at 10; *Riotous Welcome for J.J. Jeffries*, NY TIMES, Mar. 4, 1909, at 7.

When a champion leaves the ring, he is an ex-champion.
Well, if Jeff wants to try and get the championship back,
I'm willing to take him on.⁸⁸

Johnson meant business. He sent his attorney to Jeffries with a message that was distributed to the press: "My client, John Johnson, the world's heavyweight champion, desires me to inform you that he will be glad to meet you at my office to complete arrangements for a contest between the champion and yourself."⁸⁹

The Galveston Giant's mind and tongue were as fast as his fists. Jeffries tried to use the press to undermine Johnson's champion status, but Johnson effectively warded off Jeffries' clumsy attempts to discredit him.

Jeffries received the invitation to meet Johnson at a courtroom in New York City, where he appeared to answer charges of violations of the New York State penal code prohibition on prizefighting.⁹⁰ The New York law outlawed the sport and the delivery of a challenge.⁹¹ Johnson's attorney either did not know the law or chose to bluntly ignore it at the courthouse, since he knew that his offer would be documented in all newspapers. Considering the prevalence of anti-prizefight laws at the turn of the century that made them a professional risk for every boxer and the general social tendency to ignore them,⁹² it is safe to assume that Johnson's attorney simply ignored the law when he delivered Jeffries the invitation.

Jeffries was careful and did not accept the invitation immediately. He explained his position to reporters:⁹³

⁸⁸ *Jack Johnson Ready for Jeff*, HARTFORD COURANT, Mar. 10, 1909, at 10; *Johnson Talks Fight*, WASHINGTON POST, Mar. 10, 1909, at 8; *Johnson Talks of Jeffries*, LA TIMES, Mar. 10, 1909, at 17; *Negro Is Willing to Meet Jeffries*, ATLANTA CONST., Mar. 10, 1909, at 11.

⁸⁹ *Challenges Jeffries*, WASHINGTON POST, Mar. 11, 1909, at 8.

⁹⁰ N.Y. PENAL CODE §§ 458-64 (1900). For the circumstances of the delivery of the invitation, see *Jeffries Is Invited by "Jack" Johnson*, ATLANTA CONST., Mar. 11, 1909, at 4.

⁹¹ §§ 458-59.

⁹² See generally Orbach, *supra* note 28.

⁹³ *Jeffries to Meet Negro Champion*, DALLAS MORNING NEWS, Mar. 12, 1909, at 12; *Won't Fight Any White Man, Says James J. Jeffries*, ATLANTA CONST., Mar. 12, 1909, at 4.

I am taking weight off rapidly . . . I am confident that I can get back into condition again, but until I do I won't talk fight. . . . [I]f Johnson had been a white man, I never would have thought of fighting again. I would have stayed in retirement for the rest of my life.

On March 17, 1909, "Jeffries camp" leaked a rumor that within a few days the former champion would announce his decision to re-enter the ring to fight Jack Johnson.⁹⁴ The next day, Jeffries told a *Washington Post* correspondent that he would fight only if he received 75% of the "purse."⁹⁵ After a few days passed without a word from Jeffries, Johnson sent another publicized offer: \$1,000 to say "Yes" or "No" about the fight.⁹⁶ Johnson wanted some certainty to plan his fight schedule. Jeffries declined the offer and could not make up his mind whether to fight Johnson.⁹⁷ The black champion then accepted the open invitation of the former champion James Corbett, giving Jeffries two weeks to change his mind.⁹⁸ This ultimatum worked.

On April 20, Jeffries announced at the American Music Hall in New York City: "I will fight Jack Johnson. I will defend my title as undefeated heavyweight champion of the world."⁹⁹ To the reporters at the scene, Jeffries handed out a written statement:¹⁰⁰

I will say that I never felt better. I held off making the announcement until I became sure that I was absolutely the same Jeffries as when I retired four years ago. I did so then after defeating every possible contender for the title. There was no one left for me to meet.

⁹⁴ *Say Jeff Will Fight*, WASHINGTON POST, Mar. 18, 1909, at 8.

⁹⁵ *"Jeff" Sure to Fight*, WASHINGTON POST, Mar. 19, 1909, at 9. The "purse" is the amount that the fight organizers guarantee to the boxers who split it among themselves.

⁹⁶ *Johnson Wants Yes or No*, WASHINGTON POST, Mar. 24, 1909, at 8.

⁹⁷ *Jeffries Will Not Meet Johnson*, NY TIMES, Mar. 26, 1909, at 7.

⁹⁸ *Johnson Agrees to Meet Corbett*, CHI. DAILY TRIB., Mar. 29, 1909, at 12.

⁹⁹ *'I'll Fight Johnson' - James J. Jeffries*, WASHINGTON POST, Apr. 21, 1909, at 8.

¹⁰⁰ *Id.*

The present heavyweight situation is the only thing that could have brought me from retirement. I have all the money I will ever need, and there is no monetary consideration that could tempt me into the ring if I was not sure that I could easily defeat any challenger for the championship.

As for Johnson, the tactics which he has employed, presumably to attempt to force a match, have been such that I felt that I would only lower myself by replying until I felt I was prepared to say that I would fight.

At the expiration of my [vaudeville] contract . . . which positively forbids my signing any contract, pugilistic or otherwise - I will be ready to discuss terms for an unlimited round contest.

All I will ask after that is sufficient time to thoroughly condition myself, and should Johnson care to challenge me for the title I will do what I think I owe to the public - that is, to defend my title of undefeated champion of the world.

Jeffries explained that he could not fight with Johnson because of some contractual obligation, but he did not hesitate to break the New York anti-prizefight statute in challenging Johnson to the fight.¹⁰¹

C. The Fight and the Subsequent Riots

On October 30, 1909, Johnson and Jeffries signed the following Articles of Agreement:¹⁰²

Articles of Agreement

An agreement entered into this day between Jack Johnson and James J. Jeffries provides for the following:

1. They agree to box for the heavyweight championship of the world.

¹⁰¹ Section 459 of the New York Penal Code defined "challenge" as "[a]ny words spoken or written . . . expressing . . . a desire . . . to engage in any fight." Jeffries' public announcement was an illegal challenge under the law. §§ 458-59.

¹⁰² *Big Jim Jeffries to Fight Johnson*, STATE: COLUMBIA, S.C., Oct. 30, 1909, at 5.

2. They agree to box before the club, organization or person offering the best financial inducement.
3. Bids for the contest must be submitted on December 1, 1909, at 3 p. m. at the Hotel Albany, New York City.
4. Each club, organization or person making a bid for this contest must have a representative on the ground who will post \$5,000 in coin or certified check to make good any and all stipulations of his bid.
5. The referee is to be selected when the club bid is accepted.
6. It is hereby agreed that the contest shall be of 45 rounds or more.
7. The purse shall be divided 75 percent to the winner and 25 per cent to the loser.
8. Each of the contestants herewith posts with Robert P. Murphy of New York as temporary stakeholder the sum of \$10,000. Of this sum each posts \$5,000 as a wager or side bet on the result of the contest and \$5,000 as a forfeit to guarantee compliance with these articles.
9. The contest shall take place not later than July 5, 1910.
10. It is hereby understood and agreed that the contest shall be fought under straight Marquis of Queensberry rules, and with five ounce gloves.
11. The final stake and forfeit hour is to be decided upon when the club is selected.

Witness our hands and seals this 29th day of October, 1909.

(Signed) James J. Jeffries
 John Arthur Johnson.

A day before the fight, the prizefighters released their customary statements to the press. Both boxers were of course convinced that their gloves would bring victory:¹⁰³

Jack Johnson

James J. Jeffries

When I go into the ring on the Fourth of July to fight Mr. Jeffries, I will do so with full confidence that I am able to defeat him at the game of give and

When the gloves are knotted on my hands tomorrow afternoon and I stand ready to defend what is really my title, it will be at the request of the public which

¹⁰³ See, e.g., *Statement of Fighters, Managers and Trainers*, LA TIMES, Jul. 4, 1910, at 18.

take. I honestly believe that in pugilism I am Jeffries's master and it is my purpose to demonstrate this in the most decisive way possible. I think that I know Jeffries thoroughly as a fighter, and with this knowledge reassuring me, I am more than willing to defend the title of champion against him.

I have trained faithfully for this fight. There cannot be the slightest doubt that my physical condition is such that it could not be improved upon. . . .

In this fight, more than in any other, it is impossible to tell in detail just how things will go. I am going to win. I will be there fighting at every turn. I don't overlook the tight pinches because I think my superiority over Mr. Jeffries eliminates the need of any thought of such things. There will be no lagging. The fight, in all probability, will be fast through every round, no matter how far it goes. I am prepared for a long contest if the fight is not quickly ended, and it goes without saying that a short fight would be right under my hands.

Every fighter on the eve of his fight declares that he hopes the best man wins. I am quite sincere when I say that I do. If Mr. Jeffries knocks me out or gains a decision over me, I will go to his corner and congratulate him just as soon as I am able. My congratulation will be no fake. I will mean it. If Mr. Jeffries has it in him to defeat me, I think I can modestly say he is entitled to all the congratulations he may receive.

Let me say in conclusion that I believe that the meeting between Mr. Jeffries and my self will be a great test of strength, skill and endurance. The tap of the gong will be music to me.

forced me out of retirement. I realize full well just what depends on me and I am not going to disappoint.

As to my condition and just how I feel on this eve of the battle—there's no use going into detail. That portion of the white race which has been looking to me to defend its athletic supremacy may feel assured that I am fit to do my very best. I want those who fancy my chances to know this much: If I had as much as a slight pain, a sore finger or the most trivial thing imaginable that might annoy me, I would immediately insist on a postponement. Fortunately I'm sound as a dollar.

I think I will surely beat Johnson. I would not have signed-to fight at all unless I was reasonably certain of victory. It is impossible for me to say just how I will fight this colored man. My method of attack will develop as the actual scrapping is on. Neither can I say whether the bout will be a long or short one. Suffice it to say that any time I hit that other fellow I'm going to hurt him, and that I will win just as quickly as I can.

On the Fourth of July, 1910, Johnson and Jeffries met in Reno, Nevada for the fight of the century. In front of 20,000 spectators, Johnson toyed with Jeffries, punished him in each of the fifteen rounds, and knocked him to the floor three times, the last of which was the knockout that shattered unrealistic racist illusions that an overweight, out-of-shape former fighter could possibly best an undefeated champion who was at the top of his game. Yet, again, Johnson proved that he was the master of the white man in the ring.¹⁰⁴

The fighters released to the press the customary statements of the victor and the loser:¹⁰⁵

Jack Johnson

James J. Jeffries

I won from Mr. Jeffries because I outclassed him in every department of the fighting game. Before I entered the ring I was certain I would be the victor. I never changed my mind at any time.

Jeffries' blows had no steam behind them, so how could he hope to defeat me? . . .

One thing I must give Jeffries credit for—the game battle he made. He came back at me with the heart of a true fighter. No man can say he did not do his best.

I lost my fight this afternoon because I did not have the snap of youth I used to have. I believed in my own heart that all the old time dash was there, but when I started to execute, the speed and the youthful steam were lacking. The things I used to do were impossible. . . .

I guess it's all my own fault. I was getting along nicely and living peacefully on my alfalfa farm, but when they started calling for me and mentioning me as the "white men's hope," I guess my pride got the better of my good judgment. . . .

Six years ago the results might have been different. But now—well I guess the public will let me alone after this.

¹⁰⁴ See, e.g., John L. Sullivan, *Johnson Wins in 15 Rounds; Jeffries Weak*, N.Y. TIMES, Jul. 5, 1910, at 1; London, *supra* note 19; *Jeffries Falls Before Johnson*, N.Y. TRIB., July 5, 1910, at 1.

¹⁰⁵ The statements were published in many daily news papers. See, e.g., Jack Johnson, *Outclassed His Rival, Says Winner*, WASH. POST, July 5, 1910, at 10; James J. Jeffries, *Lacked Snap of Youth, Says Jeffries*, WASH. POST, July 5, 1910, at 10; Jack Johnson, *Statements by Johnson and Jeffries Give Full Credit to Their Opponents*, L.A. TIMES, July 5, 1910, at 16; N.Y. HERALD, July 5, 1910, at 2; DAILY STANDARD: OGDEN, July 5, 1910, at 2.

The defeat of the great white hope prompted deadly race riots throughout the country.¹⁰⁶ The death toll listed dozens of blacks and several whites. In the clashes between whites and blacks, many others were injured and property was destroyed, demolished, and burned.¹⁰⁷ While there are no general estimates of the casualties, it is clear that Johnson's victory shook the nation and stirred racial animosity.

III. CENSORSHIP OF BLACK SUPREMACY

The Johnson-Jeffries fight was held in Nevada because, in 1910, boxing was illegal in all other states and territories.¹⁰⁸ Many of the states banned boxing to address the commercialization of the sport through films, but they failed to consider the possibility that fight films would appear once a state accommodated the filming of a fight.¹⁰⁹ After the controversial 1897 heavyweight championship between James Corbett and Robert Fitzsimmons, Maine, Iowa, and Los Angeles banned fight films in their jurisdictions.¹¹⁰

¹⁰⁶ See *BAD NIGGER!*, *supra* note 7, at 59-74.

¹⁰⁷ For reports of the riots see, e.g., *Eight Killed in Fight Riots*, N.Y. TIMES, July 5, 1910, at 1; *Eleven Killed in Many Race Riots*, CHI. DAILY TRIB., July 5, 1910, at 1; *Half a Dozen Dead as Crowds Attack Negroes; Reign of Terror Here*, N.Y. HERALD, July 5, 1910, at 1; *Race Riots Have Long Death List*, MORNING OREGONIAN, July 6, 1910, at 1; *Race Clashes in Many Cities*, WASH. POST, July 5, 1910, at 1; *Fight News Is Followed By Race Riots in Many Parts of Country*, L.A. HERALD, July 5, 1910, at 1; *Race Rioting After Fight*, SALT LAKE HERALD-REPUBLICAN, July 5, 1910, at 1; *White Man's Defeat Brings Woe to Blacks*, S.F. CALL, July 5, 1910, at 1; *Twenty-One Deaths as Result of Riots After Reno Battle*, WASH. TIMES, July 5, 1910, at 1; *Whites and Blacks in Many Riotous Battles*, N.Y. TRIB., July 5, 1910, at 1.

¹⁰⁸ For the developments that led to the illegalization of the sport in all states but Nevada, see Orbach, *supra* note 28. On May 17, 1910, a professional boxer who was a former world lightweight champion, appeared before the House Committee on Interstate and Foreign Commerce and explained that at the time "[t]here [was] only one State in the Union where they allow[ed] prize fighting; that [was] Nevada." *To Prohibit Interstate Transportation of Pictures and Descriptions of Prize Fights: Hearings on H.R. 25825 and 2160 Before the House Committee on Interstate and Foreign Commerce*, 61st Cong. 4 (1911).

¹⁰⁹ For analysis see Orbach, *supra* note 28.

¹¹⁰ 1897 Me. Laws 352 (Maine; passed on March 20, 1897); Iowa Ann. Code §§ 4973-4975 (1897) (Iowa; passed on October 1, 1897); Presentation of Prizefights, Ordinance 4437 New Series (Los Angeles; passed on July 26, 1897).

Legislators in other states and cities introduced similar censorship bans, which ultimately did not pass.¹¹¹

The Syndicate that invested in the Johnson-Jeffries Fight Film paid Johnson \$50,000 and Jeffries \$66,666 for their royalty rights. It expected to collect \$1,000,000 during July and did not anticipate a massive censorship wave that would undermine the profitability of its undertaking.¹¹² The decentralized nature of the censorship movement made it financially impossible to fight against local censorship rules. The Syndicate threatened to resort to courts in multiple jurisdictions to fight censorship laws and actions,¹¹³ but it had no funds to engage in a broad legal war across the country.

This Part tells the story of the prompt formation of an effective movement to censor Johnson's black supremacy.

A. *The Christian Lobby*

Two days before the Johnson-Jeffries fight, the Wisconsin Christian Endeavor Society adopted resolutions that sought to prevent the exhibition of the fight film in Wisconsin. The resolution was justified by the Christian Endeavorers' traditional view that considered the manly art as a "distinctly beastly art."¹¹⁴ This race-neutral act was part of an organized movement of the Christian Endeavor Society to censor fight films.

A central figure in the anti-prizefight-film movement was Wilbur Fisk Crafts. A self-proclaimed Christian lobbyist, Crafts had an office in Washington, D.C., from 1895 until his death in 1922, and throughout that period promoted conservative legislation, including various forms of movie censorship.¹¹⁵

In 1897, during the first public debates over the exhibition of fight films, Crafts was already active in Washington, lobbying for federal laws to criminalize interstate transportation of fight films

¹¹¹ Orbach, *supra* note 28.

¹¹² For the investments of the Syndicate and its expectations, see *Many Cities Bar Exhibition*, ABERDEEN DAILY NEWS, Jul. 7, 1910, at 4.

¹¹³ *Moving Picture Men Will Fight*, HARTFORD COURANT, Jul. 7, 1910, at 1 (printing a press release from the Syndicate that was published in many other newspapers).

¹¹⁴ *Against Fight Pictures*, PHILA. INQUIRER, July 3, 1910, at 8.

¹¹⁵ See Gaines M. Foster, *Conservative Social Christianity, the Law, and Personal Morality: Wilbur F. Crafts in Washington*, 71 CHURCH HIST. 799 (2002)

and information about fights.¹¹⁶ Crafts' 1897 campaign did not result in federal legislation, but contributed to public opinion on the subject. Ultimately, only Maine, Iowa, and Los Angeles, banned fight films in response to the film exhibition of the March 1897 heavyweight championship between James Corbett and Robert Fitzsimmons.¹¹⁷

In 1910, Crafts and the Christian lobby were better prepared. Crafts and other leaders of the Christian lobby acknowledged that they lacked the political capital needed to prevent the Johnson-Jeffries fight, but they were hoping to use their influence to secure federal, state, and municipal laws that would ban the exhibition of the fight film.¹¹⁸

In the spring of 1910, Representative Walter Smith of Iowa introduced a pair of bills intended to curtail the financial viability of the prizefight industry.

The first bill was a federal censorship law that banned the interstate transportation of fight films and content products that described prizefights:

A BILL To prohibit the interstate transportation of pictures and descriptions of prize fights, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to send by mail or in any other manner from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to bring into this country from any foreign country any picture or description of any prize fight or encounter of pugilists under whatever name, or any record or account of

¹¹⁶ These debates led to the first wave of movie censorship, *see* Orbach, note 28. For Crafts' activity during 1897, *see* Foster, *supra* note 115, at 813-14; *Would Stop Fights*, WASHINGTON POST, Feb. 27, 1897, at 8; Wilbur F. Crafts, *The Anti-Prize-Fight Bill*, WASHINGTON POST, Mar. 3, 1897, at 8; WILBUR F. CRAFT, NATIONAL PERILS AND HOPES 41, 42 (1910) (describing his contribution to the drafting of federal bills against fight films).

¹¹⁷ Orbach, *supra* note 28, at 299-300. *See, e.g.*, 1897 Me. Laws 352 (Maine; passed on March 20, 1897); Iowa Ann. Code §§ 4973-4975 (1897) (Iowa; passed on October 1, 1897); Presentation of Prizefights, Ordinance 4437 New Series (Los Angeles; passed on July 26, 1897).

¹¹⁸ *Can't Stop Fight*, GRAND RAPIDS PRESS, Jul. 2, 1910, at 2.

betting on the same. Any person violating the provisions of this act shall be punished by imprisonment for not exceeding one year or a fine of not exceeding one thousand dollars, at the discretion of the court.¹¹⁹

The second bill aimed at strengthening antigambling laws by imposing liability on the communication of bets, odds, or lottery and by criminalizing a large set of activities related to gambling.¹²⁰

In a Congressional Hearing, Representative Smith stated to the record that his federal censorship bill “was introduced just before the Jeffries-Johnson fight, and I confess was introduced partly in contemplation of that, and with a view to suppressing the pictures of that fight.”¹²¹

Oscar “Battling” Nelson, a former world lightweight champion, appeared before the House Committee on Interstate and Foreign Commerce that held hearings on the bills and challenged the soundness of the bills. Specifically, Battling Nelson argued that “there is nothing immoral, nothing indecent about [fight pictures], and there are lots and lots of pictures being exhibited around this country and all over the world that are indecent and immoral, the exhibition of which is not prohibited.”¹²² Nelson specifically commented on the Christian lobby’s crusade to depict boxers as immoral characters:

[A] man who lives up to the rules in a boxing match has got to be a man physically and morally. If he is not, he can not be a successful boxer. In the first place, he must cultivate good habits, such as clean living, and he gets his regular exercise and his regular training; and figuring from the first time that we have had fighting, way back a thousand years ago at least, or over, we have not had anywhere near the fatalities in the prize ring that we have had in one year in the football season;

¹¹⁹ H.R. 25825, 61st Cong. 2d Sess. (1910).

¹²⁰ H.R. 2160, 61st Cong. 2d Sess. (1910).

¹²¹ *Hearings*, *supra* note 108, at 9.

¹²² *Id.*, at 3.

and even taking the victims in playing golf and baseball and all such sports, there have been more of them.¹²³

The federal bills were not passed in 1910, but the Christian movement scored many other legislative victories during the summer of 1910. Crafts pressed and even threatened local politicians, arguing that “where the mayors have not expressed themselves on the prize fight pictures, it will be urged that . . . he can be suppressed or removed by law on grounds that where the fight itself is forbidden a vivid representation of it is also illegal.”¹²⁴ Crafts had behind him the support of the 4,000,000 members of the United Society of Christian Endeavor and other Christian groups.¹²⁵

The United Society of Christian Endeavor pressed politicians across the country to ban the Johnson-Jeffries Fight Film, by raising a wide-range of moral arguments, including condemning the fight itself to focusing on the harm it could cause if children and women would be allowed to watch the moving pictures.¹²⁶

Three days after the Johnson-Jeffries fight, *The New York Times* published a letter to the editor from the Chairman of the Good Citizenship Committee of the United Society of Christian

¹²³ *Id.*, at 4.

¹²⁴ *Fight Films Make Pastors Protest*, SF CALL, JUL. 11, 1910, at 12.

¹²⁵ The Thirteenth United States Census that was completed by the Census Bureau in April 1910 determined the resident population of the United States to be 92,228,496. This determination means that the members of Christian Endeavor Society accounted for more than 4% of the total population. These figures grossly understate the power of the Christian Endeavor Society. For the national membership in the Christian Endeavor Society and its campaign against the Johnson-Jeffries fight film, see *Fight Pictures Are Prohibited in the District*, WASH. TIMES, July 6, 1910, at 1.

¹²⁶ See, e.g., *Fight Films Menaced*, MORNING OREGONIAN, Jul. 6, 1910, at 3 (discussing a telegram from the General Secretary of the United Society of Christian Endeavor to the former President Theodore Roosevelt, governors, and mayors); *Cities Prohibit Fight Pictures*, CHI. DAILY TRIB., Jul. 6, 1910, at 1 (reporting that the United Society of Christian Endeavor “has branches in every city and town in the country, [launched] a campaign against the exhibition” of the Johnson-Jeffries Fight Film.); *Cardinal Gibbons Voices Opposition*, BOSTON J., Jul. 7, 1910, at 1; *Great War Against All Fight Pictures*, TRENTON EVENING TIMES, Jul. 6, 1910, at 1; *Endeavorers’ Fight Wins*, MONTGOMERY ADVERTISER, Jul. 7, 1910, at 1 (listing the accomplishments of the United Society of Christian Endeavor across the United States in banning the fight film).

Endeavor.¹²⁷ This letter presented the Society's position on prizefighting and censorship of fight films:

The States and territories of the United States, with the exception of the little State of Nevada, showed their disapproval of the late prizefight by refusing to allow the contestants to engage in it within their respective jurisdictions. It is . . . a little surprising that so many of these states have not shown a similar sense of morality by refusing to allow the reproduction of this barbarous fight in thousands of moving-picture shows, where the minds of the boys and girls, the future citizens of America, will be tainted, corrupted, and brutalized by such scenes.¹²⁸

B. The Police

In May 1910, the International Association of Chiefs of Police held their annual meeting in Birmingham, Alabama and adopted a resolution that stated:

This Association deprecates and condemns the moving picture shows that are making false representations of the police, together with tragedy, burglaries, and all immoral displays, as they tend to the encouragement of crime.¹²⁹

This resolution drew little public attention when the Association passed it in May 1910. Two months later, however, after the Johnson-Jeffries fight, it drew significant public attention because many police officers argued that, according to the resolution, the Johnson-Jeffries Fight Film was a condemned immoral display.¹³⁰

Chiefs of Police did not directly lobby against the exhibition of the Johnson-Jeffries Fight Film. Nevertheless, in many cities the local Chiefs of Police had the authority to determine whether a

¹²⁷ Malcolm R. Birnie, *Prizefight Pictures*, NY TIMES, Jul. 7, 1910, at 6.

¹²⁸ *Id.*

¹²⁹ *New Regulation for Fight Films*, WASH. HERALD, July 7, 1910, at 2. See also *Birmingham Gets Police Chiefs*, MONTGOMERY ADVERTISER, Mar. 2, 1910, at 11.

¹³⁰ See, e.g., *Cities Prohibit Fight Pictures*, CHI. DAILY TRIB., Jul. 6, 1910, at 1; *Great War Against All Fight Pictures*, TRENTON EVENING TIMES, Jul. 6, 1910, at 1.

movie was immoral or, more generally, whether an activity created a public nuisance that justified police intervention. This authority coupled with known, expressed opinions against the exhibition of the Johnson-Jeffries Fight Film turned many Police Chiefs into messengers and operators of censorship. The press indeed credited the International Association of Chiefs of Police as one of the forces behind the national movement to ban the Johnson-Jeffries Fight Film.¹³¹

Major Richard Sylvester, the powerful President of the International Association of Chiefs of Police and the Chief of Police of the District of Columbia, is an illustrative example of this trend. He led his Association and his City to ban the Johnson-Jeffries Film.¹³²

C. *The Formation of a Censorship Wave*

1. JULY 5, 1910

Johnson's victory on the Fourth of July 1910 shook the nation. Instantly, many cities and towns put out official announcements that they would not allow the exhibition of the Johnson-Jeffries Fight Film. Indeed, a day after the fight, newspapers published strong statements expressing intentions to ban the film from officials in Atlanta, Baltimore, Boston, Cincinnati, the District of Columbia, Harrisburg (Pennsylvania), Los Angeles, and St. Louis.¹³³ The Texas Governor did not commit to bar the exhibition of the film, but expressed an unequivocal opinion about it. He told reporters that he believed that it would be "in the best interests of the

¹³¹ See, e.g., *Great War Against All Fight Pictures*, *supra* note 130; *Oust Pictures from Theaters*, LA TIMES, Jul. 6, 1910, at 16.

¹³² See *infra* notes 142-147 and accompanying text.

¹³³ See, e.g., *Atlanta to Bar Fight Pictures*, ATLANTA CONST., July 6, 1910, at 1 (quoting the Mayors of Atlanta, Baltimore, Cincinnati, and Los Angeles, and the Chief of Police of the District of Columbia); *Bar Fight Pictures to Avoid Race Riots*, N.Y. TIMES, July 6, 1910, at 3 (referring to Atlanta, Baltimore, Cincinnati, the District of Columbia, and St. Louis); *Boston Will See No Fight Pictures*, WASH. TIMES, July 6, 1910, at 4; *Cities Plan to Block Fight Pictures*, OLYMPIA DAILY RECORDER, July 5, 1910, at 4 (referring to the "municipal authorities" of Baltimore and to the Chief of Police of the District of Columbia, Major Richard Sylvester); *Cities Prohibit Fight Pictures*, CHI. DAILY TRIB., July 6, 1910, at 1 (referring to various cities and Boston); *Prohibits Pictures*, BEAUMONT DAILY J., July 6, 1910, at 1 (reporting about Harrisburg, Pennsylvania); *St. Louis to Bar Fight Pictures*, TRENTON EVENING TIMES, July 6, 1910, at 2 (quoting the Mayor of St. Louis).

people of Texas to prohibit moving picture exhibitions of the fight" and that he would convene the legislature to promote this end.¹³⁴ The explanations provided in support of a ban were the aversion to prizefighting, consistency with the general prohibition against prizefighting, and fears of race riots.

The New York Times claimed that the "fatalities [across the country] resulted from fight occasioned by the Johnson victory at Reno" and argued that municipal officials acted to prevent the exhibition of the fight film to avoid race riots.¹³⁵ *The Washington Times* reported that the Baltimore mayor was personally opposed to the exhibition of the Johnson-Jeffries Fight Film but felt that he had no authority to prohibit its showing "until it was proved that they were contrary to public law and order."¹³⁶ The City's Police Marshal was "uncompromisingly opposed" to the exhibition of the film and persuaded the mayor to ban it.¹³⁷ *The Chicago Daily Tribune* predicted that "[m]oving pictures of the Johnson-Jeffries fight probably will be prohibited in many of the larger cities of the country through fear of the renewal of race bitterness as well as a possible lowering of the moral tone of the people."¹³⁸

Local newspapers made stronger statements about the quickly forming wave of censorship. For example, *The Beaumont Daily Journal* of Beaumont, Texas reported:

The moving pictures of the Jeffries-Johnson prize fight are to be barred from nearly every city in the United States. . . . The feeling of race prejudice that came in the wake of the fight has led many cities to adopt ordinances prohibiting the exhibition of the film. It is more than probable that the moving picture men will not attempt to bring the pictures into the South. Even in the absence of any law prohibiting the display of the films in the southern states, the strife that would be certain to come with the exhibitions would

¹³⁴ *Fight Films Regarded as Trouble Breeders*, BEAUMONT DAILY J., July 6, 1910, at 1.

¹³⁵ *Bar Fight Pictures to Avoid Race Riots*, *supra* note 133.

¹³⁶ *Baltimore's Mayor Will Bar Pictures*, WASH. TIMES, July 6, 1910, at 4.

¹³⁷ *Id.*

¹³⁸ *Cities Prohibit Fight Pictures*, CHI. DAILY TRIB., July 6, 1910, at 1.

probably cause any motion picture man in the South to think twice before he would “book” the pictures.¹³⁹

A few mayors took the position that, since newspapers published pictures of the fight, there was no reason to prohibit the exhibition of the Johnson-Jeffries Fight Film. Even if there was reason to prohibit the film, these mayors did not believe they had the power to impose such a ban. The two prominent mayors in this group were New York City Mayor William Gaynor and Philadelphia Mayor John Reyburn.¹⁴⁰

Some mayors, like the Detroit Mayor, did not take sides. Rather, they expressed concerns that the exhibition of the Johnson-Jeffries Fight Film in their cities could incite race riots and pointed out that, before the film could play in the city, the authorities must address the peace in the community.¹⁴¹

The Chiefs of Police of the District of Columbia and Chicago expressed opposite public views that captured the disagreements over the censorship of the Johnson-Jeffries Fight Film. A day after the fight, the Washington Police Commissioners decided to prohibit the exhibition of the film in the Capital to avoid the repetition of the race riots that took place after the fight.¹⁴² They did so based on the recommendation of the District of Columbia’s Chief of Police Major Richard Sylvester, who told reporters that he

¹³⁹ *Fight Films Regarded as Trouble Breeders*, *supra* note 134 .

¹⁴⁰ *Atlanta to Bar Fight Pictures*, *supra* note 133 (referring to Gaynor); *Ban May Be Put on Fight Pictures*, PHILA. INQUIRER, July 6, 1910, at 10 (quoting Reyburn).

¹⁴¹ See, e.g., *Detroit May Stop Pictures*, Jul. 6, 1910, TRENTON EVENING TIMES, at 2 (citing Detroit Mayor Philip Breitmeyer stating: “Personally, I have no objection to the pictures. . . . [B]ut if they will tend to incite race rioting and race hatred, we shall prevent their reproduction here.”).

¹⁴² Many national newspapers published essentially the same announcement. See, e.g., *Cities Plan to Block Fight Pictures*, *supra* note 133; *Police Chief to Prevent Pictures*, PHILA. INQUIRER, July 6, 1910, at 10. The Washington newspapers were a bit more detailed. See, e.g., *District May Bar Pictures of Fight*, WASH. HERALD, July 6, 1910, at 2 (writing that “[t]he chief of police believed that with one-third of the city’s population black, the reproduction of the fight would stir up racial prejudice and give the police unlimited trouble.”); *Fight Pictures Are Prohibited in the District*, WASH. TIMES, July 6, 1910, at 1 (attributing the police decision to pressures from Christian groups); *Quick Action Taken By Commissioners*, WASH. TIMES, July 6, 1910, at 4 (referring to concerns about race riots); *Object to Fight Pictures*, WASH. POST, July 6, 1910, at 2.

would do his utmost to prevent the exhibition of the film in the District. Major Sylvester's recommendation read as follows:

I have the honor to recommend that pictures of burglaries, 'hold-ups' in police parlance, otherwise robberies, and prize fights be eliminated from displays made by moving-picture theaters and other places of entertainment as detrimental to the public welfare.

It is but necessary to read the public press of the crime and disorder and breaches of the peace that followed the announcement of the recent prize-fight in various sections of the country . . . to form an idea of the disorder and violence following the announcement in this jurisdiction. It is the duty of the police to prevent crime and disorder . . . but with a limited force . . . the burdens are increased by anything of the kind that tends so much to increase avoidable disturbances.

The time is now here when nothing unnecessary should be allowed to operate to produce sectional or race feeling in the District of Columbia, and, under the existing laws and regulations, I am of the opinion that authority exists to sustain my recommendation.¹⁴³

This recommendation supposedly relied on a 1901 federal resolution that authorized the Police Commissioners of the District of Columbia to terminate any license they issued to a "theater or other public place of amusement . . . whenever it shall appear to them that, after due notice, the person holding such license shall have failed to comply with such regulations as may be prescribed by the . . . Commissioners for the public decency."¹⁴⁴

¹⁴³ *Quick Action Taken by Commissioners, supra* note 142.

¹⁴⁴ Joint Resolution Regulating Licenses to Proprietors of Theaters in the District of Columbia, 31 Stat. 1463 (1901) (approved Mar. 1, 1901). For the reliance on this act, see *New Regulation for Fight Films*, WASH. HERALD, July 7, 1910, 1910, at 2.

The legal position of the Syndicate was that this federal resolution did not authorize the Commissioners to ban films, "provided that no disorder or rioting follows the exhibition."¹⁴⁵



Major Richard Sylvester,
Washington Bee,
July 16, 1910, at
1.

The Police Commissioners of the District of Columbia endorsed the recommendation of the very influential Major Sylvester. Two days later, on July 7, 1910, they adopted a police regulation that prohibited the public exhibition of prizefight films in the District of Columbia.¹⁴⁶ *The Washington Post* explained the logic of this fast-track censorship rule:

¹⁴⁵ *New Regulation for Fight Films*, *supra* note 144.

¹⁴⁶ Section 15a of Article XVI of the Police Regulations of the District of Columbia (Jul. 7, 1910) (on file with the author).

Suppressing Fight Pictures

In view of the race feeling aroused by the Jeffries-Johnson fight, the authorities of Washington have acted wisely in prohibiting the exhibition of moving pictures of the contest. The reason for stopping such exhibitions should be clearly stated. . . . The public was mightily interested in that fight, and it would be interested in seeing the pictures. Under ordinary conditions there would be no good reason for suppressing the pictures. The public knows what it wants, and if it cannot look after its own morals public officials cannot be expected to save it. In this case the public concurs in the plan to prevent the inflaming of race feeling by the exhibition of pictures showing a negro knocking out the white champion of the world.

Reports from all over the country indicate that most of the riotous troubles have been started by whites. They have taken it for granted, in many cases, that the colored population would become too enthusiastic over Johnson's victory. In some instances it is very clear that quarrelsome whites were glad to find an excuse for attacking the blacks. But whether the blame rests with one race or the other, it is the duty of the authorities to take note of enlightened public opinion and suppress the fight pictures.¹⁴⁷

Unlike the District of Columbia, Chicago already had operating film censorship mechanisms that the Chief of Police controlled. In 1907, Chicago passed a censorship ordinance that prohibited public exhibition of motion pictures without a permit. The Chief of Police was the censor who by law denied permits from "immoral or obscene" films.¹⁴⁸ Chicago was one of the pioneering jurisdictions in film censorship, but hardly the first.¹⁴⁹

¹⁴⁷ *Suppressing Fight Pictures*, WASHINGTON POST, Jul. 7, 1910, at 6.

¹⁴⁸ An Ordinance to Prohibit the Exhibition of Obscene and Immoral Pictures and Regulating the Exhibition of Pictures of the Classes and Kinds Commonly Shown in Mutoscopes, Kinetoscopes, Cinematographs, and Penny Arcades (Chicago, November 4, 1907). The Supreme Court of Illinois upheld the constitutionality of the ordinance in 1909. *Block v. City of Chicago*, 239 Ill. 251 (1909). For the events that led to

In response to the developments in the District of Columbia, the Chicago Chief of Police, Colonel LeRoy Steward, told reporters:

It appears to me that Maj. Sylvester's action in Washington is far-fetched. I am not a member of the [International] [A]ssociation of [P]olice [C]hiefs and do not know what their action is based on. Personally, I should favor the barring of the picture displays from Chicago, but moving picture exhibitions of prize fights have not been tabooed in the past and I see no reason why the pictures of the Jeffries-Johnson fight should be discriminated against. I think that we will wait until the pictures are shown here before deciding on what action to take.¹⁵⁰

Accounts of the events of the summer of 1910 suggest that many, if not most, Police Chiefs sided with the position of Major Sylvester, the President of the International Association of Chiefs. For example, in Baltimore, Marshal Thomas Franen told reporters that he would request the mayor to prohibit the exhibition of the film.¹⁵¹ His formal statement provided:

I am strongly opposed to having moving pictures of the Jeffries-Johnson fight shown in Baltimore. We have a large colored population here and the exhibition of the pictures might cause racial troubles.¹⁵²

the adoption of the ordinance and the first years of enforcement, see Kathleen D. McCarthy, *Nickel Vice and Virtue: Movie Censorship in Chicago, 1907-1915*, 5 J. POPULAR FILM & TELEVISION 37 (1976).

¹⁴⁹ For many years, scholars mistakenly believed that the 1907 Chicago censorship ordinance was the first act of film censorship in the United States. For the clarification of this error, see Orbach, *supra* note 28.

¹⁵⁰ *Cities Prohibit Fight Pictures*, CHI. DAILY TRIB., Jul. 6, 1910, at 1.

¹⁵¹ *Baltimore Also Is Against Pictures*, LEXINGTON HERALD, July 6, 1910, at 1.

¹⁵² *Id.*

2. JULY 6, 1910

a) *National Trends*

The national movement to censor the Johnson-Jeffries Fight Film was strong and swift. *The Baltimore American* offered a concise account of the events:

New York, July 6—[Special]—The crusade to prohibit the exhibition of the moving pictures showing the Johnson-Jeffries prizefight spread all over the United States with remarkable rapidity today, and it is likely that a large part of the financial harvest anticipated by the moving-picture men will not be materialized.

North, South, East, and West the mayors of cities have given orders to the police to prevent the showing of the pictures, in some cases for fear that they would lead to race riots and in others that they would tend to subvert the morals of children.¹⁵³

The Boston Journal noted that “[m]ayors of a number of prominent cities throughout the country have placed their seal of approval on the movement . . . of the United Society of Christian Endeavor, and have issued notices prohibiting the display of moving pictures of the Jeffries-Johnson fistic battle at Reno.”¹⁵⁴ *The Trenton Evening Times* acknowledged the influence of the United Society of Christian Endeavor, but ultimately argued that the cities that already barred the exhibition of the Johnson-Jeffries Fight Film did so “fearing that the sight of a negro knocking out a white man would lead to more race feeling.”¹⁵⁵ *The Chicago Daily Tribune* wrote that “state laws and orders by executive officers” made it possible to ban the reproduction of the Reno “fistic” encounter upon canvas.¹⁵⁶

¹⁵³ *War on Fight Pictures Grows*, BALT. AM., July 7, 1910, at 1.

¹⁵⁴ *21 Cities Have Barred Pictures*, *supra* note 159.

¹⁵⁵ *Great War Against All Fight Pictures*, TRENTON EVENING TIMES, July 6, 1910, at 1.

¹⁵⁶ *More Cities Bar Fight Pictures*, CHI. DAILY TRIB., July 7, 1910, at 3.

The Lexington Herald of Kentucky published an urgent call to mayors and state legislatures to “stop the exhibition of the pictures:”¹⁵⁷

The most serious apprehension of those who feared the effect of the victory of Johnson over Jeffries have been realized. . . . [A]ccounts of riots, assaults, outrages of one sort and another, culminating in many instances in murder. . . . There is one step that can be taken which by all means ought to be taken. The pictures of the fight ought not to be permitted to be exhibited in any city of the United States. The feelings aroused because of it ought to be allayed as soon as possible. The memory of it ought to be obliterated as far as possible. Every city ought instantly to pass ordinances so drawn as to prevent the exhibition of the pictures. Every State Legislature . . . ought instantly to pass laws which shall prevent in that State any exhibition, that no greater damage may arise, no further outrage be committed, no more injuries be inflicted, no more racial feelings be aroused than has already been done.¹⁵⁸

On July 6, 1910, two days after the fight, public officials escalated their statements against the exhibition of the film. The newspapers reported that *at least* nine states and forty-one towns banned prize-fight films or were about to adopt such censorship laws to prevent the exhibition of the Johnson-Jeffries Fight Film within their jurisdictions.¹⁵⁹ On this list of states and municipalities with censorship laws in place after the fight, only Maine and Iowa actually had anti-prizefight film laws on their books before July 1910.

¹⁵⁷ *Stop the Exhibition of the Pictures*, LEXINGTON HERALD, July 6, 1910, at 4.

¹⁵⁸ *Id.*

¹⁵⁹ See, e.g., *21 Cities Have Barred Pictures*, BOSTON J., July 7, 1910, at 13; *More Cities Bar Fight Pictures*, *supra* note 156; *Active Measures Being Taken to Prevent Showing of Fight Pictures*, COLORADO SPRINGS GAZETTE, July 7, 1910, at 7; *States and Cities Divide Regarding Pugilistic Shows*, S.F. CALL, July 7, 1910, at 2; *Endeavorers' Fight Wins*, MONTGOMERY ADVERTISER, July 7, 1910, at 1; *Fight Moving Pictures Barred*, COLUMBUS ENQUIRER-SUN, July 7, 1910, at 1; *Mayors Will Stop It*, THE SUN: BALT., July 7, 1910, at 14.

The states and cities that the press listed as jurisdictions in which the Johnson-Jeffries Fight Films could not be shown legally on July 6, 1910 were:¹⁶⁰

States	Municipalities
1) Arkansas	1) Atlanta, Georgia
2) Georgia	2) Baltimore, Maryland
3) Iowa	3) Baton Rouge, Louisiana
4) Maine	4) Berkeley, California
5) Maryland	5) Birmingham, Alabama
6) Massachusetts	6) Boston, Massachusetts
7) Montana	7) Buffalo, New York
8) Texas	8) Charleston, South Carolina
9) Virginia	9) Cincinnati, Ohio
	10) Columbia, South Carolina
	11) Detroit, Michigan
	12) El Paso, Texas
	13) Fort Worth, Texas
	14) Harrisburg, Pennsylvania
	15) Jackson, Mississippi
	16) Lexington, Kentucky
	17) Little Rock, Arkansas
	18) Los Angeles, California
	19) Louisville, Kentucky
	20) Macomb, Illinois
	21) Milwaukee, Wisconsin
	22) Minneapolis, Minnesota
	23) Mobile, Alabama
	24) New Orleans, Louisiana
	25) Newport, Kentucky
	26) Norfolk, Virginia
	27) Phoenix, Arizona
	28) Portsmouth, Virginia
	29) Providence, Rhode Island
	30) Raleigh, North Carolina
	31) Richmond, Virginia
	32) Rochester, New York
	33) Roswell, New Mexico
	34) Saginaw, Michigan
	35) Savannah, Georgia

¹⁶⁰ Major sources for this list include: *More Cities Bar Fight Pictures*, *supra* note 156; *21 Cities Have Barred Pictures*, *supra* note 159; *Action Taken in States and Cities*, WASHINGTON POST, Jul. 7, 1910, at 1; *Active Measures Being Taken to Prevent Showing of Fight Pictures*, *supra* note 159; *States and Cities Divide Regarding Pugilistic Shows*, *supra* note 159; *Endeavorers' Fight Wins*, *supra* note 159; *Fight Moving Pictures Barred*, *supra* note 159; *Mayors Will Stop It*, *supra* note 159.

States	Municipalities
	36) San Francisco, California 37) St. Louis, Missouri 38) Topeka, Kansas 39) Washington., D.C. 40) Wichita, Kansas 41) Wilmington, North Carolina

The Boston Journal reported that “[t]here are a number of other cities that are opposed to the pictures being exhibited, but as yet the mayors of these [cities] have taken no actions. The chief executives of several cities acknowledged that they believe the pictures to be such as to hurt the morals of the young, but state they would have to look up the law before giving a decision.”¹⁶¹

On the morning of July 6, the influential Cardinal James Gibbons, the Archbishop of Baltimore,¹⁶² released a statement opposing the exhibition of the Johnson-Jeffries Film that many newspapers printed. Cardinal Gibbons called all jurisdictions to join the censorship movement:

It would be wrong to show those horrible pictures, first, because the children have to be protected, and it is the children who would be most seriously affected if such exhibitions were allowed. The proper authorities should see to it that the young men and young women too are given the protection that is their due.

Showing of the pictures would have a bad effect upon men and women of the community also, and would, I think, tend to induce attacks upon the blacks. The resentment and ill feeling induced by the result of the fight have passed and should not be revived. A pictorial reproduction in Baltimore

¹⁶¹ 21 *Cities Have Barred Pictures*, *supra* note 159.

¹⁶² Cardinal Gibbons died in 1921, but one of his biographies was published already in 1911. See ALLEN S. WILL, *LIFE OF JAMES CARDINAL GIBBONS* (1911).

of the fight might cause rioting that could not but injure the good name of the city. The black people could not profit from seeing these pictures, and I am sure the whites would not.¹⁶³

The Syndicate could have never anticipated such a legal wildfire—an uncoordinated but powerful movement that operated across the country in every city to ban the Johnson-Jeffries Fight Film.

¹⁶³ See, e.g., *Widespread Move to Bar Fight Films*, DALLAS MORNING NEWS, Jul. 7, 1910, at 1.



A cartoon depicting the spread bans on the Johnson-Jeffries Fight Film in major cities across the country.

The Baltimore American, July 7, 1910, at 16

b) Prompt Legislative Actions

Georgia took the legislative lead against fight pictures. On July 6, a censorship bill was introduced in the State House of Representative

and Senate.¹⁶⁴ The bill sought to prohibit “for any person or corporation to exhibit in the State of Georgia, or cause to be exhibited, any moving picture or similar service, representing or intended to represent any fight or boxing contest between negroes and whites, or between a white person and a negro.”¹⁶⁵ The state had recent memories of racist deadly encounters: three years earlier Georgia politicians steered white supremacists into deadly riots in Atlanta.¹⁶⁶

The City Council of Atlanta, however, decided not to wait for the state legislature. On July 6, the Council adopted a ban on the exhibition of fight films. The language of this censorship act was drafted essentially to ban one particular film—the Johnson-Jeffries Fight Film:

Atlanta, Georgia, July 6th, 1910.

Whereas a prize fight was held on July 4th between a white man and a negro in Reno, Nevada, and the result of the publications of this fight has tended to cause race prejudice and has caused several racial conflicts and it is advisable, in order to preserve peace and order, to prohibit a display of this fight by means of moving pictures, inasmuch as such continued display may cause a continuance of disorder and possibly riots,

Therefore, be it ordained by the Mayor and General Council of the City of Atlanta as follows:

Sec. 1. That no person, either as owner, agent or employee, shall display by means of moving pictures or similar devices the program or result of any prize fight or boxing contest, in either an electric or

¹⁶⁴ *Georgia Leads March Against Fight Pictures*, MACON DAILY TELEGRAPH, Jul. 7, 1910, at 1. Bill No. 222, A Bill to prohibit exhibitions of prize fights by moving picture shows where fights between whites and negroes are shown (on file with the author). The bill had unanimous support in the House and Senate but ultimately was not passed.

¹⁶⁵ Ga. Bill No. 222.

¹⁶⁶ See MARK BAUERLEIN, *NEGROPHOBIA: A RACE RIOT IN ATLANTA, 1906* (2001); REBECCA BURNS, *RAGE IN THE GATE CITY: THE STORY OF THE 1906 ATLANTA RACE RIOT* (2006).

moving picture show or vaudeville performance or in a theatre or at any place in or at which persons gather, either by paid admission or by free exhibition.

Sec. 2. That any person violating Section 1 of this ordinance shall be deemed guilty of an offense and on conviction thereof in the Recorder's Court, shall be punished by a fine not exceeding Five Hundred Dollars or sentenced to work on the public works of the City for not exceeding thirty days, either or both penalties to be inflicted in the discretion of the Recorder and, in addition thereto, the Recorder shall have the power, in case a person violating this ordinance holds a license for any purpose or business from the City, to forfeit such license and thereafter any effort to operate such business under such forfeited license shall be deemed an offense punishable in the same manner as provided in this Section.

Sec. 3. That all ordinances and parts of ordinances in conflict with this ordinance be and the same are hereby repealed.

Adopted by General Council July 6, 1910,

Approved July 6, 1910.

Robert F. Maddox, Mayor

On the same day, the Louisiana Legislature acknowledged the unusual circumstances that shook the nation, and adopted the following resolution that called all municipalities in the state to censor the Johnson-Jeffries Fight Film:

Whereas, the recent pugilistic contest between Jim Jeffries, a white man, and Jack Johnson, a negro, has had a tendency throughout the country to strain the relationship of the white and colored races; and,

Whereas, the State of Louisiana should seek to avoid all influences which would affect the moral health of either race, and should prevent all things which would rupture the friendship existing between the races in this State; there-fore, be it

Resolved by the House of Representatives, the Senate concurring, That all cities, towns and municipalities in the State of Louisiana are earnestly urged and requested to prevent and forbid by proper proclamations and ordinances the exposition of any moving pictures (or films) of the Jeffries-Johnson fight.¹⁶⁷

This strong statement of the state legislature created some trouble in New Orleans, because earlier that day the city authorities announced that the Johnson-Jeffries Fight Film was permitted to be exhibited only in theaters that separated blacks and whites.¹⁶⁸ Racial segregation in theaters was a standard practice in 1910, but the instruction for the Johnson-Jeffries Film specifically provided one floor for whites and one floor for blacks. The Legislature's resolution forced Mayor Martin Behrman to send new instructions to the City's Inspector of Police:

You are hereby directed to at once warn and caution all moving picture establishments now existing, or which may hereafter exist, in this city, and any person or persons, firms or corporations using moving picture films, or engaged in exhibiting moving pictures, against the exhibition of any moving picture films showing the Jeffries-Johnson prize fight. To this end you will cause a general order to be issued to all stations, and to see that the first attempt of anyone to violate this order shall meet with prompt arrest, punishment and revocation of license.¹⁶⁹

¹⁶⁷ Concurrent Resolution 18, adopted on July 6, 1910 (on file with the author).

¹⁶⁸ *To Separate Races*, Jul. 6, 1910, TRENTON EVENING TIMES, at 2.

¹⁶⁹ *Prize Fight Pictures Cannot Be Displayed in New Orleans*, DAILY PICAYUNE-NEW ORLEANS, Jul. 7, 1910, at 7. Inspector William O'Connor instantly issued the following order all police forces in the city:

Many city councils responded to the Johnson-Jeffries Fight by adopting censorship measures on July 6, 1910. For example, the Board of Alderman of Birmingham, Alabama was eager to address the threats to the community. On July 6, 1910, the Aldermen unanimously adopted a resolution to pass an “Ordinance prohibiting moving pictures of prize fight between whites and negroes.”¹⁷⁰ The Birmingham ordinance banned the exhibition of interracial fight films *only* during 1910 and thus did not even have the pretense that the censorship is against all fight films, just Johnson’s black supremacy.

An Ordinance – No. 308.

To Prohibit the Showing, Displaying, or Exhibiting in the City of Birmingham, Alabama, Instantaneous or what is known as “Moving Pictures,” of any Prize Fight, Fight, Sparring or Boxing Contest between any White Man and a negro During the Year 1910.

SECTION 1. BE IT ORDAINED by the City Council of Birmingham that it shall be unlawful for any person, firm or corporation to show, display or exhibit, or to aid or be interested in showing, displaying or exhibiting during the year 1910 in any public building or place in the City of Birmingham or in the police jurisdiction thereof, or in any private building or place in the City of Birmingham or in the police jurisdiction thereof to which the public generally

To all stations and detectives’ office: By direction of his honor the mayor you will at once warn and caution all owners, agents, and managers of all moving picture shows and establishments now existing or that may hereafter exist in this city, and all person, firms or corporations using moving picture films, that the exhibition in any way or manner of the Jeffries-Johnson prize fight will not be allowed: and that anyone attempting to show any such picture or exhibit such film will be promptly arrested and his license revoked. You will give this immediate attention, and will see that this order is strictly enforced. You will have your men make frequent visits day and night to all such places doing business in this city, and on the first attempt to violate this order arrests and full reports must follow.

Id.

¹⁷⁰ Birmingham, Alabama, Board of Aldermen Minutes, Jul. 6, 1910 (on file with the author).

of said City may enter or have access, any instantaneous or what is known and termed as "moving pictures," of any prize fight, fight, sparring or boxing contest between any white man and a negro, or what purports to be a prize fight, fight, sparring or boxing contest between any white man and a negro.

SECTION 2. Any person violating any of the provisions of this ordinance shall, on conviction, be fined not exceeding one hundred dollars (\$100.00), and may, in addition thereto, be sentenced to hard labor for the city not exceeding six months, one or both, in the discretion of the court trying the cause, and it shall be the duty of the mayor and he is hereby specially authorized to forthwith cancel and annul any license issued in the name of the City of Birmingham to any person doing business in the building or place where said display or exhibition of such pictures were made.

Adopted July 6th, 1910.

H. H. SHROPSHIRE, JR., City Clerk.

Approved July 7th, 1910.

FRANK P. O'BRIEN, Mayor.

c) Expansion of Executive Power

During the forty-eight hours after the fight, the actual censorship processes in states and municipalities involved many executive declarations of intent and instructions to exhibitors. While some states and municipalities adopted new censorship laws, many others expanded executive power to ban the Johnson-Jeffries Film. To illustrate the execution of the speedy censorship rules, consider the case of Boston. In May 1908, Boston adopted a rudimentary censorship ordinance that relied on a licensing mechanism.¹⁷¹ The ordinance

¹⁷¹ BOSTON, MA., An Act Relative to the Licensing of Theatrical Exhibitions, Public Shows and Amusements in the City of Boston (May 5, 1908).

required any film exhibitor, as well as any other operator of public shows, in which admission is charged to obtain a license from the mayor.¹⁷² The ordinance further authorized the mayor to *suspend* the license if the license holder holds an exhibition that is “obscene or immoral or tends to injure the morals of the community and is not eliminated at the request of the mayor.”¹⁷³

On July 6, 1906, Boston Mayor John Fitzgerald, released a statement about his goals: “Prize fighting in itself is brutalizing and for this reason is prohibited in and about every state in the Union. . . . Boston ought to take the lead in banishing pictures of these contests which necessarily have a tendency to degrade. Consequently, I do not think that the pictures of the [Johnson-Jeffries] fight will be given in Boston.”¹⁷⁴ Mayor Fitzgerald spelled out steps he took to prohibit the Johnson-Jeffries Film to a reporter for *The Boston Journal*: “We don’t want the moving pictures of the Johnson-Jeffries fight displayed in the City of Boston. So I sent out notices to all the theaters warning them against exhibiting the pictures under a penalty of having their licenses revoked immediately.”¹⁷⁵ Mayor Fitzgerald further explained why he believed that he had the legal power to institute such censorship: “The theatrical licenses expire on August 1, but the power to revoke licenses before that time lies with me. The people of Boston, I know, don’t want the pictures displayed.”¹⁷⁶

Thus, the Boston Mayor felt the risk to morality was so imminent that non-renewal of licenses in three weeks was not an appropriate measure for the threat. Mayor Fitzgerald emphasized that women and children attend movie theaters, and that therefore the brutal exhibition of the fight, “as described by the newspapers,” could not be tolerated in his town. In his words:

The picture of Jeffries, as described, with his eye closed and the blood streaming from his nose and mouth, with Johnson still beating him, is a brutal one, and would have

¹⁷² *Id.* § 1.

¹⁷³ *Id.* § 2.

¹⁷⁴ *Boston’s Mayor in the Lead*, TRENTON EVENING TIMES, Jul. 6, 1910, at 2; *Fight Pictures*, ALEXANDRIA GAZETTE, Jul. 6, 1910, at 2.

¹⁷⁵ *Fitz Bars Fight Films from All Theaters in Hub*, BOSTON J., Jul. 7, 1910, at 1.

¹⁷⁶ *Id.*

a brutalizing effect on anybody who would witness it. It ought to be stopped, and, so far as I have any power, it will be stopped in Boston.

I like good boxing and would like to see it developed, but I do not think the Reno affair with the spectacle of the last two rounds, should be produced in the civilized world.¹⁷⁷

The reading of the law and the mayor's statements clearly shows that he assumed authorities that the Boston licensing-censorship ordinance did not grant him. Like other mayors, Mayor Fitzgerald used his executive position to censor Johnson's black supremacy. According to some reports, pressures from the United Society of Christian Endeavor, whose headquarters were located in Boston, influenced the decision of Mayor Fitzgerald to act quickly.¹⁷⁸

In cities across the country, mayors expanded their executive powers to prohibit the exhibition of the Johnson-Jeffries Film in other ways that should have raised questions about legal authority and consistency with past policies. For example, in San Francisco, Mayor P.H. McCarthy announced: "Inasmuch as this contest resolved itself into a prize fight pure and simple, and was not a boxing match, the exhibition of the moving pictures would be as unlawful as the fight itself. I will not permit them to be shown in San Francisco."¹⁷⁹ Prior to the defeat of Jeffries, no state or town interpreted the common bans on prizefights as a prohibition against fight films. Thus, since neither the California anti-prizefight law nor fight films were a new phenomenon, Mayor McCarthy's approach represented a new form of "statutory interpretation" that was tailored for the Johnson-Jeffries fight. Indeed, Mayor McCarthy's official statement to the press lays out the motivations behind this policy:

After due reflection, I shall not permit photographic pictures of the Johnson-Jeffries fight to be exhibited in San

¹⁷⁷ *Id.*

¹⁷⁸ See, e.g., *Fuss Over Fight Pictures*, N.Y. DAILY TRIB., July 7, 1910, at 5.

¹⁷⁹ *Barred in San Francisco*, N.Y. TIMES, July 7, 1910, at 3.

Francisco. I have . . . forwarded a letter to the board of censorship of this city, and it is for this body to take the initial step. I have no doubt that the members of this board, all of them being intensely interested in the welfare of our youth, will proceed to bar the moving pictures of the Reno fight from this city without further suggestion from me.

My reason for taking this step is that if the Johnson-Jeffries affair at Reno was such as to exceed the legitimate scientific boxing contest now countenanced by law in this state, and was, therefore, featured by brutality and amounted to a violation of the anti-prize fight law, photographic reproduction of the same should not be exhibited in this or any other community.

Had the contest occurred here, only adults would have been admitted to the arena, youths and minors being effectually barred. If the moving pictures however, of this very fight, which was banished from this state because of its objectionable features, were permitted to be shown here, any and every little boy and girl who had a nickel could gain access to and witness the same, and the spirit and intent of the state law would be plainly and definitely defeated.

I have ever been an earnest advocate of legitimate boxing contests. . . . I am not in favor, however, of brutal and demoralizing slugging matches, and shall not permit lifelike pictures of any unlawful affair to be exhibited in this city while I am mayor.¹⁸⁰

Mayor McCarthy, therefore, targeted the Johnson-Jeffries Fight Film as being different from other fight films. In McCarthy's mind, the Johnson-Jeffries Fight Film was, demoralizing and had to be censored.

¹⁸⁰ Mayor P.H. McCarthy, *San Francisco Will Not See the Johnson-Jeffries Fight Pictures*, SF CALL, Jul. 7, 1910, at 2.

d) Excuses for Action Within the Law

In light of the pressure of the United Society of Christian Endeavor and other Christian groups, some governors expressed a personal desire to block prizefight films but emphasized that they had no legal authority to stop the exhibition of the Johnson-Jeffries Fight Film.

Illinois Governor, Charles Deneen, told reporters that he opposed the exhibition of fight films but it was not in his power to interfere with the exhibition of such moving pictures.¹⁸¹ When a delegation of ministers came to ask him to stop the exhibition of the Johnson-Jeffries Fight Film, he told them that he “had no authority to stop any exhibition of pictures, and that it was a matter for the . . . town or village authorities to attend to.”¹⁸² Governor Deneen specifically addressed the question of whether the Illinois anti-prizefight law could also ban exhibition of fight films. Illinois passed its anti-prizefight law in 1869, before the invention of moving-picture technologies, but like many other anti-prizefight statutes the Illinois law imposed criminal liability on any person who was “present at [a] fight . . . or advises, encourages or promote such fight.”¹⁸³ One possible interpretation of this statutory language could have imposed liability on individuals and firms who paid to watch fight films or were involved in other transactions related to prizefights.¹⁸⁴ Governor Deneen noted that “as long as Illinois has laws . . . prohibiting prize fights . . . the exhibition of photographic reproductions [of prize fights] should be stopped also, and I sincerely hope that these pictures will be prohibited, but that is a purely personal opinion, and I have no right to order them stopped.”¹⁸⁵ Within a few hours, however, additional pressures persuaded Governor Deneen to change his mind to support the movement against the Johnson-Jeffries Film.¹⁸⁶

¹⁸¹ *More Cities Bar Fight Pictures*, *supra* note 159.

¹⁸² *Id.*

¹⁸³ ILL. REV. STAT. § 233 (1901).

¹⁸⁴ For a discussion of this interpretation see Orbach, *supra* note 28, at 256-260.

¹⁸⁵ *More Cities Bar Fight Pictures*, *supra* note 156.

¹⁸⁶ *Fight Pictures Likely Doomed*, DULUTH NEWS TRIB., Jul. 7, 1910, at 1.

Similarly, Indiana Governor Thomas Riley Marshall responded to a telegram from the United Society of Christian Endeavor that asked him to prevent the exhibition of the Johnson-Jeffries Fight Film in his state.¹⁸⁷ In a statement released to the press, Governor Marshall wrote:

Personally I think the exhibition of these pictures should be prevented. They will lead to trouble, and possibly murder. But as Governor I doubt the ability of an executive to issue an order of proclamation not authorized by statute and believe a governor thereby weakens himself and from certain classes encourages a disregard for the law.¹⁸⁸

d) *No Action Against the Johnson-Jeffries Film*

Mayors who did not instantly join the social movement to ban the Johnson-Jeffries Film were singled out and subject to substantial media exposure. *The New York Daily Tribune*, for example, provided a typical account: "Standing out from many other large cities throughout the country in the fight against the exhibition of the Jeffries-Johnson fight pictures, the Mayors of New York, Philadelphia, Chicago, Pittsburg, Portland and Seattle announced that they will take no action hostile to the pictures".¹⁸⁹

The mayors of these cities emphasized their personal objections to fight films but noted that they lacked legal means to ban the film. Furthermore, they generally dismissed the concerns regarding race riots that the exhibition of the movie could possibly provoke.¹⁹⁰

e) *Religious Pressures*

On July 6, 1910, the General Secretary of the United Society of Christian Endeavor, William Shaw, sent a telegram to President

¹⁸⁷ *Marshall Gives His Opinion on Barring Pictures*, WILLKES BARR TIMES LEADER, Jul. 6, 1910, at 1.

¹⁸⁸ *Id.*

¹⁸⁹ *Fuss Over Fight Pictures*, N.Y. DAILY TRIB., July 7, 1910, at 5; *Movement Against Pictures Spread Over the Country*, NEV. STATE J., July 7, 1910, at 1.

¹⁹⁰ *Fuss Over Fight Pictures*, *supra* note 189; *Movement Against Pictures Spread Over the Country*, *supra* note 189.

Taft, former President Theodore Roosevelt, all the state governors, and the mayors of key cities.¹⁹¹ The telegram read:

Race riots and murder already follow the announcement of Johnson's victory. Moving pictures of prize fight will create more violence. Will you join in appeal to authorities, cities and towns, to prohibit pictures as law provides? Help save our young people from these demoralizing shows. Wire answer.¹⁹²

To reporters, Secretary Shaw explained his proposed legal strategy. He believed that existing legal mechanisms were sufficient to prevent the exhibition of the Johnson-Jeffries Fight Film and that no censorship laws were needed:

The time has come for the Christian and moral forces of the country to rise up and demand the suppression of these moving pictures. The city and town authorities have the power to forbid the exhibition of immoral and degrading pictures under penalty of revoking the license. No additional laws are needed. All that is required is an aroused public sentiment that will demand immediate action on the part of the authorities before the floodgates are opened.¹⁹³

3. JULY 7, 1910

On the morning of the third day after the fight, it was evident that a national movement had formed and was growing. *The Salt Lake Herald-Republic* reported:

All over the United States cities, ministerial associations, and even governors of states are forming ranks to prohibit the exhibition of the Jefferies-Johnson fight pictures. The agitation against the pictures is more heated

¹⁹¹ *Protest to World Issued at Boston*, WASH. TIMES, July 6, 1910, at 4.

¹⁹² *Endeavorers War on Fight Pictures*, BOSTON J., July 6, 1910, at 1.

¹⁹³ *Id.*

than against the fight itself and in many quarters undoubtedly the pictures will not be sanctioned.¹⁹⁴

The New York Times published an editorial with the heading "Stop It," agreeing with the premise of Mayor William Gaynor that, in New York City, the film was unlikely to disturb the peace. Nevertheless, *The Times* argued that:

[T]he exhibitions should be condemned and prevented on the same ground that the fight itself would have been prevented. [B]ecause it is brutalizing to spectators and in its general influence. . . . It is grotesque that we should forbid two men to make a brutalizing show of themselves, at the risk of more or less bodily injury from each other, and permit a lot of low speculators to set up precisely the same show in public at no risk whatever and with the certainty of considerable, possibly great, profit.¹⁹⁵

On July 7, a day after the General Secretary of the United Society of Christian Endeavor sent his telegram to politicians, the United Society and politicians started releasing to the press responses to the telegram. The following table summarizes the replies that the Endeavorers released to the press:¹⁹⁶

State	Governor	Statement
Alabama	Braxton Bragg Comer ✍	"I will take pleasure in recommending the prohibition of exhibitions of prize fight in moving pictures."
Arkansas	George Washington Donaghey ✍	"Will gladly co-operate in movement to suppress moving pictures of prize fight."

¹⁹⁴ *Protest Showing of Fight Pictures*, SALT LAKE HERALD-REPUBLICAN, July 7, 1910, at 1.

¹⁹⁵ *Stop It*, N.Y. TIMES, July 7, 1910, at 6.

¹⁹⁶ See *Many Governors Oppose Pictures*, TRENTON EVENING TIMES, Jul. 7, 1910, at 1, 2.

State	Governor	Statement
Illinois	Charles Deneen Ⓢ	"As governor, I'm willing to join in a general recommendation by governors that the pictures be barred. My position is based upon the theory that under the law we cannot allow prize fighting, and that, therefore, there should be no exhibition of prize-fight pictures." ¹⁹⁷
Indiana	Thomas R. Marshall Ⓢ	"Personally I think the exhibition of these pictures should be prevented. They will lead to trouble, and possibly murder. But as Governor I doubt the ability of an executive to issue an order of proclamation not authorized by statute and believe a governor thereby weakens himself and from certain classes encourages a disregard for the law." ¹⁹⁸
Maine	Bert M. Fernald Ⓢ	"I am glad to join the Governors in recommending that moving pictures of the Jeffries-Johnson fight be prohibited in the interest of peace and good morals." ¹⁹⁹
Maryland	Austin Lane Crothers Ⓢ	"Public sentiment in Maryland is overwhelmingly against any reproduction of the pictures and, therefore, I do not believe any attempt will be made to show them. If such attempt is made every means will be used by the State to prevent it. An exhibition of the pictures would have a tendency to create race riot and disorder, and, therefore, interfere with the general peace of the State. I am emphatically opposed to them being shows, and will take the proper steps to prevent them if it develops that a movement is on foot to reproduce the fight here." ²⁰⁰

¹⁹⁷ *Fight Pictures Likely Doomed*, *supra* note 177.

¹⁹⁸ *Marshall Gives His Opinion on Barring Pictures*, WILKES BARRE TIMES LEADER, Jul. 6, 1910, at 1 (reported as a reply to Secretary Shaw's telegram).

¹⁹⁹ Maine banned fight films already in 1897. See Orbach, *supra* note 28.

²⁰⁰ *Governor Issues Edict*, THE SUN: BALTIMORE, Jul. 7, 1910, at 14 (reported as a reply to Secretary Shaw's telegram).

State	Governor	Statement
Michigan	Fred M. Warner ☞	"Legal department of Michigan holds moving picture shows not prohibited by State law; can be suppressed, if necessary, by mayors and chiefs of police acting under city ordinances."
Montana	Edwin L. Norris ☞	"Laws of Montana do not seem sufficiently specific to prevent exhibition of prize fight pictures. I believe such exhibition conserves no useful purpose and may in many instances produce harmful results. I should be glad to know such pictures were not to be shown in this State."
Rhode Island	Aram J. Pothier ☞	"Moving picture exhibitions in this state are controlled by the town and city license system. It has not been the custom of the Governor to interfere with regulations prescribed in the town and city, or usurp their prerogative, save in extreme cases."
South Carolina	Martin F. Ansel ☞	"Yes, I will join other Governors in recommending prohibition of moving pictures of Johnson-Jeffries prize fight."
South Dakota	Robert S. Vessey ☞	"I assuredly stand with other Governors for the promotion of law and order and approve the prohibiting of all exhibitions tending to operate against the same."
Utah	William Spry ☞	"Prohibition of fight pictures as you suggest is impracticable. Before legislatures convene pictures will have been exhibited the world over."
Virginia	William Hodges Mann ☞	"I am opposed to the exhibition of moving pictures of Jeffries-Johnson prize fight and will join Governors in recommending prohibition of them."

Mayor William Gaynor of New York was the least sympathetic to the anti-prizefight movement and expressed a strong view about censorship and use of power:

It is quite impossible for me to understand how it can inter into the mind that we are in danger of race riots in the city of New York between blacks and whites. I would also remind you that the government of the City of New York is a

government of laws and not of men and that I have no right at my mere will to prohibit anything. Unless a thing [is] prohibited by law there is no way to prohibit [that thing].

I see no reason to get excited at all. The people more excited seem to be those who read every line of the fight in the newspapers and are eager to read more. If I had the power of my own will to do what you suggest, I would do it quick enough.²⁰¹

Secretary Shaw provided the press with the list of cooperating politicians and those who may not comply with the demands of his movement and, with this list, issued a statement expressing his intention to crash the Syndicate that produced and intended to distribute the Johnson-Jeffries Fight Film:

All that has been done thus far in the fight to prohibit the exhibition of moving pictures of the Reno prize fight has been but preliminary skirmishing for position, if the Syndicate controlling the pictures intends to appeal to the courts for protection.

²⁰¹ *Gaynor Rebukes Reformers*, WASHINGTON POST, Jul. 9, 1910, at 4. Mayor Gaynor sent a similar letter to Reverend Miller of the International Reform Bureau:

If it lay in my power to say whether the pictures should be exhibited it would not take me long to decide it. I do not see how it can do any one any good to look at them. But will you be so good as to remember that ours is a government of laws and not of men. Will you please get that well into your head? I am not able to do as I like as Mayor. I must take the law just as it is, and you may be absolutely certain that I shall not take the law into my own hands.

You say that you are glad to see that the mayors of many cities have 'ordered' that these pictures shall not be exhibited. Indeed? Who set them as autocrats? If there be some valid law giving any mayor such power then he can exercise it; otherwise, not.

The growing exercise of arbitrary power in this country by those put in office would be far more dangerous and is far more to be dreaded than certain other vices which we all wish to minimize or be rid of.

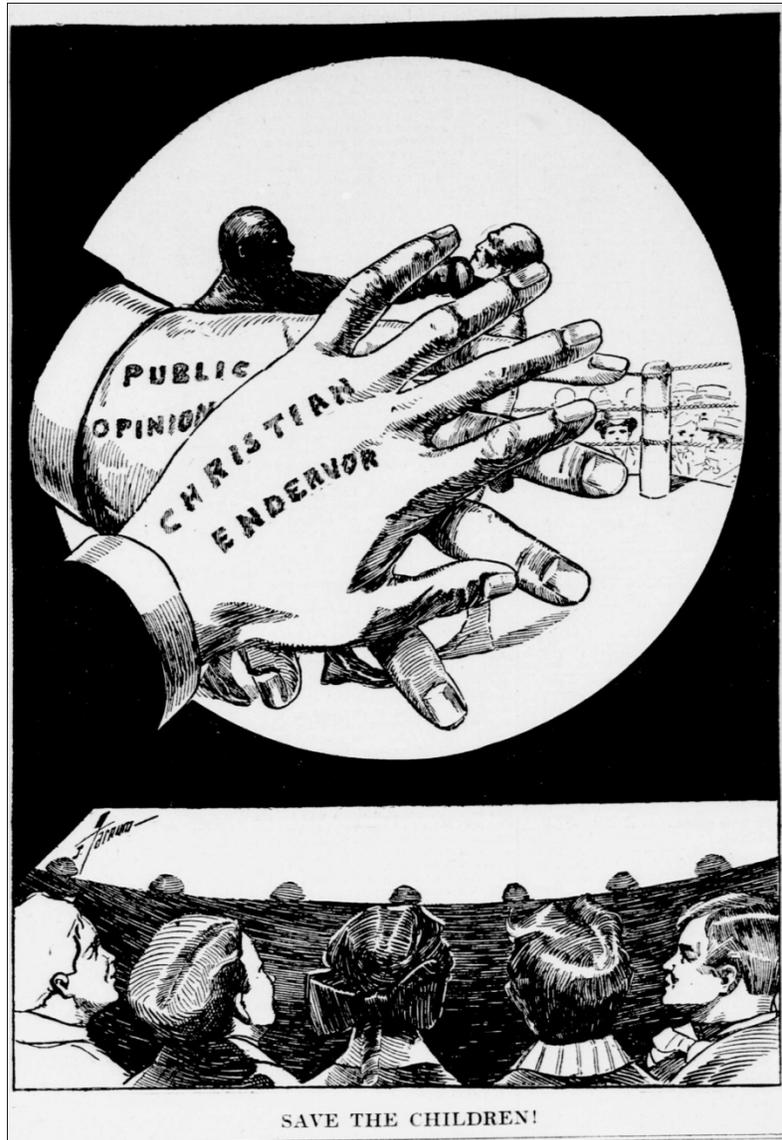
Hands it Hot to Preachers, LA TIMES, Jul. 10, 1910, at VII9.

The only reason given is the financial one. The demoralization of our young people, the degradation of manhood and the destruction of life do not count.

We accept the challenge, and if I know anything about the temper of our people, the Syndicate will be in worse condition when the fight is over than James Jeffries was when his seconds threw up the sponge.

This is to be a fight to the finish and I hope the decent people of every city and town will get into it at once. If the authorities are blind let the people open their eyes. The men interested in the fight are in the minority while the women and children are practically unanimous against it. Let the voice of the mothers be heard on this question.²⁰²

²⁰² *Many Governors Oppose Pictures*, *supra* note 196, at 2.



A cartoon depicting the attempts the United Society of Christian Endeavor to ban the Johnson-Jeffries Fight Film.

New York Tribune, July 9, 1910, at 14.

D. ROOSEVELT AND THE OUTLOOK MAGAZINE

Theodore Roosevelt, the 26th President of the United States, left office still popular on March 4, 1909, declining to run for re-election. He was a known boxing fan and remained a popular public figure after his presidency. On July 16, 1910, he published his view about “the recent prize fight” in the Outlook magazine.²⁰³ Many newspapers cited significant parts of Roosevelt’s column, making it one of the most quoted views about the Johnson-Jeffries fight.²⁰⁴ Roosevelt embraced boxing, but ultimately denounced the Johnson-Jeffries fight and called to ban the exhibition of its fight pictures:

I have always been fond of boxing, and have always believed in it as a vigorous, manly pastime, one of those pastimes which have a distinct moral and physical value, because they encourage such essential virtues as courage, hardihood, endurance and self-control. Until within a few years, I used to box a good deal myself, and when I was young several times took part in contests of a public or semi-public nature – generally, I am bound to say, with ill success. I think boxing is a sport which should be encouraged among boys and young men generally. . . . [F]rom every standpoint, I believe in the encouragement of boxing as a sport. Moreover, boxing as a profession has its good side also. . . .

The money prizes fought for are enormous, and are a potent source of demoralization in themselves, while they are often so arranged as either to be a premium on crookedness or

²⁰³ Theodore Roosevelt, *The Recent Prize Fight*, OUTLOOK, Jul. 16, 1910, at 550.

²⁰⁴ The Outlook released Roosevelt’s column to other newspapers three days before its issue was released to the public. See, e.g., *Roosevelt Would Stop Fight Pictures*, PHILA. INQUIRER, July 14, 1910, at 4; *Roosevelt Hopes Reno Killed Prize-Fighting*, ATLANTA CONST., July 14, 1910, at 2; *Against Prize Fights*, WASH. POST, July 14, 1910, at 3; *Stop Prize Fights, Urges Roosevelt*, WASH. HERALD, July 14, 1910, at 3; *Roosevelt on Prize Fights*, GRAND FORKS DAILY HERALD, July 14, 1910, at 4; *Roosevelt Opposes Pictures*, DALLAS MORNING NEWS, July 15, 1910, at 1; *Roosevelt on Prizefighting*, HARTFORD COURANT, July 15, 1910, at 8; *Roosevelt Raps Prize Fighting*, TRENTON EVENING TIMES, July 15, 1910, at 3; *Roosevelt on Sport*, WASH. HERALD, July 15, 1910, at 6; *Roosevelt Opposes Fight Pictures*, BISBEE DAILY REV., July 17, 1910, at 11.

else to reward nearly as amply the man who fails as the man who succeeds. The betting and gambling upon the result are thoroughly unhealthy, and the moving picture part of the proceedings has introduced a new method of money-getting and of demoralization. In addition, the last contest provoked a very unfortunate display of race antagonism. I sincerely trust that public sentiment will be so aroused and will make itself felt so effectively, as to guarantee that this is the last prize fight to take place in the United States: and it would be an admirable thing if some method could be devised to stop the exhibition of the moving pictures taken thereof.²⁰⁵

In the same issue, the Outlook editors contributed their own view about the moving pictures of the prizefight "in which the negro, Johnson, 'knocked out' the white man, Jeffries."²⁰⁶ The editors noted that Johnson's victory was followed by race riots and that, "[i]n several cases the encounters between whites and negroes resulted in deaths, sometimes by lynching, sometimes by plain murder."²⁰⁷ They predicted that the exhibition of the fight film would renew and extend the riots. Therefore, the editors endorsed the censorship movement:

Fortunately a movement to prevent the exhibition of the pictures is rapidly spreading and gaining strength. In city after city the authorities have declared that the pictures shall not be shown if they find that they have the power to stop them. . . . The United Society of Christian Endeavor, with four million members throughout the country, is making a determined fight to prevent the display of the moving pictures in every city and town. . . . The Outlook believes in boxing contests. They have real value in developing good qualities in young men, particularly in such parts of the big cities as the East Side of New York. But boxing contests, properly and decently conducted, are a

²⁰⁵ Roosevelt, *The Recent Prize Fight*, *supra* note 203.

²⁰⁶ *The Prize Fight Moving Pictures*, OUTLOOK, Jul. 16, 1910, at 541.

²⁰⁷ *Id.*

very different thing from a prize fight like that which has just taken place. When two men stand up in the presence of thousands of spectators and hammer one another, without gloves or with gloves that are no real protection, until one or the other is knocked out, it is a brutal exhibition worthy of the days of gladiatorial combats in ancient Rome. . . . If it is right to prohibit indecent pictures because they stimulate to vice, it ought to be right to prohibit brutal pictures because they stimulate to brutality. If it is right to prohibit prize fights within a State, it ought to be right to prohibit graphic representations of prize fights.²⁰⁸

Roosevelt and Outlook gave the censorship movement the national endorsement it needed. It became a nationwide movement that targeted the victory of Jack Johnson. Because of the decentralized nature of the movement Johnson and the Syndicate, the victims of the movement, could not fight it. President Teddy Roosevelt, a national icon and a boxing fan, embraced the rising wave to censor Johnson's black supremacy.

EPILOGUE

In the United States, racist movie censorship started with a movement that took over the country within three days after Jack Johnson knocked out the great white hope on the Fourth of July, 1910. It was not the last wave of racist movie censorship. The Production Code of the Motion Picture Producers and Distributors of America that governed film production for several decades expressly banned "sex relationship between the white and black races."²⁰⁹ Over the years this racist content regulation shaped images and harmed many individuals. One of the most famous oddities of this ban was its application in the production of *Show Boat* (1951). The screenplay tells the story of a mulatto female who looks white and is married to a white man in the South, when interracial marriages were forbidden. Metro-Goldwyn-Mayer, the producing studio, wanted to hire Lena Horne for the leading role; Ms. Horne

²⁰⁸ *Id.*

²⁰⁹ RAYMOND MOLEY, *THE HAYS OFFICE* 242 (1945).

was a prominent African-American actress with white complexion. However, because of the Production Code, MGM eventually hired Ava Gardner.²¹⁰

Racism was not born with Jack Johnson and did not die in the summer of 1910. The unorganized fashion in which a censorship movement took over the country is instructive. Calls for oppressive social regulation, including censorship, will always exist. It is important to remember their danger and treat them accordingly. Ideologies, hatred, phobias, and fears can lead to a cabal-like legal movement, even though it has no directing hand or real leadership. In the summer of 1910, in three days, such forces invaded all states and cities and prevailed in many. This Article chronicles the political and legal mechanism of this movement.

This Article also shows that when community standards govern, the targeted individual—even if a well-funded concern—may not effectively challenge emerging forms of content regulation. This is a straightforward insight into legal standard-setting. When the number of standards goes up, so does the cost to the party that faces compliance with the standards or wishes to challenge them.

The final note must be dedicated to Jack Johnson, the target of the legal wildfire that banned fight films in many towns in the United States in the summer of 1910. On the Fourth of July, 1910, Johnson knocked out a man who claimed to be stronger than him and for that he and many other blacks were prosecuted, and a dark wave of movie censorship emerged.

APPENDIX: HOW DID THEY JUSTIFY THEIR POLITICAL CHOICES?

Public statements of politicians do not necessarily reflect or exhaust their thoughts and reasoning. Political choices of justifications, however, may teach us about popular public sentiments, if we assume that politicians always try to gain or maintain political capital. This Appendix organizes some of the most outspoken politicians who expressed opinions for and against fight films during the summer of 1910. The Appendix distinguishes between censoring and

²¹⁰ See JAMES GAVIN, *STORMY WEATHER: THE LIFE OF LENA HORNE* 213-15, 222-26 (2009).

pro-freedom-of-the-screen politicians. Each group is sorted alphabetically according to state and within each state according to town.

A. Censoring Politicians

Jurisdiction	Politician	Justification
Alabama	Governor Braxton Bragg Comer	"I will take pleasure in recommending the prohibition of exhibitions of prize fight in moving pictures." ²¹¹
Phoenix, Arizona	Mayor Lloyd B. Christy	"I take this step [of drafting an ordinance banning fight films] because of the bad effect that fight pictures have upon the growing youth, not so much to prevent race riots, for I believe the people here could look at the pictures and not fight over them." ²¹²
Arkansas	Governor George Washington Donaghey	"Will gladly . . . suppress moving pictures of prize fight." ²¹³
Los Angeles, California	City Prosecutor Guy Eddie	"My duties require that I contribute to the enforcement of the ordinances now in effect in Los Angeles. Any attempt to show pictures of the Reno fight will be met with opposition on the party of my office." ²¹⁴
San Francisco, California	Mayor P. H. McCarthy	"I shall not permit photographic pictures of the Johnson-Jeffries fight to be exhibited in San Francisco. . . . My reason for taking this step is that if the Johnson-Jeffries affair . . . amounted to a violation of the anti-prize fight law, photographic reproductions of the same should not be exhibited to this or any other community. Had the contest occurred here, only adults would have been admitted to the arena, youths and minors being effectually barred. If the moving pictures, however, of this very fight, which was banished from this state because of its objectionable features, were permitted to be shown here, any and every little boy and girl who had a nickel could gain access to and witness the same, and the spirit and intent of the state law would be plainly and definitely defeated.

²¹¹ *Many Governors Oppose Pictures*, TRENTON EVENING TIMES, Jul. 7, 1910, at 2.

²¹² *Hornest's Nests Stirred Up by Fight Pictures*, LA TIMES, Jul. 1910, at 16.

²¹³ *Many Governors Oppose Pictures*, *supra* note 211.

²¹⁴ *Los Angeles to Bar Fight Films*, LA Herald, Jul. 6, 1910, at 11.

Jurisdiction	Politician	Justification
		<p>... I am not in favor, however, of brutal and demoralizing slugging matches, and shall not permit lifelike pictures of any unlawful affair to be exhibited in this city while I am mayor."²¹⁵</p> <p>"In the matter of other fight pictures, it would not be consistent now for us to permit them to be shown. While we will not take any action, and could not take any action, against any one who has heretofore shown pictures of a fight, we can take steps to prevent the repetition of the exhibition of any brutal prize fight pictures in the city."²¹⁶</p>
Connecticut	Governor Frank B. Weeks	<p>"The policy of the State of Connecticut is against brutal exhibitions known as prizefights. The statutes of this state provide a maximum penalty of five years imprisonment for any person who is principal or second in a prizefight, and a fine and imprisonment for every person who is present at and gives countenance to a prizefight. It is well known that moving pictures of the recent fight between Johnson and Jeffries are intended to be publicly exhibited as a source of profit and unless prevented will be so exhibited in this state.</p> <p>It is against public morals and decency to have prizefights in our state. In my opinion the public exhibition in the state of moving pictures of prizefight would be much more objectionable than the fight itself, because it would reach and demoralize a much larger class of individuals, including children; and the exhibition concerning this particular fight would be attended with other features which should be prevented. It is illogical to prohibit prize fights as against public morals and not prohibit and prevent the exhibition of moving pictures of a prizefight.</p> <p>I urgently suggest to the proper authorities of the cities and boroughs in the state that ordinances which will prevent such exhibition will be enforced and I urgently request prosecuting officers</p>

²¹⁵ P.H. McCarthy, *San Francisco Will Not See the Johnson-Jeffries Fight Pictures*, SF CALL, Jul. 7, 1910, at 2.

²¹⁶ *Fight Pictures Under Ban of City's Censors*, SF CALL, Jul. 10, 1910, at 31.

Jurisdiction	Politician	Justification
		throughout the state to take all measures provided by law to prevent such demoralizing and dangerous exhibitions." ²¹⁷
Atlanta, Georgia	Mayor Robert F. Maddox	"I believe the exhibition of prize fights in general, and the recent Reno fight in particular, by the modern method of moving pictures a dangerous form of entertainment. It can in no way encourage the peaceful pursuit of good citizenship which should be the aim of all civic authorities. The clean, healthful and moral sports now practiced in the playgrounds of the modern city are doing more good in our day to develop physically the young of our country than all the prize fights in history. I hope the Reno affair will be the last to fill the public with just condemnation." ²¹⁸
Illinois	Governor Charles S. Deneen	"As governor, I'm willing to join in a general recommendation by governors that the pictures be barred. My position is based upon the theory that under the law we cannot allow prize fighting, and that, therefore, there should be no exhibition of prize-fight pictures." ²¹⁹
Topeka, Kansas	Mayor J. B. Billard	"If I have the power to do so, and I think I have, I will never allow these Jeffries-Johnson fight pictures to be shown in Topeka. I give this as a fair warning to the owners of the moving picture houses. If they insist upon throwing the pictures on the screen before the Topeka public, I will see that the Police Department stops the show and arrests the managers." ²²⁰
Louisville, Kentucky	Mayor William O. Head	"Race hatred is being intensified throughout the country as the result of the Reno battle. Shooting, stabbing and fighting East, West, North and South are the direct result of the misunderstood outcome of a struggle between a black man and a white man. Of course, the question of superiority between the races was not involved. It was only a fight between individuals, but the ignorant find excuse to array themselves in violent antagonism and the result is crime. For this reason the Johnson Jeffries fight pictures will not be permitted in Louisville. It is not difficult to

²¹⁷ *Governor Against Fight Picture*, HARTFORD COURANT, Jul. 8, 1910, at 5.

²¹⁸ *Mayors Will Stop It*, *supra* note 159.

²¹⁹ *Fight Pictures Likely Doomed*, *supra* note 177.

²²⁰ *Hornet's Nests Stirred Up by Fight Pictures*, *supra* note 212.

Jurisdiction	Politician	Justification
		<p>foresee what would transpire if the pictures were shown. Prejudice existing for scores of years and which the ablest men and women of all times are and have been striving to smother would rear itself and flourish again in disorder and worse.</p> <p>Prize fighting, wherein an inducement of any kind is offered for one individual to display his superiority over his opponent, take the form of barbarism and is brutal and debasing. It should not be tolerated in the United States, and I feel its end has come. It is a fact that the United States is the strictest country in the world in opposition to prize fighting. 21 States since 1890 having enacted special laws against it.</p> <p>Men perfectly trained and properly matched suffer no lasting ill effect as the result of ring combat, but if that event is a prize fight and great interest in the outcome is aroused the moral effect is bad, for with the good people with "red blood" who are lured to the scene come the riff-raff, crooks and others unworthy in all that conduces to the betterment of people who should be law-abiding and God fearing."²²¹</p>
New Orleans, Louisiana	Mayor Martin Behrman	"I am unalterably opposed in the exhibition of moving pictures of the Jeffries-Johnson prize fight. I . . . issued instructions to the police to warn all establishments engaged in exhibiting moving pictures against using any films showing this fight." ²²²
Maine	Governor Bert M. Fernald	"I am glad to join the Governors in recommending that moving pictures of the Jeffries-Johnson fight be prohibited in the interest of peace and good morals." ²²³
Maryland	Governor Austin Lane Crothers	"Public sentiment in Maryland is overwhelmingly against any reproduction of the pictures and, therefore, I do not believe any attempt will be made to show them. If such attempt is made every means will be used by the State to prevent it. An exhibition of the pictures would have a tendency to create race riot and disorder, and, therefore, interfere with the general peace of the State. I am emphatically opposed to them being shows, and will take the proper steps to

²²¹ *Id.*²²² *Id.*²²³ *Many Governors Oppose Pictures*, *supra* note 211.

Jurisdiction	Politician	Justification
		prevent them if it develops that a movement is on foot to reproduce the fight here." ²²⁴
Raleigh, North Carolina	Mayor James A. Winn	"Have given notice that prize-fight pictures will not be permitted in this city. Ordinance now before Aldermen to prohibit prize-fight pictures altogether. Believe prize fighting near its end in this country." ²²⁵
Wilmington, North Carolina	Mayor Walter G. McRae	"Our State law prohibits prize fights. Public sentiment will suppress the pictures generally in North Carolina towns. Certainly here." ²²⁶
Charleston, South Carolina	Mayor R. Goodwyn Rhett	"Think prize-fight pictures should be suppressed. Prize fighting absolutely against our laws." ²²⁷
Virginia	Governor William Hodges Mann	"I am opposed to the exhibition of moving pictures of Jeffries-Johnson prize fight and will join Governors in recommending prohibition of them." ²²⁸
Norfolk, Virginia	Mayor James G. Riddick	"Am opposed to prize fighting and display of such pictures." ²²⁹
Richmond, Virginia	Mayor David C. Richardson	"By an act of the General Assembly, passed in 1877 and amended in 1893, prize fighting in this State is made a felony, punishable by confinement in the penitentiary for a term of five years and all who aid and abet in such fights are liable to the same punishment. The exhibition of pictures of the recent fight between Johnson and Jeffries will, in my opinion, tend to create race prejudice, disorder and violence, and these pictures will not be exhibition in this city." ²³⁰

B. Pro-Freedom-of-the-Screen Politicians

Jurisdiction	Politician	Justification
Tucson, Arizona	Mayor Preston N. Jacobus	"I cannot speak for the council, but I can say that so far as the mayor is concerned, the fight pictures may be shown here.

²²⁴ *Governor Issues Edict*, *supra* note 200.

²²⁵ *Fight Pictures Under Ban of City's Censors*, *supra* note 216.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Many Governors Oppose Pictures*, *supra* note 211, at 1.

²²⁹ *Fight Pictures Under Ban of City's Censors*, *supra* note 216.

²³⁰ *Id.*

Jurisdiction	Politician	Justification
		The hysterical anti-fight picture movement which has suddenly developed is silly. Let those who do not wish to see the pictures stay away. Those who do wish to see them can go and be entertained by them, if a reproduction of such a spectacle can be entertaining. As for the influence of the fight pictures in fomenting racial feeling, that will not apply to Tucson. Our citizens are too sensible, both white and black, to be swayed by such trivialities." ²³¹
Indiana	Governor Thomas R. Marshall	"Personally I think the exhibition of these pictures should be prevented. They will lead to trouble, and possibly murder. But as Governor I doubt the ability of an executive to issue an order of proclamation not authorized by statute and believe a governor thereby weakens himself and from certain classes encourages a disregard for the law." ²³²
Indianapolis, Indiana	Mayor Samuel Lewis Shank	"The Mayor of a great city like Indianapolis . . . represents all classes people. A goodly number of our citizens enjoy boxing and would have attended the Reno fight if they could have afforded it. Failing in that I believe they should be allowed to see the fight pictures. Local race conditions might vary this view. The colored people of Indianapolis are as a class educated and law-abiding. We experienced no more trouble on receipt of the fight returns than we would have had in the absence of a fight. I anticipate no trouble when the pictures are shown here. Prize fighting appears no more dangerous than football, aviation meet and auto racing." ²³³
St. Joseph, Missouri	Mayor A.P. Clayton	"I want to see them [the pictures] and I want my boys to see them."
Montana	Governor Edwin L. Nor-	"Laws of Montana do not seem sufficiently specific to prevent exhibition of prize fight

²³¹ *Mayor Jacobus Will Not Stop Pictures*, TUCSON CITIZEN, July 8, 1910, at 1.

²³² *Marshall Gives His Opinion on Barring Pictures*, WILKES BARRE TIMES LEADER, Jul. 6, 1910, at 1.

²³³ *Mayors Will Stop It*, *supra* note 159.

Jurisdiction	Politician	Justification
	ris	pictures. I believe such exhibition conserves no useful purpose and may in many instances produce harmful results." ²³⁴
Portland, Oregon	Mayor Joseph Simon	"I cannot see that the displaying of the pictures is any worse than the printing of the minute details of the fight in the newspapers." ²³⁵
New York, New York	Mayor William J. Gaynor	"If it lay in my power to say whether the pictures should be exhibited it would not take me long to decide it. I do not see how it can do any one any good to look at them. But will you be so good as to remember that ours is a government of laws and not of men. Will you please get that well into your head? I am not able to do as I like as Mayor. I must take the law just as it is, and you may be absolutely certain that I shall not take the law into my own hands. You say that you are glad to see that the mayors of many cities have 'ordered' that these pictures shall not be exhibited. Indeed? Who set them as autocrats? If there be some valid law giving any mayor such power then he can exercise it; otherwise, not. The growing exercise of arbitrary power in this country by those put in office would be far more dangerous and is far more to be dreaded than certain other vices which we all wish to minimize or be rid of." ²³⁶
Philadelphia, Pennsylvania	Mayor John E. Reyburn	"I shall take no step to prohibit the pictures. I shall not anticipate a riot. In other words, we will simply spit on our hands and take hold." ²³⁷ "To my mind, the newspapers are ten times worse than moving pictures. They set out the

²³⁴ *Many Governors Oppose Pictures*, *supra* note 211.

²³⁵ *Active Measures Being Taken to Prevent Showing of Fight Pictures*, COLORADO SPRINGS GAZETTE, July 7, 1910, at 7.

²³⁶ *Supra* note 201.

²³⁷ *To Bar Fight Pictures*, N.Y. DAILY TRIB., July 6, 1910, at 4.

²³⁸ *Ask Mayor to Bar Pictures of Fight*, PHILA. INQUIRER, July 9, 1910, at 14.

Jurisdiction	Politician	Justification
		fight in details before the children and illustrate it with pictures showing how each blow was struck. If I stop one I'll stop both." ²³⁸
Nashville, Tennessee	Mayor Hillary E. Howse	"Tennessee has legalized eight round boxing exhibitions. I have witnessed many of them and favor them. There is no law against displaying prize-fight pictures in Nashville and I see no reason why I should interfere." ²³⁹
Seattle, Washington	Mayor Hiram C. Gill	"Whenever I am convinced that the city is unable to handle any riot that may result from the exhibition of fight pictures in Seattle, I will immediately tender my resignation. The fight pictures will not be interfered with." ²⁴⁰

²³⁹ *Mayors Will Stop It*, *supra* note 159.

²⁴⁰ *Seattle Has No Objections*, OREGONIAN, July 7, 1910, at 8.