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MAR 15 1993

MOTION PICTURE, BROADCASTING
AND RECORDED SOUND DIVISION

January 17, 1993The National Preservation Board of the Library of Congress
Washington, D.C.

Ladies and Gentlemen:

I am an independent film scholar, who has devoted more than 25 years of his life to the study of American popular entertainment. I am the author or editor of more than forty books, including pioneering works on early American cinema and the non-theatrical film. My book THE AMERICAN FILM INDUSTRY: A HISTORICAL DICTIONARY was named Outstanding Reference Source of the Year by the American Library Association, and the sequel volume THE INTERNATIONAL FILM INDUSTRY: A HISTORICAL DICITONARY was named Outstanding Academic Book of the Year by "Choice" Magazine. I have served as Associate Archivist of the American Film Institute and Resident Film Historian of the Academy of Motion Picture Arts and Sciences; and in 1990 I received a Honorary Doctorate of Letters from Bowling Green University. Last year, I published the first book-length history of film preservation in the United States, titled NITRATE WON'T WAIT. It has been well received by the public and the press (with favorable reviews in journals as varied as "Sight and Sound," "Choice," "The Journal of Academic Librarianship," and "Big Reel"). The only negative comments have come from the bureaucrats who control this country's film archives, and who resent any outside examination or criticism of their activities.

I am happy to add my name to the demand that government-sponsored film preservation be linked to public access, as set forth in the document "Preservation without Access is Pointless" presented by the Committee for Film Preservation and Public Access.

An intolerable situation has developed in this country whereby films preserved through public funding by the National Endowment for the Arts are accessible to public groups and individuals only with the permission of the copyright owner, regardless of the circumstances. Worse yet, the copyright owner is able to reap financial rewards from the publicly-funded preservation of his films, without even acknowledgement being made to the National Endowment for the Arts or the American taxpayer. **Once an archives has preserved a film, the copyright owning producer or studio has unlimited accessibility to such film for profit.** There is no requirement that the copyright owning producer or studio reimburse

the National for the Arts or the taxpayer.

A recent visit to a local video store produced two examples of the cavalier attitude of the copyright owning producer or studio towards the preservation process. Orson Welles MACBETH, which was preserved by Robert Gitt on behalf of the UCLA Film and Television Archive, is currently being offered for sale on laser disc by Republic Video. The laser disc contains no indication of the major role played by Gitt and UCLA in the preservation and restoration of this film. There is no acknowledgement to the National Endowment for the Arts, which financed the preservation, and, of course, Republic Video has made no effort to return to the American taxpayer the cost of the preservation, from which it will financially benefit. A second example is the MCA/Universal videotape release of HELL'S ANGELS, also restored by Robert Gitt for the UCLA Film and Television Archive. Again, the tape contains no acknowledgement to Gitt or UCLA, and there is no recognition of the funding of the project by the National Endowment for the Arts.

It would not seem a particularly onerous demand to require that companies such as Republic or MCA/Universal share their profits from publicly-funded preservation projects with the National Endowment for the Arts. One logical approach would be that a ten percent royalty from such gross profits be paid back to the National Endowment for the Arts for future film preservation efforts. As to the refusal of these companies to acknowledge the National Endowment for the Arts or the institutions responsible for the preservation, the question arises as to whether the National Endowment for the Arts requires that its financial contribution be recognized. If such is the case, I would urge that the head of the National Endowment for the Arts be required to appear before Congress and explain his or her failure to investigate this situation and rectify it.

While I am offering only two examples, I would stress that these are not isolated incidents, but follow a well-defined pattern within the archival film community.

Sincerely,

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