

"HOW TO MAKE A PROFIT DOING WHAT WE REALLY SHOULD BE DOING ANYWAY"

a brief presented to

THE ONTARIO FILM STUDY GROUP

by

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representing the opinion of the

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I. INTENTION

The following recommendations are addressed to the role of the provincial governments in alleviating the cultural crisis outlined in a brief presented by the Toronto Filmmakers' Co-op to the Secretary of State in May, 1972. They should be considered an appendix to that brief, major sections of which have subsequently been adopted by the Committee for an Independent Canada as its official film policy.

II. PROLOGUE

Traditionally, provincial governments have limited their involvement in the commercial cinema to the caretaker functions of censor, theatre inspector, licensor and tax collector. As the Canadian film industry evolved in the last few years this policy has been retained, with the result that the provincial governments have failed to keep pace with the growth of the industry.

It is important that they do as several of the most pressing problems of the Canadian industry – notably control of commercial distributors and exhibitors – lie within provincial jurisdiction. The provincial governments must accept their responsibility to develop a coherent policy which will not only reflect present realities, but which will also facilitate future development.

The objective of such a policy should go beyond expansion of the commercial capacity in production and employment, to include improved public awareness and access to this increased production. Above all, it should include continuing concern for the repatriation of film as a Canadian cultural medium.

III. ON THE THEORY OF PUBLIC ENTERPRISE

In Canada, unlike the United States, private enterprise has made a thundering non-contribution to cultural development. Partially because of timidity, but primarily because it is dominated by foreign controlled multi-national corporations with their creative management located outside Canada, the private sector has ignored questions of its social and cultural responsibility to his country.

The Canadian Government has, as a result, had to fill the void left by private enterprise's preoccupation with profits. Whatever identity Canada has is due in large measure to the Government's initiative in creating the Canada Council; the NFB; the CBC; the CRTC; the CFDC; the National Gallery among others. As well as this creative compensation, the Federal Government has had to intervene legislatively with a policy of key sector control against foreign domination in vital areas of the culture and economy. Controls have been placed on publishing, radio, television but there has been no such control on film.

The result is that the Canadian film market is totally open to foreign productions, which invites their domination to the detriment of our own films. This places our economy in double jeopardy: in the short term it permits the cash flow generated by our cinemas to keep flowing across the border; in the long run it hampers the full development of an indigenous industry supporting filmmakers, technicians and labs. Artistically, it frustrates even our most talented filmmakers. And its effect on the national identity is incalculable: if the media doesn't feed this country its own reality it will continue to believe that it doesn't exist.

Film is too potent a cultural medium, and we have invested too much in its development – \$20,000,000 to date – to allow it to remain outside the umbrella of Government control. To do so is culturally, artistically and economically indefensible.

Former Secretary of State Pelletier, in announcing the first phase of Canada's film policy, said: "Canadian films must be given their rightful place in their own country. As things now stand, it does not appear foreign interests can be counted on to achieve this objective". Unfortunately, neither can the Federal Government although Mr. Pelletier is the third Secretary of State in the last ten years to deplore the situation. Because the power to place controls on film exhibition is vested in the provincial governments, the onus is on them to take the initiative in extending this country's policy of protection to cover the film industry.

IV. DEFINITION: HOW CANADIAN MUST A CANADIAN FILM BE TO BE CANADIAN?

In its annual report to the Minister for 1971-72, the Ontario Censor Board listed **McCabe and Mrs. Miller** and **The Groundstar Conspiracy** as Canadian films. It would appear that the definition of a "Canadian film" has not been clearly established.

There are three types of film production in this country which should not be confused with one another. One is the foreign production shot on location in Canada, using local scenery and possibly labs. The second is the co-production between the Canadian Film Development Corporation and American studios – a policy which the CFDC, according to its director Michael Spencer, has discontinued due to the fact that Canadians were being relegated to the status of "hewers of wood and carriers of water". The third is the Canadian production which is part of the cultural tradition of this country, uses the creative resources of this country, and perhaps return profits to this country to make more films.

There must be no mistake that the third type is what is needed and to get it we must have a consistent definition of a "Canadian film", beginning from the premise that creative and financial control must rest firmly in Canadian hands. Such a definition should include two essential stipulations: first, that at least 50 per cent of the financing, aside from the CFDC contribution, be from Canadian sources; second, that the producer, director, screenplay writer (whether or not the screenplay is based on an original Canadian work), cameraman, editor, and at least half of the acting leads, be Canadian citizens or landed immigrants.

V. EXHIBITION: THE FAMOUS ODE-ODEO-OH-OH GAME

A. CENSORSHIP

The provincial governments should withdraw, once and for all, from indignity of film censorship. This anachronism is simply no longer relevant: it doesn't work either as moral censure or public protection.

Quebec has had a classification system for many years without noticeable moral disintegration, and the most conservative province, Alberta, is now considering such legislation. Ontario should follow suit and replace its Censor Board with a film classification board, without power to ban or cut, as soon as possible.

Such a board should continue many of the functions set out in the Theatres Act, such as inspection, licensing, and previewing all films exhibited in the Province on a commercial basis. However, its power over these films should be limited to the awarding of a classification rating to warn the audience what to expect, leaving the question of personal morality up to the individual and not the state.

A fee for such classification should be collected on all non-Canadian films.

B. THE CONTINUING SAGA OF THE CANADIAN CONTENT QUOTA – A PROVINCIAL MATTER

George Destounis, Jan Kadar, Don Shebib, Mark Rose, M.P., Jiri Weiss, Claude Jutra, Michael Spencer, Michel Brault, the Toronto Star, The Committee for an Independent Canada, Michael Snow and a host of others including Ivan Reitman, have at least one thing in common. They have all publicly stated that a content quota would increase distribution of Canadian films.

If there is one single thing which the Canadian film industry needs it is to increase the distribution of the films which it is so rapidly producing. Until this happens there exists an albatross to development which no amount of economic and moral encouragement can overcome.

The disastrous anomaly of the industry in this country has been the failure to reflect the increased production with a proportionate increase in exhibition. While the number of films produced has increased itself by 100 per cent several times in the last few years, the number of films exhibited in Ontario has managed to go from 9 out of 700-800 in 1970-71 to 20 in 1971-72. Even this increase appears more encouraging than it is as the latter figure mistakenly includes two totally American films which were referred to earlier. **The Groundstar Conspiracy and McCabe and Mrs. Miller.**

The only effective means of developing full production, and thus employment and profits for Canadians, is to provide a platform for the films once produced. Private enterprise, despite several warnings from the Federal Government, has failed to do this. The two chains – Famous Players and Odeon – have done little more than drag their feet in response to the increasing pressure to accommodate Canadian films. But the precedent of the CRTC has established that government controls can succeed in providing Canadian artists with access to their natural market.

A content quota is not a revolutionary concept. Aside from our own precedents, there are those of every other film producing country of the world, all of which have some form of protection for their native production. Canada alone is trying to build a film industry without the measures deemed necessary by other countries, yet Canada is uniquely vulnerable because her primary exhibition-distribution network is foreign owned, and two thirds of her population have no language barrier to the imported American films.

A quota does not mean preventing foreign films from entering Canada: it does mean providing Canadian films with an even footing in their own marketplace. Quotas are commonly used wherever a serious imbalance exists: industry, IT&T, universities have all employed them. Even the Ontario Government has imposed a film quota, but not for Canadian films – since the twenties there has been a quota regulation for British films in the Ontario Theatres Act (sec. 63 (1) 11, 1963 ed.)

What has been done for British films must be done for our own. The Province should institute a Canadian content quota, for both shorts and features, to apply to all commercial exhibitors in the Province. *The quota should stipulate:*

1. at least 50 per cent of the shorts exhibited be Canadian
2. Canadian features be exhibited a minimum of two weeks per theatre per year
3. these features have an advertising budget at least equal to that of the average non-Canadian film exhibited at that theatre that year
4. such a quota be revised annually to reflect increases in Canadian production
5. specialized cinemas, e.g. ethnic or silent houses, be exempt
6. these provisions be enforced by the classification board recommended previously

The effect of the quota would be:

1. to guarantee that the largest possible number of Canadians be given the *opportunity* to see the films which their tax dollars have helped underwrite – something to which they are surely entitled
2. to ensure that the best Canadian films be booked into the small, one and two theatre towns where they are now missed
3. to increase the competition, in the larger cities, for the best Canadian films which would result in a more profitable distribution/exhibition deal for the filmmakers
4. to encourage exhibitors to take a stronger interest in both the production and promotion of Canadian "suitable product" to meet the quota (Odeon has been especially delinquent in this capacity having invested in only one Canadian film)
5. to permit Canadian films to compete for the first time on an equal basis with inferior American films which have the present advantage of the Hollywood tie-on system (meaning that they are not in themselves economically justifiable but are booked in return for rights to the larger grossing films)
6. to force the exhibitors to test the profitability of Canadian films in the marketplace rather than the private screening rooms where they are subject to the prejudices of too many years of experience
7. to stimulate full capacity film production and therefore employment and profits for Canadians
8. to support our best filmmakers so they can develop to its maximum capacity an indigenous Canadian cinema

There are arguments advanced against a quota:

1. many exhibitors say a quota will bankrupt them but that was the prediction about the CRTC given by many owners in the Canadian Association of Broadcasters
2. others suggest that a quota would limit audience choice; that it would be a form of insidious censorship; and that the government cannot legislate people into theatres. In fact, it is not a question of legislating people into theatres, but of legislating choices so that the Canadian audience can choose between a grade B American movie and a grade A Canadian movie. Most Canadians do not now have that option. As for censorship, a quota would actually counteract the implicit censorship now operating in the exhibition/distribution network which decrees that Canadian audiences will be offered primarily imported films. This censorship is based on financial self interest rather than any over-riding concern for cultural, artistic or entertainment value
3. some people claim that public controls on private property (theatres) are incompatible with the capitalist society. First, we do not live in a capitalist society. Second, uncontrolled private enterprise is as anachronistic as the sweat shop. Our society has long considered it necessary to regulate private property for the public good and has reserved the right to control functions such as fire exits, health laws, white slavery, and censorship of films in theatres.

On June 26, 1972, a Toronto Star editorial said "Ottawa should try to persuade the provinces to establish a reasonable Canadian content quota for movies." This is a pressing priority and the provinces shouldn't wait for persuasion.

C. MEDIA CENTRE

The Province could directly assist the exhibition of Canadian films by establishing a media centre in Toronto. This centre could serve as a cinemathèque for Canadian films of esoteric taste or limited commercial appeal. It could also serve as an ongoing library – open at any time – of videotapes of Canadian films which would be available for playback on monitors provided by the centre.

Production could also be a part of the centre, utilizing videotape with an open access policy (as the Videographe in Montreal) and equipment for film experimentation (possibly organized along the lines of the Association, co-operative des productions audio-visuelles in Montreal).

Such a centre might be sponsored with the help of interested Federal agencies like the National Film Board.

D. ONTARIO SHOWCASES

The present policy of theatres under Ontario Government direction – the Ontario Film Theatre, Ontario Place Cinesphere – does not place sufficient emphasis on Canadian film and filmmakers.

There is no reason why the Ontario Film Theatre must spend its large budget importing 99 per cent of its offerings. It would utilize its funds, and serve the Province, more intelligently if it were to adopt a policy of devoting a certain set percentage of its programming to Canadian film. Similarly, Ontario Place should open its exhibition to include the work of young Canadian filmmakers working in 16mm as well as in the Imax system.

Both these theatres have a large following with whom they could explore the variations of our own cinema while providing Canadian filmmakers with valuable feedback, as well as profits, from a paying audience.

VI. WHERE'S THE MONEY COMING FROM?

The Province is not receiving as much financial benefit from the film industry as it should be. As long as the lion's share of the multi-million dollar profits realized annually at the box offices of this Province flow directly out of this country, the Province and its filmmakers and taxpayers are being cheated.

The Ontario Government should accept the principle that stronger taxation is required to redirect a larger percentage of box office profit back to the Province, as well as the principle that this increased tax revenue should be directly applied to stimulate further film production in the Province. This approach has worked very well in other countries, notably Sweden. Because film production is the heavy employer of services and supplies, any policy which stimulates it, stimulates the economy generally.

A. OLD RETAIL SALES TAX

The retail sales tax of 10 per cent on tickets over 92¢ should be exempted on Canadian films as it presently is on British Commonwealth films. If this sales tax were exempted it would mean a higher margin of profit on mediocre Canadian films as opposed to mediocre foreign films, thus increasing the incentive for both distributor and exhibitor to deal with Canadian films.

B. PRODUCTION FUND

In 1970 there were 287 theatres in the Province. They grossed \$43,082,463 excluding taxes, and paid \$3,917,690 in retail sales tax. Half of this money, or nearly \$2,000,000, should go directly into a film production fund (it is understood that all tax revenue goes into a general fund normally. However it is felt that a Provincial production fund is necessary). This fund could be administered by the Ontario Arts Council, providing funding for low budget feature films on an equity share basis, as well as the usual grants to help young filmmakers develop. This would give Ontario filmmakers an option on two sources of production money with two different philosophical premises for awarding it. The Canadian Film Development Corporation could concentrate on the higher budget productions and the Ontario Arts Council on the lower. The CFDC has indicated that it would welcome such an arrangement.

C. NEW INDIRECT DISTRIBUTION TAX

If the above two measures were taken, tax revenue could fall as more Canadian films were shown. The Province should consider stronger methods of taxation applied to the large money earners among the imported films. At present there is only a 10 per cent Federal withholding tax – a direct tax which is generally conceded to be inadequate.

Perhaps the most effective way to do this would be for the Province to apply an *indirect escalating tax* on distributors, based on their profits per commercial release. This escalating tax on profits employs the same principle as income tax – i.e. a sliding scale over a certain gross – and would have the effect of keeping some of the money which *The Godfather* or *Clockwork Orange* earns in the Province within the Province to stimulate our own industry and economy.

VII. EDUCATION

In 1967, the eight Toronto area school boards spent 77 per cent of their 16mm film budget on foreign material: by 1970 the percentage rose to 79 per cent. Quite apart from the cultural irony of showing Ontario students films such as *If You Were Born In Canada* which are produced in New Jersey, much of the material dealing with Canada is factually in error in these films.

These facts are contained in a brief presented by the Educational Media Association of Canada to the Royal Commission on Book Publishing. They reflect a lack of concern within our school system for film as an educational tool. Provincial Government agencies such as OISE, OECA, POCA, the Department of Education, should take it upon themselves to work quickly, and in co-operation, to correct this situation. They should also try to determine whether this is due solely to an inadequate supply of Canadian produced film material, or whether those in charge of educational film programming are not utilizing the films which do exist.

A. OECA

Because this is a government television operation, OECA should assume responsibility for becoming a major outlet for Canadian shorts and features. At present, despite its many hours of programming, it is not providing such a service for Ontario and Canadian filmmakers. It must re-order its priorities to give precedence to Canadian over American produced films, whether they are of a didactic nature or not.

OECA should be encouraging Ontario filmmakers to experiment in film content and technique by commissioning films on the topic of the filmmaker's choice, as well as producing and commissioning more structured programs on Canadian history, etc. which could then be sold outside the Province. Some of these films could be made in conjunction with the proposed media centre, and all should be properly and fully paid.

B. OISE

OISE should be researching Canadian history, politics and society for the purpose of "rewriting" it from the Canadian point of view in film as they have done in print. They too should seek out Canadian made audio-visual material and learning systems where they exist, and commission their production where they do not.

C. DEPARTMENT OF EDUCATION

First and foremost the Department of Education should insist that Canadian educational film and audio-visual material is given preference in purchasing where it is available, and is commissioned from Ontario producers wherever it doesn't exist or is unsuitable.

They should also make special funds available for the purchase of Canadian films and learning materials by educational institutions, libraries and film archives.

D. DISTRIBUTORS

The Ontario Government should give financial assistance to non-theatrical Canadian distributors in Ontario, for prints, publicity, sub-titling and cataloguing of their Canadian films.

VIII. REORGANIZATION

A. DEPARTMENT OF CULTURAL AFFAIRS

At this point in our cultural development – not only in film, but in the performing and visual arts, publishing, etc. – it may well be time to consider establishing an over all body to direct and co-ordinate that development.

A Department of Cultural Affairs, independent or allied to a related area such as Education, would be effective in planning and co-ordinating the major policy decisions which will inevitably face the Ontario Government on all cultural fronts in the future. This Department could incorporate separate areas of Government from Parks and Recreation to the Ontario Arts Council, as well as theatre, dance, music, film, publishing and probably many more.

All Provincial film activities could be placed in a film section of this Department – a move which would recognize that filmmaking is not only an industry but also a cultural resource necessary for national survival, and as such, it can no longer be ignored.

B. CLASSIFICATION BOARD

This would be the former Censor Board, Theatres Branch and inspection department which would enforce a Canadian content quota. (see part 5, subsection A)

C. STANDING COMMITTEE

The Province should set up a standing committee representing all segments of the film community which could offer ongoing advice and information. The Ontario Film Institute or the Ontario Film Archives could undertake research to keep the committee and Government, as well as the public, accurately informed.

D. PROVINCIAL FILM OFFICER

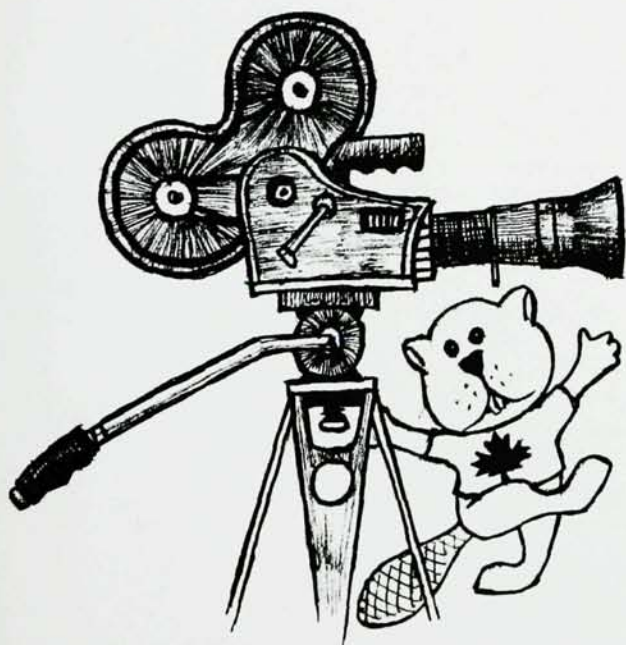
Presumably, if Ontario were to establish a Department of Cultural Affairs, the Provincial Film Officer would be incorporated into it. In the meantime, this office should de-emphasize its present role as aide-de-camp for American productions in Ontario and address itself to facilitating Canadian productions, including Francophone, in the Province.

As the office is now designed, it functions on the assumption that we need American production. This is a derriere-garde attitude. Even the CFDC has abandoned American co-production as not worth it. Having invested over \$20 million dollars in our industry, Canada cannot now afford to misdirect energy and effort into encouraging a branch plant industry. A policy which relies on imported films to fill our theatres, and American production in Canada to support and expand our lab and technical facilities, is artificially stretching an apparatus into permanent dependence on the present system of American control.

This office would be better utilized for Canadian filmmaking, in which it could help to raise investment capital for production; provide legal advice; help negotiate distribution agreements for independent filmmakers. It should liaise with the various Federal departments such as the Post Office (to lower postal rates for non-commercial films); the new festival office; the CBC (to buy independently produced films). Most important, it should make its presence more widely known.

IX. CONCLUSION

These recommendations are neither radical nor dislocating. They are simply designed to bring the Province back to applying original thinking in its approach towards the changing role of film in our society. It is important that the Ontario Government make significant changes in its own role in film, to correspond with the radically altered role of film itself, because the Provinces have a responsibility – particularly in terms of a quota – which no other arm of government can fulfill. Ontario should begin. ●



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