

## Introduction: Modern Obscenities from Baudelaire and Bovary to Remy Couture

In work that links the idea of “obscurity” to conceptions of the modern, Loren Glass has suggested that “citing *Roth*, the U.S. Court of Appeals in 1960 freed *Lady Chatterley’s Lover*, and it became Grove Press’s first best seller. Over the course of the decade Rosset would publish many of the key texts—including Henry Miller’s *Tropic of Cancer* and William Burroughs’s *Naked Lunch*—that would precipitate what his lawyer Charles Rembar called the ‘end of obscenity’ for the printed word.”<sup>1</sup> Barney Rosset, the owner of Grove Press and the *Evergreen Review*, would solicit a battery of “experts” to testify to the value of the allegedly obscene texts he published, and in so doing, established a kind of link between aesthetic value and social importance that helped legitimize the diffusion of texts deemed inappropriate for public consumption. The success of this testimony in unraveling censorship laws relating to printed texts seems to indicate that this supposed ‘end of obscenity’ was also a triumph for modernist formulations of the literary, insofar as texts previously valued by an elite intelligentsia were finally being granted mainstream cachet.<sup>2</sup> As de Grazia affirmed in his monumental study on censorship trials,<sup>3</sup> “the only significant breakthrough to freedom that was made over the past century by authors and publishers ... was made when the courts were required by law ... to admit and give weight to the testimony of ‘expert’ authors and critics concerning a challenged work’s values” (686). This would seem to free up literary and artistic works, and place the burden into the realm of the aesthetic, intellectual or cultural value system rather than in the more reactionary realm of the censorable, disgusting or filthy. Such an approach also provides the sense that more ‘modern’ societies would also be more open to experimentation and to alternative forms of expression.

In making these kinds of links and inquiring about their validity, we focus upon the kind of question that underlines the current issue of *AmeriQuests*: What can we learn in looking back to the “modern” era about our own society, and its relationship to cultural modernisms? And if by “modern” we imagine that we’re talking about a previous era, and by “censorship” that we’re referring to an (arcane) practice that a “post” modern Western society can look upon as historical artifact, then it would seem that the subject and its implied connection has no bearing upon contemporary societies in the Western world. In other words, studying the impact of French modernism on Western societies implies that we are already modern, as it were, and that places like Québec, -- even if they may have been dragged, sometimes kicking and screaming, into the modern world, -- have now been integrated into the modern or even postmodern realm. But are there remnants of this struggle in cultural works, or even in judicial proceedings? It may be that comparative approaches to censorship might be an apt way of measuring the progress of, and the lingering impediments to, our own conception of modernisms in the overlap between two worlds, French and Québécois.

This special issue devoted to the effect of “modern” and “modernism” upon modernity in Québec is a wonderful outgrowth of a conference held in the W.T. Bandy

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<sup>1</sup> “Redeeming Value: Obscenity and Anglo-American Modernism,” *Critical Inquiry* (January 1, 2006) available at <http://business.highbeam.com/437047/article-1G1-140708418/redeeming-value-obscenity-and-angloamerican-modernism>

<sup>2</sup> It should be noted that no such slackening occurred as regards cinematic productions, one of the many observations made in Elizabeth Ladenson’s work on *Dirt For Art’s Sake*, NY, Cornell UP, 2006.

<sup>3</sup> *Girls Lean Back Everywhere: The Law of Obscenity and the Assault on Genius*, New York, Vintage, 1993.

Center at Vanderbilt University, in 2013. The collection of works in this issue traces threads, themes and continued articulations of French modernisms in Québec cultural artifacts, and it makes important contributions to the question of what we learned, as it were, from French modernism. This is the first such conference, the second is underway this very week, on the impact of French modernisms upon the cultures of Latin America, and future conferences (and special issues of this journal) are planned for discussions of Italy and Japan.

### **Censorship in the (post?) modern era**

Amidst a remarkable collection of works relating to modernisms, French and Québécois, my own questions are rather practical: If a “censorship” trial were to be held in Québec, could it resonate with the kinds of trials that were undertaken in 1857 against both Baudelaire and Flaubert? Should it be considered as one in a long line of trials in the modern (and postmodern) eras, including prosecutions against James Joyce, Radclyffe Hall, D. H. Lawrence, Henry Miller, Vladimir Nabokov, or Allen Ginsberg)? And if the answer to either question is yes, what is the legacy of French modernism in Québec, as regards prevailing views of censorable materials?

The example I’ll discuss is the 2012-13 trial of a special effects artist named Remy Couture, who was charged in a Quebec courtroom with three counts of corrupting morals through the distribution, possession and production of obscene materials. At issue were hundreds of photos and two videos depicting gruesome murders, torture, assaults and necrophilia — all involving female victims. Couture’s medium is a combination of fake blood, latex and silicone that are artfully, and remarkably successfully, combined to create his life-like models. On December 19<sup>th</sup> 2012 (just prior to the opening of the trial), *ArtsHub* noted that in some ways these proceedings recall the obscenity trial of Charles Baudelaire’s *Fleurs du mal*, and the subsequent banning of three of the book’s ‘lesbian poems’.<sup>4</sup> I’m interested here in the pervasiveness of Baudelaire’s trial, for not only did it serve to memorialize and popularize Baudelaire’s work, it also has remains a touchstone in references to work subsequently deemed obscene, right up to this very year in Quebec. Considering similarities between the Remy Couture trial and that of Baudelaire leads us to the long history of litigation regarding obscenity, and, moreover, the presentation of the materials to the court tells us something about how obscenity laws are used to weed out materials deemed “out of place” in societies such as France, England, the US and Canada.

Baudelaire’s *Les Fleurs du mal*, subject to judicial inquiry in the same year (1857) as Flaubert’s *Madame Bovary*, was denounced by Gustave Bourdin as follows: “L’odieux y coudoie l’ignoble, le repoussant s’y allie à l’infect.”<sup>5</sup> The choice of words is interesting, and important in terms of the legacy of the case: odieux, that is, ce qui suscite le dégoût, l’aversion, la haine. “Coudoyer”, a verb that blurs distinctions, in this case by bringing us closer to “l’ignoble”, that which is base, mean, low, vile, scurvy, low-down and villainous, consistent of course with all things deemed “repoussant”, and capable of bringing us to “l’infect,” a term that takes on added importance as regards Baudelaire’s writings when Bourdin adds that “ce livre est un hôpital ouvert à toutes les démences de l’esprit, à toutes les putridités du cœur”. This book is a container, a hospital, into which all that is undesirable gains admission, not to recover, presumably, but to fester, causing the mind to decline, as per a definition of “démence”: « La démence est une altération grave du psychisme d’un

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<sup>4</sup> <http://www.artshub.com.au/news-article/news/all-arts/canadian-obscenity-trial-for-special-effects-horror-film-artist-193295>

<sup>5</sup> Gustave Bourdin; “Critique de *Les Fleurs du Mal*,” in *Le Figaro*, 5 July, 1857.

individu, se caractérisant par une diminution progressive et irréversible des facultés intellectuelles (voir arriération mentale) ou mentales (fonctions cognitives) Il s'agit plus précisément d'une démence organique, résultat du déclin progressif ou permanent de la perception et des capacités intellectuelles, ceci à la suite de lésions cérébrales (du cerveau) ». 'This démence has an effect upon the body, and as such, the book in question brings the reader down, makes her susceptible, thus allowing for all that is putrid to enter the heart. And so while Bourdin has it such that Baudelaire's work transforms us into undesirable, putrefying waste, others, consistent with this process but less transformative, portrayed Baudelaire as a mere purveyor of garbage: "Il ramasse les sentines et les égouts" in a fashion typical of "les immondices de la presse bohème et réaliste."<sup>6</sup> One way in which the reader is infected, to cite another reviewer, is through the very smell of Baudelaire's writing: "le lecteur se bouche le nez; la page pue". As Elizabeth Ladenson notes, "Baudelaire was for this reason ultimately convicted of taking gold and turning it into mud, or worse" (op. cit. 53).

Just a few years later, on the English side, we find similar denunciations pronounced at inquiries into the work of Swinburne following publication of his 1866 work *Poems and Ballads*, and, moreover, in hearings held in 1888 regarding Vizetelly's translations of Zola's novels. A pamphlet published in London by The National Vigilance Association in 1889 records the wrath, by citing contemporary reception of Zola.<sup>7</sup> For example, the editor of *The Methodist Times*, commenting upon the case against Vizetelly, notes that "Zolaism is a disease. It is a study of the putrid... No one can read Zola without oral contamination, and the only plea that can be made is that the disgust inspired destroys the fascination of the evil. It is time that the legislative action was taken against other authors besides Zola, who are contributing to the literature of the Sewer.... Broad cast translations are an offence which demands the utmost severity of punishment and repression" (24). The editor of *The Western Morning News* agrees: "Whatever may be said in favor of the state shutting its eyes to the circulation of Zolaesque literature, there can be no question that Zola is filthy in the extreme, and obscene to the point of bestiality. He is more unclean, and realistically so, than any other writer, ... We could prove our point in a moment if in the very proof we were not likely to do the evil which we deprecate" (25).

In spite of the many differences between Swinburne, Zola via Vizetelly, Baudelaire and Flaubert, and I might add, Remy Couture, and despite considerable variation in the legal systems employed to prosecute them in England, France, and Canada in the past 150 years, the critical vocabulary deployed against them all seems to make one thing clear: in the eyes of many of their contemporaries and certainly in the courtrooms of justice, these works were all portrayed as a kind of dirt or waste product that was imposed upon an unsuspecting reading public that risked, in its exposure to it, an irreversible infection of the mind. This reference to "dirt" and to waste tells us a lot about the cultural understanding of texts, and people, particularly through the lens of William James's definition of dirt as "matter out of place," implying that dirt is the exception that proves the rule, the anomaly that reinforces the norm, the ambiguity against which distinctions come into definition. Dirt occupies another space, or it invades a space, and so it is unwelcome and yet, like the sacred, it is also

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<sup>6</sup> Cited in André Guyaux, *Baudelaire: un demi-siècle de lecture des 'Fleurs du mal'*, 1855-1905. Paris, PUPS, 2007.

<sup>7</sup> See Anthony Cummins, "Émile Zola's Cheap English Dress: The Vizetelly Translations, Late-Victorian Print Culture, and the Crisis of Literary Value", *Review of English Studies* (2009) 60 (243): 108-132.

from another realm, and in that respect separate and prohibited, exalted and defiled. Dirt, recalling R. Sieburth's superb work on poetry and obscenity, "exists outside of system, it escapes classification, it represents a disorder which must be excluded, bounded, interdicted, so that order may be instituted and maintained."<sup>8</sup> This "order" is instituted, or reinstituted, by the courts, and so here's a link from Baudelaire to Couture, because the problem of the unregulated, the festering, the foreign, hasn't gone away and therefore, neither has the need for the kind of order offered by the courts.

Reporting for the *National Post*, Graeme Hamilton (December 11, 2012) notes the irony of the Couture case, suggesting that "under different circumstances, it would have been the highest praise for a cinema makeup artist" that the photos of mutilated bodies that he "posted online were so realistic an Austrian pathologist who examined them concluded they might depict an actual murder."<sup>9</sup> Instead, a complaint was lodged, and as a result, in October 2009, "police ensnared Mr. Couture outside his Montreal home and arrested him for producing, possessing and distributing obscene material." The law under which he was charged falls under section 163 1 and 2, *Corrupting morals*, in the Canadian Criminal Code, that states that "Every one commits an offence who

- (a) makes, prints, publishes, distributes, circulates, or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatever; or
- (b) makes, prints, publishes, distributes, sells or has in his possession for the purpose of publication, distribution or circulation a crime comic.

Section 2 uses the same language, but adds "sells, exposes to public view or has in his possession for such a purpose" this same matter. In a nod to the many decisions that have been ultimately rendered in obscenity trials for such works as *Fleurs de Mal*, *Madame Bovary*, *Ulysses*, *Lady Chatterley's Lover*, *Tropic of Cancer* and *Lolita*, the next section notes that: "No person shall be convicted of an offence under this section if the public good was served by the acts that are alleged to constitute the offence and if the acts alleged did not extend beyond what served the public good." Interestingly, "it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good," and in this determination, section 5 notes that "the motives of an accused are irrelevant."

From this standpoint, we can see the risks and perils of trying to introduce the "foreign", be it obscene or other in different ways, because in so doing we are asking for the integration of something that stands outside not only linguistically, or generically, but also in terms of accepted norms and codes of representation, and we are giving the courts, pace Couture, the right to determine, as a question of law, whether in so doing the public good is being served. We saw the same thing with the trial of Vizetelly for publishing translations of

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<sup>8</sup> "Poetry and Obscenity: Baudelaire and Swinburne" in *Comparative Literature* Vol. 36, No. 4, (Autumn, 1984): 343-353, p. 345.

<sup>9</sup> <http://news.nationalpost.com/2012/12/11/quebec-filmmakers-images-were-so-gory-police-thought-they-depicted-actual-murders-court-hears>

Zola's work. Testimony from the Vizetelly trial, recorded in the *Pernicious Literature*<sup>10</sup> pamphlet that grew out of the proceedings, indicates: "A class of vile scoundrels came over to England simply because the freedom of our laws enabled them to carry on their nefarious trade which their own country probably would not allow" (8). In hearings held at the House of Commons in regard to the case, one witness suggested that law enforcement officials need to do more to limit the incursion of unwanted texts: "We ought not to have stood by while this terrible pestilence was spreading throughout the country. In other countries, the State undertook this duty" and that "on the whole, it was a much better and or thorough way of dealing with this evil." He then suggested that one role that the State should play is to "create a sounder public opinion" and that the House of Commons "could do that" (10). All of this is an interesting take on the role of the state that suggests that it actively intervene in what Marc Angenot calls the "social discourse," in his collection of books about the period 1889.<sup>11</sup> Interestingly, the British Secretary of State replied that "the public judgment was a safer guide than that of any official, and if the general moral sense of the community did not compel individuals to prosecute, no good would be done by trying to create an artificial moral sense by the actions of the prosecutor" (12).

But discerning or enforcing the "moral sense" in these cases of obscenity is a complex; texts like Baudelaire's *Fleurs de Mal*, translations of Zola's work into English, and the cosmetic artwork of Couture, resemble the dirt to which they are compared because they are not discerning, and their effects are multifarious and uncontrollable; they attack the institutional purlieu of poetry, in the case of Baudelaire, unsuspecting women in that of Flaubert, the undereducated and thereby susceptible in that of Zola via Vizetelly, the lascivious in that of Swinburne, while in the case of Couture, it attacks our sense of propriety, because it's filthy in the way that reality is, so much so, that it's not possible to distinguish art from reality, and for this reason, his artwork affects, or possibly infect, our bodies, without us even being aware that this is occurring. Sieburth recalls the work of anthropologist Mary Douglas, who observed that "fears of pollution tend to focus on the danger of margins, that is, on any borderline object or event which threatens the coherence or integrity of the physical or social body." From this perspective Henry James is certainly correct, dirt is "matter out of place" because as Sieburth notes, "its location is always somehow liminal, interstitial, in between; its lack of clear differentiation is precisely what renders it so potentially defiling" (352). So it's not surprising that Swinburne's "Hermaphroditus" would be denounced as "filthy" by his contemporaries, because the poem explores, and then transgresses liminal spaces, those boundaries, where, in Swinburne's words "pleasure culminates in pain, affection in anger, and desire in despair." And perhaps it's not surprising that Couture suffers similar prosecution, since his work doesn't just explore liminal spaces, like defilement, it represents them in a guise that is impossible to distinguish from the actual defilement he seeks to represent. These examples suggest that when the body's flesh is opened up, it creates spaces of ambiguity and marginalization that challenges identity and allows the reader or viewer to entertain indeterminacy which, again thinking of Couture, is acceptable in, say, a car accident -- but not in art. The open flesh also allows for the entrance of dirt, pollution, foreignness, which suggests that Baudelaire is obscene, or Swinburne is obscene, because the dirt that they

<sup>10</sup> London: The National Vigilance Association, 1889. The pamphlet is extensively cited in Marie Corelli, Kirsten MacLeod, *Wormwood: A Drama of Paris*. NY: Broadview Press, 2004.

<sup>11</sup> See Robert F. Barsky, Editor, *Marc Angenot and the Scandal of History*, *Yale Journal of Criticism* 17.2 (Fall 2004).

represent or purvey in their writings is unknowable and mysterious, because it is betwixt-and-between, it is neither here nor there, even if it is recognizable to the reader. And this marginal, illicit, illegal, undocumentable status links the cases made against poetry and prose to the case against an artist depicting what the society considers undesirable, making the representation associated with his works simply too dangerous to view. Couture was found not-guilty, of course, but the danger he represents, the danger that everything and everyone who is deemed foreign represents, isn't going away. This, perhaps, is the real message of why Baudelaire will continue to be invoked, as art presses the boundaries of what can be represented, on grounds that can be defined in modern terms.

In other words, literary battles regarding censorship could be considered now as touchstones, and in the recent case against Couture, they offer us a mechanism, whereby artists can endeavor to establish and affirm the authority of their aesthetic standards. These standards had been difficult to legitimize because the modernist texts, and artifacts like this artwork, because they were intended to evaluate had not stood the test of time. They had not become "classics" by the only standard widely recognized by the public at large: outliving their authors. Obscenity trials, in this context, have functioned as rituals of consecration whereby modernist texts could be affirmed as "classics." They enabled an alliance between publishers and literary critics that was crucial to providing mainstream acceptance for modernist texts by replacing the test of time with the patina of professionalism. Thus Circuit Court Judge Augustus Hand, affirming on appeal District Court Judge John Woolsey's decision in *United States v. One Book Called "Ulysses,"* asserted that literary value can be proven by "the established reputation of the work in the estimation of approved critics, if the book is modern, and the verdict of the past, if it is ancient."<sup>12</sup> Couture, by these standards, has passed into the realm of approbation, and by his acquittal, Québec remains steadfastly in the modern world into which it was led by the kinds of French modernist texts that populate the great Bandy Collection in Vanderbilt University's Heard library. Other cases of the overlap between French modern texts, and the (often reluctant) movement that Québec society made in the direction of modernity, right up until the dramatic surge "forward" marked by *La Révolution tranquille*, are the substance of all the articles that follow, in what can only be described as a crucial "quest" in the Americas.

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<sup>12</sup> See <http://cbldf.org/about-us/case-files/obscenity-case-files/obscenity-case-files-united-states-v-one-book-called-ulysses>.