

ANALYSIS

Federal government's anti-porn bill may threaten artistic freedom

Margaret Laurence's *The Diviners* pornographic? Such classic pieces of literature may be censored if the government's new anti-pornography legislation, Bill C-54, gets passed in the House of Commons. While the government's intentions in drafting the bill are admirable, their use of the legal system to curb pornography may greatly limit artistic freedom of expression. (Also, see editorial, page 4)

By MARK KEMP

Visitors to the Art Gallery of Ontario may have noticed something odd about some of the exhibits over the holidays. For instance, Rodin's naked Adam was dressed up in a modest miniskirt. At branches of the Toronto Public Library (TPL) and at the Metro Toronto Reference Library, glass display cases full of "forbidden" books, brochures denouncing censorship, and buttons worn by library personnel are used to protest the proposed federal anti-pornography legislation, Bill C-54.

Last month, the TPL organized a public symposium on the bill at Hart House (UoT) that was well attended by library staff, media representatives, and the interested public. Some 50 organizations—principally purveyors of culture such as libraries, galleries, theatres, film and television companies, publishers and writers—have formed a coalition, headed by Pierre Berton, that calls itself the Community Against Censorship (CAC). This association was formed to protest Bill C-54 in particular, and to this end is organizing various public education seminars and radio programmes. In addition, they are petitioning and printing postcard messages to Prime Minister Mulroney that are being distributed through libraries, cinemas, bookstores etc., and organizing the sort of demonstration put on by the AGO. The bill is also being opposed by lawyers, feminist groups, Liberals, NDP's as well as many Tories.

With an outcry this loud, plus the rallied opposition that will undoubtedly be invited to make presentations before the House Committee within the next few months, it is difficult to understand why the bill was ever proposed at all. The reaction to its wording has been overwhelmingly negative, but there is a vocal minority who support the spirit if not the letter of its contents. They are willing to accept the bill as a choice of lesser evils.

The demand for amendments to the out-dated existing criminal code stipulations about pornography's credible when the proliferation of child pornography and violent or degrading depictions of women is considered. It was the need to address these issues that prompted the drafting of the bill, but now many of the activists who originally called for new legislation are fighting against its passage. The main complaints are the bill's unreasonably broad definitions (of erotica and the varying degrees of pornography) and the shifting of the burden of proof to the accused (that is, the wording of the bill indicates that alleged dealers in pornography will be considered guilty until proven innocent).

The bill defines "Erotica" as "any visual matter a dominant characteristic of which is the depiction, in a sexual context or for the purpose of the sexual stimulation of the viewer, of a human sexual organ, a female breast or the human anal region." Pornography, however, encompasses acts of a degrading sexual nature, child pornography and the showing of erotic films to minors. Evidently any degree of violence is permissible, provided it is not in a sexual context: a minor could watch

a film showing a woman having her limbs cut off with a chain saw, as long as no breast is shown.

Pornography itself is classified according to the degree of offensiveness, with penalties ranging from two to ten years. This definition includes both minors and adults who represent any degrading or violent sexual acts, incest, bestiality, masturbation or ejaculation. It is feared that many established works of art, or that educational material (for example material outlining safe sexual practices for AIDS victims or potential victims), might be construed to fall under this definition. The final category, "any matter or commercial communication that incites, promotes, encourages or advocates any conduct" considered pornographic, carries with it the implication that dissent may be criminalized.

Although clauses which exempt works that display artistic, scientific or educational merit are included in Bill C-54, it will be up to the distributor or seller of the material to prove in court that it is art and not pornography. The distinction could be arbitrarily drawn by any judge, since the wording of the bill demands rather creative interpretation. Also, police would be empowered to enforce the new anti-pornographic law, and many people are nervous about turning police into moral watchdogs. As well the very real possibility of getting raided will inhibit a number of bookstore owners and the like from taking any chances. This "Chilling Effect," as it is called, may cause people to censor themselves, as Osgoode Law School constitutional lawyer Marc Gold points out, thereby cutting off the legitimate flow of literature along with pornographic materials. He feels, and his view is shared by other observers, that the bill can only be passed in altered form. Much of the prudish wording, which might have been an attempt to appeal to the more conservative constituents, will be dropped, leaving the original object of the proposed law—the sexual exploitation of women and children—intact.

Yet some people are anxious that this grave social problem might be shut down by the hue and cry about freedom of expression. Poet and York University Bookstore manager Rafael Barreto-Rivera believes that the response to Bill C-54 has been an over-reaction. He is not worried about the potential abridgement to his own rights as an artist, even though his writing is often explicitly sexual. He explains that the artist has a social responsibility and should be willing to face up to society questioning the validity

of his or her art. The moral dilemma that the bill is provoking leads to a choice between the liberation of women and children from oppression through commercialized sex and "male" freedom of expression. According to Barreto-Rivera and many other feminists, our male-dominated society will side with the latter.

The extent to which cultural works will be affected by the legislation should it be enacted in its present form is anybody's guess. Lobbyists against the bill have suggested that books like William Faulkner's *Sanctuary* (in which a woman is raped with a corn-cob) or plays like Peter Schaffer's *Equus* (in which a 17-year-old and a slightly older girl are nude in one scene) would be among numerous examples of acclaimed works of art that might be banned or prosecuted. The law would almost certainly call for a segregation to resist the exposure of minors to possibly offensive material in libraries and galleries. That would contradict these cultural institutions' proclaimed "responsibility to perpetuate access to all expressions of knowledge and intellectual activity," regardless of its being possibly objectionable to some portion of society.

only to make people aware of the possible consequences of Bill C-54, but to keep the issues it espouses in perspective. York University has not yet provided such a service, the library administration having chosen not to participate in the demonstrations which the city public libraries and the University of Toronto libraries have staged. As a result, a large percentage of the York population are poorly informed or ignorant of the issue. With the objective of changing this situation, a symposium is slated for Wednesday, January 26, 10-12 a.m., moderated by CAC chairman and entertainment lawyer, Dan Lyon. It is being organized by Faculty of Fine Arts professor Joe Green, who intends to include several speakers to present the different sides of the issue. Green has invited Justice Minister Ray Hnatyshyn's office, as well as the Metro Toronto Police Department and feminist group Real Women for Canada, to send representatives, but has as yet received no replies. The agenda and venue are not yet finalized, but will be printed in next week's edition of *Excalibur*.

Most commentators predict that the over-compensatory scope of the bill will be reduced or killed altogether by committee, which still leaves a need for alternatives. It is hoped that the predictable and legitimate reaction to Bill C-54's irrational overkill will not throw the baby out with the bathwater. Even if legislation doesn't solve the problem of child porn and degradation of women, Rivera points out that the important thing is that the issue has been brought to the table. That indicates a readiness to address a social concern that has been in the past mostly ignored. The fact that it has reached the public forum represents at least a small evolutionary step.

ATTENTION EXCAL STAFF

From now on, Staff Meetings are Thursdays at 4:00 p.m. STARTING TODAY! You better be there or instead of a career in journalism, you might end up with a slimey job on the Censor Board or something like that.

Whatever the subject, we keep you informed.

We invite you to subscribe now at the special student rate of 50% off.

To start your subscription, simply fill out the coupon below and mail with your payment to The Globe and Mail.

YES! I would like to take advantage of this special student offer at 50% OFF

Please deliver The Globe and Mail to the address below. Enclosed is my cheque or money order or charge card authorization for 13 weeks — \$21.78 26 weeks — \$43.55

Name _____
University _____ Campus _____
Residence _____ Room # _____
Street _____ City _____
Province _____ Postal Code _____
Telephone # _____ Student I.D. # _____

This address is On campus Off campus

Cheque or Money Order Enclosed Visa

MasterCard American Express

Charge Card Expiry Date _____

Charge Card # _____

Signature _____ (required to validate offer)

Note: Offer valid only where home delivery is available. Offer expires March 31, 1988 STGA8 44

Mail to: The Globe and Mail, Circulation Dept.
444 Front St. W., Toronto, M5V 2S9

