

Queer Experts at the Little Sisters Trial

An Interview with Janine Fuller

by Heather E. Cameron

Dans cet article, l'auteure discute avec Janine Fuller, la directrice de la librairie Little Sister Bookstore de Vancouver, qui mène présentement un combat

None of the mainstream bookstore chains were targeted. The strategy of the Canadian government was to intimidate writers, artists, and the small book shops that tried to make queer material available.

engagé contre la censure répétée des Douanes canadiennes en ce qui concerne la littérature lesbienne.

Domination is the control of representation.

—Adorno and Horkheimer

It is a sad irony to see happy white lesbian faces beaming off the covers of mainstream magazines like *Newsweek* and *Vanity Fair*, while lesbian produced magazines and other printed materials are routinely stopped, seized, or destroyed at the border. While mainstream depictions of lesbians are considered chic, lesbian produced materials are not, at least in the eyes of the Canadian government. If part of the focus in lesbian politics today is to articulate what is specific and unique about lesbian experience and struggle, including explicit references to our sex practices, it is imperative that lesbian writers, theorists, and artists are able to circulate their work freely without interference from Canada Customs or internal police in the form of Project P, the porn squad.

At the prompting of LEAF, the Feminist Legal Education and Action Fund, the Supreme Court's Butler decision in 1992 rewrote obscenity law to understand pornography as

self-evidently harmful to women. State censorship, apparently, was a step towards women's equality. However, the first applications of the Butler decision were against the small U.S. woman-run lesbian sex magazine

Bad Attitude and the gay and lesbian bookstore Little Sisters in Vancouver, targeted for selling the gay lifestyle magazine *The Advocate*. None of the mainstream bookstore chains that also carried the

magazine were targeted. It seemed the strategy of the Canadian government was to intimidate writers, artists, and the small book shops that tried to make queer material available.

Glad Day Books in Toronto, another gay and lesbian bookstore, was charged with distributing pornography in the form of *Bad Attitude*, after a sting operation by Project P. The bookstore stood up to defend themselves and the magazine, and their legal action helped crystallize the lesbian community's awareness and resentment of the Canadian state's paternalistic stance adopted in Butler. Artistic and cultural groups mobilized around the issue of censorship and the right to self-representation in the lesbian and gay community.

Tired of Canada Customs' constant harassment, Little Sisters Book and Art Emporium challenged the legality of Canada Customs' detainment practices under the Charter of Rights and Freedoms. After six years of delays from the Crown the case was finally heard in the B.C. Supreme Court in October 1995. This obscenity trial brought into clear relief many of the key issues surrounding lesbian and gay civil rights, politics, and communities today: rights to self-representation, the limits of repre-

sentation, the role of the courts, the role of queer studies in queer community, and the tension between feminist and lesbian communities. Janine Fuller, manager of Little Sisters, reflects from the epicentre of this debate.

JF: The bookstore opened in 1983 as a gay and lesbian bookstore in Vancouver out of a desperate need to provide information and ideas to a community that was tired of looking at the bottom of bookshelves, at the dusty back rooms of stores, or of not finding any of their books at all. Little Sisters didn't have any difficulty having books seized until 1985-1986 when they started becoming more visible, then they started having entire shipments seized. From that point on, Jim Deva and Bruce Smyth, the owners of the store, have had a constant battle with Canada Customs. Jim has always been a passionate defender of gay and lesbian material, but also of not being a victim. Jim is someone who pushes on, pushes against the State and that kind of censorship. In 1987 they initiated their first court case in defence of *The Advocate*. Two weeks before it went to trial Canada Customs looked at *The Advocate* and said they had made a bit of a mistake and that they should in fact release this magazine.

HEC: *But that cost you a lot of money?*

Absolutely. Those costs, with the B.C. Civil Liberties Association who had joined us, were in the neighborhood of one hundred thousand dollars. After that, Customs was ordered to return the magazines. They were unable to do so because they had burnt every single copy. That was a numbing, mind-bending concept to gay and lesbian people who have a historical reference to what book burning means and what that oppression brings. At that point the owners of Little Sisters decided the best way to resolve this issue was not by a book-by-book basis as his-

torically had taken place, like Glad Day going to court over the *Joy of Gay Sex*. It would be enormously expensive and it wasn't necessarily resolving any of the problems.

As a result they took Canada Customs and the Canadian government to court in 1990. After three trial delays, four and one half years of waiting, the case finally went to court for 36 court days in October 1995. There were hundreds and hundreds of hours of preparation time by witnesses, our lawyer, as well as preparing to testify myself. That certainly wasn't an easy process.

The decision came down in January and I remember on the news seeing you and John Dixon, the B.C. Civil Liberties Association lawyer who argued the case, standing on the steps claiming victory. What exactly was the decision?

It is important to see all the positive aspects of a ruling. It was a mixed ruling. There is no question about that. As far as the ruling for the gay and lesbian community, for booksellers, there were two separate arguments that were being fought: one was that there was unconstitutional discrimination against the gay and lesbian community at the hands of Canada Customs. The legislation was misapplied and in fact, was unconstitutional and against Canadian law. That was agreed with by the judge. He found in our favour.

Where he didn't find in our favour and where he didn't go far enough, was in striking the legislation down. He didn't say that the action of prior restraint, stopping something at the border before it is deemed to be obscene or prohibited, is against the constitutional law or the Charter of Rights. We were certainly disappointed by that. However, because we sat through the trial, we heard the testimony going forward and when we think about going to the Court of Appeal we know the record going to the Court of Appeal along with this

decision. We are very confident we can have a victory out of that.

When I saw you last week at the court house it seemed lawyers were arguing over lines of a memo that Customs had sent you. What was that about?

Ironically Freedom-to-Read Week started on the very same day (February 26, 1996) as the day we started back in court with the same judge, Justice Smith, seeking an injunction to block Canada Customs seizures until the appeal. What took place was two things: first, asking the judge that an injunction be filed against Canada Customs stopping them from seizing books and magazines destined for Little Sisters based on page after page of past offenses. Second, asking that costs be awarded. We have suffered an unnecessary amount of financial loss paying for this case. We have been fundraising and working within many different communities to get this case to where it has gone. The government, their lawyer, didn't argue that costs should not be awarded, so they are just really jostling as to what those costs should be. That is a real victory for us. It really does say to the gay and lesbian community, Little Sisters, that systemic discrimina-

the strategizing about the case, the people that you needed, what that means for queer studies, and some of the implications for people who are doing queer academic work now.

I was fortunate to work at Toronto Women's Bookstore back when I lived in Toronto. I knew people like Becki Ross, a queer academic at University of Toronto at the time, and Gary Kinsman, a pioneering gay sociologist. Before they had even finished their degrees as academics they were community organizers. People like Carol Vance, a professor at Columbia University, came to testify, and Bart Testa who teaches at University of Toronto also made the trip. Essentially we wanted to bring forward the flavour and the ideas of what would take place at an obscenity trial but also say to the judge, this isn't an obscenity trial. We're talking about Canada Customs and how that legislation is applied. The academics were grilled. Not Bart Testa to the same degree, but definitely the queer academics. They were put to the test in their theory and in their presence and in their ability to keep their ideas firm under a cross examination that was fierce.

There was unconstitutional discrimination against the gay and lesbian community at the hands of Canada Customs. The legislation was misapplied and in fact, against Canadian law.

tion is being characterized in the form of a financial bill for the Canadian government for the way they've misused the court and misrepresented themselves.

I'd like to take a look at some of the other ways that queer people were important in the case. You'd said earlier that expert witness were the backbone of the case. Perhaps you could talk about

What exactly were the queer academics and the queer writers there to do? What did your lawyer want them to provide in order to advance your case?

They were there to provide a context for what our community is. Certainly Gary Kinsman and Becki Ross were there to talk about the sociological context of pornography [in] the lesbian and gay community. I think

the writers who testified: Pierre Burton, Jane Rule, Pat Califia, Nino Ricci all provided very important testimony. They were not there just to testify as writers. Pat Califia as an S/M advocate has seen her work banned, but Pat Califia also has academic credentials which lent weight to her testimony. Perhaps the most shocking part of the decision for many people was Justice Smith quoting Pat Califia in his decision to defend his ruling that S/M in itself is not grounds for obscenity or for being prohibited at the Canadian border.

What of the emerging role of gay and lesbian studies and new academic societies in Canada like the Toronto Centre for Gay and Lesbian Studies and the queer studies section of the Learned Societies. What do you see as the role for these organizations and people with academic credentials?

It is imperative. Not only did they have the credentials behind them, but Gary Kinsman had one of the first books out on the regulation of desire in this country and it really gave a Canadian context. I think often within the legal arena ideas are being drawn for American legal precedent and legal history while we have really important academics who can provide a Canadian perspective.

Do you think this trial has led to a different relationship between the academy and community or the activists versus the academy? Can you comment on some of the ramifications of these people reporting for duty as witnesses in terms of community perceptions of queer academics?

Not everyone could afford or have the ability or access to the money to go to the Supreme Court or B.C. Supreme Court around obscenity or around censorship. Not everyone has access to that voice and to try to make avenues available to people who do not have that access and make sure it

doesn't become this very specifically limited group that represents who we are as gays and lesbians within queer theory and queer ideas. We can make those changes and make those commitments within an academically and activist queer community.

One thing I've learned with the academics who testified in this trial, they were committed. None of them were paid. All of them came out here and stayed at bed and breakfasts or



Video still of Janine Fuller. Photo: Heather Cameron.

on friends' couches or floors. That's the sort of commitment they had. I think they've kept one foot on the ground and yes, they are in a subculture which certainly isn't accessible to many of us but they are defining different ideas and different realms for queer people. I think it is important to etch out that space. I think we all make our statement wherever we can make it. Whether it be on the hill or whether it be in the water, across this land we have to make the choices that we can, based on who or what we are.

I think that queer academics have been very important voices for us as gay and lesbian people. I think of the conference yesterday at Lotus Roots [a gathering of East and South East Asian Lesbians, Gays, and Bisexuals in Vancouver March 2-3, 1996]. There were several people there who are queer academics. They didn't have to be there but that is part of the community involvement that they see as essential to the work that they

do. To be able to be academics that can speak for a community in a voice that's not just self contained within the structure of a school system.

You are connecting the idea of being a queer academic with being a queer representative for the communities they are part of. Do you think that the queer academic's role has been or should be, or is, trying to articulate the voice of a larger group?

I think that many of the people who have become queer academics find themselves in a court of law testifying on behalf of a huge community which they have no chance of representing each and every person and their ideas of sexual imagery. Often they are really respectful of that and not willing to take on that representative role, but they realize they are in the very privileged and very important position of actually being heard by the court. They can really impact the court to make

the changes. I think that the essential arguments that were made and what the judge really heard were the academic arguments and specifically Becki Ross and Gary Kinsman who were speaking from a sociological point of view. We can't think that that is not important. If we do not have people out there articulating who we are and what our struggle is we are going to be in really deep deep [trouble].

If the approach from your side was to find people that could provide information and articulate a vision of the gay community and our different relationships to pornography and other materials, what was the government's case? What was the government strategy against your queer experts?

The government claimed specifically that because our witnesses were gay and lesbian people they couldn't testify outside that reality. This reality was informing the sort of sociological experiments or ideas that came out of the context of their work. Now

certainly they didn't ask the same questions of the people who were straight and put on the stand.

Were they assuming that if you are gay, you are biased, and therefore unqualified as an expert witness?

Yes, but also to get to an emotional side of the people who were testifying and make their testimony more personal and less academic.

I guess this is where the government forgot that these people were community activists first and were used to being under fire.

Very important point. They knew how to answer the questions. I don't think when Becki went to the Glad Day trial she had any idea what she was going to put herself through. It is a devastating experience to go through the courts. Becki Ross, Gary Kinsman, and Carol Vance are real heroes. They stood on the front lines and spoke for us so eloquently and with such brilliance I can't speak

about it without my voice crumbling. I am so impacted by that vision and their commitment to making sure our voices are heard.

Do you see it as troubling that the courts, who aren't elected, are taking over a legislative role in forcing the government's hand in terms of Customs, rather than our representatives having a voice and making decisions. Aren't the people we elected supposed to be making the laws and deciding what happens in this country? Second, how do you understand many of the struggles coming up in the courts around tax law and spousal benefits? Are these not narrow issues and not necessarily the most pressing, but rather continue to monopolize energy and attention because they are issues which can be addressed through the courts?

I think it comes as no surprise to many people that historically Canadians believe that the legislation is going to be changed through our

ability to vote. Well, that just hasn't happened. It should be really troubling. We have a real see-saw happening both at the Justice and at the legislation of any kind of new laws. We have the government waiting for the Justice department to make their decision based on the money that we spend going to court trying to get the fundamental rights that we as citizens tried to empower these people in parliament to consider and put forward on our behalf. On the other hand you also have the Justice department saying it is a legislative matter and up to the government. It is a real grey area and sometimes we fall between the cracks and we certainly would be naive to think that we don't. Sometimes I think in my deepest darkest hardest moments: "Are we going to be successful? Is this going to make the changes we need for gay and lesbian people and people who want access to ideas in this country?" But I think the government relies on those moments to draw us back and make us stop. We have to keep seeing that little bit of light to make us believe it is all going to be worthwhile.

What are the limits of relying on an activist judiciary for social change?

It is not just about the courts. Look at what gets published and what doesn't get published. What gets reviewed and what doesn't. Whether it be gay and lesbian books or that sort of thing. People of colour are not getting that representation. Even the concept of censorship is a privilege in itself, in that you were even visible enough to be censored. We have to be sure to keep a commitment to a community that represents all of us and all of our communities and not get caught up in tidy little niches of comfort that represent financial aspects more than any real political agenda.

Heather Cameron is a photographer/media worker who researches the changing role of public intellectuals as a doctoral candidate in Social and Political Thought at York University, Canada.

FOR EARLY RELEASE....

PRISONER OF GENDER

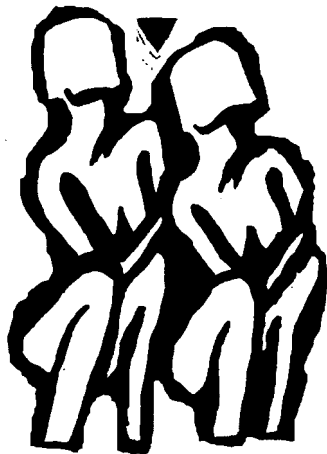
Transsexual, Kathy Johnson tells of her 30 years in the Canadian Prison System. As a story of needless cruelty, unwarranted prejudice, chronic indifference and some of the worst ignorance imaginable this book must rank high as a chilling indictment of the Canadian Prison System. In Part II author, Stephanie Castle, dissects the official record with the aid of input from recognised legal and medical experts.

ISBN 1-895590-18-3. Price and final production details to be announced. If interested phone, FAX or write:

CORDILLERA BOOKS

8415 Granville St., Box 46, Vancouver, B.C. V6P 4Z9 - Phone (604) 261-1695 Fax (604) 266-4469

safe company free clinic out on the shelves library



Programs and Services for lesbian,
gay, bisexual and
transgendered peoples

1170 Bute St., Vancouver, BC, V6E 1Z6
tel (604) 684-5307
fax (604) 684-5309

phone: 684-6869 free legal clinic

free counseling gab: youth group

province wide toll free info/help line: 1-800-566-1170 plus more...

CLGRO



Coalition for
Lesbian and Gay Rights
in Ontario

*Coalition pour les droits des lesbiennes
et personnes gaies en Ontario*

Working for the liberation
of all lesbians, gay men, and bisexuals.

Office/Bureau
736 rue Bathurst, #012C
Toronto, Ont M5S 2R4

Mailing Address/Caisse postale
CP/Box 822 Stn/Succ A
Toronto, Ont M5W 1G3

(416) 533-6824

NATHALIE STEPHENS

For Lisé

did you know by the
way the rain came
the stained glass
cracked there our
bodies pressed
against the wall i
wish i could fly and
you said yes the bit
about the angels
snow angels there
where your hands
gathered me liquid
running over you
there where we
f i s s u r e d
imperceptible no
one likes dykes the
stained glass
cracked fragments
you me no rules
yes i believe there
where the rain
forms mirrors on the
road you can see
the sky there where
we hold our breath
up to the light look
a n g e l s

New from Gutter Press

THIS IMAGINED PERMANENCE

by nathalie stephens

**Lesbian explorations
into the duality of
beauty and decay.**

This Imagined Permanence captures the many lives of a woman who inhabits the breath that precedes speech, the tremor that precipitates action. She knows the resistance of skin to touch, and tentatively contemplates the distances between and within ourselves, that which makes reaching out so precarious and forbidding.



**"...language soaked in richness
and beauty."**

Clare Bermingham, *Excalibur*

nathalie stephens is also the author
of a book of French language poetry,
hivernale
(Toronto, Éditions du GREF, 1995).

*nathalie stephens is a jewish lesbian
feminist poet and writer. Her writings
have been published in both french and
english in various feminist and literary
journals across Canada. Her first
collection of poetry, hivernale was
published in 1995 by les éditions du
GREF. This Imagined Permanence, a
book of poetic prose, will be published in
the summer of 1996 by Gutter Press.*