editorial

IF ANYONE KNOWS . . .

I AM WRITING THIS QUARTERLY EDITORIAL in June, the conventional month of weddings; in Ottawa and Washington, and on hustings from Come-by-Chance west, politicians are still talking Free Trade. I have said before in this column that if "Free" trade were actually what was being negotiated, there might be some economic principle to praise. Among other things, ironically, such a deal would ratify what is, for by far the greater percentage of Canadian-American trade relations, the status quo. But what *is* being worked out is a marriage contract of another kind, which means that it warrants yet another look — and a few more people to stand up with just causes and impediments to put in the way.

Impediment 1: the process. What's happened is that we seem to be negotiating away control over rights and resources for the sake of an illusion. And the illusion keeps shifting; it's a mirage, taking shape as people would like it to take shape. If they'd like Cheaper Consumer Goods, then that's what they have been allowed to think Free Trade will negotiate for them. But the fine print doesn't guarantee continuing choice, and as more and more corporate mergers actually *reduce* the number of real market choices (think about food distribution in Canada, and the numbers games being played by wholesalers' computer-based stock lists), then there is less and less guarantee that real market competition will keep prices low. Prices, however, are not the main point. The main point is the choice, the continuing possibility of an alternative: that means we have to stop thinking of ourselves as branch plants and actually *develop* ourselves. That might mean higher prices — because of taxes — *for the sake of other things that as a society we happen to value*: public health care (rather than market-driven sales of the blood supply), regional development (rather than market-driven regional collapse), public access to the airwaves (rather than corporate control over information), ecological care and concern for the continuity of resources (rather than a market-driven focus on immediate profit only). Now one does have to believe that health care and ecology are worth working for (we don't *yet* have really adequate systems in place, much as we might think). The story of the New Brunswick businessman that was circulated through newspapers a few weeks ago ought to be a cautionary tale: "As a Canadian," he said, "I'm opposed to Free Trade; but as a businessman I'm for it —

and *therefore of course* I have to be for it." Well, I don't buy either the *therefore* or the *of course*.

Consider what Helen Daniel has to say, in *Liars* (she's talking about Australian novelists, not about politics, but her point is relevant:

> LIAR: . . . You can't reveal everything about your business, particularly not to the consumer.
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> READER: So you're asking me to buy from a liar, a con man, an illywhacker, a used-car dealer and a showman. What do I get out of the deal?
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> LIAR: Look, I'm a salesman myself. All Liars are salesmen. Selling a different way of seeing things. Selling corrective lens. . . . You only buy if you want to see!
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> READER: Why should I buy from you? . . .
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> LIAR: It's free trade. You don't have to buy unless you want to be able to see. You have to try out different lens until you find the ones that suit your eyes. . . . Try Escher's. Keep trying until you find the ones that fit your vision. But buy . . .

What, then, are we buying?

Impediment 2: the text. The next part of this commentary owes everything to R. H. Thomson, whose lecture on the effects of the Free Trade Agreement on the distribution of Canadian films (delivered in Victoria in March) exposed the flaws in the glass that's been held up for people to find their own illusion in. (They're "selling us back our own lies," writes Helen Daniel's "Liar.") Thomson read out what "Article 2005: Cultural Industries" of the Free Trade Agreement actually says, then fastened on how American commentators have interpreted the two (only) clauses, then reflected on the implications of the disparities.

Clause 1 reads this way:

> Cultural industries are exempt from the provisions of this Agreement, except as specifically provided in Article 401 (Tariff Elimination), paragraph 4 of Article 1607 (divestiture of an indirect acquisition) and Articles 2006 and 2007 of this Chapter.

(Article 2006 has to do with honing the Copyright Law so that retransmission of a broadcast in the other country will result in "non-discriminatory remuneration," while Article 2007 removes from newspapers and periodicals printed *in Canada*, the preferential legislation which has been giving those advertising in them a tax advantage.) But Clause 2 of the Article pertaining to Cultural Industries reads this way:

> Notwithstanding any other provision of this Agreement, a Party may take measures of equivalent commercial effect in response to actions that would have been inconsistent with this Agreement but for paragraph 1.

Now I have been asking politicians of all three major national parties to explain this to me, and so far have had a reply from two of them. One says the clause is

"ambiguous and confusing," the other says there's no cause for concern. A Canadian background paper (dated January 1988) says that the "Notwithstanding" clause

> would allow the U.S. to withdraw a benefit Canada otherwise would enjoy from the Agreement should the cultural exemption be used by Canada to introduce a measure that does not comply with the Agreement. However, it places limits on the nature of any U.S. action. The U.S. would have to demonstrate that the Canadian measure is not in conformity with another provision of the Agreement and that it has a "commercial effect" on U.S. interests. Any measure taken by the U.S. would be limited to one that is in proportion to the commercial effect of the Canadian measure.

The official Canadian government position rewords this observation as follows:

> Should a Canadian cultural measure be found to be inconsistent with the free trade agreement, the "notwithstanding" clause will limit the United States to responding with a measure of equivalent commercial effect. This represents an improvement over the status quo. Canadian cultural industries are therefore certainly no worse off, and indeed are better protected from future U.S. actions, as a result of the agreement.
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> In practice, any U.S. retaliation would, in all likelihood, become a matter for dispute settlement. This will give Canada a voice in the way in which the U.S. responds, should cultural measures give rise to threatened trade actions.

This position is buttressed by a claim that the Agreement shows that the U.S. now recognizes that all cultural activities are not *merely* subsections of the entertainment industry. That much is laudable. But we also know that any "dispute settlement" will still take place, according to the Agreement, by *American* (not Canadian) law. And in any event, is it the *Canadian* interpretation of Clause 2005 that has in fact been agreed to?

R. H. Thomson's references to American documentation — American interpretation of the agreement — suggests that Clause 2 is understood quite particularly (and differently) in the United States. *Inside U.S. Trade* (9 October 1987) quotes a "Confidential briefing paper" as follows:

> Maintaining and promoting Canadian "cultural identity" is an emotional issue for many Canadians who fear U.S. cultural domination. This is of significant political importance for any Canadian government. The Canadians insisted that they maintain freedom of action to take measure to promote cultural development. They agreed to limit these activities to specific industries (publishing, film, video, music, and broadcasting) and agreed that measures they take will not impair the benefits we would otherwise expect from the provisions of the agreement. Canada will:
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> — eliminate discriminatory postal rates
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> — eliminate tariffs on printed materials
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> — provide copyright protection for satellite retransmission

> They have also promised to solve Jack Valenti's problem on film distribution within the next two weeks.
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> We were unable to resolve the border broadcasting problem (C-58) and a few other existing irritants but we retained the ability to take trade remedy actions on these issues.

In other words the American interpretation *differs provocatively* from the official Canadian interpretation. Despite the fact that the retaliatory measures of "equivalent commercial effect" are *supposed* to be merely the trade sanctions that are approved by GATT, and that the appointees to the Dispute Settlement Board are supposed to be "non-political," Canadians can scarcely forget their own history: the Americans were the ones who considered their Secretary for War to be a "non-political appointee" in one of our previous border disputes. The point is that the lack of clarity creates a problem, and that the American commentary suggests that the U.S. interprets Section 2005 *this* way: (a) a Canadian government has publicly to be *seen* to be supporting Canadian culture, but (b) if Canada, after the trade pact is signed, introduces legislation that gives advantages to Canadian industries (such as Canadian film distribution, says Thomson), then the U.S. will have the right to ask Canada *either* to pay the U.S. the amount of money that is the difference between what it used to get as a percentage of the Canadian market and what it would get after the "preferential" legislation, *or* to ask for an equivalent advantage in kind, with reference to another product. Some freedom. We'll be able to express ourselves, in other words, provided we pay someone else to do so.

J. D. Richard and R. G. Dearden, both legal specialists, have recently prepared a commentary on the legislative aspects of the agreement. I looked in their book — *The Canada-U.S. Free Trade Agreement* (CCH Publishers, 1987) — for an interpretation of Article 2005 clause 2. There's nothing direct. Their paragraph 1600, however, says "As with other elements of the FTA, a more precise appreciation and understanding of the long-term implications of the Agreement on Canada's cultural industries . . . must await the availability of the final legal text." What if that's too late?

Impediment 3: the desire. In other words, do we want this arrangement in place, and what will we get if it goes through anyway? Two comments make an instructive pair. Raymond Williams, in *Culture*, observed some years ago that "the market has played an objectively liberating role, against . . . other centralized forms of cultural dominance," a role still stressed

> by the spokesmen of market relations. Yet to see only this is to simplify the history to the point of misrepresentation. For within market relations two new kinds of control, amounting in some cases to dominance, have become apparent.
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> First there is the fact that when the work has become a commodity, produced to be sold at a profit, the internal calculations of any such market production lead directly to new forms of cultural control and especially cultural selection.

In other words, you only get what the market produces. And the market will produce, *primarily*, only what it can make the highest immediate profit from (remember the New Brunswick businessman). So that *in a market-driven cultural economy*, "culture" becomes equated not with a greater choice (following the "collapse" of "cultural centralism") but with a greater selection from among a more limited number of categories of choice. What we'll get is the cultural tyranny of the middle of the Bell Curve. Not more *for* less, but more *of* less. Here is Williams again:

> . . . second, . . . manifest commercial modes of control and selection become, in effect, cultural modes. This is especially clear in the later stages of the market, when the relatively simple relations of speculative production have been joined and in many areas replaced by planned marketing operations in which certain types of work are positively promoted, of course with the corollary that other types are left at best to make their own way. This effect has been most noticeable, for obvious reasons, in the most highly capitalized forms of production. It is the real history of the modern popular newspaper, of the commercial cinema, of the record industry, of art reproduction and, increasingly, of the paperback book. Items within each of these are pre-selected for massive reproduction, and though this may often still fail the general effect is of a relatively formed market, within which the buyer's choice — the original rationale of the market — has been displaced to operate, in majority, within an already selected range.

Williams, of course, is talking of sociological patterns at large. It's possible that Canada's unique position alters the case. Mavor Moore thinks so — but to this end, writing in *The Globe & Mail* (28 May 1988):

> We are the only known mouse living between two elephants, one of which is the world's biggest manufacturer of cultural artifacts. That manufacturer considers our market part of his. The question we must ask of any pact before signing is whether it is specific enough to our uniquely exposed situation. Can it ensure Canadians access to their own culture and at least a piece of their own action? If it cannot, either the pact or Canada will not work.
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> Of course, those who already buy the U.S. line that culture is business, and vice versa, will be untroubled by such concerns. That line is pretty silly stuff, if you like, although there's a sucker born every minute. But I sure as hell wouldn't trust those who swallow it to stand on guard for thee.

In other words, this isn't a wedding at all except of an old proprietary kind; it's a merger. So *caveat emptor*. If everyone sells illusions, then we have to look at the illusions more than cursorily before we buy them; and if we don't like what we see, or agree with what we find out, stop the sale. Over the summer, someone might announce the betrothal, though it may not last. There might even be time to call off the ceremony.

W.N.