

# Censorship laws:

## "Stop telling us what we can see!"

By AGNES KRUCHIO

Censorship in the seventies. To most of us the idea is as antiquated as corsets, hoopskirts and the horse and buggy. Yet censorship is alive and well and living at 1075 Millwood Rd. at the Ontario Theatres Branch, the official euphemism for the Ontario Board of Censors. Censorship is not dead in Canada's most industrially advanced province — the law it operates under was drafted in 1911 with few changes since. It is hopelessly out of date, even in the opinion of those who operate within the censorship board. To Ontario's fledgling film industry it is a constant source of irritation and on a closer look a laughing stock to all concerned. The censorship board has the legal right to do what it pleases with all films that are going to be shown in any theatre in Ontario. They can classify, cut or ban a film as they see fit.

In 1972, out of 706 films submitted, they rejected four and approved 107 "after eliminations." As all theatres employ licensed projectionists, no projectionist will show a film without the censors' seal. In the 1920's their power over the films people could see was not questioned. In the thirties, when the "red threat" first raised its head, there were instances of films being rejected because of political content. Even as late as 1969 there were suggestions that the government-controlled board banned a film because of political content. Titicut Follies, a film about Connecticut mental asylums, was rejected because "it might give people the wrong idea about asylums," said one source in the censor board. Dr. Morton Shulman suggested the only reason it was banned was to prevent people from inquiring into the squalid conditions in Ontario mental hospitals. He arranged a showing of it, hoping it would be seized by the police and be publicly discussed. However, the police did not seize the film, the film was banned in Ontario and the issue died.

Today, by their own admission, public pressure would not allow the board of sensors as much freedom as before, and thus they try to represent the current times, the community, the public morality — whatever that is. Yet why is the film industry singled out for censorship when television, radio and books are not under the censorship of the Ontario government. Even film censorship is limited to 16mm and 35mm film. So we have CITY-TV showing movies at Friday midnight which could not be shown in theatres, or only under restriction, Cinema 2000 is showing porno on the street that is not censored because it's on videotape, and in the border towns of Ontario like Ottawa, people go to Quebec to see movies they are not allowed to see in Ontario. Quebec has no censorship, only classification system. Residents in Alberta are subject to more severe censorship than other provinces in Canada, which results in an unfair system banning movies like Clockwork Orange (which was passed by all the other provinces).

### RADIO AND TV FREE

Radio and television are not subject to serious censorship. Says Rudy Carter, producer for CTV's Catia AM, and formerly producer for CBC radio: "television and radio stations are subject to yearly licensing by the Canadian Radio and Television Commission, and they do revoke licenses based on breaches of responsibility and lack of taste, which is a serious charge in the industry. Thus the censorship is self-imposed, but he does not find this hampering."

"With the relaxing of moral climate and changing times, there has been nothing I wanted to produce and couldn't because of censorship."

CITY-TV's Baby Blue movies are attracting a record number of viewers; according to recent ratings, they have 56 per cent of the available viewers at Friday midnight, which represents a whopping 213,000 households. Under CRTS license, they work in cooperation with the Toronto Morality Squad, and get one complaint a week from the public to 30-40 letters thanking them. Many a marriage has perked up according to their fanmail.

Canadian film producers who are dependent for funds and distribution on the National Film Board and the Canadian Film Development Corporation are not so lucky. According to Linda Beath of New Cinema Enterprises, the NFB and the CFDC are a lot more paranoid than they need to be. The National Film Board has commissioned On est Au Coton, about a strike in Montreal, which they are now withholding as "it advocates the overthrow of the present social structure." Another Quebec film, Un Pays Sans Bon Sens, will not be subtitled into English. Bilingualism notwithstanding, this will

effectively hamper its distribution in English Canada. The CFDC's job is to read scripts and to grant money to young Canadian filmmakers — and they cannot afford to grant money on something that will be censored. Thus pornos are out, and for the rest there is some intellectual censorship. Thus legal censorship has far-reaching effects on the movie industry in general.

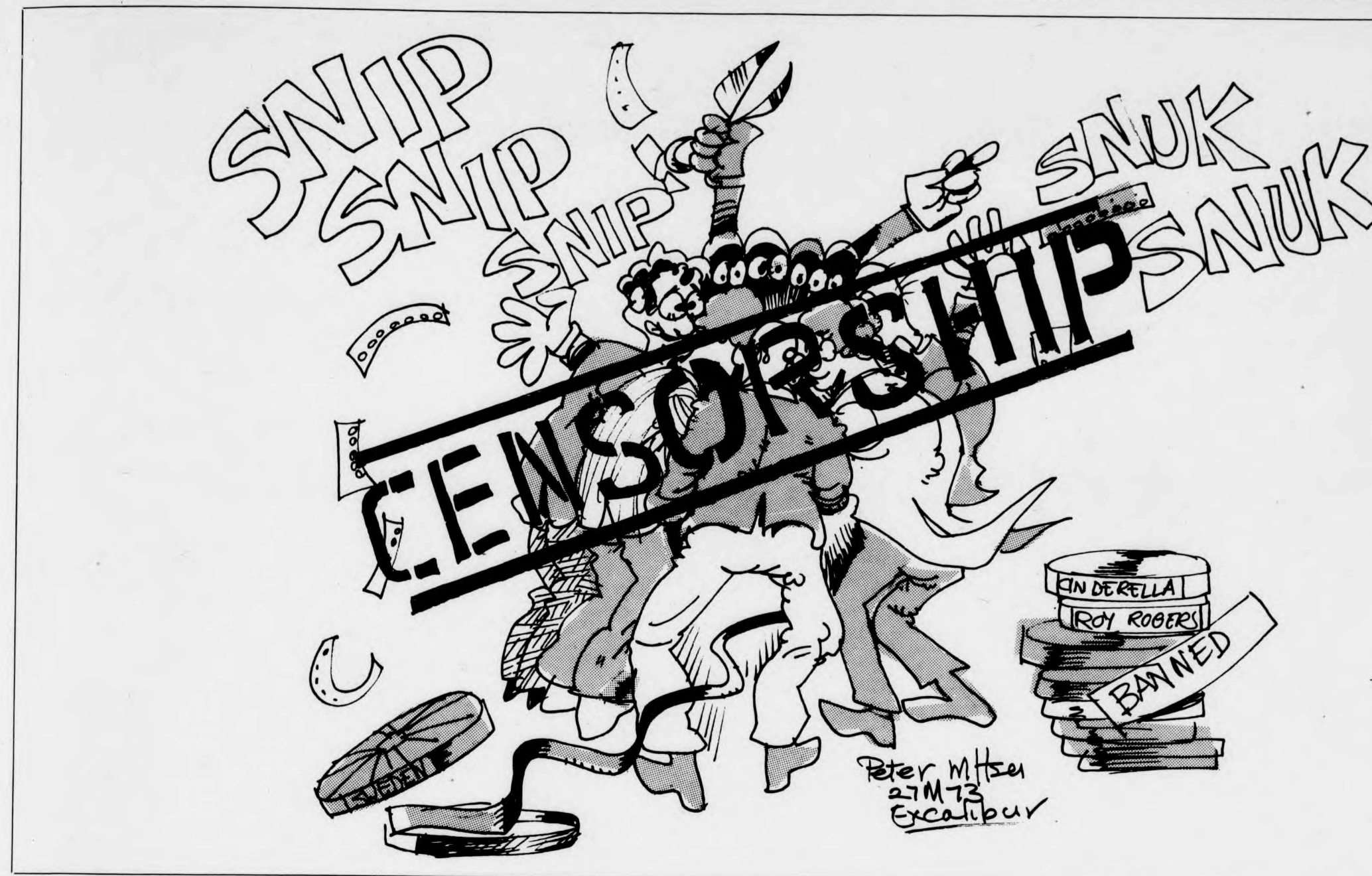
One filmmaker who has received a CFDC grant to make Foxy Lady is Ivan Reichman of CITY-TV. Foxy Lady, recently released, did poorly at the box office; it was a comedy. His Columbus of Sex, made in 1969 was banned after having been seized by the police at a university. When he appealed the case to the Supreme Court, it was defeated. Columbus of Sex is being shown all over the U.S. Like most people in the film industry, Reichman advocates a straight classification system.

One of the most commonly used arguments by the few advocates of censorship is that the society has a right to defend itself, that society has a right to choose what it wants to see. One look at the present arrangement of the censor board points out the absurdity of that argument. While the majority of moviegoers are between the ages of 18 and 27, the average age board member is in his late forties. Only one of the seven censors is under thirty years of age (she is 24). While the board claims to be representative of the community, no one representing the arts is on the board, let alone a filmmaker. While a good portion of moviegoers are students, there are no

students or students of art history or of morals on the board. The members include a retired secretary in her sixties, a censor whose background is in business, a legal librarian, and an ex-airforce officer. As for judging morals, there is not even a clergyman on staff. Censors are appointed by the chairman of the board, presented to the minister in charge, who then presents the choice to the Legislature. If someone in the opposition has any objection to the appointment, the nominee is rejected and someone else is proposed. But this does not happen very often in practice and an opening comes up if someone retires or leaves. The only way the public can control the board directly is through legal channels, through members of parliament. The members, being busy people, will not bring it up in parliament unless it seems like a popular issue. Do not expect action from your MP after one or two letters. And thus the board persists, like some prehistoric monster.

But since they are human they make mistakes. Under the criminal code, obscenity is the "undue exploitation" of sex, or of sex and crime, horror, cruelty and violence.

Said Martin Bockner of Canadian Motion Pictures Distributors Association at the February 13 Star Forum on censorship: "Under such definition there is no one — playman or judge — who could make other than a totally subjective judgement based on his or her own upbringing and environment, education, religious belief or political affiliation." The guidelines for classification are arbitrary and uncertain.



Under the criminal code the police can seize any film even after the censors' approval. This is in fact what happened to Heironimus Merkin; classified as restricted, it was seized by the Toronto morality squad at the time when Futz was being tried on obscenity charges, but later the whole thing drowned in a comedy of errors, as no one could be found to be charged — the theatre had passed the film, and the manager was only an employee who was showing a film handed down to him by his head office (in the U.S.), so charges had to be dropped. In the meantime Heironimus Merkin sat back and enjoyed the increase in publicity the charges have brought.

Censorship is paternalistic on the part of the government, based on the premise that adult educated people have to be told

what they can and cannot see. As long as pornography is not offending people in the streets, where it would oppose their right to be free of such material, it is a contravention of people's individual rights. No one is forced to see an obscene film or display. There were complaints made to the censorship board about movies such as The Godfather, The French Connection and A Clockwork Orange. The hypocrisy of such complaints is self-evident; there has been enough publicity about all of these for everyone to know what they were about — is not Mafia synonymous with violence? Moreover what is so disturbing about censorship is that it takes place before the fact, i.e. a person is prevented from saying something, a contravention of civil rights going back to the French

Revolution. More responsibility would have to go along with the abolishment of censorship. A person would have the right to say what he wanted, but then he would have to take responsibility for what he has said. In such a system any citizen would have the right to launch legal proceedings against a film which he found objectionable. This is one of the reasons that film theatres prefer the censorship system. Once a film has been passed, it is not too likely to be prosecuted. Along with a classification system, television and newspapers would carry the responsibility to inform the public as to what a film is about, which they are already doing, and it would be up to the individual to decide whether he wants to see it or not.

Contrary to popular belief, censorship in any form is in fact dangerous to the long-term health of a society. For if a society can protect itself only by a head-in-the-sand policy, it will have a very distorted idea of itself and will not be able to remedy its ills. Fear mongers have claimed that abolishment of censorship will increase the crime rate, especially of violence and sex crimes. The society has a right to defend itself, argument is based on this premise.

There has been no conclusive studies done that prove that censorship, once abolished, is related to an increase in crime. The only evidence is from Scandinavia, where after the abolishment of censorship, sex crimes dropped considerably; in Denmark, estimations range to as high as a 20 per cent decrease. The only visible change in the society is the number of marriages: in 1969 there were 69,000 marriages in Sweden, which dropped to 35,900 in 1971. Whether that is good or bad is up to individual interpretation. And they still have Ingmar Bergman, one of the most moralistic film directors anywhere in the world. Crimes of violence and sex are not caused by violent films. Films only reflect their culture. Crimes are caused by frustrated ambitions, by alienation, by isolation, by loneliness, (which is as any good sociology student knows, rampant in our society). Thus society protecting itself by censoring its media is like a cancer patient treating his disease by putting a band-aid on the lump and pretending it isn't there.

There seems to be some indication that the laws may be changed. The minister of industry and tourism, John White, recently commissioned an exploration of the film industry, by a nine-member commission headed by John Bassett. Among the recommendations it made was a changeover to the straight classification system to divide film into the following categories: a) G-general audience b) PG — parental guidance advised c) R — restricted to persons 18 years and over, d) X — all films in this category would be liable to prosecution under the criminal code. This solves the problem of deciding where vulgarity ends and obscenity begins, and places it in the proper forum, namely, the courts. It also recommends that all such prosecution be commenced with the approval of the Attorney General, which would prevent incompetent prosecution as legal proceedings only add to the publicity for a film. It also recommends among other things that the present practice of licensing projectionists be discontinued as there is no more reason for this procedure.

The censorship board is sensitive to public pressure. This is manifested in private citizens' groups, newspaper and television criticism until now this kind of pressure has been used on the conservative side. There now seems to be new trends in the film industry. The Canadian Filmmakers' Distribution Centre, and the Toronto Filmmakers' Co-op in conjunction with Cinema Canada are trying to form a pressure group — this time for the industry. In the meantime the present legal machinery is still in effect and another test case is coming up — Last Tango in Paris. Part of the advance publicity for that film revolves around censorship, building Toronto's expectation. For all we know it is indeed a porno film and worthless as some say, it may be very good. In any case, let's have the freedom to decide for ourselves, thanks all the same to the censorship board.

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## Czar of censorship retires

By GREG GATENBY

Ensnored in a carpeted office painted government green, an elderly gentleman with mildly rotund figure and assured manner greeted me with a diplomatic handshake and warm but wary smile.

The man's name was O.J. Silverthorne, holder of one of the most controversial offices in the country, a man thought by many to be a divine dike protecting humanity from a floodwash of immorality and depravity; thought by others to be an obstructing force blocking refreshing, almost life-giving waters from reaching an arid, morally and culturally deprived citizenry.

Ontario, and more specifically, Toronto, is one of the major film centers of the world, both from the point of view of production and viewing.

In 1971 35 licenced exchanges submitted for the censor's scrutiny (as they are required to by law), 756 feature films. Of these, 254 came from the U.S.

Pictures of Italian origin were second with 129 submissions, Greece was third with 94, Red China was fourth with 81, then Great Britain with 73, Germany with 26, and France with 13.

In all there were films from 27 countries, including such unexpected places as Ghana, Finland, Groatia, and Rumania.

Of the 756 films submitted, four were banned entirely, and 107 were approved after eliminations. Movies that were restricted amounted to 220, those classified as adult entertainment 268, and those approved for general audiences totalled 264.

Silverthorne detailed some of his uses for keeping journalists at bay and himself out of the public eye.

"You can't win with those guys", an utterance that fortunately did not impede him from relating biography and anecdote from his unique history of 38 years in the film censoring business. During the depression, as a young certified public accountant in the provincial treasury

department, Silverthorne walked into the office of then premier Mitch Hepburn, and was told there was a job awaiting him if he wanted it. With a smile in the telling, Silverthorne confessed that he was fully prepared for a promotion dealing in some way with matters pecuniary but certainly not pictorial. (Talkies had only been around for a year or so) Hepburn said the job of censor was his for the asking.

The chief (and only) censor in the early thirties by that time was a senile 84, and after working with him for some weeks to learn a few tricks of the early trade, Silverthorne ascended to the position he has held ever since.

The classification system for films which he established was the first of its type anywhere in North America, and the Hollywood rating system is actually modelled after that of Silverthorne's. Manitoba has just recently enacted legislation which revamp its censoring program to a system again much like that of Ontario's.

Silverthorne is about to retire in mid-April and seems not in the least disheartened by the prospect of leaving an office plagued by professional watchdogs and armchair second-guessers. Of all the problems which worry him most however, he expressed fears concerning the new method of appealing decisions of classification and cuts made by his board.

Up to last year, the censorship board of Ontario for some mysterious reason was a branch of the department of tourism. Now, it is an important arm of the ministry of consumer and commercial relations, and Silverthorne, on behalf of his colleagues at 1075 Millwood, the Theatres Branch Building, is directly responsible to the minister, for all of the board's decisions.

As a result of recent legislation, the channel for appeals of Silverthorne's judgments has been changed. Previously any appeals (and there have been a substantial number), had to be made to the minister who headed the depart-

ment. All future appeals will take place in the courts.

When asked whether he had ever had a minister overrule one of his decisions, Silverthorne answered ruefully that without exception, his verdicts had been upheld.

The legislation directing all appeals to the courts disturbed him because he felt he would be subpoenaed in every case to justify a cut or classification, a formidable prospect apparently because it makes his position more public than he wants it to be.

Has he ever made a mistake in evaluating a picture? To his credit, Silverthorne admitted without hesitation to decisions of classification that had to be revised.

Two recent films, The Summer of '42, and Easy Rider when first released were restricted to persons 18 years of age and over. But after seeing these two pictures in the theatres, Silverthorne said he realized they should have had an adult entertainment rating.

Silverthorne was quick to point out that both pictures in question were reclassified the following day.

Sitting in a small screening room with perhaps only a half dozen or so other spectators constantly on the lookout for out of context nudity, profanity, or copulation, it is difficult to gauge an audience's reaction to a picture, claimed Silverthorne, and this accounts for the occasional errors of judgment by board members.

Knowledgeable as he is about film (the board carries on constant correspondence with foreign censors and his bookshelves were an enviable collection of film encyclopedias), Silverthorne did not seem that conversant with film critics. Complaining that "they continually move around", he found it difficult to take them at all seriously.

At this point he introduced me to Joe Cunningham, one of the board members. With Scottish accent and amiable mien he took us on a tour of the premises, including the cutting,

viewing, and projection rooms. After a brief explanation of the specific function of each room, we went back to his office for the following interview:

**Excalibur:** Could you say a little about each of the seven board members?

**Cunningham:** Well, of course, there's Silverthorne who's the chairman. His background was in teaching. Evelyn Dunlop has been with the board about 10 years. She's an older woman. She's about due for retirement. She's the widow of the former minister of education in the Frost government. Fred Scoles was with one of the theatre chains for many years and he has been with the government since the end of the war. Doug Walker was with Famous Players for a number of years. Wendy Aignwright, she's a young member of the board, she's 24 or 25, was a librarian. And, of course, myself. I'm a graduate of political science from the University of Toronto and I've a degree from Glasgow as well. I was in business before I came here. George Belcher is also a longtime board member.

**Excalibur:** How do you screen a film?

**Cunningham:** We always have a minimum of three people watch a film and most of the time five people will look at a film. If, after watching a film, there's no disagreement then that's the end of it. We'll classify it and off it goes. But, if the full board hasn't seen a film and the members who have seen it disagree, then the other members will look at it too and then we all get together in a room and I will try to persuade you to change your mind and you will try to persuade me to change my mind. I mean, we come to a compromise.

**Excalibur:** I understand that Catholic Women's League members and other social groups were at one time involved in censorship? Is that still true?

**Cunningham:** Oh no. Never actively involved. At one time we were subjected to a tremendous amount of pressure from various church groups