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for Canadian Journalists

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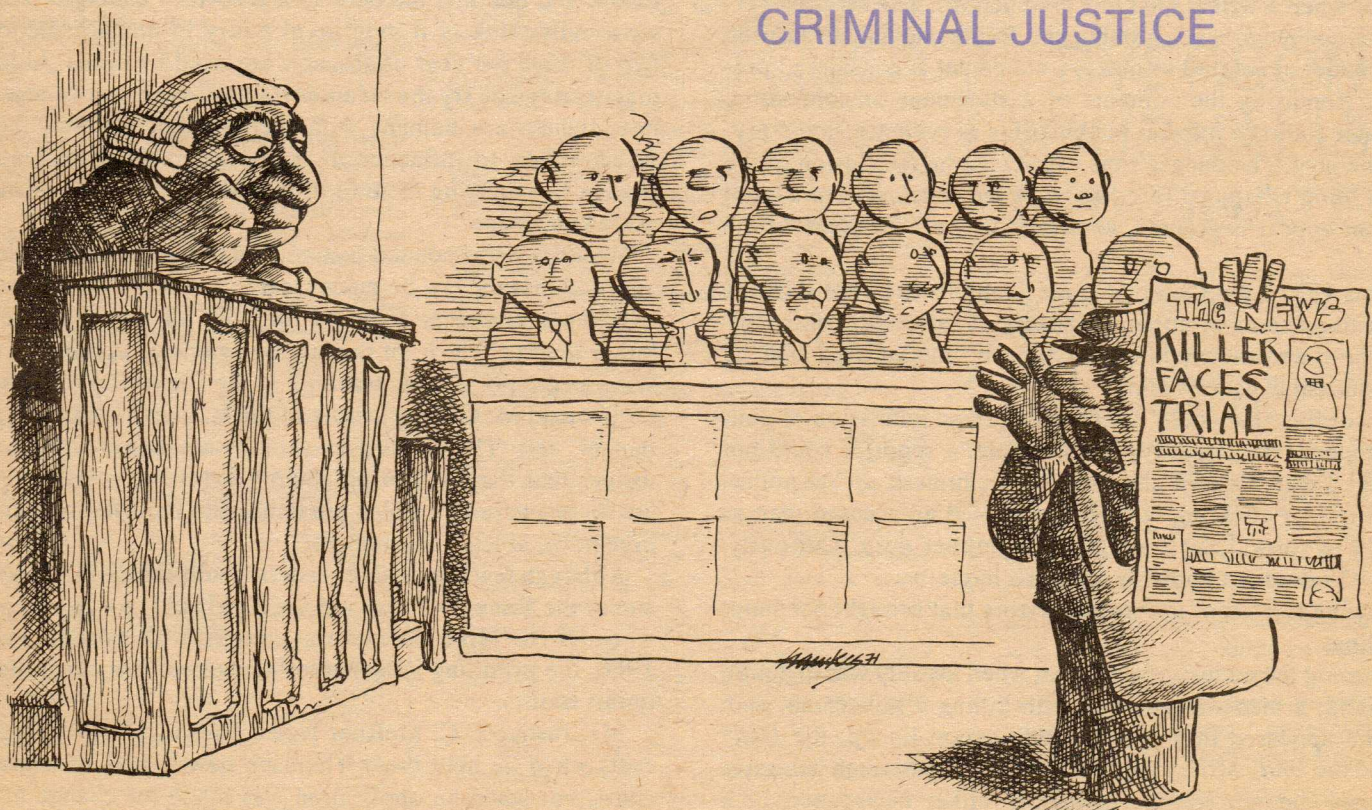
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CONTEMPT OF COURT
CRIMINAL JUSTICE



CONTEMPT OF COURT TENDS TOWARD VAGUENESS

Illustrations by Don Hawkes, former Toronto Globe and Mail entertainment writer and Windsor Star cartoonist who now teaches layout at Ryerson Polytechnical Institute.

MEDIA AND THE LAW

by E. U. SCHRADER

A justice committee to investigate laws that inhibit free expression or intimidate journalists by their vagueness could be one of the first appointments of Canadian press councils. It could consist of journalists, a lawyer, and a civil libertarian.

Application of the law of criminal contempt baffles some journalists and saps their courage to report crimes and criticize the administration of justice. Citizens sometimes employ the fearful majesty of contempt to stifle discussion on public issues. Such intimidation is compounded by the denial of a traditional right to appeal a judge's verdict (although the sentence can be remedied on appeal).

Contempt of Canadian courts becomes fogged by no precise understanding of what is meant by the word "tends." Mr. Justice J.C. McRuer wrote that "there is no law which precisely and comprehensively defines contempt of court. . . . Criminal contempt of court may be defined as any act done or anything published *tending* to obstruct, impair or interfere with the due course of justice or lawful process of courts." No proof is required that an article actually did interfere with a fair trial, nor do Canadian courts heed the Oliver Wendell Holmes precept of "a clear and present danger" of prejudice.

Contempt falls into three broad classes:

- 1) Prejudice;
- 2) Defying a court order (such as to break a journalist's code of honor to conceal confidential sources);
- 3) Scandalizing the court (by intemperate criticism).

In a contempt proceeding, the presiding judge is prosecutor, judge and jury. He may sentence the person to a fine or imprisonment.

Prejudice: The rights of the individual start at the time of arrest (or when a writ is filed in a civil action). The arrested person is not obliged to make a statement. Reporting that an accused person made, or refused to make, a statement is considered prejudicial. Reporting the contents of a statement or confession, which later could be ruled as inadmissible as evidence, could prejudice the jury. The danger zone expires at the conclusion of the time for filing an appeal (30 days after the conclusion of a trial) and, if an appeal is granted, continues to the conclusion of the appeal.

Section 455 of the Criminal Code prohibits the publishing or broadcasting from a preliminary inquiry of "any admission, confession or statement made at any time by the accused that by law is admissible against him."

Any wording that could be construed as an admission of guilt puts a reporter in jeopardy. For example, a reporter could not write that a man accused of murder "gave himself up" to police. In a preliminary hearing, a detective quoted an accused man as saying "I'm sorry." Such a statement implies guilt. Curiously, Section 455 does not apply to coroner's inquests.

Following is a list of journalistic errors that brought contempt proceedings:

- 1) Printing the picture of a suspect, when identity was in doubt. In England, a man was charged with killing a policeman, and, before he appeared in a police identification lineup, the *Daily Mail* and the *Daily Mirror* printed his picture. Although witnesses swore they did not see the picture in either newspaper, both editors were found guilty of contempt. (Note the application of the term "tending." Witnesses could have been prejudiced had they seen the picture.)

- 2) Stating that an accused person was wanted for question-

ing by other police departments caused two Canadian newspapers to be held in contempt.

- 3) Casting aspersions on an accused's character or reputation, while not libellous if factual, could lead the jury to think such an unsavory person was capable of crime.

- 4) Because the jury is only permitted to hear what the court allows, matter struck from the record is presumed never to have been heard by the jury, and therefore must not be reported. *Voir dire*—a "trial within a trial" during the absence of the jury to test admissibility of evidence—could, if reported, prejudice the trial. Similarly, if a reporter should hear discussions when lawyers "approach the bench," he should regard these as if the discussion were secret, in judge's chambers—*sub judice*.

- 5) The jury is not permitted to know an accused person's prior criminal record, because they must judge him on the current charge. Thus, a newspaper which prints a prior record, after the time of arrest, will stand in peril of being cited for contempt. (If the accused person chooses to enter the witness box, and his prior record is brought out in cross examination, it can be reported.)

- 6) In an application for bail, an accused's criminal record is read in court. To report it would be in contempt of court.

- 7) Printing the amount of money claimed in a civil action could cause a citation for contempt, because a jury is not permitted to know the amount of claim.

Toronto lawyer J.J. Robinette, QC, wrote in the Calgary *Herald's* legal guide that "from a practical standpoint it (contempt) virtually always arises in cases which will likely be tried with a jury. Judges trying cases every day are not likely to be influenced by what they read in the newspaper."

The late York County Crown attorney, Henry Bull, QC, cast doubt, and doubt is the bane of a reporter's courage. "Although we usually think of it in terms of a jury, in this jurisdiction only two or three per cent of all cases are tried by juries. Judges and magistrates who try the balance, trained as they are in objectivity, nevertheless are humans with their human frailties, including susceptibility to influence. It is unreasonable to increase their burden by requiring them to divest themselves of all this undesirable knowledge."

Would a press council justice committee be reasonable in requesting that the law be made clear?

Perhaps reporters could be forgiven for assuming the letter, rather than the spirit, of the law is sometimes applied. A former Winnipeg reporter now teaching at the University of Minnesota, Dr. Donald M. Gillmor, wrote of the Holmes' "clear and present danger" test: The words used actually create a clear and present danger that they will bring about a substantive evil. . . . These are threats to justice which are imminent, immediate, impending, urgent, or, at least, not remote."

Although few reasonable readers would excuse the sensationalism of the *Timmins Press* and the *Kirkland Lake Northern News* when Owen "Mike" Feener was charged with murder October 9, 1960, the presiding judge himself ruled out the possibility of an unfair trial.

Mr. Justice J. C. McRuer levied fines of \$3,000 and \$400 in costs when he held those Thomson newspapers in contempt of court, but when an application was made for change of *venue*, he said there were plenty of jurors who could be found who had not come in contact with the newspapers. "In order to assure that as little damage as possible would result, the Crown attorney, acting with traditional fairness, set aside all jurors who were

called from the Timmins area for fear they might have come under the influence of the offensive publications."

That contempt citation offered a clear list of offensive reporting. The two newspapers:

1) Reported what the accused told police on arrest and quoted the police chief as saying the accused lied;

2) By innuendo, linked the accused with the death of another woman;

3) Reported Feener was sought by many police departments;

4) Reported that the accused was thought to have carried his victim's body to the place where it was found. (Under the heading "Pools of Blood," the *Timmins Press* wrote: "The pool of blood could have come from her head. There were marks of the body having been dragged into the bush and it is thought the powerfully-built Feener carried her to her final resting place. This could account for the blood-stained shirt and pants found near the scene." The newspaper stated the belief that this clothing belonged to Feener.);

5) Reported the car driven by the accused was believed owned by another murdered woman;

6) Attacked the accused's character by reporting he had deserted his wife and infant daughter;

7) Quoted the police chief as stating the accused possessed a watch and ring that belonged to his victim;

8) Put derogatory remarks about the accused close to adulatory comment about his victim;

9) Printed an inflammatory picture of the victim's brother with the cutline "I'll kill you!" beside a picture of a defiant, tough-looking Feener;

10) Introduced speculation that police were questioning the accused in connection with the disappearance of another girl.

That such reporting could prejudice the trial is obvious, and responsible journalists no doubt lauded Ontario's chief justice

for taking action. While not condoning such reporting that debases the honor of journalism, may one ask why there was no change of *venue*, change of *venire*, or postponement? The chief justice found that there was no actual prejudice, only a *tendency* to prejudice.

And journalists get hung up on the word *tendency*!

In Vancouver, a *Daily Province* reporter covered a 1955 trial involving a conspiracy to traffick in narcotics. When sentence had been passed, another trial started against the same accused on an attempted murder charge. The reporter inserted a one-paragraph "tie-back" which referred to the recent conviction. Mr. Justice Manson fined the newspaper \$1,208.40 for prejudicing the new trial by printing the past record of the accused. The reporter told the court he had assumed the jury would have known of such a recent case.

The esteemed J.J. Robinette, QC, at a legal seminar of Thomson Newspapers Ltd., was asked whether it would have been permissible to report the criminal record of the notorious Red Ryan after his return to crime. (Ryan was shot and killed during a robbery at Sarnia, Ont. not long after his parole from prison.)

Mr. Robinette replied: "I would say go ahead and publish, because everyone knew who Ryan was. You can lay down general principles (on contempt) but you have to use your common sense. So much depends on the circumstances behind the story and the manner in which it was written."

That's what the Vancouver *Province* reporter thought.

Mr. Robinette cited to the Thomson seminar a hypothetical example of a man released from penitentiary and arrested for committing a new crime. Can you report that he was released from penitentiary? "His trial may not be for six months," said Mr. Robinette. "Nobody is going to worry very much about that."

The uncertain press is going to worry.

The Toronto *Daily Star* used common sense, and nobody worried.

A reader wrote to the *Star's* "Help Wanted" ombudsman July 13, 1968, that before going fishing near Peterborough he had checked with the department of lands and forests to ascertain his limit on trout. He was told "five fish per day."

When he and his friend had caught seven fish—three short of the limit—a game warden seized their catch and charged them with exceeding their limit by one. The *Star* tempted fate by publicizing the case before the trial. Help Wanted telephoned the warden, and quoted him as saying: "The limit on lakers up here is three a day. It's been that way for years. Everyone in the area knows that." Then more pre-trial prejudicial material: "Even if he pleads guilty and just pays the fine, he should get his rod back."

In his pre-trial letter to the *Star*, the fisherman asked: "Because I made an honest effort to determine the legal limit, I don't think I should be fined for this mistake. Can I get off the hook?" He did. And so did the *Star*.

Perhaps reporters could be excused if they thought only sensationalism triggers contempt of court. If the legal profession censures emotional excesses and tolerates contempt of court in innocuous little stories, one wonders whether the proper organization is charged with reprimanding the press. If a judge thrashes a newspaper for sensationalism, and admits no actual prejudice took place, some observers wonder whether a press council would be better suited to represent the public conscience.

In England, the Administration of Justice Act (1960) states in section 11, subsection 1: "A person shall not be guilty of contempt of court on the grounds that he has published any matter calculated to interfere with the course of justice in connection with any proceedings pending or imminent at the time of publication if at that time (having taken all reasonable care) he did not know and had no reason to suspect that the proceedings were pending, or that such proceedings were imminent."

The *Globe and Mail* was found in contempt, in 1951, for publishing an editorial which criticized, reasonably and with res-



Since judges are reluctant to recognize officially the "off-the-record" capacity of journalists, the latter, it can be said, are put in a rather ticklish situation.



Judges usually are willing to talk to reporters. Off the record, of course.

traint, the sentence given four youths convicted of raping a 16-year-old girl. Mr. Justice Dalton C. Wells held the newspaper in contempt because its editorial came during the hearing of a similar charge against a fifth youth. No fine was levied but costs were assessed at \$60. The *Globe* pleaded ignorance of the fifth trial, and stated they thought all trials had been concluded.

And in 1966, Hamilton *Spectator* publisher Tom Nichols was piqued when his newspaper was fined \$1,500 for printing a Canadian Press story based on a report in the *Globe and Mail*. (The Ontario Court of Appeal erased the *Spectator's* fine, reduced the fine of the *Globe and Mail* from \$1,500 to \$500, and cancelled the fine of \$100 against the reporter. Mr. Nichols, however, had wanted the *Spectator's* guilt purged, but there is no appeal from a lower court's verdict in contempt.)

In this case, Mr. Justice E.G. Moorhead was conducting a trial in Milton (60 miles from Toronto and 20 miles from Hamilton). A *Globe* reporter was covering two stories simultaneously. He left the jury trial and checked that evening with other persons to get his information. The reporter had covered the preliminary hearing of the same trial and so had "potentially dangerous material."

Information received by the *Globe* reporter that night had been ruled as inadmissible during a *voir dire* "trial within a trial" while the jury was out of court. The reporter had not known the material he received was inadmissible. The Canadian Press picked up the *Globe's* story, and the *Spectator* used the Canadian Press dispatch.

At the Appeal Court, Mr. Justice W.F. Schroeder, who gave the judgment on behalf of the three-man court, said it was important to take into account the intent of the newspaper. He said the editor of the *Spectator* had no cause to doubt the validity of the story from CP. He said it was "published in good faith, without negligence. . . . This must be taken into account in deciding what penalty should be assessed, if any penalty should be assessed."

Why, then, were the newspapers held guilty at all? Because the law of contempt hinges on "tends."

In Cornwall, Ont., three publishers of U.S. detective magazines surrendered to the Canadian court and were fined a total of

\$14,000. They had printed lurid details of a murder case in progress—before a sequestered jury. With the jury cut off from all communication, how could they be prejudiced? Because of the *tendency* rule, they could have been prejudiced had they had access to the detective magazines.

Was the contempt citation, then, employed to educate other publishers not to imperil fair trials?

A justice committee of press councils might well study an extension to Section 455 of the Criminal Code which reasonably prohibits the publishing of admissions of guilt at preliminary hearings, to include coroner's inquests. Questions raised at the Pierre Laporte murder trial relate to the December coroner's inquest.

In Toronto, a coroner's jury held Terrence Milligan "responsible for his wife's death" after a widely publicized inquest that concluded July 26, 1967, and a Supreme Court jury found him guilty of non-capital murder less than a year later.

The coroner's court brought forth sensational information of sex, drinking parties, a double-indemnity insurance policy, and all the classic elements of a bizarre movie thriller. Jane Milligan's bruised body was found by her husband early June 11, 1967, slumped in the bathtub with a radio on a long extension cord beside her.

Milligan testified under protection of the Canada Evidence Act, which meant that the coroner's records could not be used against him in his future trial, but which did not prevent the press from reporting the testimony to potential jurors.

The Toronto *Daily Star* wrote from the inquest that Milligan told a neighbor he wasn't sorry his wife was dead. A detective quoted him on the day his wife was buried: "O.K. Let's say I murdered her—but I didn't. How are you going to prove it?" An insurance agent testified Milligan had taken out an insurance policy, nine weeks earlier, that would pay him \$30,800 in event of accidental death. A fellow worker, an electrician, said Milligan had asked him what would happen if a radio fell into a bathtub when a person was in it. A detective said Milligan told him: "I need a prostitute" on the day of his wife's funeral.

Had such information been printed on the basis of a reporter's diligence, or had newspapers published the same information from a preliminary hearing, the full wrath of contempt proceedings would have landed on the press. A press council justice committee could reasonably ask the Crown to polish its halo.

And responsible reporters wonder about a contempt law that stifles discussion of public issues? When Ron Haggart was the Toronto *Star's* ombudsman, he raised some thorny questions regarding a scuffle between police and a black Canadian sailor named Thomas "Roger" Armstrong. Haggart was reaching his crescendo of indignation when Police Chief James Mackey filed a libel writ. That silenced Ron Haggart. But the libel action never came to trial.

Armstrong was acquitted of assaulting police but complained that police had beaten him. Results of an internal police investigation were presented to the police commission November 12, 1965. The commission agreed with Police Chief Mackey that Inspector Richard Lewis attended court on the day of Armstrong's trial, and reported that the presiding magistrate had misdirected himself and should have registered a conviction. Haggart wrote: The commission "accepted almost without comment, the conclusion from the police chief that the constables were without fault."

Haggart continued in several columns to complain that the police report to the commission had altered court evidence. When Haggart twisted his needle, the libel writ forced him into silence.

In England, though, Mr. Justice Philimore declared that "to say that a newspaper was to be restrained from expressing its opinion on a man who bulked large in the public eye, from the issue of the writ to the trial of the action, the date of which must be to a considerable extent in the plaintiff's hands, would be a very grave restriction on the freedom of the press. . . . While he was a public man he was the subject of public comment."

Also, Lord Hewart, in refusing to find a newspaper in contempt, stated that a person cannot purchase immunity from criticism "by the simple process of issuing a writ."

Said English Chief Justice Jordan: "It is of extreme public interest that no conduct should be permitted which is likely to prevent a litigant in a Court of Justice from having his case tried free from all matter of prejudice. But the administration of justice, important though it undoubtedly is, is not the only matter in which the public is vitally interested. . . . The discussion of public affairs and the denunciation of public abuses, actual or supposed, cannot be required to be suspended merely because the discussion . . . may cause some likelihood of prejudice to a person who happens at the time to be a litigant."

Contempt laws stifled political debate when Ontario's then-Liberal opposition leader delivered his famous crime speech.

The chain of events began November 12, 1961, when Vincent Feeley and Joseph McDermott were acquitted on a variety of charges including the alleged bribery of a member of the Ontario Provincial Police.

On November 21, the government announced five byelections.

On November 30, Liberal leader John Wintermeyer rose in the House, named names of criminals, described incidents, and charged widespread crime in Ontario. The activities of Feeley and McDermott laced Wintermeyer's indictment.

It seemed obvious that Wintermeyer's guns would be fired during the byelection campaign. But a few days later, the government announced it was appealing the Feeley-McDermott acquittals. No discussion was possible, under threat of contempt.

Twenty days after the byelections had been held, the Ontario government announced it was abandoning its appeals against Feeley and McDermott.

The so-called *NONG* scandal also fell silent. This scandal, involving the holding of shares in the Northern Ontario Natural Gas Co. by political figures whose responsibilities involved dealings with the company, broke in 1958. By 1959 the issue seemed exhausted. In September, 1962, the British Columbia Attorney-General's department announced it had uncovered further evidence regarding *NONG*, and a joint B.C.-Ontario investigation was under way.

On January 24, 1963, the Toronto *Daily Star* reported that "at least five Ontario political figures will be among 10 persons charged with fraud in connection with the Northern Ontario Natural Gas scandal." And 1963 was an Ontario election year.

In February, Attorney-General Frederick Cass told the House the B.C.-Ontario report would be released by the end of the month. In April, he said the report would be issued before the

House adjourned. On August 16, the government announced the election would be held September 25. On August 22, Attorney-General Cass announced perjury charges would be laid against Ralph Farris, of Vancouver, president of *NONG* and thus the report would not be released until after the election. On August 23, Farris appeared before Magistrate Robert Dnieper in a Toronto courtroom and was charged with three counts of perjury.

Silence fell across the province. Politicians and newspapers spoke of many things, but no one spoke of *NONG*. And no elector knew whether he had voted for one of the five politicians allegedly involved in the re-opened scandal.

In a radio address, in which he referred to these events, Toronto lawyer Leonard E. Shifrin quoted Mr. Justice Cannon in the Alberta Press Act case:

"Freedom of discussion is essential to enlighten public opinion in a democratic state; it cannot be curtailed without affecting the right of the people to be informed through sources independent of the government concerning matters of public interest."

Could a justice committee of a press council lobby Parliament regarding their vital role in freely informing the electorate?

At the same time, the press appeals for reason from a history of unprofessional tactics. While the law trumpets its position as guardian of individual rights, and blots its record, the press sends reporters unfamiliar with the law to sample court cases, handles many as amusing human interest dramas, and seldom dares to criticize the bench.

To prove sincerity in its desire to serve the public with truthful information, reasonably presented, the press could establish councils to promote professionalism and self-discipline, and become freedom's watchdog.

Irresponsible reporting provokes the public to advocate tighter laws. Let a justice committee of journalists, a lawyer, and a layman steeped in civil liberties, consider the collision of the individual's right to a fair trial and the public's right to a free press.

In his next article, E. U. Schrader, retired chairman of the Journalism Department at Ryerson Polytechnical Institute, Toronto, and secretary-treasurer of the Canadian Society of Professional Journalists, will discuss the need to criticize the administration of law, without "scandalizing the court," and a journalist's code of honor to protect his confidential sources, which brings him in conflict with another rule of contempt of court.

CRIMINAL JUSTICE: A DIGGING JOB FOR THE NEWSMAN

MEDIA AND THE LAW

by BRIAN A. GROSMAN

Although it is the decisions of the highest courts which are widely reported, they do not affect the vast majority of those who pass before our criminal courts. The non-activist approach of the Supreme Court of Canada, unlike that of the United States Supreme Court, has meant that its decisions, for the most part, have limited significance to anyone other than the parties directly involved.

"Dry bones"¹ was an outstanding exception, but the court was obviously concerned about the wide-ranging constitutional and civil liberty implications drawn by commentators in the press in that instance. At the

first available opportunity (breathalyzer case) the justices backed away from the broad interpretation and followed the old line.

Although our highest court serves an educational function as the symbol of impartial, if remote, justice, it is in our lower courts and police stations where day-by-day decisions are made which critically affect the lives of 95 per cent of those who come into contact with our system of criminal justice.

Journalists have served admirably in criticizing decisions of the higher courts. Isabel LeBourdais' *The Trial of Stephen Truscott* is an outstanding example. But comment upon high court decisions without a contin-

ual inspection of the lower courts and their decision-making environment may result in an unhappy preoccupation with the tip of the iceberg while its dangerous bulk is ignored.

A watchful press which closely observes criminal cases and exposes abuse of process and police malpractice is essential to a free society. The finest hour of many a local crime reporter has come about as a result of his probing the grey areas of the criminal justice process not otherwise open to public view.

Access to information at the lower court level may, however, depend upon the nature of the reciprocal relations built up between

the reporter and the police or between the reporter and the prosecutor. An invisible price is often extracted for the availability of this information. The reporter must be trusted by the police and the prosecution. In order to gain that trust and not jeopardize his fruitful relationship he sometimes must adhere to an unspoken understanding not to seriously "rock the boat".

"Rocking the boat" will foreclose all sources of non-public information and create hostility among those who would be otherwise "open" with him. Rocking the boat may be caused by a reporter who decides to engage in an exploration of the criteria upon which a prosecutor withdraws or reduces the charges.

An examination of the "deals" commonly made between police and prosecution with regard to the amount of bail to be suggested and the number of charges to be laid will also put the reporter's relationship with the police and the prosecution in serious jeopardy. Acceptance in the reciprocal environment, with its unspoken rules of behaviour, may often only be gained at the price of real discovery.

The prosecutor enjoys a wide discretion in the details of charging and proceeding with charges against the accused. His responsibility encompasses much more than argument before the court. He has important administrative and discretionary decision-making functions. The judicial interpretation of his function is primarily one of accuser in an adversarial system, who, in a quasi-magisterial manner, represents the state and fairly prosecutes the accused. The prosecutor exercises a most important discretion when he decides whom, among those who have acted in a manner normally sanctionable, he will initiate into the criminal justice process.

In the early stages of this process, prior to trial, there are a variety of discretionary decisions exercised by the prosecution. For example, the police arrest a thief; if he is a student the prosecutor may consider that more harm will be done to the accused's future by the notoriety of the prosecution and possible conviction than the good likely to be accomplished by the imposition of a sanction.

Ordinarily when the prosecutor proceeds with the charge, alternatives remain which bypass the trial itself. The majority of criminal cases is "settled" by the accused's entry of a plea of guilty. The entry of a guilty plea does not always mean a plea of guilty to the specific offence with which the accused was originally charged. It often represents a plea to a reduced charge or included offence or a plea to one of a number of charges that were laid originally.

Also, a plea of guilty does not always represent a remorseful admission by the accused of his wrong-doing. It may, instead, be the product of lengthy negotiations between the prosecution and the defence for the best arrangement possible on the assumption that a plea of guilty is to be entered. Police over-charging and charging errors are reviewed and the probability of obtaining a conviction on the original charge is assessed by the Crown attorney at this post-arraign-

ment but pre-trial stage. The strength of the evidence, the credibility of Crown witnesses, the likelihood of a sentence differential if a reduced plea is accepted are considered by the Crown attorney. Once the defence and prosecution have entered into an agreement on a reduced plea it is entered and a conviction registered in open court.

Advocacy by defence counsel at the pre-trial stage may more significantly affect the eventual outcome than advocacy at the trial itself. Opportunities for negotiation between the defence lawyer and prosecutor on questions of charge reduction, guilty pleas and other available alternatives are characterized by a flexibility that does not prevail at trial. Once the trial stage is reached adversarial positions are adopted. For the informality of the pre-trial exchange between the prosecutor and defence lawyer is substituted a formality of protections, procedures and competitive spirit that is the hallmark of the adversarial forum.

Extensive pre-trial negotiations have developed in recent years to meet the overburdened court systems in high-crime urban centres. New administrative adjustments are being made in answer to new demands upon the traditional adversarial structures. For example, a jurisdiction in a large metropolitan area with a high crime rate, understaffed courts, inadequate facilities and an overburdened court system, may encourage each judicial administrator from arresting officer, prosecutor, to lower-court judge to expedite procedures in order to process the largest number of cases through the system with the least delay.

The actors in the system may develop a variety of expediting procedures in order to best follow the administrative ideal of their own jurisdictional criminal system. Arresting officers may interrogate suspects in order to be more certain that those placed in the system should be successfully prosecuted and therefore will not slow down procedures by not-guilty pleas resulting in complicated trials and acquittals.

Prosecutors may informally negotiate with defence lawyers and enter agreed guilty pleas in exchange for the concession of a reduced charge. There are a number of incentives on the part of the defence and prosecution to "settle" a case. The prosecutor may, in this way, expedite the conclusion of the case with the least complication and time loss. The defence lawyer has also expedited his case with the least loss of his time and money and has obtained a tangible result for his client—a reduced charge. Judicial agreement to a defence-prosecution submission is seldom refused as tangible benefits for the expedition of case backlog is a prime concern of lower-court judges.

There is observable, among many of those engaged in criminal prosecution, an ethic which exalts administrative regularity over procedural regularity. Administrative efficiency is obtained through the competent administration of the system's capacity to apprehend, try, convict and dispose of a high proportion of criminal offenders. There is a presumption of regularity based on the confidence placed in the law enforcement personnel that they "don't arrest innocent people".

In order to "fight crime", the criminal administrative process must function smoothly and those arrested must be expediently convicted or acquitted within the context of a mass system for the administration of criminal law.

The law is perceived, not primarily as an instrument for guaranteeing individual freedom, but as a means of protecting public order and preserving the efficient administration of justice. The arrested accused is presumed, both by police and Crown prosecutors, guilty, and the requisite procedural and judicial requirements are often perceived as obstacles to the efficient administration of the process. Procedural requirements, such as the presence of counsel prior to trial, are seen as contributing to the frustration of those charged with the prosecution of crime. The encouragement of the guilty plea considerably assists the smooth functioning of the system as seen by the police and prosecutors.

Rural low-crime areas are not often part of the expediting administrative value system. A second element is present, however, which influences prosecutor-defence behaviour in a rural non-expediting environment so that it comes to resemble prosecutorial action in the high crime urban areas. Informality, a characteristic common in an urban expediting-orientated criminal justice system, also may be present in a rural non-expediting system. Both systems, though administrative values differ, adhere to a similar administrative process resulting from reciprocal relationships within the defence-prosecutor environment.

As with the journalist, the defence lawyer has much to gain in establishing a relationship of trust with the prosecutor for it may result in an expanding horizon of pre-trial alternatives for his clients and routes that create exits from the system prior to formal procedures and the trial.

For the prosecutor, reciprocal exchanges are not only a time-saving device, but create an atmosphere not so much of success as one of minimal loss. The prosecutor loses less often in the open and formal forum and processes a large number of cases to an expedient determination.

Negotiation in the pre-trial stage, and the number of alternatives available to an accused and his counsel, may depend as much on the reciprocal relationship of trust between the defence counsel and prosecutor in the jurisdictional system as upon the administrative value system of expediting procedures normally part of an urban, high crime system.

Where the expediting administrative values combine with strong reciprocal relationships, the substantive decision-making process takes place prior to trial. The courtroom forum merely serves a ratifying function and the players mouth words in a ceremony without real significance for the accused. The result is known prior to trial either as a result of pre-trial Crown-defence agreement or Crown-defence-judicial agreement. The pure adversarial conflict is becoming less a part of the day-to-day functioning of the criminal justice system in North America. That is not to say that adversarial conflicts at trial do not often take place, but that for the vast majority of those accused of crimes pure adversarial combat remains a last resort.

If these new adjustments are taking place, what are the implications? What are the dangers to the basic judicial values at stake?

The chief vice of these new adjustments is that they constitute a wholesale abandonment of the protections inherent in the adversary system and the basic principle of legality upon which law enforcement in a democratic society must rest. It is into

1. "Drybones" is the celebrated case where the Supreme Court of Canada reversed a lower court decision by ruling that it contravened the Canadian Bill of Rights. Until this precedent had been established, most Canadian jurists had disregarded the Diefenbaker Bill of Rights as having no constitutional status. "Drybones" is an Indian living in the Northwest Territories who had been arrested on a charge of killing game out of season.

this area of discretionary decision-making that the journalist must dig. The process of digging may make him "persona non grata" in an environment which has been otherwise accepting of his presence.

Some alienation, however, may be a small price to pay if the journalist succeeds in making visible those administrative discre-

tions and mediational processes which for so long have been unacknowledged because they have been unexplored.

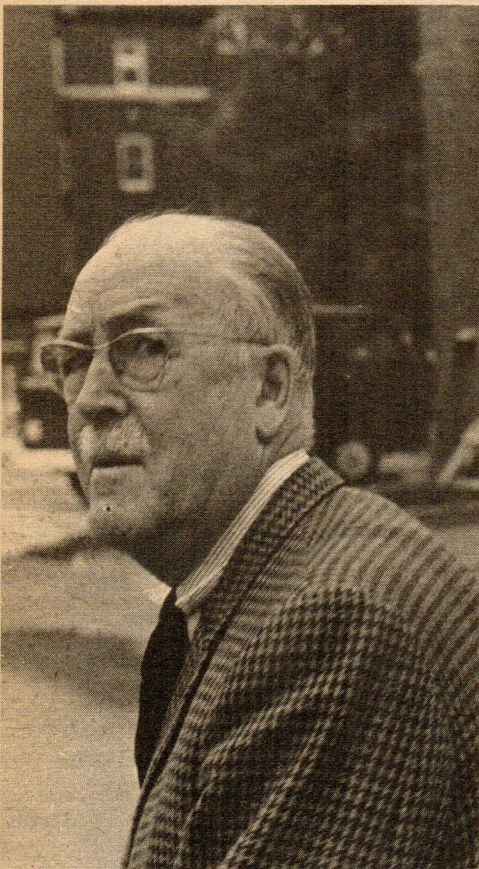
Reality must be exposed if it is ever to replace mythology. The potential for law reform in Canada will depend upon it.

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Professor Grosman teaches criminal law and criminology at the Faculty of Law of McGill University. He is the author of *The Prosecutor, An Inquiry Into the Exercise of Discretion*, published last year by the University of Toronto Press.

GRAHAM SPRY PUTTING THE MAP TOGETHER

by PATRICK MacFADDEN



Graham Spry, born two months after the turn of the century and twenty years after the birth of mass advertising, Gold Medalist at the University of Manitoba and Rhodes Scholar at University College, Oxford, sits far back at the CRTC hearings. Away far, far back. He fingers his Rideau Club tie. Waits his turn. To speak on behalf of the consumer: The listener and the viewer. His organization is called the Canadian Broadcasting League.

He sits at the back so that when his name is called, he'll have a nice, long, slow walk up the middle aisle. Head back, shoulders straight, peering from side to side. The sense of fey lostness adopted by the ironist when surrounded by literalist chaos. A style.

All the regulars are assembled: CBC heads from Bronson Avenue, hundreds of privateers, CFAR Flin-Flon huddling with CKVL Verdun; here up against the wall is Murray Cherver representing Prometheus Bound, there Harry Boyle representing Common Sense. Bright young neutral observers from Procter and Gamble and McCann-Erickson rub their sideburns, open their folders and neutrally observe. Spies from Stanley Randall's office sidle in, the Parke-Bernet of the Ontario economy.

Spry reaches the podium. He feigns distress at the excess of microphones. An assistant assists. He thanks him elaborately.

This bit of business allows conversation to subside. Spry looks down. He blinks, just enough to suggest a delicious, finely-wrought vulnerability.

An old Chinese trick.

And begins . . .

For Spry it is an occasion like many others. From time to time across the country and the decades, Canadians have gathered to discuss their communications systems. Briefs are presented, depositions accepted, pleas from interested bodies and individuals heard. The meetings are grave yet informal: Grave because of the weight of the subject, informal because the same people tend to follow the circuit.

Designed to rationalize previously-taken decisions and to promote fresh initiatives, the gatherings also serve a further purpose: To remind the polity of the continued existence of a central authority, by law endowed with power to promote good governance in the realm of spoken word and seen image, and charged with the task of rendering retroactive judgment on the over-mighty subject for his manifest and unpardonable follies.

Canada may be the only country in the world to have blended successfully the

modern tradition of fact-finding with the early medieval tradition of the travelling court.

And begins:

"You are all busy, busy men and women. And yet you have come here today, many of you at considerable expense to yourselves . . . I find it truly extraordinary and extremely gratifying . . . to think that you've all dragged yourselves away from your public responsibility as broadcasters—"

(Public responsibility. All shuffle uneasily here.)

" . . . absolutely certain of one thing, however, and I'm going to say this because I know that many of you over the years have said so in private—"

(All here lean forward: Does he know what we say in private?)

"—that you didn't come all this way just to listen to an old fogey like me!"

(Friendly ho-ho-hos, splatter of oh-come-come-nows.)

"But of course all of us would have to admit, wouldn't we, that it would be an enormous error—"

(All sit up, for who would wish to perpetrate an enormous error?) "—and an error that would, frankly, put our national life in the gravest jeopardy—"

(All sit further up, all in favour of the national life.) "—if we were to consider broadcasting in Canada as merely another industry?"

Game set and match to Spry. Not a lobbyist, not at all, just an *amicus curiae*, you understand.

The hard men teeter out in a daze, to coffee-break and long-distance phone. They say: "No-o, I don't think I've met him. But I feel I have."

Exactly.

ACT AS IF EVERYBODY WAS RELATED TO YOU. The first commandment of the Navajos, the continent's first gentlemen.

Aristotelian of course. But not a pragmatist. Just practical. A good grasp of how to put the bits together. Perhaps a Cornish shrewdness. ("Yes, the name, in Cornish, means 'sprightly' or, sometimes, 'twiglet'.")

He is reminded that A. L. Rowse, the English historian, was also Cornish. ("Yes, quite. But you see, I was born in St. Thomas, Ontario. And anyway Rowse was a professional Cornishman.")

Chairman of the Ontario CCF from

1934-36; an executive of California Standard Oil by 1937. For The League for Social Reconstruction in 1934, he helps to put out the basic text, *Social Planning for Canada*. In the same year he runs for the CCF in a by-election in Toronto-Broadview; later, he runs in the federal election. The people refuse to be saved. "I was defeated," he says grandly, "by large and enthusiastic majorities."

He went on to serve, by contrast, as vice-president, Canadian Chamber of Commerce (London) and was Agent-General for Saskatchewan in the United Kingdom and Europe from 1947-68. ("I have since been to Sicily. There I met the Mafia; when I told them I had worked for the Saskatchewan government, they were much impressed.")

The League for Social Reconstruction, carrier of the Fabian verities to the Wild West. Anti-imperialist in the style of J. A. Hobson, public planning in the style of Keynes. In Canada, the Fabian brains trust was a small circle of friends: It included Frank Underhill, Harry Cassidy and J. J. Parkinson in Toronto, Eugene Forsey and Frank Scott in Montreal, in Ottawa King Gordon and Graham Spry. (They had gone to Manitoba and Oxford together. Later Gordon would be found teaching Christian Ethics in Montreal, Spry would edit the *Farmers Sun* in Toronto.)

It was a time for reconstruction. The free play of market forces had, as it sometimes tends to, withered away on the pre-Cambrian shield. Third parties became an instant tradition.

"Toronto," announced Joseph Atkinson's *Toronto Star* on Dec. 5, 1933, "is the centre of applied socialism in Canada, with its publicly-owned street railways, ferries and electrical services."

From sea to shining sea, the new order had been proclaimed by Premier Bennett's Vanguard Party. Or at least from Ontario Hydro to Beauharnois.

Yet, stubbornly the Depression went on. Men's lives were ruined. Spry's friend and political colleague, M. J. Coldwell wrote: "The man on the land could not dispose of foodstuffs which the man in the city could not buy." The crisis was bigger than state banks or managed credits.

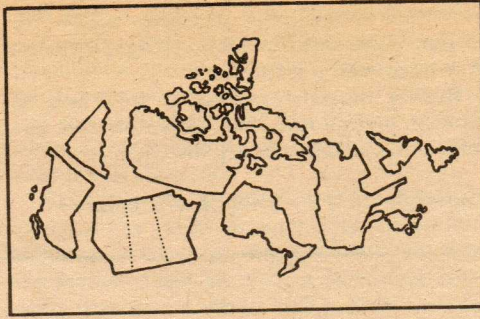
Nerves became frayed, then lost. The Canadian bourgeoisie has always been unsure of itself. On the stage of history, it has been pushed rudely out to the apron; there, falling over its spear, hose wrinkled and codpiece quite awry, its muffed and mumbling lines speak eloquently of the difficulty of establishing Capitalism in One Country.

And so it savaged some of its own. Graham Spry found that jobs were hard to come by. For six years, as national secretary of the Association of Canadian Clubs, he had made excellent social contacts. Now they had all, mysteriously, apologetically, disappeared.

He approached John Dafoe. From 1920-22 he had written editorials for Dafoe's *Manitoba Free Press*. Dafoe advised him to leave the country. Similar advice followed from Atkinson of the *Toronto Star*.

And so, in 1937, he left. First to New York, then to London, Standard Oil's first socialist executive. To his list of clubs he would add Brooks, East India, the Travellers and, more racially, Sports. Later, to his list of employers he would add Sir Stafford Cripps, thus becoming the British Left's first Canadian capitalist.

In the meantime to Canada, he would send regular CBC radio reports: Brilliant, concise word pictures—of the crowds outside



No. 10 Downing Street waiting for Chamberlain's miracle, of the courage of the British people as the world fell in.

An unusual political exile. Frank Scott claims Spry travelled into Standard Oil's penalty box by sailing first class on the *Queen Mary*. He thus set luxury standards unreached by other political transients then or since.

Perhaps a mutual feeling of sometimes not being wanted drew him to Stafford Cripps. Cripps had had his difficulties with the Labour Party. From 1942-45, Spry was his personal assistant. On one occasion, he pleaded with Cripps to drop the word "austerity" from a speech he was about to deliver. "Beaverbrook will seize upon it," Spry warned his boss. Cripps went ahead and used it. The Beaverbrook papers pounced. And history records this warm and affectionate man as "Austerity Cripps."

The country Spry had left behind was in a grumbling mood in 1937. Bennett's tariffs meant Ontario had done well. But at the cost of alienating the West from the East. What J. B. Brebner called "the desperate margins" would not forgive the centre for a long time to come.

The passport Spry carried to England did not bear the word "Canadian." The term would not appear until World War Two. Such modesty was perhaps excusable when confined to passports. It was harder to understand in the larger sphere of national communications. Or so it had seemed to the Canadian Radio League and to Graham Spry, its first chairman.

The Canadian Radio League, now the Canadian Broadcasting League, was interested in the quality of broadcasting. It was born during a period inimical to quality, the early thirties. And not for the first or last time, Canadians were to discover that standards are indissolubly connected with the freedom to set them. In terms of radio, such freedom could be guaranteed only by a public system.

"I may be afraid of handing power to any one government," J. S. Woodsworth had declared in the House in the summer of 1928, "but I would rather trust our own Canadian government with the control of broadcasting than trust these highly organized private commercial companies in the United States."

So began a further cycle in the national enterprise: The erection of a new technological-electronic grid over the east-west contours of the Creighton-Innis map makers. From the birch bark canoe edging out westward from the St. Lawrence to the powerlines of the new communications, the national problem is rooted in paradox: The impossible is preferable to the possible, for the possible is wholly impossible.

The theme was taken up by the League, under the leadership of Alan Plaunt,

Graham Spry, Georges Pelletier, Brooke Claxton and Fr. St. Denis. A 1928 Royal Commission, chaired by the President of the Bank of Commerce, presented the Aird Report in 1929. The conclusion was that "Canadian radio listeners want Canadian broadcasting."

Implementing legislation followed belatedly in 1932, after the inevitable constitutional runaround, hot-line communications from commercial radio interests and their newspaper equivalents, counter-pressure from the home-grown frontmen for the New York cabals, a federal election and a change in government.

What emerged was the first publicly operated, owned and controlled radio system on the continent.

But veterans of that battle knew it to be the first of many. Spry and his colleagues braced themselves for a long and thankless task. The League widened its support, drawing sustenance from rural-based organizations such as David Kirk's Canadian Federation of Agriculture. Womens' Institutes joined in, as did consumers' associations. The Canadian Labour Congress helped. And so did the CBC, understandably interested in its own survival. Friends were found in all political parties. And for a heady time, the League had a member in the Cabinet, Brooke Claxton.

For Spry and the League, it was the best of times. The hucksters—his amiable tag for the more raunchy privateers—had been temporarily beaten back.

By the 1950's, 120 private stations had formed a powerful lobby in the Canadian Association of Broadcasters. The postwar boom had sent the operating revenues of the independents soaring: From \$10 million to \$14 million in two years. CBC's revenue over the same period went from \$6 million to only \$7½ million. By the end of 1948, private station assets, seeded by fresh capital investment, were three times that of the CBC.

And then came television. This time it would be different. Or would it? "In every country," writes Erik Barnouw, "American television tended to create a division. It won enthusiastic adherents among station entrepreneurs, advertisers, advertising agencies, distributors, merchandisers, retail outlets... On the other side were artists, teachers, social workers. They tended to feel a culture was being wrenched loose from its moorings."

The huckster universalized. But Barnouw is not quite right. The division was not "created" by American television. It was already there. And television reflected it.

Things were returning to normal.

Perhaps Spry and the League shouldn't have bothered really. Ilya Ehrenburg once said that North Americans were obsessed with beginnings. It was Spry's misfortune to be cursed with a sense of continuities.

Postscript: February has been a strange, cold month. Wars and wars' rumours, some psychic, some steel-rimmed, run through the head like flu. Laos is invaded by U.S. allies, 500 U.S. helicopters make 1,000 daily sorties. The *Globe and Mail* runs a front-page map. Straddling Laos are figurines depicting the defending forces of the Pathet Lao.

Identified by the *Globe and Mail* as "enemy soldiers."

Enemy soldiers. Canada has declared war. Or at least the *Globe and Mail*. (The colonial

mentality is now worldwide. Even the best have been infected. Ho Chi Minh wrote nothing in his own language until 1950.)

But good things too. W. H. Auden is reading poems in Toronto, his corrugated face full of the memories of limestone landscapes. Marshall McLuhan tells Auden that Auden's trouble is he's still rooted in the Nineteenth Century. Auden's eyes reply that McLuhan's difficulty is that McLuhan is not.

And in February, Graham Spry is seventy-one and the Canadian Broadcasting League is forty.

A testimonial dinner in the Confederation Room in the West Block. Telegrams and letters: from the Prime Minister, from John Diefenbaker, from Tommy Douglas. Lester Pearson in the chair; hundreds of friends from all over the country, from Saskatchewan, from the old CCF, from the League. Younger people too, anxious for a glimpse at the man who had defined the old problem such a long time ago. New nationalists also, uneasily surprised to find him, a servant of the ILO in Geneva in the twenties, no great supporter of a measly *kulturkampf*, nationalism being no substitute for nobler ends. The new concern with "identity" he does not share, for he always knew who he was. Identity-oriented social critiques he regards, not as a maturing of bourgeois sociology, but as its decadence.

The West is strongly represented. R. H. D. Phillips from the Saskatchewan Wheat Pool's Research Division. Forty years ago, Richard Bedford Bennett had seen the price of wheat drop to below fifty cents a bushel. He had responded by setting up a royal commission; its secretary was tonight's chairman, Lester B. Pearson.

The politics of wheat. But also of medi-

cine. On July 1, 1962, the Saskatchewan doctors had refused the health care fence, seeing the government scheme as interfering with the special relationship between them and their patients' pockets. A telegram had gone out from Premier Woodrow Lloyd to Graham Spry. "Get some British doctors. Fly them in." Spry got some British doctors and flew them in. The Saskatoon-*Star-Phoenix* cried out in pain. But the opposition crumpled. Public health triumphed, doctors prospered.

Good cheer and kind, felt words. Irene Spry, radiant and approving as Graham refuses to play elder statesman and opt instead for Cornish pixie. In the early thirties, she had begun a thesis. It was called, "Why Women Work." Her most recent book an account of an earlier mapmaker, the Waterford explorer John Palliser's British North America expedition in 1857. (An east-west transcontinental railway financed by British capital, he reported back, was not a feasible proposition.)

And from Oxford, the philosopher Gilbert Ryle, recalling amid laughter the peccadilloes of his old college friend. ("I am sure that Graham would prefer that I dwell on his vices than on his virtues.") Ryle picks his way among the fragments of memory, fusses over an event's turn, follows an improbably conditional clause to the mind's edge, molds it miraculously back into syntactical sobriety, and reaffirms, in the style and in the tone of his saying, a live process and an unforced tradition. A way of going about things.

In 1951, in an essay on Wittgenstein, Ryle, the editor of *Mind*, had written: "For a statement, map or diagram to be true or false, there must be a plurality of words or

marks; but, more, these bits must be put together in certain ways."

"And underlying the fact," Ryle's 1951 essay had continued, "that the truth or falsity of the statement or map partly depends on the particular way in which its bits are arranged, there lies the fact that whether a significant map or statement results at all, depends wholly on the general way in which the bits are put together."

Near the exit to the West Block, the guest of honour pauses. To explain about history. "I read books about the CCF and about the League. They're very good books, mind—and I see I am often mentioned in footnotes; hence I love footnotes. But none of the books says that we had any *fun*. And we had."

He reflects: "Sometimes I think these fellows just don't understand the political process in this country."

Bits of the map to be put together in certain ways.

And Ryle had concluded: "Some ways of jumbling them together are ruled out. What rules them out?"

Outside, it is cold and windy, with white clouds snapping across the February moon. Graham hunches on his overcoat, surveys the mock Gothic of the Parliament Buildings.

"Well, there's much to be done. And the night is young. Let us then foregather in the Press Club across the way."

And he starts out towards Wellington Street.

Patrick MacFadden lives and writes in Toronto. His activities include serving as a contributing editor to the Last Post.

For 100 years Sun Life has served the individual.

One of the great topics of conversation in the seventies has been the growing complexity of modern life.

The world has indeed become an impersonal place in many ways.

Yet, Sun Life has never forgotten that life insurance is essentially a service to the individual.

It hasn't been easy.

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100th ANNUAL REPORT HIGHLIGHTS

New Life Insurance in 1970:

Individual . . .	\$ 1,308,370,000
Group	\$ 539,680,000
Total	\$ 1,848,050,000

Policy benefit payments in 1970

\$ 323,395,000

Dividends to policyholders for 1971

\$ 79,616,000

Total life insurance in force at Dec. 31, 1970

\$18,960,724,000

Assets at December 31, 1970

\$ 3,662,221,000

SUN LIFE ASSURANCE COMPANY OF CANADA
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They used to call us
**The Old Grey Lady
of St. Antoine Street**



Most of our reporters don't even know any old ladies

The Gazette 878-1821
Montreal mornings aren't the same without it.

MEDIA 71

A conference of journalists

Fingers crossed? Spirits buoyed? A trifle amazed it actually may come about? Or full of doubts?

Well, at this stage things are promising for the first general conference of Canadian journalists—scheduled for Ottawa, May 1 and 2, at the Skyline Hotel.

Certainly the core planning body of journalists from Montreal, Toronto and Ottawa, and the ad hoc steering committee of communications people from across Canada, are optimistic.

Response to the story carried in last month's *Content* and to a hundred letters despatched to key people in all provinces has been encouraging. People *do* agree that the special Senate committee's report on mass media merits further study and elaboration. The thrust of the conference in Ottawa will be two-pronged: an examination of the Davey Report and a look beyond the committee's conclusions.

Catch-phrase for the conference is "Media 71: A meeting of journalists—un colloque de journalistes." The meeting is open to all who consider themselves journalists and to non-journalist observers. On these pages are program details and a registration form. Those interested should send along the form and \$10 in cash, cheque or money order with the appropriate indication about accommodation and transportation.

A block of rooms has been set aside at the Skyline Hotel; single rate is \$16.50 to \$20. Accommodation also may be arranged through billeting.

Air Canada and CP Air have been approached to provide subsidized transportation for delegates outside the near-Ottawa area; if granted, it is not expected that this will be sufficient to meet travel needs.

Consequently, several other avenues are being explored. Additionally, persons may wish to ask their employers for assistance. Indicate on the registration form whether transportation aid will be required. Resources obtained will be allotted on a first-come, first-served basis.

Because transportation is a major problem for most interested journalists, a fund is being created and anyone in a position to make a free-will donation is urged to do so.

Because the organizers want the conference to be representative of the country-at-large, plans are being made to install simultaneous translation facilities for the plenary sessions and the workshops.

Position papers now being solicited will be published in English and in French in the April issue of *Content*. They will be designed to arouse discussion on a multitude of matters facing journalists in the seventies.

It's probably needless to say that the subjects eligible for a conference such as this are countless. However, since a reason for organizing the meeting was to carry on the exercise started in part by Senator Davey, and since it was thought a touch of structure would be useful, several concerns have been isolated for stepping off into the broader areas.

Following are some themes and the names of those who so far have agreed to prepare so-called position papers. It is emphasized that the papers will serve merely as departure points for discussion; the workshops should be audience-participatory. Contributions will be accepted, of course, from any quarter, dealing with subjects you believe should be considered in Ottawa. If they arrive at *Content* by March 31 and if space and resources permit, they'll be published in the April issue. Otherwise, copies will be distributed at the conference.

Power and Ownership—St. Clair Balfour, president, Southam Press. *Fédération professionnelle des journalistes du Québec* (their documentation on the subject will be summarized).

Other Voices—Don Cameron and Bob Campbell, *The Mysterious East*, Fredericton. Dorothy Henault, National Film Board's Challenge for Change.

Media Performance—Eric Wells, former editor of the *Winnipeg Tribune*.

Journalistic Freedom—Claude Piché, vice-president, *Fédération professionnelle*

des journalistes du Québec. Robert Fulford, editor, *Saturday Night*.

Search for Standards—Stanley Burke, York University, formerly CBC-TV. Jean Sisto, editor, *Le Magazine Maclean*.

Further information can be obtained from: Media 71, 2082 Clark Street, Montreal 129, P.Q. Tel. (514) 845-1529, or from *Content*.

Members of the ad hoc steering committee for the May 1-2 journalists' conference in Ottawa include:

Susan Altschul, *Montreal Star*
Don Cameron, *The Mysterious East*,
Fredericton

Mario Cardinal, *Radio-Canada Montreal*
Doug Collins, *CBC Ottawa*

Gilles Couture, *CBC Montreal*

Peter Desbarats, *CBC Montreal*

Frank Drea, *Toronto Telegram*

Jean-V. Dufresne, *Radio-Canada Montreal*

Douglas Fisher, *Toronto Telegram* and *CJOH*
Ottawa

Beryl Fox, *Hobel-Leiterman Productions*
Toronto

Joan Fraser, *Financial Times of Canada*

PROGRAM

SATURDAY, MAY 1

10.15 a.m. Opening plenary session
Speakers: Senator Keith Davey; Beryl Fox, film producer; Gilles Gariépy, president, *Fédération professionnelle des journalistes du Québec*.

12.00 Lunch.

2.00 p.m. **Confronting today's media workshops:**
Power and Ownership—are review boards the right response?
Other voices—are development/aid funds the right response?
Media performance—did the Senate committee give the public a coherent and valid appraisal?

5.00 p.m. Adjournment until Sunday morning.

(NOTE: Workshops are to be audience-participatory, and position papers prepared for the conference are to be used as a basis for discussion only.)

SUNDAY, MAY 2

9.30 a.m. Plenary breakfast
Speakers: Claude Ryan, *Montreal Le Devoir*; Peter Gzowski, Toronto free-lance broadcaster and writer.

10.30 a.m. **Planning tomorrow's media workshops:**
Journalistic freedom, control and accessibility—are press councils and journalists' organizations the right response?
Search for journalistic standards—how, what, when, where, why.
Media upcoming—new directions, new techniques.

1.00 p.m. Lunch

2.30 p.m. Plenary session—reports from workshops. Discussion. Consideration of resolutions. *Senator Davey will be present.*

5.00 p.m. Adjournment and closing.

MEDIA 71

REGISTRATION INSCRIPTION

A CONFERENCE OF JOURNALISTS
UN COLLOQUE DE JOURNALISTES
OTTAWA
MAY 1-2 MAI

Name _____ Tel. Home _____
Nom _____ Tél. à domicile _____

Position/employer _____ Tel. Office _____
Poste/employeur _____ Tél. au bureau _____

Mailing address _____
Adresse _____

Registration fee: _____ Cheque _____ Cash _____ Money order _____
Cotisation: \$10.00 Chèque _____ Comptant _____ Mandat _____

— Please reserve hotel room for me (\$16.50-\$20 nightly):
Veuillez me réserver une chambre d'hôtel (\$16.50-\$20 par nuit) :

For nights of: _____ Pour les nuits du : _____
Fri. April 30 _____ Vendredi, 30 avril _____
Sat. May 1 _____ Samedi, 1er mai _____
Sun. May 2 _____ Dimanche, 2 mai _____

— Please arrange billeting if possible
Veuillez, si possible, me loger chez un particulier _____

— Will arrange own accommodation
Je ferai des démarches personnelles au sujet du logement _____

— Will need transportation subsidy
Je désire une aide financière défrayant le coût du transport _____

Make cheques and money orders payable to: Media 71
Etablir tout versement à l'ordre de : Média 71

Send registration form to: Media 71, 2082 Clark St., Montreal 129, Quebec
Retournez cette formule d'inscription à : Média 71, 2082, rue Clark, Montréal 129, P.Q.

Douglas Harkness, CJCH-TV Halifax
Mel Hinds, Regina *Leader-Post*
Jean Lebel, Radio-Canada Montreal
Claude Lemelin, Montreal *Le Devoir*
Angus Macdonald, Moncton *Times and Transcript*
Dick MacDonald, *Content*
Louis Martin, Université Laval
Catherine MacIver, CBC Montreal
Margaret Murray, Lillooet Bridge River *News*

Patrick Nagle, Vancouver *Sun*
Knowlton Nash, CBC
Peter Newman, *Maclean's Magazine*
Jean Paré, Radio-Canada, Montreal
Claude Piché, Radio-Canada Montreal
Michel Roy, *Le Devoir*
Robert Sarti, Vancouver *Sun*
Florien Sauvageau, Université Laval
T. J. Scanlon, Carleton University
E. U. Schrader, Ryerson Polytechnical Institute

Jean Sisto, *Le Magazine Maclean*
Dallas Smythe, University of Saskatchewan
Richard Spry, *Under Attack*
Pierre St. Germain, Montreal *La Presse*
Paul Taylor, Newsradio Ottawa
Albert Tremblay, *Le Magazine Maclean*
David Waters, Montreal *Star*
Eric Wells, Info Winnipeg
Anthony Westell, Toronto *Daily Star*

AH, FOR THE GOOD OLD DAYS OF NONSENSE

by CAMPBELL GEESLIN

"... I believe that every big city needs at least one irresponsible newspaper."—
Bob Eckhardt

Bob Eckhardt is a former Texas lawyer and political cartoonist who at present is a U.S. Representative in Washington.

And he's right, of course.

Newspapers, as they enter the 1970s, have become almost unbearable. The readers' big complaint is that "they" never print any good news. And that partly is the nature of the beast. Political pronouncements are doom-ridden. The catastrophe is newsworthy. The macabre murder is newsworthy. The violent demonstration is newsworthy. So most days a newspaper is a murderously violent catastrophe. And most days would seem far brighter if *The Daily Disaster* were skipped altogether. The only fun is the safely syndicated variety: Comics and Dears Abby and Art and Amy and Ann.

There have been marvelously lively newspapers in the past. They didn't ignore the terrible and search out the pretty and pleasant. They were human instruments, not institutions. And they were just as erratic as the human writers and editors who put them out.

In the 1970s, however, newspapers are something very different. Superficially, the last ten years have brought enormous improve-

ments. The New York *Herald Tribune* is dead, but its dedicated pursuit of a sensible organization of editorial material has caught on. The Knight newspapers in Miami, Detroit, and other cities provide papers that are a daily group of well-planned packages:

Section I: Hard news and editorials.

Section II: Women's news and features.

Section III: Sports and financial.

It's a logical pattern that former *Herald Trib* and Knight employees are spreading throughout the land. One former editor of the Detroit *Free Press* magazine supplement is now the editor of the Dayton (Ohio) *News*, and he has carried a penchant for sensible organization to Dayton with him. Al Newharth, president of the Gannett group of more than thirty newspapers, brought the formula when he left the Knight group, and he has added several refinements.

But while the organization of editorial material becomes more intelligent and the appearance more sophisticated, something far more important is dying out. Perhaps it's dead.

Back in the days when a bottle of cheap whiskey was in the desk drawer of the night city editor (to serve as a reward for a scoop, for wrapping up the top story, or perhaps for just turning an original phrase), editors took their disaster stories seriously and worked

around the clock to get them all in print. But they did not take themselves seriously. They did not think of themselves as people of power. They weren't paid very much money. They could be fired because of the whim of an advertiser or an offended friend of the publisher. Politicians never asked their advice.

But somehow, during the last few years, newspapers have become institutions. Newspapers are corporations, too. An established daily with a circulation of a quarter million will cost \$50 to \$90 million. The successful newspaper *TODAY*, started in Florida three years ago, took almost \$6 million before it began to operate in the black.

Tough times came in the 1950s when television began to get its hands into the advertising till, and the home screen began to woo away the newspapers' "mass" audience. How could we have known these troubles were only temporary? It looked for a few frightening years as if newspapers could join the passenger pigeon. Instead, only the weak vanished. And during the 60s, the survivors grew bigger, fatter and ever more profitable.

In the squeeze, however, some bright newspapers died. Perhaps they never were the best, but, curiously enough, it seems now in retrospect, that the papers we lost were the lively ones, the smaller, sickly ones in the cities—newspapers that had the most to gain if the

“ . . . form and content make the newspaper . .

The John A. MacLaren Awards for graphic excellence in daily newspapers will again this year be a feature of the Canadian Daily Newspaper Publishers Association annual meeting in Toronto.

In the eight years since the awards were instituted, 19 newspapers have been chosen to receive recognition for outstanding make-up and typographic layout.

Again this year, a panel of distinguished Canadians, assisted by technical advisors, has studied a wide range of entries in six categories for two groups of circulation—over and under 30,000. In addition to awards for overall excellence, best page awards are made for front, editorial, financial, sports and women's pages in both circulation groups.

In sponsoring this competition, MacLaren Advertising recognizes that form and content make the newspaper; of the two, content must always be the more significant.

However, the way in which the newspaper's content is presented clearly affects its readership, and intangibly, the level of taste in the community. It is to recognize such technical skill of high order that the John A. MacLaren Awards are bestowed each year.

Awards for 1970 will be presented at the CDNPA annual luncheon at the Royal York Hotel, Toronto, Thursday, April 29, 1971.

MacLaren
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editors pulled a crazy stunt that got them talked about. There was little to lose if they played the fool by chasing off after wild geese.

In Houston, Texas, while the Chamber of Commerce was yelling about its million citizens even before the 1960 census confirmed it, there were three newspapers. The *Chronicle* belonged to Jesse Jones, a key figure in F.D.R.'s administration, who also owned most of the real estate downtown. The *Post* belonged to Mr. Jones' good friends, former governor W.P. Hobby and Mrs. Hobby. The third newspaper—wild looking, skinny, irresponsible, and error-prone—was the *Press*, owned by the national Scripps-Howard chain.

The *Press* was staffed by totally uninhibited personalities who would build a wide following of Houston readers. This would cause the *Chronicle* or the *Post* to hire them away from the *Press*. Within days, the established columnist was no longer quite so uninhibited, and his following would slide away. The *Press* developed tough, hardbitten rewrite editors who could take ten words from a courthouse reporter at deadline and, on the way to the printer, spin them into a sensational yarn of unbelievable fascination and controversy.

The *Press* had one columnist who terrified the respectable by announcing that the Planned Parenthood Association (not as solid an institution in those days as it is today) would hold its monthly meeting at 9 P.M. in a department store parking lot. Or he might quote from the minutes of some public board meeting (an always shocking exposé of stupidity and greed). Or he could ask for members to join his Sam Bass Garden Club (Sam Bass, a notorious Texas outlaw, was the patron saint of these gardeners because they ranged out at night into neighbour's lawns

and public parks to steal trees and shrubs).

Carl Victor Little probably was as irresponsible a writer as ever was allowed to work for a newspaper. He did not take himself seriously. Not ever. He did not take his newspaper seriously—and neither did anyone else in Houston. . . .

Except it was always in the *Press* that the news of the latest outrage perpetrated by a political hack was exposed. Names were misspelled, facts garbled in irrational headlines that sold copies on the street corners, but there was enough there to send the more responsible *Post* and *Chronicle* to investigate and to do the story properly.

Naturally, when times got tough and Houston couldn't "support" three newspapers with three separate owners, it was the *Press* that disappeared. The *Chronicle* bought it, killed it, and the city has never been the same. And who, in his right mind, would spend the \$10 or \$12 million it would take to start another newspaper like the *Press*?

You'll look in vain in this country today for that kind of newspaper. The *Los Angeles Times* occasionally puts some shockingly sensational fragment on its front page in order to increase street sales, but the editions delivered at the million-plus homes are as staid as the *New York Times*. The *Los Angeles Times* has become a powerful, responsible force on the West Coast—and every editor and reporter who works for it is aware of it.

Is it wrong to be nostalgic for nonsense? To want a return to those days when a newspaper was allowed to splash its too human origins all over its pages, instead of unceasing corporate professionalism and polish? Did the fun go out of newspapers when people started referring to them as media and

to their editors and reporters as communicators? Did you ever hear a communicator snicker?

Today every editor of every small town weekly and major daily alike considers himself a guardian of the rights of the people—or some other such grand and tedious role. At least his newspapers read that way.

He's not nearly as interested in news any more as he is in the newspaper itself. He's not nearly as interested in finding fresh and fascinating stories with which to dazzle his readers as he is in "keeping the channels of communication open."

Newspapers and their editors are more responsible than ever before, but are they more responsive? Does it matter if we fail to read today's newspaper? Tomorrow's ever-more-efficiently-manufactured "product" will be much the same. The earthquake will be in Turkey instead of Peru. The bombing in Rochester instead of New York city. The scandal in the district attorney's office instead of the city council. Miss Sneed's engagement will be announced instead of Miss Glutz'.

The editors and reporters will package all this information with outstanding "professionalism" and concern for "the role of the newspaper in society today." Their efforts will be far better rewarded than ever before.

And the newspaper of the 70s is a successful product—as lifeless, inhuman, and ultimately irrelevant as a candy bar or a Cadillac.

Campbell Geeslin is editorial director of CCM Professional Magazines, a subsidiary of Crowell Collier and Macmillan Inc., of Greenwich, Conn.

BUSHNELL'S FADING DREAM: DID THE CRTC ERR?

by RICHARD SPRY

There is a story doing the rounds in Ottawa these days. Late one night Stuart Griffiths, president of Bushnell Communications, was found keeping lonely vigil in his silent office a few days before the bottom fell out of his plans to build a broadcasting empire which would have included many major outlets in Ontario and Quebec. In front of him stood a glass of red wine, casting a red glow of warmth across the empty desk top.

A few days later came the terse announcement that Bushnell had not managed to find the financing needed to buy the Thomson-Davies chain of stations stretching through Ontario. And then, at the end of February, a further communiqué, announcing that the bid for Canadian Marconi's broadcasting division (CFCF-TV, CFCF AM radio, CFQR-FM and CFCX shortwave) also had been dropped. Again, the reason given was that the company had been unable to find the means to finance the purchase.

So the first act of Stuart Griffiths' attempt to build a base for creative Canadian television and radio programming had come to an end. What in effect would have been Canada's fourth television network not only had aborted, but Bushnell had forfeited more than \$5 million in deposits and related costs for an expansion which never took place.

To many (and I freely admit to being one of them) this was a tragedy not only for Griffiths, one of the few broadcasters in this country who seems to be trying to produce valid programming, but for broadcasting in general. Not only will his creative and at times abrasive talents not be available to the Marconi and Thomson-Davies outlets, but the huge loss to the shareholders of Bushnell will not encourage them to try other similar schemes.

The Bushnell station in Ottawa (CJOH-TV, the capital's CTV affiliate) recently had its studio capacity greatly increased, and its administrative facilities have mushroomed. Today, much of this new space is empty, with some employees privately calling the Merivale Road complex "The Morgue".

The picture is gloomy. A company with total assets amounting to only \$4,458,000 in 1967, climbing to \$14,773,000 in 1969, has just lost \$5,188,000 overnight. If nothing else, this means that the shareholders have taken a beating, and morale hardly can be high.

But Bushnell has hopes for the future. Working capital is unaffected, as the loss has been covered out of the several million dollars Class "A" shareholders' equity placed privately in Winnipeg two years ago, and the expanded facilities now can be put

to use. Maybe Griffiths' optimism will win out, but in the short term it still is hard to believe that Bushnell will be the power it was to be in Canadian broadcasting.

How did Bushnell (called "a major broadcasting group" in Senator Keith Davey's report) come to this sorry state?

As yet, the dust from the collapse of the expansion plans has not entirely settled, but it seems likely that the CRTC made a grave mistake in assessing Bushnell's application for a licence to buy what would have been turned into an integrated cable, radio and television system.

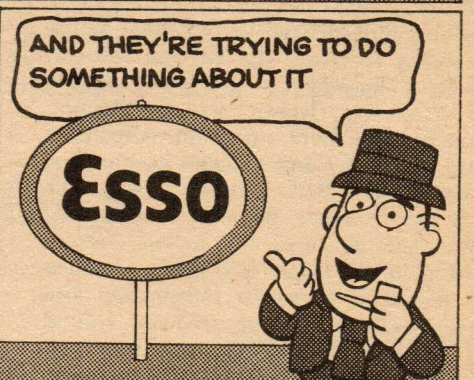
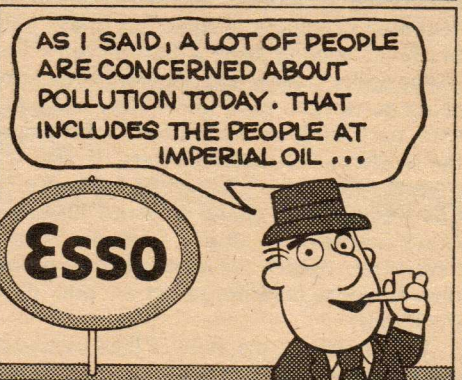
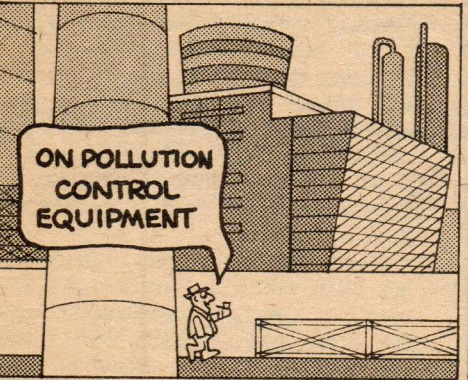
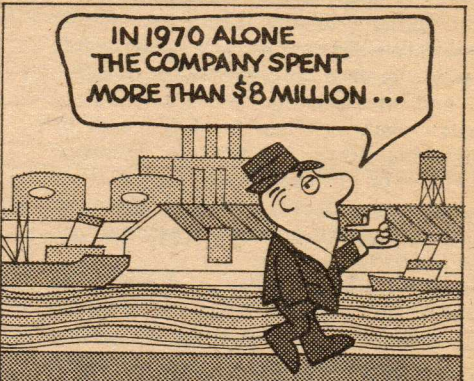
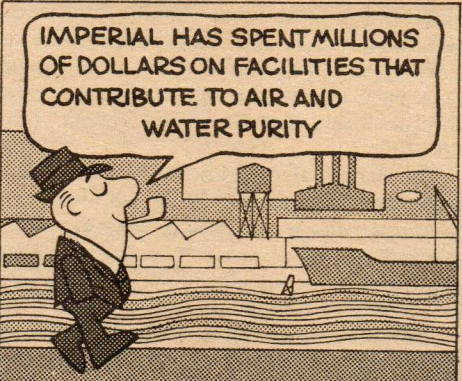
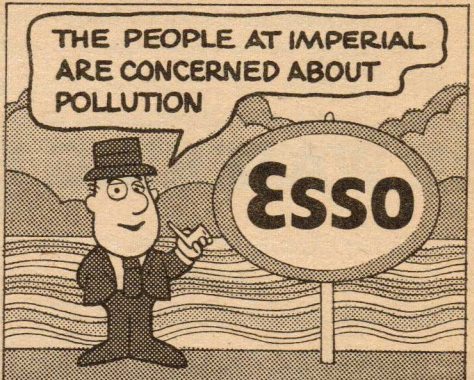
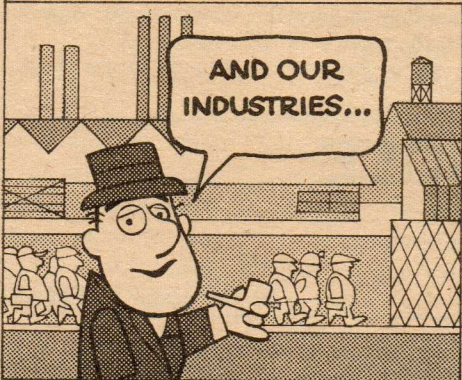
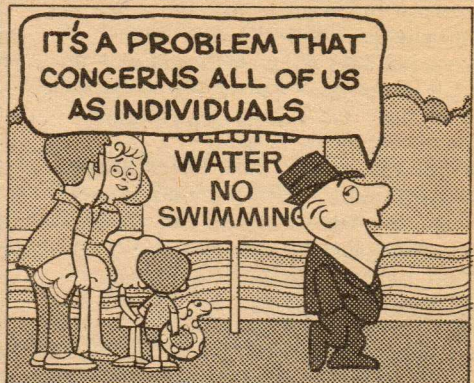
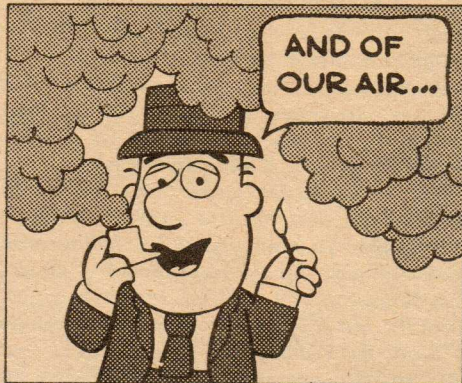
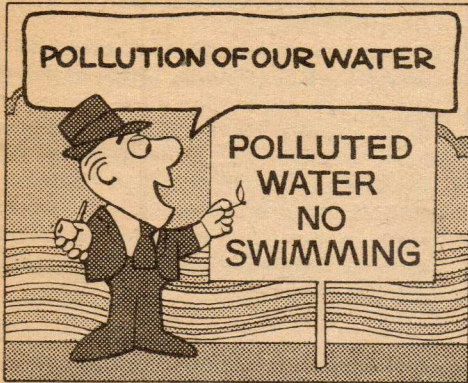
Bushnell originally intended to spend some \$80 million, half on the cable systems they wanted a licence for, and the other half on television and radio outlets.

With traditional broadcasters on radio and television fast losing their audience to cable systems, the idea of combining both the old and the new would have been very attractive to those with enough money to finance the acquisitions. However, the CRTC only licensed Bushnell to buy the traditional outlets, refusing them the cable systems. Without the latter, Bushnell faced an insurmountable problem in trying to find the \$40 million still needed.

Possibly the CRTC made the right decision in terms of the threat posed by Bushnell's

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potential concentration of ownership in the media. If so, then it is hard to see why they allowed the Montreal *Star* to buy a cable system in the city it serves; how they let Bushnell have large holdings in Ottawa's cable system; not to mention the fast-growing Maclean-Hunter concern...

Probably the commission did not foresee the full implications of the decision. Today, broadcasting is going through a period of rapid change, with the full impact of cable only just becoming clear, and it is up to the CRTC to be ahead of the game, or anyway to have the courage to delay decisions until the thinking is clear.

Bushnell was pushing hard for an answer to their applications and Marconi's licences were fast running out, with no renewal possible under the 80 per cent Canadian ownership rule passed by order-in-council. A delay would have been hard to hold to, although, in retrospect, it probably would have been the wise decision.

The irony of the situation is that the CRTC now seems to be favouring a policy of integration of cable and television systems. Its recent paper on "The integration of cable

television in the Canadian broadcasting system" makes several proposals which sound to many—including Bushnell!—to be very close to Stuart Griffiths' philosophy.

What will happen to Bushnell, Marconi and the Thomson-Davies chain now is open question. Traditional broadcasters face rising costs. Advertising revenues have ceilinged out and audiences are fast fragmenting because of the penetration of cable television, which now has reached 25 per cent of all TV-equipped homes in Ottawa.

Marconi has to sell soon, yet the CRTC will have to renew its licence for at least another 12 months, even though its stations are not 80 per cent Canadian owned.

The Thomson-Davies stations are not in the same position, but it is unlikely that they will be able to hold on, as Lord Thomson needs the cash for projects outside Canada. The Kingston TV station seems a viable property, but it is hard to treat Peterborough as more than marginal, which means that the Canadian managers must be looking for someone to buy the whole chain, and not just the more profitable outlets.

As for Bushnell, it intends to start selling

programs to U.S. networks and the Canadian market. Four game-show pilots have been completed; it is hoped they will be sold on the international market. And there is a Canadian drama series set in Montreal being developed. In the long-run, Griffiths still wants to acquire more cable systems, and maybe the CRTC's apparent change of heart will let him increase his holdings in this field, assuming, of course, that his shareholders will let him try...

In the words of Bushnell executive vice-president Roy Faibish, "the broadcasting industry is facing the most serious crisis in its history". Hopefully, the jumble of policies, departments and ideas which lead to Bushnell's problems will soon be sorted out, and Canada's broadcasters will be able to work in a simple and efficient integrated system, combining cable with traditional delivery methods.

Richard Spry, who lives in Montreal, is a free-lance television producer whose most recent activity was Under Attack.

THE WATERING HOLE

by ROBERT STEWART

The trail of memories is strewn with watering holes. I can never wander down it without falling into one. The Fiesta Room in Cornwall with its hallow-legged, under-aged iron maidens determined to conserve their—and consequently my—virginity. Fred Meilleur's place in Chapeau, P.Q., with its beer-drinking horse. Whitey's in Montreal and what—or I should say who—they gave away as a door prize. The Montreal Press Club and the homespun wisdom you hear at the bar.*

And many others... with all those watering holes on memory lane it's hard to choose one to linger by. I guess, on the basis of length of service to me and mine. I had better make it the old Belle Claire. It has now moved from its old stand across the parking lot from the Ottawa *Journal*, but it hasn't moved far: now it's across the street from the Ottawa *Journal*. Sammy Koffman is still there, no doubt, is his dual role of proprietor and resident raconteur.

I believe the Belle Claire bar was the second stop I made the day I arrived in Ottawa. The first was the *Journal*, where Art MacDonald, then city editor, handed me a bunch of street-car tickets and told me to use them to find my way around town. The idea of spending an afternoon on Ottawa street-cars didn't appeal to me, so I embarked there and then on a career of insubordination that was to become the bane of MacDonald's existence. I headed for the nearest bar. It must have been the Belle Claire.

It took MacDonald all of about a day and a half to get around to asking me if I liked fishing. Yes. Good. You'll have plenty of time for it. You're going on nights.

The night staff worked from seven in the evening to four in the morning with a lunch hour around midnight. "Lunch hour", as

every student of the language knows, is one of those figures of speech like "a drink" which is not to be taken literally. We would have a drink at the Belle Claire on our lunch hour—meaning that we would never have only one drink, we would never stay only an hour, and we would almost never have lunch.

The people at the *Journal* and the photographers at Dominion Wide who took the *Journal's* photos formed a strong cast of characters. There were two casts, really, another one on the day shift, and it was at the Belle Claire that the twain would meet.

I'm guilty of giving the impression so far that the Belle Claire was bar only. It was not! It was a complex in the manner of the Toronto Dominion Centre or Place Ville Marie. It encompassed a bar, a men's beer parlor and a "ladies' and escorts"—the latter being patronized by a lot of little old ladies who, according to the waiters, were among the world's great beer drinkers. It also was a hotel, which was the setting for many of the brief encounter—some so brief that you could not help but notice from the *Journal* newsroom (which overlooked the rooms) that someone had forgotten to pull down the blinds.

The rooms at the Belle Claire served as homes-away-from-home for *Journal* people who, for any one of a number of reasons, might need accommodation. One guy who had been on a binge woke up one morning, looked out the window at the *Journal* parking lot, and discovered that his car was gone and another was parked in its place. He checked the police and found that someone had ordered it towed away; whereupon he got a truck to tow away the one that had replaced it. It turned out to be The Boss's Car. I think the guy left town.

On any given evening there might be someone from the *Journal* in one of the hotel rooms, a few having quarts of ale in the beer parlor, and a few more in the bar up among the hard stuff. People had a

habit of drifting over to the place individually or in pairs. The process could denude the news room without anybody quite realizing it. I remember one evening when I had been concentrating on a story and something happened that required the presence of reporters. The old night editor, Chestor Frowde, came up and said: "Bobbie, could you go over to the Belle Claire and get the staff?"

There were many rare moments around the tables of the Belle Claire, but most of them have passed, mercifully, from memory. The one I'll never forget was a lunch we had after part of downtown Ottawa had blown up. It happened on a Saturday morning and we all had to work fast to make the edition. We did pretty well. Then the bunch of us had a long, boozy, laughing lunch with Sammy Koffman in the chair.

We told each other our funny stories about the crisis, like the one about the deaf old editorial writer who emerged from the ivory tower after the terrific blast and asked if somebody had dropped something. I don't recall everybody who was there—it seems to me Tim Burke, Harry Bruce and Bobbie Turcotte were—but anyway it was one of those days when you enjoy the real pleasures of newspaper work, sitting in the afterglow of the excitement, savoring the feeling of having been there and having done a good job.

Years later, when I was in the Parliamentary Press Gallery, I worked for an editor who was a nut on "contacts". I discovered that most of my contacts were habitués of the Belle Claire. The crowd had changed: most of the hangers-out there had become Important People. If people from the *Journal* were about, I wouldn't have known them. For me, the raffish atmosphere which once permeated the place had gone.

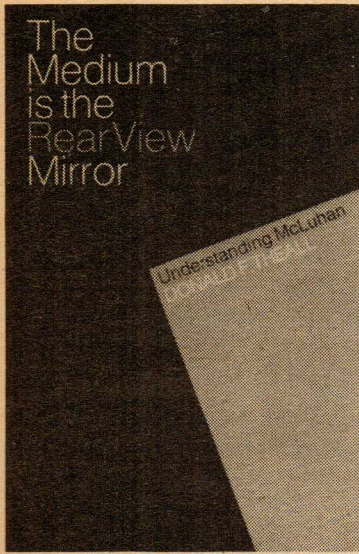
I met a friend from my *Journal* days not long ago who said much the same thing. The Belle Claire had grown boring to him. It wasn't the place that made it what it was, it was the confluence of a place, a time and a bunch of people. You can't go back to old watering holes again.

Robert Stewart, a Montreal free-lance writer, previously was managing editor of The Financial Times of Canada.

*E.g.: "Public relations is like pissing in a blue serge suit. It doesn't show much and it gives you that warm feeling."

TOO CLOSE FOR COMFORT

by RICHARD GWYN



THE MEDIUM IS THE REAR VIEW MIRROR.
Understanding McLuhan, by Donald F. Theall. Published by McGill-Queen's University Press. 261 pages. \$8.75

The best piece of graffiti I had ever seen, on the wall of the men's room at the Brattle Theatre in Cambridge, Mass., was "Eisenhower can't spell neo-classicism". The best, that is, until I came upon: "McLuhan Reads Books".

McLuhan, of course, said, or seemed to have said, that books were dead, the whalebone corsets of our all-at-once, tactile electronic age. But even if he did say it, did he, in fact, mean what he seemed to say? There's the rub: how to comprehend someone who doesn't make defined, concrete statements but instead paints multi-dimensional images—moving images that our linear, print-imprisoned whalebone corsets prevent us from running fast enough to keep up with, let alone to understand.

Donald Theall in *The Medium is the Rear-view Mirror*; *Understanding McLuhan* provides us with a clue. McLuhan, he reminds us, has described his own approach as that of making probes, not statements. His most famous probe is 'The Medium is the Message'. And Theall warns: "McLuhan, as medium, is the message that to read his message as message is a mistake."

By that one sentence, Theall gave me a whole new way of looking at, and therefore of understanding, McLuhan: an appreciation that, as much as uttering new, specific thoughts, he is trying to develop a new way of thinking that corresponds to our environment of total, and instant, communications. Theall says McLuhan "has created a new (art) form, or at least contributed to bringing a new form to fuller development"—the "essai concrète". He compares McLuhan

to the great 18th century essayist Joseph Addison of *The Spectator*, and says that where Addison developed an equitable prose that matched the uniformity of print, McLuhan "uses the tone of the headline and copywriter... (and) attempts to find a new form of expression which blends print with the new electric age techniques of expression."

Many of those techniques are not new, and this is McLuhan's fascination, and his strength. He is, of course, an outstanding English scholar, and learned his mastery of the art of communications, and of the use of puns, paradoxes, metaphors and aphorisms, from some of the richest sources in English literature—Pope and Eliot, Wyndham Lewis and, far above all these, James Joyce.

Theall, himself an English scholar of awesome erudition, is at his best at this type of textual criticism—even down to correcting one of McLuhan's quotes from Joyce (an "our" should have been a "his".) As a former colleague at the University of Toronto, he also knows McLuhan intimately. One instance of this insight is his observation that McLuhan, the Catholic convert, probably was led to denounce *The Pill* as "mechanical" and out of keeping with our organic, electronic age, less because such a categorization fits his theories than because it supports his religious beliefs. In an appendix, he describes some influences upon McLuhan in his early years at the University of Toronto: the school of English studies, including scholars such as Northrup Frye, Harold Innis, and Catholic St. Michael's College.

And yet this appendix, which could have been fitted into the text, is part of the trouble with this book. Theall, and one makes such a judgment about the chairman of the department of English at McGill University with some difficulty, isn't much of a writer. His sentences parse, but his chapters, and even paragraphs, are so disorganized that a reader is reduced to a state of exhausted incomprehension. I longed for topic sentences and the occasional generalization as guideposts to where Theall was trying to go.

The other part of the trouble is that Theall himself doesn't seem to have decided clearly where he wanted to go. In the introduction, Theall asks (himself? the reader?): "Why a book on McLuhan?" and provides, as his principal explanation: "Partly because his insights are by no means as startling as some may think."

That's a pretty tepid reason for writing a book on someone. It is also inaccurate: McLuhan's insights have startled an entire generation, and therefore are startling. They may not be original, which is perhaps what Theall meant to say. But then, if one wants to play that game of intellectual genealogy, no ideas are new. What is new is the way they are expressed, in the language of different times and of different cultures.

At times, Theall seems to be indulging in that universal academic vice, and peculiarly Canadian vice, of cutting down other academics, and all Canadians to size. Yet the magnitude of McLuhan's achievements are

undiminished. As a prophet he has been right more often than anyone should decently be.

Many of Theall's strictures are well aimed. As a pop prophet, McLuhan has been seduced into the media game of making comments on general political and social—as opposed to cultural—issues. Here his aphorisms, on Black Power, that "black is not a colour", and on slum clearance, that "It is only to a visually-specialized man that there is disorder in a slum", clearly indicate he is out of his depth. While Theall criticises, he also praises. McLuhan is a poet *manqué* and like all poets he must clown to attract an audience. And, as Theall comments: "The clown is the symbol of the humanist attacking power."

For students of English literature and for McLuhanites there is much in this book that will inform and fascinate. Taken as a whole, though, it misses. The reason, I would hazard, is that Theall, to pick up another of McLuhan's 'probes', is so much a part of the environment about which he is trying to write that he cannot, for lack of perspective, write about it clearly. A condition familiar to writers, and known as being too close to one's subject.

Richard Gwyn, currently director of socio-economic planning with the federal department of communications, is a former contributing editor of Time, CBC-TV host and member of the Parliamentary Press Gallery.

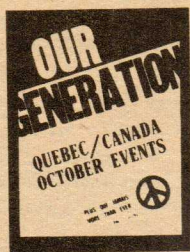
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THE INSTANT-BOOK SYNDROME: LITTLE HELP FOR HISTORIANS

by JEAN-PIERRE FOURNIER



FLQ 70: OFFENSIVE D'AUTOMNE
by Jean-Claude Trait. Published by
Les Editions de l'Homme. 230
pages. \$3.00

NO MANDATE BUT TERROR
The Story of Canada's Kidnapping
Crisis, by George Radwanski and
Kendal Windeyer. Published by Pocket
Books. 128 pages. \$1.25

TERROR IN QUEBEC
Case Studies of the FLQ, by Gustave
Morf. Published by Clarke, Irwin
and Co. 185 pages. \$2.50

OUR GENERATION Vol. 7, No. 3,
Oct.-Nov. 1970. \$1.50

I have but sympathy for future historians who will attempt to reconstruct the events of October, 1970, and measure their impact on Quebec society. They will have to go through a lot of reading, not all of it very helpful or very exciting. They will likely end up their head brimming with trifles, but knowing on the whole hardly more than when they began.

For many of the books now flooding the stands do not bother to explore the roots, the effects and the implications of the crisis. They are mere chronicles, hastily put together by journalists and publishers impatient to cash in on the returns of a sensational story.

Such are the first two of the four publications listed above. *FLQ 70: Offensive d'automne* and *No Mandate But Terror* both cover the period between October 5, when British diplomat James R. Cross was abducted from his home by the Liberation Cell, and December 28, when members of the Chénier Cell and alleged assassins of Labor Minister Pierre Laporte were arrested on a farm, near Montreal.

This is only one phase of the October Crisis. The second phase, inseparable from the first and no less essential for an understanding of the events, still is going on in court. To wait until it was all over before attempting a history of the crisis might have meant a substantial loss in sales, however.

None of our instant chroniclers were apparently willing to take such a risk.

Thus incomplete, their narratives have little documentary value beyond the news clippings they contain.

In this respect, Jean-Claude Trait's *FLQ 70* is far superior for it is much less pretentious. The author did not set out to prove his literary talent, but merely to write a chronology of the events as they unfolded day by day, hour by hour, almost minute by minute.

He certainly overdid it, devoting far too much space to trite, irrelevant happenings. Also, the texts he chose to reprint were not always the most significant: for instance, he preferred the gossipy news features of several of his colleagues to the collective statement issued October 14 by *Le Devoir's* Claude Ryan et al, or to lawyer Bernard Mergler's narrative of his brief meeting with Lanctôt and Carbonneau prior to the release of Cross.

Nevertheless, Trait produced a useful reference work. (Strangely, while Trait relied almost exclusively on news media as primary sources, he never once referred to any of the English-language media. For all their faults, the *Star* and the *Gazette* are professional newspapers and certainly as reliable as most of the French-language press. The fact that half the press of Montreal can afford to go about its daily work ignoring the other half is one of the oddities of the city, however.)

Whether Radwanski and Windeyer meant their book to be an informative account of the crisis or a blind justification of the federal government's actions cannot be determined with certainty. What *No Mandate But Terror* turned out to be, however, was clearly the latter.

In a preview of the book, published in another magazine, Nick auf der Maur said of Radwanski that he ambioned one day to be a Liberal Member of Parliament. If, after this book, he is not presented with a safe-seat nomination by the Trudeau government, it will have to go down in history as one of the dirty tricks of politics.

Every action of Prime Minister Trudeau down to the suppression of civil liberties is extolled as an act of courage, every official statement presented as Biblical truth. One must read up to page 124—almost to the back cover—to find the authors' first reservation about Trudeau's handling of the crisis. Then, it bears not on the War Measures Act itself, but on "the style" in which it was implemented.

They deplore the fact that "The Prime Minister gave only a terse explanation at first..." And they dare suggest that "Candor might have been more effective... The unknown is more fearsome than the known..."

Too bad Mr. Trudeau did not know at the time he could rely on such unquestioning supporters at the *Montreal Gazette*. He might have called on their services to produce justifications for the WMA. Radwanski/Windeyer certainly lack none.

In their defense of the action, they get so carried away that they even go one up on the government and claim that "the revolution was actually upon (Quebec)...", in October. Opponents of the government, timid as they may be, are slighted. "In fact," the authors suggest, "any opposition to the (WMA) was completely nonsensical."

For daring to raise his voice in the House, NDP chief Tommy Douglas is described as "the aging leader" and his whole political career is debased. Claude Ryan, editor of *Le Devoir*, gets an even worse treatment—no doubt because he represents a more formidable challenge to the government, in Quebec. After a swift character assassination (pages 94 and 95), the authors relate the mischievous rumor about an impending coup d'état in such a way as to leave serious doubt about Ryan's intentions.

Lawyer Robert Lemieux, of course, is ranked squarely among the terrorists—though he was still before the courts when the book was written and published. Much is made of his beer-drinking, his appearance, his costume, etc. In a few references, the authors—much to the Crown's discredit—managed to build more of a case against him than the government's \$300-a-day satraps.

Gustave Morf provides interesting insight on some of the leading personalities of the FLQ and the FLQ organization itself. His book is, at best, a successful college essay—not the treatise its subtitle suggests. In it, we learn about the troubled personal background of Georges Schoeters, whom he describes as "the father of the FLQ", François Schirm and Pierre Vallières.

All of it makes recommended reading for Prime Minister Trudeau, Justice Minister Choquette et al. Dr. Morf's approach to the problem of violence in our society is certainly more human, more understanding than theirs has been up to now. It also promises richer rewards.

By far the best, most instructive reading of the entire recent crop on the October Crisis is to be found in the last issue of the independent radical quarterly *Our Generation*.

Beyond a remarkable, unsigned editorial, more than half the 165-page issue is devoted to the crisis and its aftermath. Each article would warrant a long review since each discusses one aspect of the situation. I will be content with singling out one especially enlightening article in which one of the editors, Fred Caloren, carefully dissecting the famous Functional Politics Manifesto of 1964, shows how little contradiction there is between Trudeau, the abolitionist of civil liberties, and Trudeau, the civil libertarian of yesteryear.

Jean-Pierre Fournier, whose career has included Le Devoir, the Montreal Star and Radio-Canada, is a free-lance writer in Montreal.

LETTERS

MORE THAN THE BASICS

I have been following all issues of *Content* with great interest, but I am concerned about the opinions expressed by some of your contributors that the American Newspaper Guild concerns itself only with bread and butter or "lunch pail" issues as the Davey Report put it.

Certainly, in the past, wages and working conditions were of prime importance, but today the Guild is taking a new look at itself and the people it represents. Last year, the international held a series of week-end workshops at the district council level—one was hosted by the Ottawa Guild—dealing with these new trends.

At the annual convention last July, concerned Guild members spoke about and voted for clauses that now are included in our collective bargaining program regarding standards of journalism, ethics, say in the product, on-the-job training, upgrading of staff through outside educational programs and the like.

A conference was held in November in Chicago, dealing with the subject of women's rights. The Guild can take credit as being the first, and only, trade union to date to concern itself with this subject. "Lunch pail" issues were not the only subjects discussed at this conference. A broad spectrum of topics, including the treatment of women by the media—in the news pages, in television commercials, and magazine advertising—was covered.

We are concerned about the fact members of minority groups have difficulty getting employment in the media, and again the Guild is showing leadership by holding a conference on minority groups in New York this month. As with the women's rights conference, attention will be focussed on this other form of discrimination, and it is hoped that those participating will go back to their own locals and tackle the problem at the local level.

Many locals have established committees to deal with questions raised by the Davey Report—ethics, journalistic standards, say in the product etc. Unfortunately, it appears that more U.S. locals are taking an interest in these subjects than are Canadian ones.

However, such a committee has been established by the Ottawa Guild, and it eventually will be making recommendations that we hope can be discussed with management in a reasonable and sensible way. Ottawa Guild members have taken a keen interest in the quality of the product they work for—i.e. the Ottawa *Citizen*. Guild mimeographing facilities were provided for the printing of the 12 position papers presented by staffers at our internal workshop held in January.

In addition, the Guild provides the facilities

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and the money for the publication of the *third edition*, the internal news-sheet at the *Citizen*. The sheet's content is left entirely to its editors. The Guild executive has not and will not interfere with its operation. It is our policy to assist our members whenever possible in ventures such as this as we feel this is what a union is all about. If the Vancouver Guild did not take the same attitude towards the internal publication at the *Sun*, and this was certainly implied in the story written about *SunShiners*, we are sorry to hear it.

Ideally, a union should reflect the interests of its members, and that is what we are trying to do in Ottawa. However, membership interest is the impetus needed to often push what might be a sluggish executive into action. Certainly there is no question of lack of support from the international in any of these areas; it's a question of deciding what direction you want to take at the local level.

Ottawa has a small local—less than 200 members—but we consider ourselves to be one of the most progressive within the Guild. We are fortunate to have a membership that focuses on other than "lunch pail" issues, and it is our intention to continue to do just that!

The Guild is interested in professionalism, and for anyone to suggest otherwise indicates an ignorance of the facts.

Eleanor Dunn
President, Local 205, Ottawa
American Newspaper Guild

(Our editorial schedule, incidentally, includes a major article on the activities and objectives of the Guild in Canada. Ed.)

CHECK THE DOORSTEP

I yield to no one in my affection and long-time fellow feeling for Nat Hentoff (like him, I got my first and best schooling from jazz), but I felt your interview with him (February) was an example of an unfortunate tendency, in the first few issues, to be somehow outside the main or the most interesting problems of Canadian journalism. I think there are pressing questions inside our own country's journalism that can usefully be explored.

Some that occur to me: What, as of now, does Claude Ryan think about the story Peter Newman wrote about the "plot" to take over the Quebec government, surely the big story of Canadian working journalism in 1970, a story still not fully explored by *Content* or anyone else. (Incidentally, I met two MPs this week who still believe that story.) What, for that matter, does Newman now think?

Getting outside recent politics and into more general professional questions, how did Allan Fotheringham turn into one of the two or three best columnists in Canada? What does Doris Anderson, long-established feminist, think about the new feminism, and how does she justify *Chatelaine* in 1971 terms? What exactly has Dennis Harvey done that makes the *Gazette* suddenly readable? Is it true, as all my contacts insist, that CBC executives live in desperate fear of Patrick Scott and actually admit to each other they're rejecting certain ideas because "Scott would kill us"?

More broadly, what are twenty-three-year-old reporters in places such as Guelph or Sherbrooke actually thinking about these days—I mean, are they planning a revolution or are they, as in the old days, just taking orders and hoping to escape to something bigger? How come the *Sun* tolerates an environmentalist-hippie-dope-freak columnist in Bob Hunter when no other paper does?

I think *Content* should publish who-actually-runs-things stories, a lot of them. Who, for instance, makes all those decisions at Southams—decides, say, which reporter gets to be Ottawa bureau chief? Who decides news plays at the *Globe*, thereby profoundly affecting CP, CBC, most of the other papers in the country and even Question Period in the House? (I think

it's a man named Al Dawson.) Who is that guy Malone who runs all of F-P, or seems to?

Dammit, I want to know, and I want *Content* to tell me. I can get, from American sources, all I need about what Nat Hentoff thinks about the effect of his material in *Playboy*.

Robert Fulford
Editor
Saturday Night
Toronto

(Without arguing the merits of carrying material dealing with journalism outside Canada, we fully subscribe to the suggestion of looking around ourselves at home. We trust we're working in the right direction. Ed.)

JOURNALIST

A one-year appointment, July, 1971—June 30, 1972 to teach reporting and newswriting courses. Applicants should have a B.A. and at least five years news experience.

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RYERSON JOURNALISM GRADUATES

Forty reporters, copy editors, reporter-photographers and layout editors available last week in April. They are now completing a three-year course in liberal arts and journalism at RYERSON POLYTECHNICAL INSTITUTE.

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Write Dick Lunn, Vice-Chairman, Journalism Department, Ryerson Polytechnical Institute, 50 Gould Street, Toronto 2, Ontario. Telephone (416) 595-5179.

MISCELLANY

Why should yesterday's newspaper be used for wrapping up the fish? Why not reuse the paper, recycle it as the ecologists say? The Toronto *Telegram* plans to do precisely that, as part of a pollution control program. Initially, the supply of old papers collected in what amounts to a pilot project will go into the production of paper board and corrugated boxes. Over the years, however, the *Telegram* hopes its efforts will stimulate the development of Canadian plants to produce fresh newsprint from old newspapers. The program was conceived as a step forward in the battle against the disposal of solid garbage and as a means of preserving softwood trees. Recycling paper is economically practical. There is little waste involved in converting a ton of outdated newspapers into a ton of paper box. Conversion of newspapers into newsprint for tomorrow's editions is not considered practical at this time, the *Telegram* said in its announcement, "but the challenge of protecting the environment, conserving Canadian resources and combatting the problems of waste disposal make a start imperative." A youth group is collecting old papers and will receive the full price paid for the paper. A secondary-fibre firm in Toronto takes over from there.

French-language regional awards of the Radio-Television News Directors Association of Canada were granted this month, announced by Don Johnston of CHML, Hamilton. The Charlie Edwards Award for enterprise and thoroughness in spot news reporting on radio went to CKAC in Montreal for its story on the discovery of the body of Quebec labor minister Pierre Laporte and for the live broadcasts which followed. CKAC news director is Pierre Robert. The award is named for Charlie Edwards, general manager of Broadcast News, the Canadian Press agency. The Dan McArthur Award for radio documentary or news special on radio was won by CKVL of Verdun for its news specials on the life and death of Charles de Gaulle. News director at CKVL is Marcel Beauregard. The award is named for the late Dan McArthur, first chief news editor of the CBC.

Communications are improving in the Northwest Territories: two newsletters have started publishing. Wrote the *News of the North*, Yellowknife's twice-weekly newspaper: "One, the *Honeybucket*, might be described as Yellowknife's *Georgia Straight*." It contains poetry and articles with an anti-establishment point of view. "No doubt it will make some people mad, but it may also provoke others to think. In our opinion, any communication is better than none." The second new journal is the *Northern Unionist*, published by the Northwest Territories area council of the United Steelworkers of America. It will provide a voice for labour and encourage the membership to stand together in political issues.

More people than ever before are writing letters to the editors of newspapers to express opinions and many papers are expanding their pages to handle the flow. A cross-Canada survey by the Canadian Press showed that all editors watch closely for libelous matter or profanity. If any topic is banned from the letters columns, it is religion; most editors apparently dislike getting involved in theological controversy. Most editors insist that signatures be published, although they will withhold a name if, on checking with the writer, it is determined that publication would cause such hardship as loss of employment. If there is a social trend evident in the letter flow, the survey showed, it would be free expression on abortion, a subject rarely brought up until recent years, or on drug use.

Bringing public officials to heel could be the lesson from Robstown, Texas. After city council ejected *Record* managing editor Sam Keach from a closed session, the paper ran an editorial and a news story explaining the Texas open-meeting law. It also ran a page-one news item which began, "City fathers Monday..." and ended, "...the meeting was adjourned." There was nothing but blank space between the phrases. The nearby Corpus Christi *Call-Times* reprinted Keach's "story." There have been no closed city councils in Robstown since.

Limited copies of back issues of *Content* (except Vol. 1, No. 1) are available at 50 cents each. See masthead for mailing address.

INVOICE TIME

Everyone on *Content's* circulation list is receiving this issue, No. 5, as usual (assuming our mailing house gremlins do their job properly). However, this month we're also sending, under separate cover, subscription invoices to the non-journalists who haven't yet responded to requests for payment. Economics being what they are, we'd appreciate receiving the \$5 cheque or money order (for 12 issues, effective March) rather soon.

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for Canadian Journalists
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PEOPLE:

Jim Blackwell, a reporter with the *Times-Journal*, is the 1971 president of the Thunder Bay Press Club. At its annual meeting, the club voted unanimously to admit women journalists as members... a woman is the new president of the Kitchener-Waterloo Press Club. Frances L. Denny, women's editor of the *Record*, is one of the few women to be elected president of a mixed membership press club in Canada... 1971 president of the Parliamentary Press Gallery in Ottawa is Pierre O'Neil of Montreal's *La Presse*, succeeding Fraser MacDougall of the Canadian Press... Burton Richardson, a former editor of the Toronto *Telegram*, has started work on his new job as literary executor for former prime minister John Diefenbaker. He says he is nagging The Chief to complete his memoirs, which he started to write in 1965. The original manuscripts will be deposited with the University of Saskatchewan... Pierre Dansereau, president of *La Presse*, has been named to a new position of president and publisher of the daily... E.U. (Ted) Schrader, a frequent contributor to *Content*, retired from the chairmanship of the journalism department of Ryerson Polytechnical Institute for health reasons. He planned to continue teaching, but a crimp in his style occurred recently when he suffered a third heart attack. He's recuperating... the publisher of two French-language morning tabloids in Quebec says he will start a similar daily in Ottawa in September. Pierre Peladeau, of *Le Journal de Montreal* and *Le Journal de Quebec*, will call the new paper *Le Journal de Hull-Ottawa*. With emphasis on sport and local news, the paper will begin with a circulation of 15,000 to 20,000... William E. Austin has been appointed director of public relations of General Motors of Canada Limited in a realignment of the responsibilities of the departments of public relations and public affairs. Named director of public affairs is R. L. Gough... John Lynn has been appointed education writer for the B.C. School Trustees Association. He previously worked with the South Vancouver *Sunday Herald* and the Calgary *Herald*... new sports director of CKPM in Ottawa is Andy Shaw, whose athletic background includes Queen's University's Golden Gales and the capital city's Rough Riders... C. B. (Charlie) Edwards, who retires in August as general manager of Broadcast News, this month received the National Press Club's annual award for distinguished service to journalism. A Winnipeg native who was educated in Regina and Moose Jaw, Mr. Edwards has headed Broadcast News, subsidiary of The Canadian Press, since it was created in 1953. Prior to that, he was with the Winnipeg *Free Press*, Canadian National Railways, Winnipeg Sports Enterprises, CP, and Press News Limited. The National Press Club award, latest in a series of recent honors for the father of BN, was bestowed at the club's Date-line Ball in Ottawa.

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