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McNeil Takes Censors To Court

by Mary Pat MacKenzie

Almost two years have passed since the Nova Scotia Censors Board banned the film "Last Tango in Paris" but the furor has not yet died down. On Monday, September 29 Gerard McNeil, once the editor of the Dartmouth Free Press, will contest the constitutionality of the Board of Censors in the Nova Scotia Supreme Court. The decision in this case will almost certainly make legal history but the decision may be a long time coming. No matter which way the court decides the losing party is sure to appeal the case to the Supreme Court of Canada.

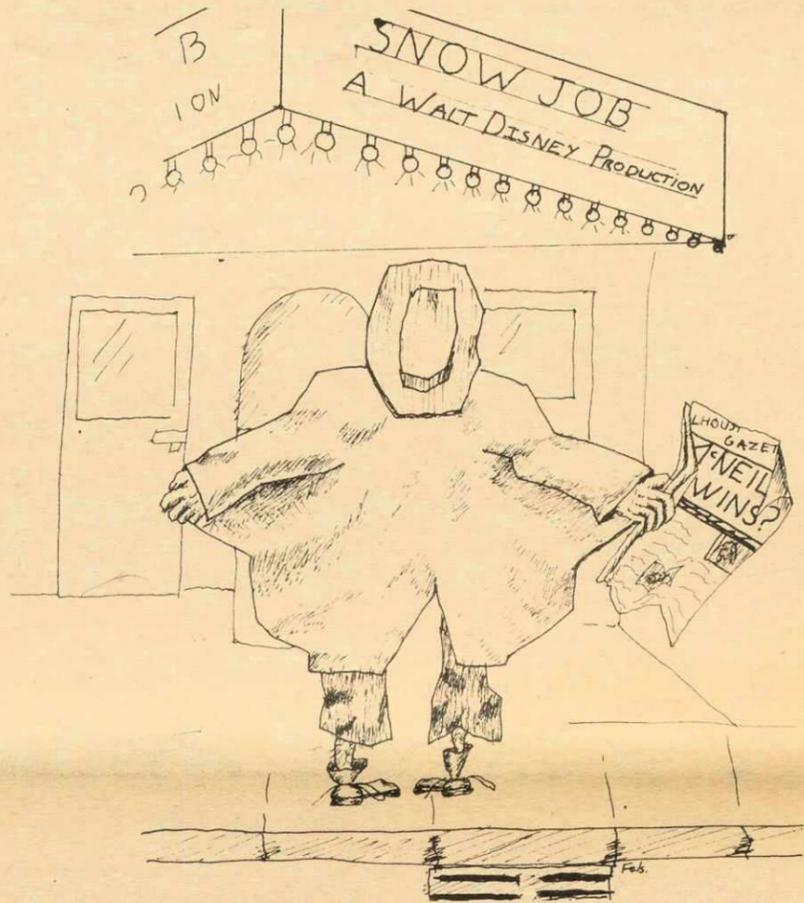
The real issue is not whether "Last Tango" will be shown in a Halifax theatre in the near future but whether or not the Board of Censors is in actual fact a constitutional body. McNeil hopes to prove to the Supreme Court of Nova Scotia that the Provincial Government in enacting the Theatres and Amusements Act, which established the Board of Censors, exceeded its jurisdictional powers (in legal terms was ultra vires). If McNeil wins the case then the Board of Censors, whose job it is to rate and ban movies in Nova Scotia, will be declared an illegal body and the Theatres and Amusements Act would have to be amended to allow for this. Canadian law is based on the theory of precedent and until now there has been no clear cut case where a Canadian taxpayer has been able to challenge the constitutionality of legislation. The average taxpayer can only challenge a piece of legislation if he can prove it directly affects him in some derogatory manner. Applied to the McNeil case this means that if Mr. McNeil were a theatre owner whose livelihood was affected by the Board of Censors he would have no problem challenging it in Court. However, Mr. McNeil is an average citizen who is only affected by the Censors Board to the extent that he is unable to see movies it deems offensive and therefore bans. Mc-

Neil had to prove in the lower courts of Nova Scotia and finally in the Supreme Court of Canada that he had "standing" (the right or ability) to challenge the legislation establishing the Board.

There are only two previous cases in Canadian law where the right of a taxpayer to challenge legislation is dealt with. In one, the **Smith** case, the courts decided that an average citizen did not have the right to challenge legislation and in the other, the **Thorson** case, the courts decided a citizen did not have the right. It was because of a broad interpretation of the **Thorson** case that the courts decided McNeil could challenge government legislation. Should McNeil win his case in the next few weeks or months the door will be open for other Canadians to challenge the constitutionality of legislation but they will not have to go through the long and expensive process Gerard McNeil went through simply to get his case heard.

The Board of Censors in Nova Scotia was established under the Theatres and Amusements Act which is the legislation McNeil is challenging. The Board consists of three paid members, two full-time and one part-time, who are appointed by the government in power. The Board does not have to explain to the public why it bans any given movie but does give the film's producers some explanation.

At the time of the banning of Last Tango, almost two years ago (Jan. 1974), a great deal of little known information about the Board was published in newspaper articles. The salaries of Board members at that time ranged between about 5,000 (part-time) and \$15,000 (full-time) a year. The members are appointed for life (they can be removed for "cause") and the chief (and apparently only) requirement for the job is a good friend in the government. The time commitment is hardly excessive - according to Mr. Henry MacLeod, one of the full-time members, in 1973 the

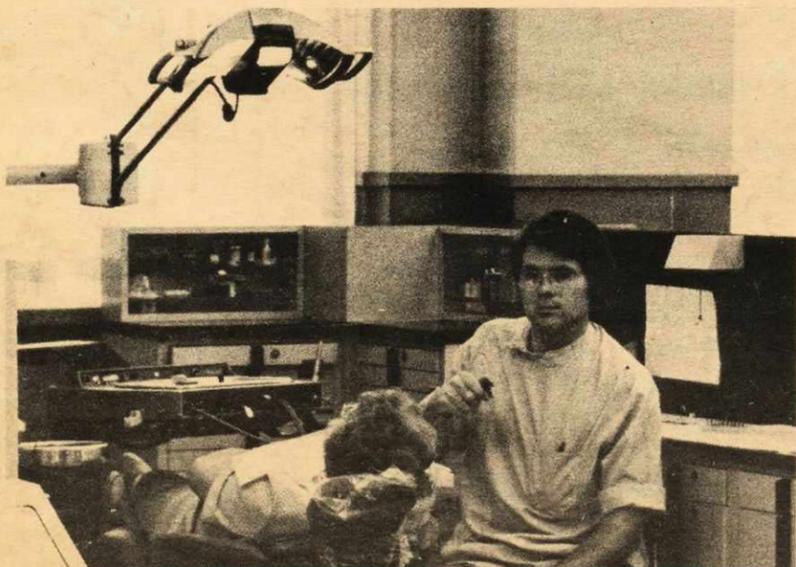


censors reviewed 345 films, or an average of 1-1/4 movies per working day. There are of course various administrative duties which the censors must take care of in the course of their work.

At least 29 movies have been banned since 1959, among them "Last Tango in Paris", "Clockwork Orange" and "Who's Afraid of Virginia Wolfe?" which has since been aired on television. Of the 29 movies banned the bulk were produced in recent years.

In polls conducted by the Dartmouth Free Press and CBC's Information Morning Show in early

1974 the majority of the respondents were against censorship of any kind. If Gerard McNeil wins his case these and other Nova Scotians may find themselves without a Board of Censors though some body will undoubtedly have to be established to rate or classify films. If new legislation has to be enacted to establish a board of this type it would be possible for the government to determine that certain criteria must be met by the board members. That is, some criteria other than having a good friend in the government.



Dental Shortage Worse Than Ever

by D. Moulton

In 1958, when Dalhousie University opened its present Dental School, allowance was made for the doubling of enrollment. The enrollment has doubled since then but today this is still not sufficient. Specifically, the Dental School accepts only 25 applicants for dentistry and 25-30 applicants for dental hygiene. This is simply not enough!

From 1964 until the present day various surveys, studies, and proposals, have been undertaken to assess the feasibility and relevance

of enlarging the School. One such study done in 1969 by Smith, Hinchman, and Grylls, estimated the cost of land, building, equipment, and professional fees at \$17,649,753. The Government of N.S., with this figure as a basis, provided Dal with a grant of \$600,000 to purchase land for the purpose of purchase. The land was purchased and the site for an addition to the Dental School if now located between Henry and Seymour Sts., facing University Ave. What all this means is that since