

LEGAL EYE

by Michael Bergman

The report of the Task force on the status of the artist will be unique on the rapidly becoming overcrowded bookshelves of the Federal Department of Communications. The report is one of the few comprehensive writings in Canada on the place of the artist within the economic and social security system. The thirty-seven recommendations of the report by two distinguished authors covers the gamut of taxation, collective bargaining, health and welfare, social benefits and education. Artists from every discipline will find much that is agreeable to them in the report. Unhappily this is not a conclusion which many Canadians in the larger community will adopt. In their zeal to recognize the artist's distinct economic needs and the unique criteria which apply to them, the report's recommendations create a special class of Canadians who will certainly be the envy of the rest of the nation or at least that part that is unemployed, on social assistance or underprivileged.

How else could the average Canadian view proposals which would grace the artist

with: a minimum tax free income on a par with members of Parliament (18,700.00); special unemployment insurance access; special workmen's compensation access; special access to private pension plans for self-employed artists, etc. These and related recommendations are proposals which many groups in our society would insist apply with equal force of argument to themselves. Indeed, a tax free income has been as frequently considered by all political parties as it has been as frequently – in the case of the liberals and conservatives – dismissed.

The strength and deficiencies of the report follow from two themes which are common to most of the recommendations: the legal definition of the artist's place in society and poverty. It is common in our free enterprise society to categorize people as being an employee or self-employed. This division is reflected in taxation, labour, health and social assistance legislation. Although over simplified it can be said that self-employed people have nominal, if any, access to social assistance and

similar programs but the greater advantage of access to taxation schemes and deductions. The nature of virtually all artistic disciplines defies these definitions. The Task Force Act has properly called for the redress of this problem by the creation of a new definition applicable to artists – although more properly the new definition should be applicable to all activities which do not fit the neat confines of the distinction between an employee and a self-employed person. In this regard the Task Force is not the first body to make this suggestion. Indeed, the Task Force both endorses and acknowledges the work of the Disney Report submitted in 1979. It is in the present writer's view an indication that government has not yet recognized the many arts disciplines as an industry notwithstanding the pseudonym "cultural industries" that the problem of the artist's place within the employee-self-employed concept has not yet been addressed by concrete action. In fact most countries which recognize their arts as industry have adjusted their taxation, health and social security systems to facilitate the artist's unique work.

The other element of the Task Force's report, poverty, is a much more difficult problem. Relying on unstated but plausibly correct statistics, the task force concludes that most artists subsist below the poverty line. The Task Force's response is quite unique amongst the recommendations of the many bodies that have considered the problem of under employment in the different sectors of our society. Instead of advocating programs which encourage or create employment of artists, the report calls for the use of both existing and new programs to benefit the artist so long as he/she is unemployed or impoverished. Some of these recommendations are commendable and just extensions of social security programs which most Canadians would consider an integral part of our society. Unfortunately most of the thirty-seven recommendations read together tend to suggest the creation of a highly protected class of individuals whose craft is shielded by all manner of tax, health, social security and even equipment subsidy benefits provided that they remain at or near the poverty line or are injured or unable to practice their art.

The success of the artist and the success of her/his success are highly subjective matters but to the extent that they are governed by objective factors, success in any art discipline requires a society which demands and expects artistic ex-

cellence, which encourages this excellence and which has made of itself a centre for artistic activity. Reading the report one gets a sense of – perhaps unintended – artistic mediocrity; our artistic boys and girls are floundering about, let's throw them a life preserver before they drown. It is not a question of how we as a society can lift our artists out of their hardship but rather how we can prevent their hardship from getting worse. Surely the only way to improve the financial condition of artists in general is to improve the success of art in this Country.

The recent Task Forces established by the Department of Communications have been required to report within an incredibly short period of time. Of necessity this makes for reports which are a cursory if not superficial survey of the problems and the solutions. It forces the authors to write from previous experiences and preconceived notions rather than original study and investigation. This problem is typified by the very first recommendation of the Task Force on the status of the artist. It calls for the creation of a national advisory committee to monitor the implementation of the Task Force's recommendations and to devise the mechanics and policies which should flow

therefrom. While no harm would result from the establishment of such a committee, the very need for one suggests that in lieu of the Task Force a Royal Commission would have been preferable studying and recommending specific provisions and mechanics for the implementation of policies and programs which encourage the status of the artist and through the artist of the cultural industries in general.

A national advisory committee would be another member of the hodgepodge of bodies and government agencies which input on policies affecting the Canadian cultural community. While the specific needs of say feature film versus dance are different, there is certainly an important need for the coordination of overall policy as it affects the entire gamut of artistic and cultural activities. It is an open question whether an advisory committee dedicated solely to the status of the artist can be truly effective without delving into areas mandated to other bodies as for example Telefilm Canada. If another advisory committee is necessary then it should be one mandated to advocate and devise strategies for the entire cultural community of which policies enhancing the status of the artist is necessary but only a part.

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