



'Canadian Artists on the S of A'

Report on the National Policy Conference
From Act To Action: Moving Forward On Status Of The Artist
Held by the Canadian Conference of the Arts
Regina, Saskatchewan, 19 and 20 November 2004.

Canadian Conference of the Arts
804 -130 Albert Street
Ottawa, Ontario
K1P 5G4
Tel: 613-238-3561
Fax: 613-238-4849
Email: info@ccarts.ca
Web: www.ccarts.ca



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INTRODUCTION

In mid-November 2004, 137 members of the cultural sector gathered at the CCA's national policy conference, held at the MacKenzie Art Gallery in Regina, to discuss issues relating to Status of the Artist (SofA). CCA worked in close collaboration with a local organization, the Saskatchewan Arts Alliance (SAA), through the planning and organizing stages, and in developing the content for the conference.

The conference objectives were threefold:

- To discuss how the existing federal legislation on SofA could be improved
- To examine the need for a national council on Status of the Artist and how it could be reinstated
- To act as a catalyst for provincial development of SofA outside Quebec

In preparation for the conference, CCA compiled a comprehensive conference book containing considerable background material on the issue. This material included:

- *Setting the Stage*: a chronological listing of actions on the issue, from 1941 to the present (including actions by other countries, Canadian federal and provincial governments, and the CCA).
- A summary of the Status of the Artist Act (1992); a complete text was also included in the conference kits.
- Reviews of the Act, both official (Prairie Research Associates) and unofficial (article by Danielle Cliche).
- An overview of SofA legislation in the international arena.

In addition, the conference book provided background documents for each of the four scheduled workshops.

The general structure of the conference was designed to permit a series of three “conversations”, moderated discussions between artists and producers from a broad cross-section of the cultural sector on a variety of topics.

Following the tradition of recent CCA conferences (Edmonton in 2002, Halifax in 2003), and in keeping with CCA's core mandate, the Regina conference had a strong artistic component. This was organized through the offices of SAA, with the support of the City of Regina (as a 2004 Canadian Cultural Capital), and profiled local artists in a number of disciplines.



FROM ACT ...

The conference opened with welcoming remarks by the new National Director of the Canadian Conference of the Arts, **Jean Malavoy**; **Denise Roy**, CCA's President; and **Skip Kutz**, President of the Saskatchewan Arts Alliance.

"Be More Militant"

A short video interview between **Joyce Zemans**, (Professor in Cultural Policy at York University, Toronto, and a CCA Life Member) and **Paul Siren**, former General Secretary of ACTRA, and a CCA Life Member - and affectionately known within the cultural sector as the "godfather" of Status of the Artist in Canada - was shown to the delegates. In addition to describing the debate on SofA in the early days, Mr Siren provided words of greeting for delegates, and urged them to "be more militant" on the issue of Status of the Artist.

New Partnership

Vladimir Skok, Director of the Canadian Cultural Observatory at the Department of Canadian Heritage (DCH), announced a new partnership with CCA, through Culture.ca and Culturescope; the exact details are still to be worked out with CCA. The video-taped interview with Mr Siren was supported through funding from the Cultural Observatory. In addition, Culturescope was providing delegates with a "business Centre" throughout the conference.

Amendments to the Act

Cynthia White-Thornley (Director General, Strategic Arts Policy, Department of Canadian Heritage) spoke briefly about the Status of the Artist Act, from its proclamation into law in 1992 to its recent evaluation (2002). She congratulated the Canadian Artists' and Producers' Professional Relations Tribunal (CAPPRT or The Tribunal), one of the organizations mandated under the Act, on its 10th anniversary.

Ms White-Thornley stated that she was hopeful amendments to the Status of the Artist Act might be legislated in 2005, but that renewal of the Tomorrow Starts Today funding was the Department's first and most immediate priority. She cautioned that some of the amendments which members of the cultural sector would like to see introduced (such as tax reforms), would be difficult as they involved influencing policy in another department or agency.

Two studies were undertaken by DCH: an examination of an income tax exemption on copyright income, and a study of fiscal measures for artists currently in use by other countries around the world. (These studies should be available on the Department's



website later in the summer of 2005.) Ms White-Thornley also mentioned that the Minister of Canadian Heritage, Liza Frulla, was interested in developing a federal cultural policy, something she did in the Province of Quebec while she was minister of culture at the provincial level.

Fiscal measures not addressed in Act

Unfortunately, a flight cancellation prevented guest speaker, **Albert Millaire**, from attending the conference in person. A revered performer and tireless supporter of artists' rights, Mr Millaire had been the first President of the Canadian Advisory Council on the Status of the Artist from 1991 to 1995. This Council, established originally to assist the Minister of Canadian Heritage, to defend and promote the professional status of artists in Canada, and to propose measures to improve this status, has been defunct since 1996.

In his absence, the text of his speech was read by Jean Malavoy (in French) and CCA Board member Patrick Close (in English). The complete text is attached hereto (Appendix A). Some of his comments included:

- His disappointment that Canadian artists and cultural workers were gathering yet again to discuss the issue of Status of the Artist and, more specifically, the reinstatement of a Council on SofA; he had hoped this issue might have been resolved before now.
- The serious omissions (lack of fiscal measures) in the existing federal SofA legislation.
- The increasing sense of futility all members of the original Council on SofA felt regarding their mandate, and the “indifference” from the powers-that-be which “swamped the whole enterprise”.

CAPPRT “acts up”

In an unconventional presentation, Executive Director and General Counsel of CAPPRT, **Josée Dubois**, and CAPPRT board member, theatre director, teacher and translator, **John Van Burek**, put on a skit to demonstrate – in plain language and in an amusing fashion - the advantages of collective bargaining, how this is now entrenched in SofA legislation, and the benefits for artists and producers.

If there was one question above all that we had to deal with, it was the one that so revolted the artistic community of Canada, the one that, with each annual income tax return, bitterly reminded us that we may now have legal recognition in this confederation, but we still suffer injustice at the hands of the tax department. I am referring to income averaging.”

Albert Millaire, from his speech to the Regina Conference



CONVERSATION I

“When I hear politicians and bureaucrats paying lip-service to the value of the arts, I can’t escape the grudging little thought that, while they value the product of what I do, they don’t value me.”

Dave Margoshes, Writer

This was moderated by **Susan Wallace**, Executive Director of Canadian Actors Equity Association, and focussed on the effects of federal and/or provincial Status of the Artist legislation on artists’ lives, and on the operations of arts organizations, and what sort of amendments could be made to the legislation to improve artists’ working lives. The panellists were **Bastien Gilbert**, Executive Director of the Regroupement des centres d’artistes autogérés du Québec (RCAAQ); **Dave Margoshes**, a Saskatchewan writer, poet, journalist and teacher; **Bill Skolnik**, musician and head of the Toronto Local of the American Federation of Musicians (AFofM); and **Lucy White**, Executive Director of the Professional Association of Canadian Theatres (PACT).

Discussion by this panel included:

- The benefits of collective bargaining which have accrued to those organizations certified by The Tribunal since legislation was introduced.
- The seeming lack of commitment by the Department of Canadian Heritage to its own legislation.
- The need for the federal government to provide a greater safety net including measures such as a tax exemption on copyright income, and income averaging.
- Access to benefits (such as EI, Workers’ Compensation, CPP, long-term disability insurance) for self-employed individuals.
- Concern at many levels that the development of provincial legislation will cause problems, including
 - Additional costs for artists’ associations and producers.
 - Difficulty in negotiating agreements at a national level which will be acceptable provincially.
 - The right of artists to self-employment as defined in federal law might not be upheld at the provincial level through the application of provincial labour statutes.
- As federal SofA covers only a very limited number of artists (those engaged by national institutions such as the national museums, the National Arts Centre, etc), it is essential for provinces to develop their own legislation to cover all artists’ rights.
- The need for departments of labour to become more involved in SofA issues.



In addition, Bastien Gilbert outlined the development of provincial SofA legislation in Quebec: the adoption in 1987 and 1988 of two Acts governing the professional status of artists, the 1992 Cultural Policy, and amendments in 1997 to the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*.

He also mentioned the recently released document - Living Better from Art - which provides an action plan of 12 measures to enhance the socioeconomic conditions of artists in Quebec. The complete text is available at www.ccarts.ca. This document recommends the establishment of a consultative committee to examine how the legislation will work, together with a permanent secretariat dealing with artists' socioeconomic interests.

Panellists were in agreement that much more needed to be done to improve the socioeconomic status of artists in Canada.

“The performing arts, theatre in particular, has developed in isolation from standard labour management practices.... Rather like the Galapagos Islands, theatre has developed its own unique ecology. We have evolved our own unique ways of working together which often fall outside the traditional labour/ management model.”

Lucy White, Executive Director of PACT

CONVERSATION II

Moderator **Patrick Close**, (Executive Director of CARFAC Saskatchewan and a CCA Board member) stated that, in addition to panellists' experiences of provincial commissions or councils on Status of the Artist, or involvement in the previous federal council, discussion would focus on how such a federal council could best be constituted.

Panellists were: **Michel Beauchemin**, Secretary to the Association québécoise des auteurs dramatiques and co-Chair of the Creators' Rights Alliance; **Arlette Cousture**, well-known Quebec author, journalist and broadcaster, and an original member of the Canadian Council on Status of the Artist; **Robert Dickson**, writer/poet, professor at Laurentian University, and a member of the Ontario Advisory Panel on Status of the Artist; and **Brenda Niskala**, writer, Executive Director of the Saskatchewan Publishers Group, and a member of the Saskatchewan Minister's Advisory Committee on the Status of the Artist (MACSA).

What are the requirements for a renewed council?

- It must realistically reflect the **needs of artists** in the cultural sector.
- It must achieve buy in from **all** artists' associations and labour groups.
- There must be **political will** in government for it to be established.
- There must be **transparency** in its recommendations, otherwise there is no political pressure to act upon them.
- It is essential there be a **dedicated, fully-funded, secretariat** to support the workings of such a council.
- The council must exist to **improve the lives of artists**, not just to provide work for bureaucrats.
- There needs to be ongoing **communication** between the sector and the council.

What should be its mandate?

Needs a specific, clear mandate to ensure its ongoing relevance.

- To act as a **liaison** between SofA legislation at the federal and at the provincial levels.
- To **advocate** at the government level for artists' interests.
- To actively solicit the opinions of a very broad spectrum of artists, and build strength through **consensus**.
- To act as the "work horse" to take recommendations forward, and to help **develop strategies** to achieve the recommendations.
- To **educate**.

A council must be about more than just legislation; it must also include discussion around programmes and policies.



Who should sit on it?

Arguments in support of artists only:

- The key mandate must be that it is of service to artists, nationally and provincially.
- Decisions will become watered-down compromises rather than true recommendations from artists if the composition includes bureaucrats and producers.
- Bureaucrats tend to take over when serving on joint committees.

Arguments in support of a broad representation:

- Representatives of artists' associations should be at the table. Artists are not lawyers, accountants or politicians – they hire this expertise when required. Their
- membership in professional associations and labour groups is an indication of their support for that group acting on their behalf.
- Need to achieve a balance between cultural bureaucrats, representatives of associations, and professional working artists.
- It should be a collaborative process and many engagers are also artists.
- Artists need to be seen as integral to society, rather than peripheral to it.

Other questions/issues:

- Will it have decision-making powers or only provide advice?
- There must be ongoing support for minority-language artists and culture.
- Does it require two separate, consecutive, councils: one to develop the required legislative package, and the other to represent artists after legislation has been passed?
- What is the accountability and transparency of artists' advisory committees
- Important that SofA isn't simply associated with collective bargaining rights.

Joysanne Sidimus, former principal dancer with the National Ballet of Canada, and founder and Executive Director of the Dancer Transition Resource Centre, provided three concrete examples of the benefits of artists' groups working closely with corporate representatives, bureaucrats, and the general public:

- The Dancer Transition Resource Centre was formed 20 years ago to respond to the urgent need to help dancers make the necessary transitions into, within, and from professional performing careers.
- The Artists' Health Centre at Toronto Western Hospital was established when a group of artists brought in doctors, alternative care practitioners, bureaucrats and corporate people, to develop a health centre specifically to address the needs of artists.
- DTRC is now working on a project for senior artists' together with The Writers Union of Canada, to address the needs of artists over 65. The panel working on this project consists of artists as well as others in the community.

FAIR TAX TREATMENT FOR ARTISTS

Consultant **Garry Neil** outlined a campaign to be launched by CCA in an attempt to resolve two of the problems which professional artists, and the organizations which engage their services, experience with Canada's tax system. He pointed out that the original UNESCO recommendation included a very broad range of measures designed to improve the economic and social status of artists. Despite ten years of federal legislation in Canada, the economic circumstances of individual artists have not improved. The average earnings of all artists in Canada is \$23,500, 26% lower than the average earnings of the labour force as a whole.

The acceptance of self-employed status by the Canada Revenue Agency (CRA and its predecessors) has eroded over a number of years. Increasingly CRA finds that, in its view, independent contractors in the cultural sector are employees. This finding results in

- Inability to deduct legitimate business expenses against earned income.
- Risk for ownership of copyright (first copyright of work created in an employee relationship belongs to the employer rather than the artist).
- Increased costs to companies and organizations which engage the services of individual artists as they are required to pay additional premiums and risk being assessed back deductions and contributions.

Why is CCA launching this campaign now?

- A meeting in Toronto on 3 November, attended by associations representing both artists and producers/engagers, decided that action was needed on the presumption of self-employed status, and on a community-agreed test of professionalism.
- There appears to be an understanding and political will at the ministerial level (Liza Frulla, John McCallum, Ralph Goodale).
- The current minority government situation gives more power to opposition parties, at least two of which appear favourably disposed to improving fiscal measures for artists.

Objectives of the campaign:

- To ensure that
 1. all professional artists will be presumed to be self-employed for purposes of their artistic work, and
 2. the organizations which engage them will be free to negotiate a contract of service (employer/employee relationship) if they explicitly agree
- To have a community-agreed test of "professionalism" replace the "reasonable expectation of profit" test now in use.



What are the next steps?

- Conference delegates were urged to sign on to the Regina Manifesto (as the fair tax treatment campaign is known). (A copy is attached hereto as Appendix B.)
- It is imperative to take this issue to the Department of Finance, as CRA is merely interpreting the laws as they exist and has no authority to change policy.
- CCA must seek an advocate within the Department of Canadian Heritage to assist with moving this issue forward to Finance.

To illustrate the dire straits some organizations and individuals find themselves in, Susan Wallace and Lucy White outlined the recent situation of Magnus Theatre in Thunder Bay, Ontario:

- A member of Equity was in need of financial assistance but knew that, as an independent contractor, he didn't qualify for EI. He approached the Ontario government for welfare.
- Welfare requires that an individual explore every possible avenue of financial support, including EI, before assistance can be granted.
- The EI officer examined his work record, which included several periods when the individual worked as an employee on film crews, and stated the EI office would ask for a ruling.
- The rulings from the Toronto and Stratford offices stated categorically that he had been an independent contractor; however, the Thunder Bay office felt he had been an employee while engaged at Magnus Theatre.
- Magnus Theatre was faced with a payroll audit. As the same time, the EI office decided every other independent contractor who had worked for the theatre for the past 3 years must also be employees (over 50 people in all, including freelance designers, playwrights, and teachers).
- Magnus Theatre appealed the ruling, and lost.
- Fifty percent of its board of directors resigned, fearing they would be liable for costs; this resulted in no quorum at meetings and an inability to make decisions or move forward.
- The other independent contractors working for Magnus Theatre were audited, had their deductions disallowed, and were also fined for late filing.
- Magnus Theatre needed to contract for its upcoming season and CRA was firm that it had to hire artists as employees.
- With the support of PACT, Magnus Theatre appealed the case at the Tax Court – and won.

This is just one such case. Other outstanding cases exist currently in Quebec and elsewhere. **There is nothing to prevent this happening again tomorrow in your community!** Susan Wallace and Lucy White urged delegates to get behind the CCA's initiative so that it could move forward with firm action with the full support of the cultural sector.



STATUS OF THE ARTIST AT WORK ...

Status of the Artist legislation, like any piece of labour law, is remedial in nature and meant to redress an imbalance. If we had waited for consensus to bring in labour laws in this country between workers and owners, we would still be toiling in sweatshops to this day. The reality is our artists are now our sweatshop workers and without these laws passed in provinces to improve their status and working conditions, they will continue to be so for years to come. ”

Susan Wallace, Executive Director, Canadian Actors Equity Association

... in Quebec

Anne-Marie Des Roches, Director of Public Affairs for Union des artistes (UdA) in Montreal, took to the podium to provide an overview of how Quebec legislation on SofA is working, and what else needs to be done.

Stating that the wheels of change under SofA legislation grind exceedingly slowly, Ms Des Roches said cross-disciplinary committees have been established to examine amendments to SofA legislation, copyright, and the social security net. In addition, artists' associations came together in a very cohesive way to advocate strongly for amendments and improvements through the Mouvement des arts et des lettres (MAL). She emphasized the importance of solidarity among all players in the cultural sector in order to bring about change; MAL forms a solid block which cannot be swayed from its key objectives.

She outlined the milestones the government of Quebec has reached on the path to equitable rights and benefits for artists since the introduction of SofA legislation, and what remains to be done.

| Issue | Action taken |
|--|--|
| Self-employed status of artists. | This has been recognized. |
| Opportunity for collective bargaining for self-employed individuals. | This is now entrenched although labour groups such as UdA and Guilde des musiciens had already been negotiating collective bargaining for performing artists for some time before legislation was enacted. |
| Right of consultation for associations on matters relating to cultural and employment policy, including professional development, working conditions, and training of artists. | Artists have the right to establish and/or join the professional association or labour union of their choice. Although consultations take place, in some disciplines – such as audiovisual – this only happens sporadically. In addition, government considers consultations with individual artists – those <u>not</u> linked to any professional association – as representative of artists as a whole. She stressed the need for any such consultations to be more than just <i>pro forma</i> . |
| Copyright and neighbouring rights | Considerable work still needs to be done in this area. The legislation is very narrow and artists frequently find themselves shunted aside in favour of users' rights. |
| Work conditions | Studies carried out in Quebec the previous year (2003) indicate that the conditions of work for artists fall far short of the ideal. |
| Social safety net | Measures such as income averaging, pension plans, tax exemption on royalties, and employment assistance benefits are being strengthened, studied, or introduced as part of the action plan outlined in Living Better from Art. |

In order to be effective, SofA legislation requires three main elements. It is like a triangle, the base of which is political will (demonstrated through legislation), with the right side being financial support (Canada Council, other funding), and the left side being the legislative, regulatory and other policy measures. Each of the three sides of the triangle must be strong, otherwise the whole will collapse.

During the 2002 provincial election, the cultural platforms of the three major parties were very similar, providing a basis of political will and giving considerable power to artists' groups to push for change. Due to the considerable lobbying efforts of MAL, the new government formed a standing committee on the socioeconomic condition of artists, composed of both artists and producers, together with a permanent secretariat to carry out research.



... in the International Arena

Suzanne Capiou, lawyer, lecturer at the universities of Brussels, Metz and Paris in the fields of copyright and neighbouring rights as well as audiovisual, internet and multi media law, and an expert on status of artists for international and European organizations, outlined some of the characteristics of SofA in Europe. Her speech focussed on the following aspects of SofA:

- objectives of SofA in Europe
- employment situation in the cultural sector within the European Union (EU)
- living and working conditions specific to European artists
- social security and tax regulations under common law
- difficulty of application to artists
- solutions adopted in Europe
- details of the new social measures adopted by Belgium in 2003

Ms. Capiou outlined the origins of copyright in eighteenth century England. Throughout history, artists have played an important role in society – both economic and ideological (political).

In recognition of the importance of artists in society, and their distinct and unique conditions of work, the UNESCO recommendation of 1980 (known as the Belgrade Recommendation) outlined the rights and benefits which should be accorded to artists to permit them to make a reasonable living. Other distinct groups of workers had been granted special status (ie: fishermen, immigrants), but not artists.

Ms Capiou described two types of social security systems being used in Europe. One is based on the number of days worked, with contributions from employees, and some state participation (more prevalent in southern Europe). The other is a universal social security system financed almost entirely by the state, with some employee contributions. Given the variety of work conditions experienced by artists (self-employed, salaried, part-time, etc), it has been difficult to find a “one-size-fits-all” social security system. As a consequence, different countries have different systems for different types of artists.

Artists form an amorphous group which defies definition: no specific academic or professional qualification (unlike doctors, lawyers or engineers), no clear career path, unpredictable work schedules, and a “product” that is not necessarily the original purpose of the activity. There are enormous discrepancies in earnings between those at the very zenith of their craft, and everyone else. In addition, it is an extremely risky business, with no specific audience at the outset and a public which is constantly crying out for new material.



Despite numerous reports and statistics, there are few figures on which to build solutions to the problems. However, among statistics which came out in May 2004, it was stated that in the 25 EU countries, together with Norway, Iceland, Bulgaria and Switzerland, artists and cultural workers comprise 2.5% of the workforce, or 4.2 million people. This ranged from a high in Estonia of 7% to a low in Portugal of 1.4%.

CONVERSATION III

*“This panel was fantastic! What a great snapshot of where we are at right now.
Excellent panellists.”*
Conference delegate

This discussion was introduced by moderator **Trudy Schroeder**, General Manager of the Winnipeg Folk Festival and a CCA Board member. The panellists were **Lori Baxter**, CCA Board member and Director of the ArtsNow program of 2010 LegaciesNow in British Columbia (Ms Baxter filled in for Burt Harris who was unable to attend due to ill health); **Frank Fagan**, Executive Director of the Association of Cultural Industries of Newfoundland and Labrador; **Garry Neil**, principal in Neil Craig Associates, who has been providing research updates to the Ontario government on SofA issues; and **Sheila Roberts**, consultant with the Saskatchewan Arts Alliance SofA initiative.

The panellists provided an overview of where SofA legislation stands within their respective provinces. Factors identified as crucial to the development of provincial SofA legislation included:

- Adequate representation by artists on any committees.
- Good communications with the sector to raise awareness and keep everyone abreast of developments.
- Broad and constant consultations with the sector.
- Mobilise the local community.
- Achieve consensus on key issues.
- Transparency in all actions undertaken.
- Develop clear strategies to move forward.
- Undertake research to back up demands.
- Develop political advocacy skills.
- Perseverance, as the process can take a very long time.
- Legislation needs to go hand in hand with programmes and policies.
- Make common cause with other provinces and with organizations at the national level.
- Develop clear terms of reference for committees; focus on essentials and be flexible on the rest.

The term “status of the artist” was felt by some to be unfortunate; Saskatchewan uses the term “artists’ equity”. In Newfoundland and Labrador, work on status issues is going hand in hand with the development of a larger framework for a strategic implementation plan. British Columbia’s report on SofA died a very quick death; the province needs to get the film and broadcasting sub-sectors on side before any attempt



is made to resuscitate it. In Ontario, the impetus to re-visit SofA issues came from the Ontario Federation of Labour through its Arts and Labour sub-committee.

Without comparable investments in creation over a long term period of time, there is always the worry about whether you are actually increasing the lot for individual artists or whether you are simply enabling more activity and more underpaid artists.”

**Frank Fagan, Executive Director,
Association of Cultural Industries of Newfoundland and Labrador**

WORKSHOPS SESSIONS

Four workshops were scheduled:

- Workshop I – Canadian Council on Status of the Artist (CCSA)
- Workshop II – Amendments to the Federal Act
- Workshop III – Road Map for provincial legislation on SofA and a cultural code proposal
- Workshop IV – Aboriginal issues relating to SofA

Recommendations coming out of these workshops included:

Workshop I

- Confirmation of the need for a national council on SofA with a primary mandate to advise the Minister of Canadian Heritage. Its initial tasks could be:
 - providing counsel on changes to improve the socio-economic lives of artists;
 - defining what is a professional artist;
 - providing a channel for harmonisation between federal and provincial (both existing and potential) legislation on SofA.
- A new council would probably only be able to advise other government departments on demand, if asked to do so.
- Changes **MUST** be made to improve artists' lives.
- The council's mandate must be deliverable.
- Appointments could be either government appointments or group self-selecting – no final recommendation was made.
- The concept of such a council deserves another chance.
- Secretariat should reside outside CCA, be independent.

Workshop II

- Need to redefine who is a professional artist; use definition produced by original Canadian Advisory Council on Status of the Artist.
- Needs for consistency between federal Act and any provincial acts which exist.
- Make Part I of the Act far more robust and suggest amendments using the general statements of principle; this would require aggressive lobbying to achieve.
- Part I, subsection 3 b and c, should provide equivalent rights for producers.
- Amendments to Part I of federal SofA legislation to allow for
 - a presumption of independent contractor status
 - tax measures
 - other socio-economic measures
- Amendments to Part II of the Act to provide for
 - first contract negotiation and arbitration
 - a requirement for federal government agencies to insist on union agreements



- In Part II, community needs to use existing provisions, and CAPPRT, to the greatest extent possible.
- Examine streamlining operations of CAPPRT to reduce bureaucracy.
- If provincial SofA legislation includes bargaining, authority could be delegated to CAPPRT.

Workshop III

- There was lack of agreement amongst the players on solutions.
- Over-obsession with specific problems (such as collective bargaining) at the expense of some easier solutions.
- Need a strong national leadership; possible role for CCA.
- Development of an updated “road map” to guide development of provincial SofA legislation.
- Clearing house for information needed; perhaps through CCA website? Need to get information out to individual artists.
- Better understanding (particularly among artists) of issues and what is at stake.
- Phrase “Status of the Artist” should be changed; “artists’ equity” was suggested.
- Find language to address provincial problems that won’t intimidate federal organizations/jurisdictions.
- Establish priorities for different constituencies within the sector; is there common ground?
- Need to re-establish a federal council on status of the artist.
- KISS (Keep It Simple, Status): perhaps focus on more achievable objectives.

Workshop IV

(The concept for a workshop dedicated to Aboriginal issues had been the brainchild of the late Bob Boyer, a Saskatchewan Aboriginal artist. Assistance to attend the workshop was provided through support from the Aboriginal Arts Secretariat of the Canada Council for the Arts.)

- Traditional knowledge is not adequately protected under intellectual properties legislation. Aboriginal people need to further discuss and present recommendations on this issue.
- Current SofA legislation does not incorporate Aboriginal (First Nations, Inuit, and Métis) issues. This needs to be revisited with strong Aboriginal representation at the national level.
- A major national meeting to discuss the formation of a national Aboriginal cultural alliance (similar to a national arts service organization), which would reflect the Aboriginal model of association, include all existing Aboriginal organizations (representing both producers and individual artists), and providing a place for elders in the discussions.

A further suggestion from the floor at the end of the conference challenged CCA to “take to the road” with a travelling information show on SofA, geared to individual artists.



... TO ACTION

“Excellent and timely. Very well organized and planned out. The themes of the panels flowed well from one to the next.”

Conference Delegate

At the conclusion of the national policy conference, the Canadian Conference of the Arts undertook to act on the following issues:

Fair Tax Treatment for Artists

CCA will engage the services of a consultant to develop strategies to achieve the two objectives listed in the one pager circulated at the conference. This should be done in consultation with the signatories to the Regina Manifesto. In the interim, CCA will distribute the document widely as a CCA bulletin, and post it on its website, to ensure maximum exposure.

Council on Status of the Artist

CCA will move forward with a concrete proposal to the Department of Canadian Heritage for the re-instatement of this council, including solid arguments in favour of its re-establishment and a clear indication of its mandate and initial tasks, which are seen as including:

- Providing counsel on changes to improve the socio-economic lives of artists
- Defining what is a professional artist
- Providing a channel for harmonization between federal and provincial (existing and potential) legislation on SofA.

Road Map for Provincial SofA

CCA will undertake an update of the earlier version of the Road Map for Provincial Legislation on the Status of the Artist (March 1990), and make it available in English and in French in both a printed version and on its website.

National Meeting of Aboriginal Cultural Groups

CCA will provide assistance and support for the organization of such a national meeting, in collaboration with other interested stakeholders, such as the Canada Council for the Arts.

APPENDIX A

Keynote Speech by Albert Millaire

Bonjour tout le monde
Good morning everyone,

Je suis très touché qu'on ait pensé à moi comme réveille-matin pour donner le coup d'envoi à cette précieuse conférence nationale.

Cela va bientôt faire plus d'une douzaine d'années que les événements auxquels je ferai allusions ce matin sont arrivés, puisque j'ai eu l'honneur de présider le Conseil de Statut de l'Artiste de 91 à 95. Vous comprendrez alors que ma mémoire ait quelques ratés et que je ne puisse pas commenter le passé avec tous les détails que j'aurais souhaités. Je peux dire cependant que nous les membres du conseil avons alors eu des heures d'espoir, constamment marquées par de grands moments d'égarement, de solitude et de découragement devant la tâche qui s'offrait à nous – et la difficulté que nous avons à nous familiariser avec les rouages du ministère et aussi à nous faire entendre.

En me présentant devant vous ce matin, je suis aussi inquiet car si je me réfère aux années passées, il se pourrait qu'encore une fois des représentants et des représentantes des artistes canadiens se réunissent sans avoir aucunement l'assurance que leurs voix seront entendues. Je suis inquiet car quand je me prépare à vous adresser la parole, je me rends compte que plus de dix années se sont écoulées depuis l'entrée en vigueur de la loi C7, et j'ai l'impression que non seulement nous n'avons pas avancé, mais que nous avons régressé. On pourra peut-être tenter de nous brosser un tableau contraire en mettant de l'avant quelques timides tentatives de consultation. Des consultations, encore des consultations mais où sont les réalisations face aux énormes dossiers qui nous attendaient il y a 13 ans et qui semblent vous attendre encore.

Jamais on ne pourra justifier le sort que le ministère du Patrimoine a fait à la première partie de la loi C7, en balançant du revers de la main le seul gain tangible que les artistes du Canada avaient réussi à marquer en obtenant pour les représenter un conseil consultatif qui devait avoir l'oreille du ministre, afin de convaincre ce dernier de mettre en chantier les grands programmes qui n'avaient pas pu être inclus dans la loi. L'historique de la loi et les événements auxquels je me réfère sont clairement définis dans les notes qui ont été mises à votre disposition.



Vous y voyez le cheminement de la Conférence canadienne des Arts depuis sa naissance en 45, ainsi que les différentes étapes qui nous amènent enfin à un texte de loi que le ministre des communications l'honorable Marcel Masse présentera en 1990. Mais la session est prorogée et le projet de loi va mourir au feuillet. Le ministre Masse va quand même procéder à la mise sur pied du Conseil consultatif canadien sur le statut de l'artiste qui est prévu dans la première partie de la loi. C'est à ce moment là qu'il m'en nomme président, et me demande de désigner et de nommer les onze autres artistes qui feront partie du conseil et qui devront venir de partout au Canada et être bien représentatifs du plus grand nombre de disciplines artistiques. Et ici j'aimerais en profiter pour saluer bien amicalement ces artistes dont les noms apparaissent dans vos notes.

Il faut comprendre que notre mandat dans l'esprit de la conférence générale de l'UNESCO en 73, des rapports Disney en 78, et Applebaum-Hébert en 82, nous impose surtout de considérer et faire état de la situation des artistes isolés, ceux et celles qui ne profitent pas d'organismes bien structurés qui pourraient leur offrir des avantages sociaux et une protection adéquate. Nous verrons cependant que le problème de la fiscalité concerne tous les artistes.

Mais revenons à 1991. Voilà donc que le conseil qui fait partie de la loi, exigé par la loi, existe. Mais la loi elle, n'a pas encore été votée. Il faut la faire promulguer par le parlement et c'est donc à cela que nous du Conseil allons d'abord nous consacrer.

Madame Louise Beaulne, anciennement attachée au ministère des Communications, devenu le ministère du Patrimoine est nommée secrétaire générale du Conseil.

Enfin nous allons nous rendre compte que ce ministère du patrimoine regroupe bien des disciplines, qu'il doit se partager et qu'il n'est pas entièrement au service de la cause artistique.

C'est donc madame Louise Beaulne, permanente au ministère qui sera notre guide et qui pilotera nos premières réunions, où nous serons aidés également par le directeur général de la Conférence canadienne des Arts – mon ami Keith Kelly. Mais Keith va bientôt nous quitter car il était très important, comme il le serait encore aujourd'hui de ne pas confondre nos deux actions. La conférence canadienne des Arts a sa fonction bien définie, à l'extérieur du ministère. Nous, nous étions un conseil autonome attaché au ministre par la loi.

Au début nous nous sommes réunis quatre fois par année dans différentes villes du Canada.



Nous avions un budget d'un peu plus de cent milles dollars qui nous permettait tous ces déplacements, me procurait un petit salaire et nous autorisait à l'occasion d'avoir recours aux avis d'experts.

Donc notre première tâche fut d'aider à ce que tout au moins la première partie de la loi C7 soit votée. La deuxième partie relevait surtout du ministère du travail. Mais au ministère du Patrimoine tous nos efforts ne semblaient pas dépasser les murs de notre secrétaire générale. Il était pratiquement impossible d'avoir des échanges avec les hauts fonctionnaires du ministère. Et il nous aura fallu des mois si ce n'est un an avant d'être reçu par notre ministre qui, à ma grande surprise, n'avait pas l'air de comprendre très bien ce que nous faisions là.

Pourtant il devait savoir que le premier ministre Brian Mulroney avait pourtant promis aux artistes du Canada de faire voter la loi C7.

Souvenons-nous qu'en plus, à cette époque, nous traversons une autre crise constitutionnelle qui divise le pays, les gouvernements, les familles et même notre Conseil où j'ai eu un peu de difficulté à convaincre certains membres de ménager leurs forces et leur imagination pour les questions qui nous concernaient directement, en évitant de se perdre dans des discussions politiques stériles.

Donc nous tentons désespérément de rencontrer notre ministre qui est maintenant l'honorable Perrin Beatty.

Au lieu de nous prendre pour une bande de farfelus qui venaient vaguement demander plus d'argent pour les Arts, il devait nous reconnaître comme son outil, son conseil, un organisme dont la loi disait que nous devions l'aider à mettre le doigt sur les vraies blessures de notre milieu. Surtout nous espérions qu'il écoute notre première recommandation qui était de bien nous représenter au Conseil des ministres, et de faire en sorte que la loi C7 soit votée par le Parlement.

Un matin à Toronto nous avons petit-déjeuné avec lui, il s'est tourné vers les quelques représentants du Québec et il nous a dit : « Retourner dans vos milieux convaincre vos camarades qu'il faut voter « Non » au référendum ». Il n'avait pas compris. Je me suis senti tellement petit, une quantité tellement négligeable. Nous étions là pour représenter des milliers d'artistes canadiens et il nous demandait de faire de la politique.

C'est à la suite de cette rencontre que je me suis dit : à « politique » « politique et demie », et j'ai fait ce que j'appelle : « prendre le maquis ». C'est-à-dire que j'ai quitté les voies officielles de communication pour travailler en coulisse comme dirait un acteur, et agir directement, avec le moins d'intérimaires possible.

Je n'ai pas tenu le Conseil au courant de mes démarches.



Je sais que ce n'est pas très démocratique, mais il fallait que je voie le bout du tunnel dans ce labyrinthe incroyable qu'est l'administration gouvernementale. J'ai fait quelques bons appels téléphoniques, quelques rencontres, j'ai parlé aux bonnes personnes, j'ai mis un peu de pression. Cela a marché ! Et j'en suis fier.

Le Premier ministre Mulroney quelque temps avant son départ, a mis sa main sur la table et a dit : « je l'ai promis aux artistes, il faut voter C7 ». Ce qui fut fait. La première partie tout au moins, la deuxième partie qui comportait le Tribunal, sera votée plus tard.

J'ai fait rapport au Conseil qui m'a fait une douce remontrance, mais qui ne m'en voulait pas trop d'avoir agi un peu en cavalier-seul. La loi a été votée et nous le Conseil existions officiellement.

Il faudra maintenant comme le demande la loi, que nous soyons nommés par le Gouverneur en conseil, ce qui malgré notre insistance n'a jamais été fait.

J'ai toujours pensé que si nous avions été bienvenus au ministère, que si celui-ci avait montré de la bonne foi, cela aurait été fait assez rapidement.

(maintenant je vais parler en anglais)

Bill C7 does not address all the needs and wishes expressed by Canada's artistic community. You will find in your notes what happened in 1990, when the decision was made to exclude from the act the major questions concerning taxation, employment insurance, and the pension plan. The field was too vast.

You know what the council's mandate is under the act: briefly, to advise the minister, or at the very least submit an annual report to the minister, at the latest on May 31 each year. To do the rest of our job, we needed the minister's ear.

We continued pursuing our various studies, but we had to wait more than two years before the tribunal was operational.

Over these many months, we met three or four times a year to wrestle with the three burning issues I mentioned a moment ago (taxation, employment insurance and pension plan); the same issues you will be facing yet again over the next two days. We could have improved the situation long ago if there had been a real political will to do so, and if we had been properly represented as stipulated in Bill C7. We did, of course, benefit from the sustained interest and support of the Canadian Conference of the Arts.

They passed Bill C7, finally giving artists legal recognition. Bravo. A minister was to form the council for which the act provides. I believe that, at that point, they felt they had done their bit, and could now indefinitely postpone action on the three major, crucial, vital questions for Canada's artists, saying, "Now the rest can wait." Obviously,



these three questions were likely to upset and complicate our celebrated “universality,” rooted in the very entrails of democracy.

Ten years later, today’s government actuaries manage universality so well that, at 69, I would be hard-pressed to buy you a drink with my old age pension cheque.

There are certain situations where artists rightly believe they are treated unfairly. If these situations are to be rectified, some so-called “universal” programs will have to be considered differently, when they are not structured to be of any benefit to artists. In so doing, we may appear to be going against the current of a government which seeks to eliminate costly privileges, to standardize and to simplify.

But we are not demanding a privileged status for artists. We are saying that unfair situations must be rectified.

The artistic professions have specific characteristics, and government programs must not penalize artists for them.

This is the type of reflection that will motivate us, this is what we have tried to convey to our ministers, and it will be your job to make these reasonable demands heard.

We consulted some specialists, but in a handful of meetings lasting only a few hours, none was able to give us a clear picture of the possibilities or dead ends we faced. I remember that on the question of social benefits, we did a small investigation at ACTRA Fraternal in Toronto.

We did this research mainly so we could present the minister with some ideas on how to establish a system of social benefits within reach of isolated artists, who have no access to these advantages through a professional association or a union.

But we quickly realized that we could not provide exhaustive studies without more resources and, above all, a permanent staff within the department, so we could rely on the drive and talent of more than one single individual.

As far as our travels across Canada are concerned, I think they were vital. They allowed us to make contact with individual artists or groups of artists, who gave us great quantities of information, grievances and comments that we could include in our reports to the minister.

I will never forget our visit to St. John’s, Newfoundland. The whole artistic community welcomed us and threw a delightful party where we were able to have informative conversations with an impressive number of artists of all disciplines.



The point where we came to grief was the first shoal of that great reef which I understand Ottawa calls “The System”. In other words, the Department of Finance and Revenue Canada.

These people are allowed, nay encouraged, to dig out the last looney kicking around in the back of your drawer, but do not try to get your tiny foot in the door of their waiting room. If there was one question above all that we had to deal with, it was the one that so revolted the artistic community of Canada, the one that, with each annual income tax return, bitterly reminds us that we may now have legal recognition in this confederation, but we still suffer injustice at the hands of the tax department. I am referring to income averaging.

Our council believed taxation was the most important issue we had to deal with, and we had to convince the department to open discussions with the departments of Finance and Revenue.

Imagine our dismay when we found the minister needed to be urged to mount an attack on these fortresses and initiate a constructive discussion.

We did not manage to gain a fraction of an inch in our campaign to take the fortress. I remember a meeting at which we dreamed of organizing a sort of great demonstration coast to coast, with the Canadian Conference of the Arts and several bodies sympathetic to our cause.

But it was not to be. Even as we took our first shaky steps, our days were already numbered. And then they said, “What more do these artists want? They have their Bill C7, and they’re still not happy.”

We lived through a constitutional crisis, and immediately embarked on another crisis: the frenzied period that I have christened “acute cuttingitis.” Radical surgery indeed.

We had to cut, and cut again!

For example, consider the sad fate of the Canada Council.

I do not wish to know the name of the person in the Canadian Heritage Department who decided to cut the roughly 120 thousand dollars previously available to us.

We were a council of responsible people, recognized by peers in our fields, competent and receptive. After a few months (négatif en anglais. “We soon understood?”), we understood what was expected of us, and it would have taken very little for us to carry out our mandate correctly.



A few of our members had to resign for professional and personal reasons. We, of course, wanted to fill these vacancies. We received a flat refusal from the department.

I was informed by telephone that my modest salary was eliminated and that in future I would receive attendance tokens to be submitted for payment.

As you have probably gathered, chairing this council was a daily part of my life.

The only time we were able to meet the new minister, the Honourable Michel Dupuy, he told us his departmental advisors wanted us cut (that word again), but in the meantime, could we work on creating an international window for Canadian culture? It was a good idea. It still is. But in my view, like charity, it should begin at home. What could we do? The ship was sinking. Sinking, because it had been torpedoed. I resigned. I knew they were throwing us out.

Rudy Weid, the Council's first vice-president, presided for a few months, and then he went home like my other colleagues. Indifference had swamped the whole enterprise.

I learned that democracy acts slowly, costs much and creates many frustrations for those who want the majority to treat them fairly.

Two years ago, then Heritage Minister Sheila Copps, who paid more attention to some parts of bill C7 than to others, undertook a statutory revision of the act. They sent me a questionnaire. I immediately wrote to her, to remind her that the first body that should give an opinion on this subject, and was indeed obliged to do so by the act, was the Canadian Council on the Status of the Artist, which no longer existed, and which she should appoint.

Some months later I received an icy letter from a civil servant assuring me that Canada's artists would be well represented and amply consulted at this enquiry.

Today we read the major points of the report from Prairie Research Associates. Its conclusions are disturbing in their banality.

Of course the Conference of the Arts responds and provides useful comments on these conclusions.

But I am disgusted when I learn that the department wantonly disregards the directions it is given in bill C7, and finds the necessary funding to set up its own consultations with organizers who do not necessarily represent the majority that the Council on the Status of the Artist must represent.



The needs surely have not altered in the past 10 to 13 years. Furthermore, we live in a changing world; developing technology provides new headaches for those who care deeply about the survival and well-being of creative people.

But we still find ourselves compelled to demand our due.

The generally accepted rule is “consolidate your gains, then move forward.” But in the case of Bill C7, we have achieved legal status, but there seems to be nothing beyond. Thanks to Bill C7, lawyers now know that we are no longer in a “juridical void.” And that is good for our crafts.

But the Canadian Heritage Department did not comply with the first part of the bill, which includes the creation of an Advisory Council. The department dumped us, as one would a small, unnecessary program.

That’s all we were: just a program.

I’m sure you understand that I have few solutions to offer for the future, except perhaps this: implicate the politicians so that, once they are elected, they can be compelled to keep their promises.

I most deeply deplore the absence this morning of the Minister of Canadian Heritage and Minister responsible for the Status of Women, the Honourable Liza Frulla. Let us hope that she is absent for political reasons, and not because of a decision made by her department.

Thank you, and I hope your deliberations are stimulating and productive.



APPENDIX B

Regina Manifesto

Appeal to CCA member organizations and other partners to endorse the Campaign for the fair tax treatment of professional artists

CCA is launching a campaign to solve two of the problems which professional artists and the organizations which engage their services have with Canada's tax system. To maximize the impact of future representations on these issues, we need member organizations and others to declare official support for the campaign and its objectives.

The CCA campaign will work with the government to achieve certainty for professional artists and arts organizations in relation to the income tax system.

Objectives:

1. Ensure that
 - all professional artists will be presumed to be self-employed for purposes of their artistic activity
 - artists and the organizations which engage them will be free to negotiate a contract of service (employer-employee relationship) if they explicitly agree
2. Have a community-agreed test of “professionalism” replace the “reasonable expectation of profit” test now in use.

Who can sign on?

Any organization supporting the goals and objectives can join the campaign, including those representing artists, producers, presenters or anyone else with an interest in the issues.

What am I committing to?

Your name will be used only in connection with the campaign and for no other purposes. Names of supporting organizations will be listed on materials.

Will I have a say in the how the campaign is run?

All supporting organizations are welcome to participate as actively in the campaign as they want.

Can I revoke my support?

You can revoke your support at any time by sending a letter to the CCA.



We fully support the Objectives. Count us in!

Name of Organization _____

Name/Title Signing Officer _____

Signature _____