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Bennett, Breen and the Birdman of Alcatraz: A Case Study of Collaborative Censorship between the Production Code Administration and the Federal Bureau of Prisons

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Abstract:

In bringing to the screen the life of murderer Robert Stroud in *Birdman of Alcatraz* (United Artists, 1962), filmmakers encountered official obstruction from the director of the Federal Bureau of Prisons, James V. Bennett. Campaigning for the release of Stroud, Burt Lancaster retaliated by exposing Bennett's efforts to censor the film as evidence of a personal vendetta against the prisoner. However, new archival research demonstrates how the Bureau had collaborated with Hollywood's own censorship body, the Production Code Administration, for many years - and that *Birdman* was in fact the culmination of a decades-long struggle to control all films about Alcatraz.

Bennett, Breen and the Birdman of Alcatraz

A Case Study of Collaborative Censorship between the Production Code Administration and the Federal Bureau of Prisons

In 1946, the warden of Alcatraz Penitentiary wrote to his boss, James V. Bennett, about the plans of one inmate to interest filmmakers in his memoir of prison life, tentatively entitled 'Rehabilitation'. As the seasoned Director of the Federal Bureau of Prisons, Bennett responded by joking that he would "give up" his position as one of the most respected office-holders in Washington D.C. and "move immediately to Hollywood" if studios were so foolish with their money as to pay the \$50,000 that the prisoner wanted for the rights.¹

As it turned out, several filmmakers were very interested: for the prisoner in question was one Robert F. Stroud, better known as the 'Birdman of Alcatraz'. When United Artists and Norma Productions finally brought the film of that name to the screen in 1962, with Stroud personified with measured dignity by Burt Lancaster, they actually invested over \$2.6 million.² Yet far from giving up his job, Bennett fought hard to block production by enlisting in his campaign the film industry's own 'censorship' authority, the Production Code Administration (PCA). The story of that failed effort, culminating in the explicit repudiation of the Bureau in John Frankenheimer's movie, reveals the mechanisms by which a federal government agency sought to exert influence within the film industry; offers a striking example of how Hollywood studios weighed up their interests between capitalizing on a sensational story and good "industry policy"; and adds to our understanding of how independent filmmakers eventually challenged the censorious authority of both the Production Code and the government, casting themselves, and Stroud with them, as rebels against "the system."

Bennett and Stroud

Bennett had had good reason to feel secure that anything Stroud wrote would remain in Alcatraz “until his discharge,” for in the forties there was no expectation of that occurring anytime soon.³ A multiple killer, Stroud had been in prison since 1909. Described as an “aggressively defiant man with a short fuse” who showed “not a hint of regret” for his crimes, he had first been convicted of manslaughter for killing a bartender in Juneau, Alaska.⁴ His sentence was then extended for wounding another prisoner in a “trivial argument”; and in 1916 he had been sentenced to hang for first-degree murder, having brutally stabbed a prison guard to death in front of eleven hundred inmates in the Leavenworth Federal Penitentiary. When that death penalty was commuted by President Wilson in 1920, the Attorney General directed that Stroud’s life sentence should be served in solitary confinement. It was in such confinement, with the support of tolerant Leavenworth wardens, that Stroud had begun raising canaries and wrote the treatise on bird diseases that would bring him publicity and earn him his sobriquet. However, regarding him as “maladjusted with homicidal tendencies,” prison authorities denied him parole and eventually transferred him to Alcatraz in 1942.⁵ He was still in federal custody at the time of the film’s release, and remained so until his death in 1963.

Stroud spent a total of 54 years in prison, 42 of them in isolation. Yet in the 1950s, Bennett’s belief that Stroud’s story would remain similarly contained and isolated on Alcatraz was undermined by Thomas Gaddis, a former corrections officer, who first published an article on Stroud in the May 1953 edition of *Cosmopolitan*, and then developed the book of *Birdman of Alcatraz* printed by Random House in 1955. Utilizing almost four thousand letters, to Stroud’s family, his wife, and various bird breeders, Gaddis’s account

was based on sources which described “everything Stroud had done” in the convict’s own words, essentially reworking and expanding upon Stroud’s ‘Rehabilitation’ narrative.⁶

Whilst not absolving Stroud of his crimes, this narrative cast Stroud’s confinement as “four decades of extended and profound punishment,” carried out in vindictive reprisal for his repeated crossing of the Bureau of Prisons in general, and Bennett in particular.⁷ There certainly seemed to be an element of retribution for the murder of guard Andrew Turner in the original order isolating Stroud from the general prison population. But the Bureau of Prisons (BOP) was not formed until 1930, making Stroud’s sentence an inherited problem; one that Bennett first encountered as an assistant to director Sanford Bates in 1931.

When the newly-organized Bureau issued an order prohibiting private businesses by prison inmates, Stroud took it as a personal challenge and refused to comply. He had been raising birds in his cell for almost a decade, which his mother then sold along with a supposed cure for sceptic fever named “Stroud’s Specific.” He also contributed to *Roller Canary Journal and Bird World* magazine and had developed a following among bird breeders for his diagnostic articles. Through his mother and Della Mae Jones, a canary-breeder who had come to know of his incarceration, Stroud launched a campaign, “crying for help” against the “heartless” government that “proposed to take his birds away from him.”⁸

Stunned to discover how “a jailbird learned to save their canaries,” bird clubs across the country petitioned Congress, and national newspapers and radio networks took up the story.⁹ Facing its first major public relations problem, the Bureau dispatched Bennett to Leavenworth to negotiate. Stroud, however, was stubborn, believing he had the Bureau over a barrel. When Bennett made the “incredible offer” of making Stroud the salaried head of a “bird business” that the BOP would “operate as part of prison industries”, Stroud

refused.¹⁰ He even questioned the constitutionality of how a prisoner could be “prevented from directing his business, and yet the Government be empowered to do it, in partnership with him.” This question threatened the broader idea of the Federal Prison Industries program itself, a personal project of Bennett’s, planned as the “largest work program for prisoners ever devised.”¹¹ According to Gaddis, this challenge “forced” Bennett to “return to Washington empty-handed” – with the Bureau not only conceding that Stroud could continue his canary business, but bowing to his demands for an enlarged cell and the provision of laboratory equipment. Stroud and Gaddis claimed that Bennett “never forgot” this defeat.¹² As Gaddis framed the story, those in the prison system who “tried to bring conditions to light, or call attention to themselves, received the hard fist of reprisal.”¹³

Stroud not only drew attention to himself in 1931, but courted publicity again in 1933 when he “married” Della Jones “despite prison walls,” by making the elaborate claim that the 1783 Treaty of Paris applied to prisoners “living on federal property” and thus required the government to recognize as legal a “simple sworn statement” of a “man and a woman that they were husband and wife.”¹⁴ It was a stunt designed to reignite media interest and make himself “too noticeable” for the Bureau to move to Alcatraz.¹⁵ According to Gaddis, however, bringing the “glare of national attention” was an “unforgivable sin” in the Bureau’s eyes – and from such a perspective, Stroud’s continued incarceration, his failure to win parole or release, and his transfer to Alcatraz (at which point he lost his birds) was presented as “the result of a personal vendetta against him by Federal prison officials.”¹⁶

The BOP was also accused of intentionally forbidding the reprinting of *Stroud’s Digest of the Diseases of Birds* to ensure “it lost money”; of suppressing a manuscript he started writing about prison history; and of leaking information about Stroud’s

homosexuality in a deliberate effort to “discredit” the campaign to release him.¹⁷ The claims twisted the truth to Stroud’s purposes, but even from behind bars he repeatedly promoted the notion of a “vendetta.” Within the prison, he invented tall stories to impress inmates, telling them that Bennett had tried to muscle in on his bird business, wanting a “large cut” of the profits for himself and condemning Stroud to “life in isolation” when he refused.¹⁸ Externally, Stroud filed a motion of “illegal confinement” with the courts in 1943 in which he claimed that Bennett was motivated by “personal animosity.”¹⁹ This came to dominate the public’s perception. By 1960, when *Life* magazine ran an article on Stroud ahead of the film’s production, his story was presented as that of a “defiant individualist” engaged “in a remorseless contest of wills” with the Bureau’s director.²⁰ One year later, the *Los Angeles Mirror* accused Bennett of personally “spearhead[ing] the vindictive campaign to keep the old convict behind bars.”²¹ That Bennett should have attempted to block the filming of *Birdman of Alcatraz*, warning film executives “that he would actively oppose the project,” thus played perfectly into Stroud’s narrative of the Bureau weaving “a net of interference and persecution” around him “since 1920.”²²

The truth is of course much more complex. Bennett did bring “intense pressure” to bear on filmmakers interested in Stroud, as detailed below in the discussion of Jack Cumming’s failed effort to produce the film three years earlier. However, the files of the Production Code Administration in the Special Collections archives of the Margaret Herrick Library in Los Angeles demonstrate that Bennett’s engagement with the film industry went back many years before *Birdman of Alcatraz* was on the horizon. Indeed, this article’s study of *Birdman* began somewhat in reverse, when the author was looking through the PCA files for evidence of historical films that never got made. Of the many such files labelled “unproduced”, one relating to ‘The Cecil Wright Story’ contained such extensive and

elaborate letters and memoranda detailing Sam Baerwitz's doomed-to-failure struggle with both the Bureau of Prisons and the PCA to tell the story of the self-anointed 'Brain of Alcatraz', that it pushed me in search of further references to Bennett's engagement with Hollywood. Moreover, its contrast to the relative thinness of the PCA file on *Birdman*, prompted the research question of why the PCA had been so active in blocking the production of Wright's story in the early 1950s, yet seemingly made little comment when Lancaster's company came to ignore Bennett's objections about Stroud less than a decade later. Investigating that conundrum pushed the hunt in two different directions. The first was to explore the truth behind the allegations of made in the interviews and articles surrounding *Birdman's* release in the early 1960s, concerning Bennett's attempts to halt production (a trail which led me to the Cummings' papers). The second was to continue to investigate any PCA files containing correspondence with Bennett – almost all of which turned out to concern films making mention of Alcatraz. On one level, this new research is a demonstration of how sources relating to unrealized film projects can be essential to understanding and analysing films that *were* made. On the other, it simultaneously provides a corrective to the discourse woven around and within *Birdman of Alcatraz*, suggesting that far from Bennett's obstructionism being a personal "vendetta" against Stroud in particular, his overriding concern lay with representations of Alcatraz in general. In many ways *Birdman* was just the last in a long line of film proposals Bennett felt duty-bound to dissuade Hollywood from pursuing.

Bennett, Alcatraz and the Breen Office

From the moment it opened in August 1934, the American public was fascinated by Alcatraz. As the federal government's response to the "epidemics of murders, gangland

massacres, kidnappings, and bank robberies that had dominated the headlines for more than a decade,” the island penitentiary in the allegedly “shark-infested” waters of San Francisco Bay was viewed as the ultimate, escape-proof “punishment prison.”²³ The attention given to “public enemy” inmates like ‘Machine Gun’ Kelly and Al Capone cemented its notoriety. From the outset, however, the Bureau responsible for running it was never “entirely comfortable with the idea” of Alcatraz. Its “draconian image” was at odds with the “more reform-oriented” approaches to penology that Sanford Bates and James Bennett were keen to pursue and promote.²⁴ Contrary to Stroud’s prejudices, Bennett was a progressive reformer. Author of the report (entitled *The Federal Penal and Correctional Problem*) which had paved the way for the creation of the BOP, Bennett saw its first order of business as “humanizing” prison life, with a “mandate to develop and implement innovative programs that would promote rehabilitation.”²⁵

Bennett led the way in abolishing corporal punishment, pushed for “better educational and vocational programmes,” hammered home the need to increase probation, and wanted federal prisons to “set an example” that would inspire reforms throughout the states.²⁶ Alcatraz had *some* value in his “inmate classification” system, removing from other federal institutions the “really bad apples” who, “if they were permitted to remain, would make necessary a much more repressive program and complicate rehabilitative opportunities.”²⁷ Nevertheless, stories circulated about Alcatraz inmates being “locked up in dungeons”; of prisoners being “psychologically brutalized”; of men so desperate that they self-mutilated (like Rufe Persful) or attempted escape knowing it was truly suicidal (as in the case of Joseph Bowers).²⁸ Growing denunciations of the Bureau for “maintaining a penitentiary that seemed to contradict so many aspects of progressive penology,” and his own discomfort with it as a “symbol of retributive justice,” led Bennett to unsuccessfully

propose its closure within a year of becoming director of the BOP in 1937.²⁹ The last thing he wanted was more sensationalistic coverage of the Rock emanating from Hollywood.

To this end, Bennett engaged with the Production Code Administration. In the same year that Alcatraz opened, the PCA had been established by the Motion Picture Producers and Distributors of America (MPPDA) to work with filmmakers to ensure that Hollywood's output met with the "accepted standards of morality and good taste" which had been delineated in the Motion Picture Production Code.³⁰ The Code had been in operation since 1930, but in 1934 it became the job of the PCA director, Joseph Breen, and his staff, to negotiate with writers and producers at scripting stage, to ensure that resulting films were compliant. Premised on the "general principle" that "no picture shall be produced that will lower the moral standards of those who see it," the Code was the basis for a system of self-regulation within the industry, implemented to protect studios from external forms of regulation, including censor boards in various states and the threat of federal censorship.³¹ Although the PCA was therefore an integral part of the studio system, outsiders commonly saw it as a censoring authority, capable of controlling the content of Hollywood's movies.

As a result, in August of 1937, when Bennett and the Justice Department heard that Warner Bros. had prepared a script for *Alcatraz Island*, the Attorney General, Homer S. Cummings, wrote to the president of MPPDA, Will Hays, asking for "cooperation" in ensuring "that the picture will not be produced."³² Hays passed this overt request for censorship on to the PCA. This presented a problem; *not* because Breen was inherently opposed to the demand but because it came too late. *Alcatraz Island* had already been filmed.

The PCA had received the script in April and, by the terms of the Code, it conformed to the guidelines concerning the "treatment of crimes," by which criminals must not be

made to “seem heroic and justified.”³³ There was concern about the “gangster flavor” of the screenplay, which contravened a moratorium on gangster films implemented in 1935, but since the story was primarily about a “racketeer who tries to “go straight,” it was eventually deemed acceptable by Breen.³⁴ The Attorney General’s request for “cooperation,” however, prompted Breen to revisit the film’s representation of Alcatraz, where the “bulk of the prison action” occurred.³⁵ The Code did give the PCA authority to intervene if a story breached the principle that “the Law... shall not be ridiculed,” or if an “institution” could be deemed to have not been represented “fairly.”³⁶ However, Breen believed that the film’s scenes of prison life gave the impression that “the government operates at Alcatraz a well-organized and thoroughly disciplined prison, where most rigid regulations are enforced without... any suggestion of inhuman or brutal treatment” (in contrast to earlier prison films such as *I am a Fugitive from a Chain Gang* (Warner Bros., 1932)). He could not justifiably refuse a Certificate of Approval to Warner Bros., though he did suggest withholding the release of *Alcatraz Island* until a representative of the Bureau of Prisons could “look at the picture and tell us, specifically, just what it is which, in his judgement, is objectionable.” As Breen conceded, the PCA itself had no objective way of judging “which details may, or may not be accurate.”³⁷

While it was too late to obstruct *Alcatraz Island* in a meaningful way, the consequence was that Breen soon established a “gentleman’s agreement” between the PCA and the Bureau concerning future productions. Alarm arose when drafts of publicity for Edward G. Robinson’s *The Last Gangster* (MGM, 1937) proclaimed that audiences would “see the secrets of Alcatraz exposed”; but the MPPDA pre-empted the Department of Justice’s likely objection by ordering the studio to delete all references to the island penitentiary in both the film and its advertising, so that the protagonist “would be sent to

prison without specifically identifying the prison.”³⁸ However, in May 1938, Sheila Graham’s syndicated “Hollywood Today” column reported that “Paramount was thinking of producing a picture entitled *King of Alcatraz*... to be based on the recent mental illness of Al Capone.” Bennett wrote to Hays and Breen in grave concern over Graham’s claim that the film would imply “prison life made Al Capone insane.”³⁹ The PCA interceded immediately, before the studio could even explain that the report was “erroneous” and that the planned story dealt with a prisoner who only “feigns illness in order to be removed to a hospital in San Francisco from which he plots an escape.”⁴⁰ On May 16, 1938, Breen gave Bennett his assurance that Hollywood would “put no pictures into production, dealing with any federal prison without first submitting a copy of the script to the Department of Justice in Washington,” and informed studios that such screenplays would not be “okayed for picture making” until they had “U.S. Government approval.”⁴¹

This might appear to be an extraordinary concession, yet it was well in accordance with the PCA’s practice. For instance, according to Lawrence Suid, the Navy Department had drawn up “regulations of cooperation with Hollywood” dating back to at least 1932, with “requirements for review...[and] script approval” even for movies that wanted to utilize stock footage of Navy vessels at sea.⁴² By the 1950s, this had evolved into a “cooperation agreement” with the Department of Defense as a whole, which meant that “almost every film involving recent U.S. military history” would be weighed against the DOD’s “best interests” in securing approval to “extend cooperation.”⁴³ As Ruth Vasey has written, “the regulation of Hollywood’s output was actually far more broadly based than a reading of the Code would suggest,” for the PCA often extended its authority to act and advise in forestalling all manner of potential public relations problems.⁴⁴ Breen labelled these as matters of “industry policy,” warning producers whenever the PCA believed a film might

“bring in its train results which are not felt to be for the best interests of the organized industry.”⁴⁵ This applied not only to fostering a good relationship between Hollywood and the federal government, but to interests as diverse as radio broadcasters, lawyers, oil companies, newspapers, even “circus people” – most any constituency capable of organizing sufficient pressure to generate “bad publicity” or a call for further regulation of the movies.⁴⁶

Most studios submitted to such “voluntary censorship,” wanting approval to avoid controversy erupting after a film was in release. Columbia’s Irving Briskin demonstrated such concern to be on the right side of the Bureau of Prisons when approaching the PCA about a story entitled *Escape from Alcatraz* in 1939. The basic premise involved two government operatives being planted in Alcatraz as prisoners, to gain the confidence of an inmate who knows where a major crime ring has hidden its ill-gotten gains. The film would feature an “attempted break for freedom,” but Briskin assured the PCA he would “show this attempt to be completely broken up and mastered by the Alcatraz authorities.”⁴⁷ Evidently “very anxious” about the agreement, Briskin earnestly promised to “do only the right thing” and show Alcatraz “as an institution respected by the world as well as its own inmates.” He even suggested the Bureau should send a representative to work alongside the filmmakers, offering to “cooperate in every way.”⁴⁸ Unfortunately for Briskin, the “planting” of operatives in prisons for the purpose of “securing evidence” was a practice that Bennett had determinedly stamped out as part of his reforms. When consulted, the Bureau “felt that this phase of the story treatment constituted such an important departure from present practice that the Department could not afford to extend cooperation.”⁴⁹

In the end, without the BOP’s involvement, Briskin and Columbia simply preserved their story by setting it in a state prison rather than a federal one, and renaming the movie

Behind Prison Gates (1939). This might make Briskin's promises to "cooperate in every way" seem disingenuous, but the 'gentleman's agreement' was worded so as to apply only to *federal* prisons and "all stories dealing with Alcatraz" in particular.⁵⁰ In his official position, Bennett had no authority to comment on the prison systems in individual states, and he observed this distinction quite carefully. PCA files show that he did not interfere in the cinematic representations of state prisons such *Inside the Walls of Folsom Prison* (Warner Bros., 1950) or fictional penitentiaries like the Westgate prison of *Brute Force* (Universal, 1947). Bennett was certainly troubled by the magnified effect that movies had played in the public's image of life behind bars ever since MGM's pre-Code *The Big House* (1930), yet within his governance of the BoP the key thing was to ensure that Alcatraz itself was kept "out of the limelight."⁵¹ This was not simply because of the sensationalism press that the Rock attracted. Even as Briskin pledged not "to show Alcatraz in anything but the finest light," *any* "showing" of Alcatraz was a problem for Bennett.⁵² As the Justice Department had explained to Hays, while the island prison was "an essential part" of the system, "nevertheless it contains only about 300 prisoners out of the nearly 16,500 in Federal penal institutions." In their analysis, the infamy of Alcatraz distracted the American public from understanding what the BOP was trying to achieve, and any film that focused on it would "give a false impression of our whole penal program."⁵³ As Bennett later wrote in his autobiography, "always when I went to Alcatraz... it seemed to me that this was the place where the legend of the big house in the annals of crime would live the longest and die the hardest."⁵⁴ Simply by affording it the stature inherent in a Hollywood movie, any film about Alcatraz would inflate that legend. Ensuring that filmmakers shifted their focus to *other* prisons was therefore enough to satisfy Bennett's objections.

The other main factor in Bennett's opposition to films about Alcatraz was concern that they perpetuated a "Gangster Hall of Fame." The Department of Justice argued that any film which "played up the inmates" was "definitely not in the public interest"; and on that point, the PCA firmly agreed.⁵⁵ Although John Dillinger, the FBI's 'public enemy number one', had been killed rather than imprisoned, plans to make a film about him in 1934 had embroiled the industry in a storm of controversy and prompted the MPPDA to prohibit pictures which "glorified gangsters" as "detrimental to the public interest."⁵⁶ This rule was tentatively relaxed at the end of World War II, but was reinstated quickly, after an exploitative biopic of *Dillinger* (King Bros., 1945) and the morbid interest of filmmakers into the death of Al Capone in 1947 led to renewed denunciations of the film industry. The Code's "special regulations on crime" were consequently amended, stating that "no picture shall be approved dealing with the life of a notorious criminal of current or recent times." Although taken from "the standpoint of industry good and welfare," these embargoes worked to the BOP's advantage.⁵⁷

In fact, Bennett's position was more nuanced than that of the Department of Justice as whole, arguing less for the "public interest", and more for the interests of prisoners themselves. If popular culture continued to "build up" an exaggerated picture of Alcatraz, then in the public's mind, *any* prisoner who was committed to the institution would "automatically" be seen as belonging to the "Gangster Hall of Fame" associated with the Rock.⁵⁸ The reputation of Alcatraz would hang over prisoners, harming their prospects of being able to return to "useful positions in the community" upon release.⁵⁹ Bennett argued repeatedly that "the community itself" had to "recognize its obligations in the rehabilitative process"; and he saw that popular culture worked against this, leading "too many people [to] believe that anyone and everyone who goes to prison is a fearsome creature."⁶⁰ As a

result, rather than support community rehabilitation, “they demand harsh measures and shun and discriminate against everyone who has a prison record.”⁶¹ As Bennett saw it, Hollywood risked “undermin[ing] the very values we must preserve in the American people if the men in our charge are to be given a fair opportunity.”⁶²

While believing that his argument applied to cultural representations of all prisons and prisoners, Bennett could only directly express his concerns to the PCA when filmmakers seemed set on “glamorizing” criminals who had been in federal custody. In 1953, he leaned on Breen to oppose Ida Lupino’s *The Hitch-Hiker* (The Filmmakers Inc., 1953), a tense film-noir inspired by the mass killer William E. Cook who three years earlier had kidnapped motorists and murdered six victims, including an entire family. Cook had been sentenced to three hundred years in Alcatraz and Bennett therefore resisted, “in accordance with our usual policies,” Lupino’s efforts to get Cook’s “signature to a release” for the film rights to his “sadistic career.”⁶³ He contacted Breen, however, when Lupino’s representatives circumvented his authority, obtaining Cook’s consent when he was handed over to Californian authorities to stand a separate trial in El Centro. Breen accordingly warned Lupino’s company “to forget” the idea, invoking the regulations about “dealing with the life of a notorious criminal” to insist that Cook’s story would be “impossible” to film.⁶⁴ Lupino’s strategy when faced with such obstruction though was as straightforward as Irving Briskin’s had been: simply “fictionalizing” the representation of Cook by changing his name to Emmett Myers (even while preserving the real and strikingly characteristic detail that Cook could only close one eye). When advised of Lupino’s change, Bennett conceded that he could have “no legal basis for objecting” to the production of a screenplay that actually made “no reference to William Edward Cook.”⁶⁵

Production Code files on movies that were put into production have been catalogued by the Margaret Herrick Library for many years now; however, files on unmade projects demonstrate that Bennett had also agitated against a biopic of Cecil L. Wright, the so-called “Brain of Alcatraz,” when independent producer Sam Baerwitz acquired the rights to Wright’s story in 1948. Like Stroud, Wright had been incarcerated in both Leavenworth and Alcatraz, and whereas Stroud used his time to master avian pathology, Wright spent eighteen years studying the law and issuing successive writs of *habeas corpus*. In 1948, his thirteenth petition was finally successful in demonstrating that his original trial had been flawed, and won him his freedom. Newspapers subsequently serialized Wright’s account as a major miscarriage of justice.⁶⁶ However, when Baerwitz submitted a script based on that version of events to the PCA, Breen invoked the “gentleman’s agreement” with the Bureau, noting that it is “mandatory upon us to make certain” that the federal prisons and their personnel “are properly presented.”⁶⁷ Bennett’s off-the-record response to Breen was to dismiss it as a “blood and thunder” portrayal of Wright’s “objectionable life,” aimed to “attract those who get sadistic delight out of this sort of thing.”⁶⁸ Officially, the Bureau raised substantial objections, claiming that “if screened and released, [it] will be nothing more than a hoax upon the American motion picture public.”⁶⁹ When Baerwitz, in consultation with Wright and his attorney, took “very violent exception” to that assertion, Bennett sent one of his assistant directors, Myrl Alexander, to set the producer “right” on a few facts.⁷⁰

In his serialization, Wright insisted that he had been framed in 1930 for a post-office robbery, when he had actually been 200 miles from the scene of the crime, “under the care of a doctor for an infected hand.”⁷¹ Bennett countered that the published story ignored the fact that the infection was the result of Wright having been “injured by a bullet”; and that

he had been arrested in possession of a gun “stolen from a National Guard Armory.”⁷² The Bureau objected too to Wright’s portrayal of himself as someone who had been “railroaded into jail” and then spent most of his life fighting to “prove his innocence.”⁷³ As Alexander stressed, Wright’s innocence had *not* been established by his release; indeed, he had pleaded guilty to crimes (including automobile theft) for which he served sentences in Illinois state prisons, and his law suits had won his freedom “on a technicality” rather than proof of innocence.⁷⁴

To enhance his image as ‘The Brain of Alcatraz’, Wright had also exaggerated his ingenuity, claiming that he had surreptitiously fashioned candles from paraffin wax used in the prison laundry, so as to be able to “study law for hours” in his cell after lights out.⁷⁵ Alexander dismissed this romanticization, noting “many prisoners” read at night “by light which drifts in... from exterior lighting.” He likewise debunked Wright’s claim that other inmates “lined up” outside his cell to receive his legal advice.⁷⁶ Like Stroud, Wright had also claimed that his “outwitting” of the prison authorities had led to reprisals, and that he found himself “ticketed to Alcatraz... not as an incorrigible or as a desperado, but as a man... who sought justice for himself and for other men.”⁷⁷ The Bureau’s version, however, was very different, stating that Wright had been one of the “unprincipled agitators” in a work strike in Leavenworth in July of 1941, at a time “when the [prison] factory was working at full schedule on defense orders,” and “for that reason alone, he was transferred to Alcatraz.”⁷⁸

The PCA was kept abreast of this correspondence by Bennett, so that Breen was aware of the BOP’s objections. Baerwitz was far from persuaded by these efforts to discredit Wright; yet for as long as the Bureau maintained that the screenplay was a “gross misrepresentation of the facts” to which “the true story of Cecil Wright... fundamentally bears little relationship,” he would struggle to persuade the PCA that the institutions of the

federal government were being “represented fairly.”⁷⁹ Baerwitz made one further appeal to Breen in August of 1951, but a memorandum in the PCA file on this unproduced movie simply notes, “there is nothing further for us to do.”⁸⁰

Of course, one might argue that the Bureau’s suppression of ‘The Cecil Wright Story’ was a conspiracy to cover-up a gross miscarriage of justice, just as Stroud’s supporters were later to claim was the case in Bennett’s opposition to *Birdman of Alcatraz*. Certainly the image of the “American judicial and prison system” was of concern to Bennett, arguing to Breen that the proposed Wright movie would “constitute a grave disservice to the cause of public respect for the processes of law, our courts and our penal institutions.”⁸¹ Yet while there is no way of verifying the Bureau’s motives for sure, the Cecil Wright case – along with criticism of *The Hitch-hiker* and consistent efforts to block films about Alcatraz from 1938 onwards – serves to demonstrate that Bennett was at least not singling Stroud out when obstructing *Birdman*, and that his opposition was more policy than “personal vendetta.”⁸² In fact, at one point Bennett was opposing the Stroud and Wright stories at exactly the same time.

In 1948, the year of Wright’s release and some years before the interest of the film industry was piqued by the publication of Gaddis’s book, Hollywood agent Richard Polimer had contacted Robert Stroud’s brother, Marcus, to begin “talking about a possible movie.” As a “bird enthusiast [who] found his rare birds dying of a contagious disease,” Polimer had made use of *Stroud’s Digest* and his fascination with the author had stemmed from there. Bennett learned of this when Stroud wrote to his sister, boasting of a film deal that would “run into real money.”⁸³ When a contract was entered into in early 1950, Polimer received a call from Bennett, inviting him to Washington and making him privy to the Bureau’s files on Stroud. According to Babyak, the hours spent “delving into reports from wardens and prison

officers” convinced Polimer that “he had been given a false picture by Marcus,” and that he no longer wanted to make a film about a “vicious murderer.”⁸⁴ In this instance, Bennett had not needed to involve the PCA; Polimer’s idea for a movie about Stroud had not even got to the scripting stage before the Bureau pre-empted it. Changing circumstances and attitudes, however, were soon to conspire against Bennett’s abilities to constrain filmmakers.

Caging the Birdman

The publication of Gaddis’s *Birdman of Alcatraz* in 1955 changed things substantially, creating a situation that Bennett struggled to contain. There are cursory comments about this in Phyllis Gaddis’s afterword to later reprints of her father’s work and in Gary Fishgall’s biography of Burt Lancaster, summarizing that although unsuccessful in his efforts to dissuade Random House from publishing the book, Bennett did convince the editors of *Readers’ Digest* not to reprint articles based on Gaddis’s work, and discouraged producers Joshua Logan and Jack Cummings from adapting the book to screen. The Production Code Administration files reveal much more about this however, demonstrating that as soon as 20th Century-Fox acquired the rights to *Birdman* in early 1956, Bennett contacted the PCA to object “very strenuously” to it as “an unwarranted and untruthful portrayal of the Federal Prison system” – even while admitting that he had “not seen the script for this picture and do not know exactly how it is to be handled.” Basing his objections to the proposed film on the book from which it was to be derived, he sought to discredit it as “completely fictional” – arguing with some justification that, although “made to appear as though it is authentic and biographical,” Gaddis’s account was “based entirely upon one-sided data secured by the author from letters and material of ‘Birdman’ Stroud to his brothers and others,” written without access to “the official records of this Department.”⁸⁵

It was a similar line to the one that had convinced Breen to reject the ‘Cecil Wright Story’. However, there had been a change at the PCA itself in the intervening years, with Breen having retired in October 1954. His replacement, Geoffrey Shurlock, had served as Breen’s deputy for twenty years, but was considered “less dogmatic and less confrontational” than his former boss.⁸⁶ Bennett seemed unsure of where he now stood. He reminded Shurlock of the “arrangement we had with Mr Breen and possibly yourself whereby we were given an opportunity to comment on any script dealing with our system before your approval was granted”; but as if uncertain of the current status of that agreement, Bennett added two other lines of attack. One was a combination of emotional pressure and legal threat: informing Shurlock that the “wife and children” of the murdered officer Andrew Turner were “still alive”; while also noting that 20th Century-Fox ought to be “extremely cautious about the repercussions that might follow an invasion of the Turner family’s rights of privacy.” The other approach was to suggest that Bennett had the power to stir up bigger trouble for the film industry.

“You may recall,” he reminded Shurlock, “that while I was secretary of the Section of Criminal Law of the American Bar Association we had some conferences concerning problems relating to the effect of excessive brutality in motion pictures upon law enforcement and the well-being of our young people.” This comment bore little relation to *Birdman* specifically, for there was no “excessive brutality” in Gaddis’s narrative; but the “the well-being of our children” was a sensitive subject in the mid-1950s. With hysteria about juvenile delinquency dominating political discourse, the finger was being pointed at the nefarious influence of popular culture, including films, on rising youth crime rates.⁸⁷ *Rebel Without a Cause* (Warner Bros. 1955) was accused of inspiring for various ‘copy cat crimes’, while *Blackboard Jungle* (MGM, 1955) was criticised by a Senate committee for its

depiction of vicious, alienated youth and withdrawn from the Venice Film Festival after pressure from the State Department. Bennett's statement to Shurlock, that "our committee is continuing to maintain its interest," carried the veiled threat that should cooperation on *Birdman* not be forthcoming, the Bureau might add its voice to those charging Hollywood with fomenting delinquent behaviour.⁸⁸ It was an illustration of why Breen had considered "industry policy" a vital component of the PCA's remit to protect the studios.

Facing such pressures, including Turner's widow writing to plead with him personally not to "glorify the depraved murderer," Joshua Logan passed on *Birdman*.⁸⁹ But 20th Century-Fox still possessed the rights, and in the spring of 1958, they attracted the attention of Jack Cummings. Famous as a producer of musicals, from *Born to Dance* in 1936 through to *Seven Brides for Seven Brothers* in 1954, Cummings had only recently left MGM, and evidently saw in *Birdman* the opportunity to make his mark as a 'serious' producer at Fox. Executives at the studio, however, were so accustomed to the Production Code's requirements as to have become part of the enforcement apparatus itself. Thus Frank McCarthy, Fox's director of public relations and liaison with the PCA, immediately warned Cummings that his production entailed an "important public relations consideration," and that the studio "would not wish to have the story come off as a blanket condemnation of prison authorities in general or even of the Alcatraz authorities as a group."⁹⁰

McCarthy seemed "confident" that Cummings was not intending to "preach a sermon against the national penal system."⁹¹ Yet within two weeks of this correspondence, both he and the producer were called to an extraordinary meeting with Bennett's boss, Attorney General William P. Rogers, who told them bluntly that "Mr Stroud is insane and has been for some time."⁹² Earlier that year, Bennett had visited Stroud in the company of eminent psychiatrist Karl Menninger, author of *The Human Mind*. Although Menninger

“later wrote that he only spent a “few minutes” with Stroud,” the visit in itself was enough to ferment innuendo about the prisoner’s mental state, which Gaddis claimed was part of the Bureau’s effort to discredit his book.⁹³ Certainly Rogers raised it to dissuade the filmmakers, claiming that Stroud could not “be even considered for parole because of his mental condition.”⁹⁴ Although Cummings expressed his doubts and wanted to discuss it with Menninger directly, McCarthy felt compelled to tell the studio heads that even if the psychiatrist contradicted Rogers, “the assertion of insanity by the Attorney General personally would kill the possibility of our getting a satisfactory story out of this material.”⁹⁵ Within days, McCarthy had written to the PCA, confirming that “20th Century-Fox has dropped the project.”⁹⁶

Cummings, however, was far from happy with that outcome. His papers relating to the Birdman project reveal that he had already been in contact with the Committee for the Release of Robert Stroud. Two months before the summons to meet the Attorney General, Stroud’s lawyer, Stanley Furman, had copied to Cummings a number of proforma letters that Bennett and the Bureau of Prisons had customarily dispatched to Congressmen and bird clubs whenever they wrote to question Stroud’s incarceration. While acknowledging that “the story of a man like Stroud being interested in birds is an appealing one,” the BOP letters repeatedly reminded the correspondents of the “extremely serious criminal record” of Stroud, who had been a “constant source of trouble and agitation.”⁹⁷ Furman also enclosed a letter from the editor of *Scientific American* concerning an article which Gaddis had written for the magazine in 1957, celebrating Stroud’s avian insights. The letter stated that Bennett had dissuaded the editors of *Reader’s Digest* from reprinting the article when they had contacted the BOP to check its veracity. Claiming the BOP had “killed” the reprint, Furman sent it to Cummings with the note: “This will give you some background on what to

expect from Mr Bennett.”⁹⁸ In this context, the heavy-handed tactics of the Attorney General could only have affirmed for him the Committee’s assertion that the government were conspiring to silence and censor Stroud’s story.

Cummings therefore sought to persuade Spyros Skouras, the company’s president, to allow him to proceed, promising he would present the Bureau of Prisons not only as “blameless” but as “probably the most enlightened, humane and progressive of any penal system in the world today.” As he argued it, it was a testament to the “humanity” of the American prison system that Stroud had received such “extraordinary privileges” in being permitted to breed and raise his birds: “In what other country would a man convicted of two murders, a troublesome convict, be given such humane and thoughtful treatment?” He promised, perhaps somewhat disingenuously given his correspondence with Gaddis and Furman, that “if there has been an injustice done, I have no desire to proclaim it” and that he only wanted to emphasise the story of “an American of indomitable spirit – a man who proves that independence and will and courage, the qualities that made this nation great, still exist – even behind prison walls.”⁹⁹ Yet his appeal was of little avail. In late September, Rogers cut Cummings out of the loop to meet with Skouras personally, and brought Bennett with him. His stance fully endorsed by Rogers, Bennett reiterated all of the objections he had raised before, remaining “dead set against treating *Birdman of Alcatraz* in any form.”¹⁰⁰ Skouras capitulated and in May 1959 the studio’s option on Gaddis’s book was allowed to expire, even as Cummings still pleaded to know “why must we be pushed around by the Federal Bureau of Prisons?”¹⁰¹

Having dissuaded Polimer and Logan and effectively stymied Cummings in the attempts to film Stroud’s story, Bennett appeared to be in control. But faultlines had become apparent in the process. Cummings’ papers also show that during discussions at

Fox, the matter of the “gentleman’s agreement” with the Bureau had been raised by the head of the studio’s story department, David Brown, questioning whether the studio needed to submit the script to the Department of Justice. McCarthy had replied that he did not consider it necessary unless they were seeking cooperation “to shoot on the Alcatraz reservation itself”; and he knew such an outcome was unlikely, since the BOP had consistently refused to permit the taking of pictures on the island since 1938.¹⁰² Yet McCarthy had only taken up his job at Fox in 1951, and his response to Brown implies that he believed the “gentleman’s agreement” with the BOP operated on the same basis as the “cooperation agreement” with the Department of Defense, which only required the approval of scripts as and when practical assistance was being sought. The preemptive intervention of Rogers and Bennett rendered further discussion of the nature of the agreement a moot point, yet the memos between Brown and McCarthy suggest that its original terms had been forgotten by at least some senior figures in Hollywood in the Fifties.¹⁰³

In a related factor, the Production Code itself had been amended in December 1956, with the clause “designed precisely to prevent the making of stories which might add to the heroic stature of criminals of notoriety” having been removed.¹⁰⁴ Shurlock retained the authority to reject films dealing with notorious criminals if they contained “excessive brutality”; but once United Artists released *Baby Face Nelson* in 1957, it was followed in quick succession by *Machine Gun Kelly* (American-International, 1958), *The Bonnie Parker Story* (American-International, 1958), *Al Capone* (Allied Artists, 1959), and *The Rise and Fall of Legs Diamond* (Warner Bros., 1960), all testing the limits of the Code in pursuit of the profits to be made from reviving the gangster cycle. Thus the PCA’s ability to stop a film like

Birdman of Alcatraz had been eroded considerably, perhaps explaining why the BOP had pressured 20th Century-Fox directly rather than rely on Shurlock.

Within two years, however, Bennett probably wished he had taken Cummings up on his offer to make a version of *Birdman* in which the Bureau would be presented as “enlightened, humane, progressive” and “blameless.”¹⁰⁵

The Birdman Pecks Back

When Norma Productions submitted Guy Trosper’s screenplay in July 1960, Shurlock forwarded copies of the earlier correspondence between the PCA, Bennett and Frank McCarthy, drawing attention to the Bureau’s objections to *Birdman*’s production as “an unwarranted and untruthful portrayal.”¹⁰⁶ But while the PCA certainly considered *Birdman* to be a “serious problem of policy” for “present[ing] the federal penal system in an extremely unfavourable light,” it now drew a distinction between “industry policy” and the specific remit of the Code. Without the regulation on “notorious criminals”, the only point on which Trosper’s script “might be said to be in technical violation of the Code” was the article which insisted: “The history, institutions, prominent people and citizenry of all nations shall be represented fairly.”¹⁰⁷ While in the cases of Brisikin’s and Baerwitz’s proposed Alcatraz productions, Breen had broadly accepted Bennett’s word that their representation of federal prisons as institutions was unfair, Shurlock was now less prepared to do so. He had taken charge of the PCA at a point when independent filmmakers were challenging the Code repeatedly.

United Artist’s announcement in 1956 that they would release Otto Preminger’s *Man With a Golden Arm* without PCA approval if necessary (dismissing objections to the film’s portrayal of drug addiction as evidence that the Code was “antiquated”) had resulted

in rapid amendments to the Code to defuse the stand-off. Keen to avoid further confrontations unless the grounds for impeding a production on the basis of the Code were rock solid, Shurlock knew that any assertion of “industry policy” was certain to be challenged. Thus when presented with the script of *Birdman* the PCA this time asserted that it did not “feel qualified” to say whether the Bureau and its Chief were being presented “fairly” – and that “authority... to proceed further in evaluating this story” would therefore have to come directly “from the Board of Directors” of the Motion Picture Producer’s Association if it wanted to consider the consequences of crossing the Bureau of Prisons.¹⁰⁸ Shurlock effectively sidestepped the issue and chose to define his position in the narrowest terms, reporting on July 19, 1960, that “the basic story seems to meet the provisions of the Code.”¹⁰⁹

Without the PCA running interference, Bennett’s position was suddenly vulnerable. From their contact with Cummings, Tom Gaddis and Stanley Furman were aware of how the Bureau had undermined previous efforts to make *Birdman* - and as Lancaster’s company began production, Stroud’s supporters struck back, now exposing Bennett’s actions to the American public. Paul O’Neil’s article in *Life* magazine in April 1960 was a major blow, detailing “Bennett’s most recent suppression of the Stroud story.” Specifically it revealed how Meninger’s visit to Alcatraz had been used to raise doubts about Stroud’s sanity in an effort to discredit him, and how Bennett had “warned the Fox people “for their own good” that they should not risk the movie.”¹¹⁰

Lancaster invited Gaddis and Furman to join him at press conferences promoting the film in 1961 and 1962, to further denounce the “extraordinary efforts” of the Bureau to “prevent the story of Robert Stroud from reaching the public.”¹¹¹ Director John Frankenheimer claimed too that he had been blocked by the Bureau when he had earlier

tried to “tell Stroud’s story as a live television drama for CBS.”¹¹² Bennett the ‘reformer’ and champion of “New Penology” was now being recast in the American media as a bullying, self-appointed censor. Unwittingly, he made this perception all the more credible early in 1961 when he tried to quash an episode of the television series, *The Untouchables* (ABC, 1959-63). Objecting to the depiction of a “venal” federal prison guard accepting a bribe as part of Al Capone’s escape attempt from a prison train, Bennett fired off “telegrams to 10 ABC-affiliated tv stations,” threatening that the “Bureau of Prisons would oppose their license renewals” if they broadcast the episode.¹¹³ This heavy-handed move backfired badly. Even those critics who disliked *The Untouchables* for its “excessive violence,” decried Bennett’s “attempted censorship” as the greater “social evil.”¹¹⁴ Coinciding with the pre-release of *Birdman of Alcatraz*, it simply gave the filmmakers further ammunition. As Lancaster put it bluntly in one press conference: “Mr Bennett is not the censor of what the American people shall see, nor is he paid for this purpose.”¹¹⁵

As the release of the movie prompted thousands to write in protest to the Bureau about Stroud’s prolonged incarceration, Bennett had to repeatedly dispute the “foolish” idea that he was motivated by a “personal feud,” reminding critics that “Stroud’s case was repeatedly reviewed by attorneys general and parole boards, by members of the judiciary, and by our classification committees, but none of us believed he was anything but a psychopathic killer.”¹¹⁶ Bennett even opened the Bureau’s files to *Washington Post* reporter Eve Edstrom, whose ensuing articles sought to prove that “the Birdman’s failure to win his freedom” was *not* the result of “a personal vendetta.”¹¹⁷ The prison reports Edstrom cited made it clear Stroud “would accept none of the usual conditions of parole. He wanted unlimited travelling privileges, wanted to decide where he would live, who would be responsible for him, and what requirements would govern his activities.”¹¹⁸

Damningly for his parole prospects, Stroud had also never “expressed any remorse” for his murders, quoted by Edstrom as saying that he still “believed the taking of life was necessary.” The articles further supported Bennett’s narrative in showing how the Bureau had gone to “extraordinary” lengths to accommodate Stroud’s bird research, only for him to “flagrantly violate their trust.” Not only was “a letter smuggling operation conducted” through shipments of birdcages, but Stroud’s cell had been “the center of moonshining activities,” fermenting bird feed into alcohol. When transported to Alcatraz, Stroud “boasted about how he had been ‘cooking’ 188 proof grain alcohol for 13 years without the ‘dumb bunch’ at Leavenworth knowing it.”¹¹⁹ With the support of Senator Edward Long, chair of the Senate subcommittee concerned with federal penitentiaries, Bennett had Edstrom’s articles entered into the Congressional Record as an official corrective to the film, “in order for the entire nation to know of heretofore unpublished facts.”¹²⁰

In the final analysis though, as Bennett feared, it was the film, not the Congressional Record, that would leave the most indelible impression on the public mind. Trosper’s screenplay did acknowledge the murders for which Stroud was imprisoned, and gave credit to the Bureau’s position that he had “taken the lives of two human beings and... hadn’t even felt a twinge of conscience.” It even included a scene of Stroud getting drunk in his cell on 180 proof alcohol. But Burt Lancaster’s Oscar-nominated performance as Stroud brought great dignity to the convict, who (in the actor’s own assessment) “took a miserable, unnatural existence and yet made it a meaningful thing.”¹²¹ In the film, Stroud’s early belligerence and impulsiveness mellows into quiet, stoic decency as, through raising and caring for his birds, he comes to respect life and treasure freedom. It was a depiction far removed from Bennett’s view of Stroud as an unrepentant psychopath. As one former

Alcatraz officer put it, those who wrote in their thousands asking for the release of the Birdman “didn’t want Robert Stroud pardoned. They wanted Burt Lancaster pardoned.”¹²²

From the outset, as is typical of prison films, the central conflict is established as Stroud’s defiant efforts to sustain his “rights” and his individuality against the oppressive inhumanity of the prison system. And when embodying this antagonism in the single character of warden Harvey Shoemaker (played by Karl Malden), Trooper deliberately imbued him with close parallels, in role, position and philosophy, to Bennett himself.

At a key point in the film, just before Stroud begins raising birds, Shoemaker steps down from his role as Stroud’s warden to head to Washington D.C. and “plan” the “new Federal Bureau of Prisons” that Bennett had planned in 1930. He subsequently returns to Leavenworth, dispatched as a “delegate of the Bureau” to negotiate with Stroud over his bird business, again fulfilling Bennett’s role. Shoemaker regards himself as a progressive reformer, looking back on his career with pride in the “advances I helped to inaugurate,” telling Stroud to “think back to the old times: leg irons, carrying the iron ball, stripes, corporal punishment... I have been instrumental in abolishing that kind of treatment.” Bennett had indeed “struck first and hardest” against prison brutality and withstood considerable opposition from wardens and guards in stamping out even “secretly practiced” corporal punishment.¹²³ He had consistently fought, too, for the “constructive work programme” which his cinematic counterpart claims as his own centrepiece of prison reform. However, in aligning the fictional Shoemaker with Bennett, the film also makes him the agent of official retribution.

When Stroud’s death sentence for the fatal stabbing of the prison guard is commuted to life, Shoemaker warns him angrily that he will have vengeance: “No matter what happens to me, no matter where I am, if I ever get a chance to punish you further, I’ll

do it.” Everything which then befalls Stroud becomes tainted by the notion that it constitutes Shoemaker’s vindictiveness. The “directives from Washington” which give Stroud only sixty days to “get rid” of his aviary, come at a point when Shoemaker is the only person in Washington of whom the audience knows. When frustrated and defeated by Stroud’s campaign “to tell the public how they are going to take his birds away from him,” and by the prisoner’s calm mastery of regulations that Shoemaker himself had written (quoting “Rule 60 of the Federal Bureau of Prisons manual”), he leaves with another parting shot: “Keep one thing in mind, Bob. The public has a short memory.”

The sense that the Bureau is just biding its time thus presses in on scenes concerning Stroud’s hopes for parole. The film’s substitute for Della Jones expresses “faith” that the parole board will “see how good you are” and recognize the “great things” Stroud has accomplished in avian research as evidence of rehabilitation. Such faith is heartlessly crushed, however, by Stroud’s overnight transfer to Alcatraz – presented as an underhand move by the Bureau to circumvent the parole board and keep him in captivity. By such means, Troster and Frankenheimer gave cinematic substance to Robert Stroud’s paranoid belief that his “illegal confinement” was motivated by “personal animosity.”¹²⁴

In the film, Stroud’s main defender in Leavenworth, a prison doctor, comes to wonder “if the Bureau isn’t afraid of Stroud. Afraid to let the public know what kind of a brain they’re keeping locked up here.” He becomes a voice celebrating Stroud’s “genius”, even suggesting that if released, Stroud could turn his “staggering” mind to curing human diseases. The petty-minded vindictiveness of the Bureau is thus presented as exacting a cost not only on Stroud as an individual, but on the collective progress of mankind.

Stroud’s confrontation with Shoemaker culminates in an attack on the prison system itself as damaging to humanity, criticising the BOP’s failure to rehabilitate its charges and

recognize their potential “worth” to society as individuals. When Shoemaker discovers Stroud is writing a stinging critique of U.S. prisons and defends his own record of reform, Stroud explodes with a righteous diatribe, accusing the Bureau of wanting to crush individuality. “You want your prisoners to dance out the gates like puppets on a string,” claims Stroud. “With rubber stamp values impressed by you, your sense of conformity, your sense of behaviour, even your sense of morality.”

In their first encounter, Shoemaker had told Stroud, “you’ll conform to our ideas of how you should behave.” Thirty five years later, Stroud asserts that the warden hasn’t “retreated from that stance one inch.” In truth, the accusation was unfair to Bennett, who had long been a key advocate for the “individualized treatment” of prisoners.¹²⁵ *Birdman*, however, is fundamentally about its protagonist’s defiant struggle to maintain his individuality, and so Shoemaker’s philosophy had to be presented as antagonistic to that. In the analysis Stroud presents in the film, the Bureau’s approach to rehabilitation through enforced “conformity” was doomed to failure, and he reproaches Shoemaker as if channelling the sentiments of all convicts:

On the outside, they’re lost, automatons, just going through the motions of living. But underneath there’s a deep, deep hatred for what you did to them. First chance they get to attack society they take it. The result, more than half come back to prison.

Bennett knew well that the recidivism rates of released convicts who “return to prison for a postgraduate course” presented a “dark statistical picture”; and that even by the 1960s, many American prisons lacked “the elements which can have a constructive influence on offenders.”¹²⁶ In Bennett’s own view, he was the modernizer, constantly frustrated by legislators who “set back” progress by cutting funds for rehabilitation programmes and by a public that “demands more of the iron fist approach.”¹²⁷ But the film holds Bennett’s

counterpart personally responsible. “That’s why *you’re* a failure, Harvey,” concludes Lancaster as Stroud.

What must have made this scene especially galling for Bennett was that Lancaster’s dialogue was drawn from the real manuscript on prison history that Stroud had been writing in Alcatraz. The reference to recidivism threw Bennett’s own words back at him, for Stroud opened his book with one of the Director’s public speeches in which he openly stated that “more than half” of those “who left prison last year will be back within five years.” Stroud presented this as the “most startling admission of failure” - and was adamant that “the one man most responsible for that failure is none other than Mr James V. Bennett.”¹²⁸ Given that the Bureau had resisted all of Stroud’s attempts to have his book printed, the incorporation of its opening pages into the central argument of a major motion picture was both a pointed subversion of the BOP’s authority (likely orchestrated by Furman), and a telling strike in Stroud’s self-conceived “contest of wills” with Bennett.¹²⁹

The resulting irony was that the impression of the penal system audiences took from *Birdman of Alcatraz* was actually in considerable accord with Bennett’s own analysis. For Lancaster, the objective of the movie was “to say that the initial concept of prisons – to send men away to be punished – is not only inhuman but outdated.”¹³⁰ As a vocal critic of America’s continued use of “antiquated bastilles built when penal philosophy demanded only sufficient space for penitence,” Bennett could not have agreed more.¹³¹ He would also have concurred with Lancaster that “more essential [than] anything else [is] to return and stimulate the criminal to some kind of dignity.”¹³²

In the preceding decade, Bennett had led the creation of open prisons, specifically to forge “a climate conducive to the [prisoner’s] acceptance of responsibility” – conscious of the paradoxes of a system that “sought to teach men how to live socially responsible lives...

in a prison which shears them of all responsibility.”¹³³ Rehabilitation was such a cornerstone of Bennett’s thinking that he had earlier attempted to deflect 20th Century-Fox from making *Birdman* by instead offering them access to Bureau files to develop a documentary-style film that might convince the public and their Congressmen to better support the BOP’s rehabilitation program.¹³⁴ Ironically, with the release of *Birdman* the Federal Bureau of Prisons became instead the “whipping boy” for its “overall indictment... of the penal system as a profoundly damning instrument of society.”¹³⁵ Because of his fervent opposition to the filming of Stroud’s story, it was Bennett’s “authoritarian” rather than reforming side that was displayed to the world. “The authoritarian Bureau head,” wrote Gaddis when promoting the film, “not only decides what is good for you. He personally intervenes to stop anything that he thinks is not good for you.”¹³⁶ For Gaddis, this was a “Big Brotherishness” from an un-elected official, “which raises questions even more disturbing than the fate of Robert Stroud.” Lancaster likewise denounced Bennett’s interference as “a real threat to the right of the public to freedom of expression.”¹³⁷

Similar arguments had been used in condemnation of the Production Code, attacked by rebellious filmmakers like Howard Hughes on First Amendment grounds, for “withholding a large body of information, knowledge and understanding of controversial topics, against the wishes of individual producers... and to the detriment of the public.”¹³⁸ Walter Wanger, producer and member of the Committee for the Release of Robert F. Stroud, had himself been a long-time critic of the Code, for making it “almost impossible to face and deal with the modern world.”¹³⁹ Both guardians of the “public interest” forged in the 1930s, Bennett and the Production Code Administration alike had become part of the ‘old guard’ by the 1960s and found themselves on the defensive. In the end, however, the weaknesses of neither the PCA nor the BOP were of much benefit to Stroud himself. Though *Birdman of*

Alcatraz prompted as many as one-hundred thousand moviegoers to petition President Kennedy to release the Birdman from prison, the federal government held its ground.¹⁴⁰ Robert F. Stroud remained in federal custody until his death on November 21, 1963.

Endnotes:

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- ¹ Quoted by P.S. Ruckman, 'The Birdman and The Pardon Power', 14 August, 2011, <http://www.pardonpower.com/2011/08/birdman-and-pardon-power.html>
- ² Kate Burford, *Burt Lancaster: An America Life* (DeCapo Press, 2001), 215.
- ³ Ruckman, 'The Birdman and The Pardon Power'.
- ⁴ Jolene Babyak, *Birdman: The Many Faces of Robert Stroud* (Berkeley, CA.: Ariel Vamp Press, 1994), 18.
- ⁵ Ibid.
- ⁶ Ibid. 224.
- ⁷ Thomas E. Gaddis, *Birdman of Alcatraz* (San Francisco, CA: Comstock, 1989 [1955]), 9.
- ⁸ Ibid. 146.
- ⁹ Ibid. 147.
- ¹⁰ Babyak, 115.
- ¹¹ Gaddis, 150.
- ¹² Ibid. 151
- ¹³ Ibid. 182
- ¹⁴ Ibid. 160-61.
- ¹⁵ Paul O'Neil, 'Prodigious Intellect in Solitary,' *Life*, 11 April 1960.
- ¹⁶ Gaddis, 182; Eve Edstrom, 'That Birdman of Alcatraz Really Feathered His Nest', *Washington Post* series, July 1962, <http://www.mocavo.com/Congressional-Record-Volume-108-6/912095/207>.
- ¹⁷ Gaddis, 210; Babyak, 260. Gaddis used the September 1962 bulletin of the Committee for the Release of Robert F. Stroud to criticise the BoP for leaking the "news" of Stroud's sexuality "in the effort to discredit the character of Stroud and the work of the Committee" as the film was about to be released. There may be truth to this, as, according to Babyak, the U.S. Parole Board "viewed Stroud's homosexuality second only to the possibility of his getting involved in another serious crime as a reason why they would not parole him." However, if the BoP had been bent on discrediting Stroud, Babyak questions why they then did not disclose the more damaging revelation that Stroud "proudly called himself a "pederast"" and "wrote pornography about pre-pubescent boys." Babyak, 16, 19.
- ¹⁸ Ernie Lopez, *To Alcatraz, Death Row, and Back: Memories of an East LA Outlaw* (Univ. of Texas Press, 2010), 97.
- ¹⁹ Babyak, 166.
- ²⁰ O'Neil, 141.
- ²¹ *Los Angeles Mirror*, August 1961, quoted Babyak 256.
- ²² Thomas Gaddis, 'Birdman of Alcatraz', *The Guardian*, 6 April 1961, 8; Babyak, 11.
- ²³ George Gregory, *Alcatraz Screw: My Years as a Guard in America's Most Notorious Prison* (Univ. Of Missouri Press, 2002), 3; Babyak 159.
- ²⁴ Gregory, 3.
- ²⁵ James V. Bennett, *I Chose Prison* (Knopf: 1970), 84; Robert M. Freeman, *Correctional Organization and Management: Public Policy Challenges, Behavior and Structure* (Elsevier, 1999), 218.
- ²⁶ Freeman, 218; Bennett, *I Chose Prison*, 84.
- ²⁷ Bennett, *I Chose Prison*, 113.
- ²⁸ David Ward, *Alcatraz: The Gangster Years* (Univ. of California Press, 2009), 181.
- ²⁹ Ward, 185; Bennett, *I Chose Prison*, 114.
- ³⁰ Will H. Hays, *The Memoirs of Will H. Hays* (Doubleday, 1955), 335.
- ³¹ L.J. Leff and J.L. Simmons, *The Dame in the Kimono: Hollywood, Censorship, and the Production Code from the 1920s to the 1960s* (New York: Grove Weidenfeld, 1990), 284.
- ³² Homer Cummings to Will Hays, 27 August 1937, *Alcatraz Island Production Code Administration* file (hereafter PCA), Margaret Herrick Library of the Motion Picture Arts and Sciences, Los Angeles, California (hereafter AMPAS).
- ³³ Leff and Simmons, 294.
- ³⁴ Joseph Breen to Jack Warner, 29 April 1937; Breen to Hays, 31 August 1937, *Alcatraz Island* PCA file. Studios had immediately found a way of circumventing the moratorium, by shifting the focus of crime films to the "fearless" FBI agents tasked with bringing the gangsters to justice (most famously in *G-Men* (Warner Bros. 1935)). This enabled the industry to continue exploiting the entertainment value of crime, while arguing that they were no longer "glorifying gangsterism." Breen's grudging acceptance of allowing the depiction of a

“reformed” gangster in *Alcatraz Island* was in line with such precedents. (Tino Balio, *Grand Design: Hollywood as a Modern Business Enterprise, 1930-1939* (Univ. of California Press, 1995) 290).

³⁵ Breen to Hays, 31 August 1937, *Alcatraz Island* PCA file.

³⁶ Leff and Simmons, 284, 286.

³⁷ Breen to Hays, 31 August 1937, *Alcatraz Island* PCA file.

³⁸ Francis Harmon to Breen, 14 September 1937, *Alcatraz Island* PCA file.

³⁹ James Bennett to Breen, 9 May 1938, *King of Alcatraz* PCA file, AMPAS.

⁴⁰ Luigi Luraschi to Breen, 13 May 1938, *King of Alcatraz* PCA file.

⁴¹ Breen to James Bennett, 16 May 1938; Luraschi to Breen, 13 May 1938, *King of Alcatraz* PCA file.

⁴² Lawrence Suid, *Guts and Glory: The Making of the American Military Image in Film* (Univ. Press of Kentucky, 2002), 49.

⁴³ Peter Lev, *Transforming the Screen, 1950-1959* (Univ. of California Press, 2003), 100.

⁴⁴ Ruth Vasey, ‘Beyond Sex and Violence: “Industry Policy” and the Regulation of Hollywood Movies, 1922-1939,’ in Matthew Bernstein, ed., *Controlling Hollywood: Censorship and Regulation in the Studio Era* (Black, 2000), 102.

⁴⁵ Ruth Vasey, *The World According to Hollywood, 1918-1939* (Univ. of Wisconsin Press, 1997), 222.

⁴⁶ See Vasey, ‘Beyond Sex and Violence’.

⁴⁷ Irving Briskin to Islin Auster, 2 February 1939, *Behind Prison Gates* PCA file, AMPAS.

⁴⁸ Briskin to Auster, 2 February 1939; Islin Auster to Gordon Dean, 3 February 1939, *Behind Prison Gates* PCA file, AMPAS.

⁴⁹ Francis Harmon to Breen, March 1, 1939, *Behind Prison Gates* PCA file.

⁵⁰ Luraschi to Breen, 13 May, 1938, *King of Alcatraz* PCA file

⁵¹ Gordon Dean to Francis Harmon, 27 February 1939, *Alcatraz Island* PCA file.

⁵² Briskin to Auster, 2 February 1939, *Behind Prison Gates* PCA file.

⁵³ Cummings to Hays, 27 August 1937, *Alcatraz Island* PCA file.

⁵⁴ Bennett, *I Chose Prison*, 103.

⁵⁵ Dean to Harmon, 27 February 1939, *Alcatraz Island* PCA file

⁵⁶ Will Hays, telegram to Joseph Breen, 20 March 1934, *Dillinger* PCA file, AMPAS.

⁵⁷ Breen to Eric Johnston, 4 November 1947, *Westbrook Pegler’s Capone* (Unproduced, 1947) PCA file, AMPAS

⁵⁸ Bennett to Gordon Dean, 6 February 1939, *Alcatraz Island* PCA file.

⁵⁹ Bennett, *I Chose Prison*, 11.

⁶⁰ James V. Bennett, ‘These Towers We Guard’, *Proceedings of the Annual Congress of the American Prison Association* (v.70, 1940), 10; James V. Bennett, ‘Prisons in Turmoil’, *Federal Probation*, September 1952, 6.

⁶¹ Bennett, ‘Prisons in Turmoil’, 6.

⁶² Bennett, ‘These Towers We Guard’, 10.

⁶³ Bennett to Breen, 31 March 1952, *The Hitch-Hiker* PCA file, AMPAS.

⁶⁴ HHZ, ‘Memo for Breen’, 23 January 1951; HHZ, ‘Memo for the Files’, 2 February 1951, *The Hitch-Hiker* PCA file.

⁶⁵ Bennett to Collier Young, 27 May 1952, *The Hitch-Hiker* PCA file.

⁶⁶ See editor’s note accompanying ‘The Great Brain of Alcatraz – His Own Story’, *Miami News*, 1 December 1948, claiming “that his imprisonment was a terrible injustice.”

⁶⁷ Breen to Sam Baerwitz, 13 April 1950, *Cecil Wright Story* (Unproduced 1950), PCA file, AMPAS.

⁶⁸ Bennett to Breen, 4 May 1950, *Cecil Wright Story* PCA file.

⁶⁹ Raymond Whearty, First Assistant, Criminal Division, to Bennett, 3 May 1950, *Cecil Wright Story* PCA file.

⁷⁰ Breen to Bennett, 12 April 1951, *Cecil Wright Story* PCA file.

⁷¹ ‘Slaying of Friends in Tragic Episode in Alcatraz Life’, *Miami News*, 2 December 1948, 7.

⁷² Bennett to Baerwitz, 4 May 1950, *Cecil Wright Story* PCA file.

⁷³ Myrl Alexander to Baerwitz, 31 May 1951, *Cecil Wright Story* PCA file.

⁷⁴ Ibid.

⁷⁵ ‘Law Book Points Way to Freedom’, *Miami News*, 6 December 1948, 1.

⁷⁶ Alexander to Baerwitz, 31 May 1951; Bennett to Baerwitz, 4 May 1950, *Cecil Wright Story* PCA file.

⁷⁷ ‘Author Gets ‘Rock’ After Prison Riot’, *Miami News*, 5 December 1948, 1.

⁷⁸ Alexander to Baerwitz, 31 May 1951, *Cecil Wright Story* PCA file.

⁷⁹ Bennett to Baerwitz, 4 May 1950 and 12 March 1951, *Cecil Wright Story* PCA file.

⁸⁰ ‘Memo for the Files’, *Cecil Wright Story* PCA file.

⁸¹ Bennett to Baerwitz, 4 May 1950; Bennett to Breen, 4 May 1950, *Cecil Wright Story* PCA file.

⁸² Although Bennett's objections were regular and consistent, there were rare occasions where he engaged more positively with filmmakers, as producer Edward Cahn discovered when making *Experiment Alcatraz* in 1950. However, this low budget B-movie was primarily a mystery thriller, and concerned fictional prisoners already released from Alcatraz at the very start of the story. Opening sequences merely show their departure from the island, when their sentences are commuted for having volunteered to participate in medical tests involving the use of radioactive isotopes to treat rare blood diseases. That one of those convicts uses the opportunity to commit murder in the Presidio hospital reflects badly on the military authorities, rather than the blameless BOP; and given that the plot is concerned with investigating the crime, only two scenes are set on Alcatraz itself, restricted to the warden's office. Since all Cahn therefore required was permission to "incorporate shots of the Alcatraz landing pier" for the purpose of showing the prisoners' transfer, Bennett was obliging, and further offered some advice on "how the prisoners should be dressed" when leaving the island (James Bennett to Edward L. Cahn, 11 May 1950, *Experiment Alcatraz* PCA file, AMPAS). Coinciding with his opposition to the Wright story, it also enabled Bennett to assure Breen that his office did not have blanket policy of "object[ing] to all pictures dealing with Alcatraz"—although it probably helped Cahn that he submitted his script under the working title of *Delayed Action*, which, in contrast to its eventual release title, did not appear to be capitalizing on the notoriety of the federal prison (Bennett to Breen, 15 May 1950, *Experiment Alcatraz* PCA file).

⁸³ Babyak, 199.

⁸⁴ *Ibid.* 214.

⁸⁵ Bennett to Geoffrey Shurlock, 12 July 1956, *Birdman of Alcatraz* PCA file, AMPAS

⁸⁶ Lev, 91.

⁸⁷ Frederick Wertham's *Seduction of the Innocent* (1955) stoked this hysteria, purporting to document the pernicious "influence of "horror comics" on today's youth."

⁸⁸ Bennett to Shurlock, 12 July 1956, *Birdman of Alcatraz* PCA file

⁸⁹ Ida M. Turner to Joshua Logan, 17 July 1956, *Birdman of Alcatraz* PCA file.

⁹⁰ Frank McCarthy to Jack Cummings, 4 August 1958, Jack Cummings Papers, 11-f.116, *Birdman of Alcatraz* Correspondence, 1956-59, AMPAS (hereafter Cummings papers).

⁹¹ *Ibid.*

⁹² Frank McCarthy to Buddy Adler, 19 August 1958, Cummings papers.

⁹³ Babyak 233.

⁹⁴ McCarthy to Adler, 19 August, 1958, Cummings papers.

⁹⁵ *Ibid.*

⁹⁶ McCarthy to Shurlock, 8 September 1958, Cummings papers.

⁹⁷ James Bennett to Mrs M.E. Crandall, Wichita Harmony Bird Club, 17 February 1943, and Bennett to Congressman William S. Malliard, 4 June 1953, copies in Cummings papers.

⁹⁸ Stanley Furman to Jack Cummings, on annotated letter from C.L. Strong, 25 July 1958, Cummings papers.

⁹⁹ Jack Cummings to Spyros Skouras, 26 September 1958, Cummings papers.

¹⁰⁰ Frank McCarthy to Spyros Skouras, 2 October 1958, Cummings papers.

¹⁰¹ Jack Cummings to Buddy Adler, 20 May 1959, Cummings papers.

¹⁰² McCarthy to Cummings, 4 August 1958, Cummings papers.

¹⁰³ In truth, the agreement had always been less deferential than Bennett likely believed. When making *The King of Alcatraz* in 1938, Paramount's Harold Hurley was the first to tell the PCA that "he did not believe he cared to establish a precedent" by submitting his script to the Department of Justice's scrutiny. (Islin Auster, 'Memorandum for the Files, 7 July 1938, *King of Alcatraz* PCA file).

¹⁰⁴ Geoffrey Shurlock to Mary Baker, 4 May 1956, *John Dillinger* (Unproduced 1956), PCA file, AMPAS.

¹⁰⁵ Cummings to Skouras, 26 September 1958, Cummings papers.

¹⁰⁶ Geoffrey Shurlock to Valerie Douglas, 6 July 1960, *Birdman of Alcatraz* PCA file.

¹⁰⁷ E.G. Dougherty, 'Memo for the Files', 11 July 1960, *Birdman of Alcatraz* PCA file.

¹⁰⁸ *Ibid.*

¹⁰⁹ Shurlock to Harold Hecht, 19 July 1960, *Birdman of Alcatraz* PCA file, AMPAS.

¹¹⁰ O'Neil, 'Prodigious Intellect,' 141.

¹¹¹ Gaddis, 'Birdman', 8

¹¹² Gary Fishgall, *Against Type: The Biography of Burt Lancaster* (Scribner, 1995), 203.

¹¹³ 'ABC, tv affiliates ignore Bennett threat,' *Broadcasting Magazine*, 31 January 1961, 62.

¹¹⁴ 'Inoffensive Theatre Really Born of Truth', *New York Herald Tribune*, 23 January 1961; Charles Denton, quoted in Gaddis, 'Birdman', 8

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- ¹¹⁵ Quoted in Gaddis, 'Birdman', 8
- ¹¹⁶ 'James V. Bennet [sic] to Arthur J. Freund Concerning the Public Perception of Robert Stroud', 29 April, 1960, Inmate File of Robert F. Stroud, Records of the Bureau of Prisons, National Archives Catalog <https://catalog.archives.gov>. It seems certain that Bennett believed Stroud should have been executed for his crimes. The brief character sketch of Stroud that Bennett provides in his autobiography, *I Chose Prison*, rather pointedly appears in the chapter concerned with the death penalty. While most of that chapter argues against the death penalty as "cruel and unusual punishment," Bennett concluded that it might be retained as punishment for "the murder of law enforcement officers engaged in the performance of their duties," as had been the case in Stroud's murder of Andrew Turner. This, however, is suggestive of a widely-held attitude, rather than evidence of personal animosity. Bennett, *I Chose Prison*, 168-70.
- ¹¹⁷ Edstrom, 'That Birdman of Alcatraz Really Feathered His Nest.'
- ¹¹⁸ Edstrom, 'Stroud Says Mother Ruined Life She Helped Save,' *Washington Post* series, July 1962, <http://www.mocavo.com/Congressional-Record-Volume-108-6/912095/207>.
- ¹¹⁹ Ibid.
- ¹²⁰ *Congressional Record*, 108.11, 1962, 207.
- ¹²¹ Burford, 208.
- ¹²² Babyak, 19.
- ¹²³ Bennett, *I Chose Prison*, 91.
- ¹²⁴ Babyak 166.
- ¹²⁵ Bennett, 'A Yardstick for Measuring Prisons', *Federal Probation*, April-June 1944, 278.
- ¹²⁶ James Bennett, 'Enter Prisoner – Exit Citizen', *Federal Probation*, June 1956, 15.
- ¹²⁷ Bennett, 'Prisons in Turmoil', 6.
- ¹²⁸ Robert Stroud, *Looking Outward, A Voice from the Grave: The Federal Prison System from the Inside* (Looking Outward LLC, Springfield, Missouri, 2014), 9. Although Stroud's prison manuscript was never published in his lifetime, the first volume of it was printed in 2014 as *Looking Outward*, through the efforts of Charles Dudley Martin, Stroud's last attorney who had been made his estate administrator.
- ¹²⁹ O'Neil, 'Prodigious Intellect', 141.
- ¹³⁰ Quoted Fishgall, *Against Type*, 203.
- ¹³¹ Bennett, 'Enter Prisoner', 17.
- ¹³² Quoted Fishgall, 203.
- ¹³³ Bennett, 'Enter Prisoner', 17; Bennett, 'These Towers We Guard', 8.
- ¹³⁴ McCarthy to Skouras, 2 October 1958, Cummings papers.
- ¹³⁵ Review of *Birdman of Alcatraz*, *Time* 20 July 1962.
- ¹³⁶ Gaddis, 'Birdman', *Guardian*, 8.
- ¹³⁷ Ibid.
- ¹³⁸ Laura Witttern-Keller, *Freedom of the Screen: Legal Challenges to State Film Censorship, 1915-1981* (Univ. Press of Kentucky, 2008), 96.
- ¹³⁹ Leff and Simmons, 82-3.
- ¹⁴⁰ Babyak, 10.