

LEGAL EYE

by Michael Bergman

Free trade flip-flop

Events of recent months should make members of the Canadian Cultural Community change their names to Thomas, doubting the Government's will or ability to protect Canadian cultural sovereignty in the Canada-U.S. Free Trade talks.

Since the Fall of 1985 the Canadian Government has said that: cultural issues were topics of Free Trade negotiation, Canadian cultural sovereignty was not subject to negotiation, foreign interests could not acquire Canadian book publishers, a U.S. corporation could acquire a Canadian publishing house, key sectors of the economy should be in Canadian hands, a Crown Corporation (de Havilland) is sold to foreign interests. Several meanings may be placed on this series of events. The flip-flop may be a sign of the absence of policy, or a knee-jerk response to pressure groups or unresolved political conflict in the Government. Members of the cultural community should

find the lack of even the appearance of firm commitment to cultural protection alarming. The writer, though, does not ascribe the administration's meanderings to confusion. Rather a definite pattern is emerging which suggests that the fencing off of certain matters such as cultural sovereignty from the Free Trade talks is a form of negotiating tactic and not a long term goal.

The distinction between goals and the tactics to achieve them is essential, tactics are subject to change and compromise, goals are not. Negotiations are a means to an end. When the end changes, the means lose direction. We can know that cultural sovereignty is only a Free Trade tactic by examining the participating governments reaction to it.

If the sanctity of Canadian control in areas like culture was a priority then this policy would surpress or take priority over other Government

policies. For example Canadian control would take priority over the privatization of Crown Corporations, book publishing ownership policy would be retroactive and supercede the desire for foreign investment, cultural sovereignty would have been insisted on from the start and not as a reaction to public protest.

The very phrase "cultural sovereignty" is unusually pliable and flexible. It has no precise meaning; it is subject to different interpretations. Is

culture identity, entertainment, social interaction, media or an institution? Surely the American free trade negotiators will insist that Americans are not interested in compromising anybody's sovereignty, identity, sociology or whatever. The Americans understand the talks as economics and trade. Cultural issues are relevant only in an economic sense. One of the roles of their negotiators will be to persuade us that free and unimpeded cross border competition has advantages which

exceed cultural fears, which will create an environment which encourages Canadian access to American commercial cultural vehicles and have no detrimental effect on non-commercial culture. These are legitimate answers to concerns for cultural sovereignty. How much different might their answers be if Canadian negotiators could say that programs which support and assist commercial cultural industries through government intervention control, funding and regu-



LOOKING TO MOVE?

STUDIO AND OFFICE SPACE AVAILABLE FOR UP TO 6,000 sq. ft. OF SPACE SUITED FOR

PRE & POST PRODUCTIONS (SHORT OR LONG TERM)

EDITING FACILITIES

SOUND MIXING

DUPLICATIONS

AD AGENCIES

PHOTOGRAPHERS

WE OFFER YOU

EXCELLENT RATES
IN A TOTALLY FILM ORIENTED FACILITY
FREE PARKING
CLOSE TO DOWNTOWN
SECURITY STAFF



PHOTOGRAPHY, FILM AND VIDEO FACILITIES

258 Wallace Ave.
Toronto, Ont. M6P-3M9

(416) 537-3471
TELEX 065 24086

TWO IMPORTANT EVENTS WILL HAPPEN IN CANADA THIS YEAR ON MAY 2ND

FIRST THE OFFICIAL OPENING OF EXPO '86 IN VANCOUVER.

SECOND THE MASTER'S WORKSHOP CORPORATION WILL OPEN ITS DOORS

To Present Our New, 48 Track Sony DIGITAL, Theatrical Mixing Facility Featuring The Largest Console in Canada

And To celebrate the best year yet in our corporate history.

Now, admittedly, our open house is somewhat less significant than that other "happening" in British Columbia, but we do have several things in common.

In fact We have mixed and/or produced sound for six of the major shows at this year's World Exposition including tracks for:

Canada Place "Earthwatch" (Prisma Productions/Showscan)

CN Pavilion "We're Really Movin'" (John McGreevy Productions/Multi-Media)

Theme Pavilion "A Freedom to Move" (Michele Brault/Omnimax)

B.C. Pavilion "Zargon" (Independent Productions/Showscan)

BE OUR GUEST MAY 2ND, '86 FROM 1 P.M. ON.

Come see our six studio complex, meet our unparalleled staff of 18 plus several other creative friends, enjoy the shows, music and food, and find out why we're the fastest growing post production sound company in Canada.



MASTER'S

306 Rexdale Blvd. • Units 5, 6, 7, • Rexdale, Ontario • M9W 1R6
Just west of Martin Grove Rd. on Rexdale Boulevard (Near the new Woodbine Center).

lation are not subject to compromise or negotiation.

For all the Canadian Government's talk of cultural sovereignty, the American embassy still insists that cultural matters are subject to negotiation. The tables were even turned around when the American Secretary of State told our Minister of External Affairs that Canadian book publishers are taking over American firms.

Perhaps a typical and enlightening American attitude to free trade is expressed by Mr. Jack Valenti, President of the Motion Picture Association of America in his piece printed in the *L.A. Times* and reprinted recently in the *Montreal Gazette*. Mr. Valenti contends that the American film industry is being unfairly restricted by barriers erected against it in other countries. He cannot see why the American film industry should be blamed because everyone prefers its product. Neither can he see how restricting American films will cause other domestic film industries to exist. He notes with pride the American film industry grew by self initiative in a free market. It seeks only fair and open competition in all markets as foreign films seek in the American one.

His analysis of American films' foreign problems acknowledges only the American context. It presumes that feature film is purely a commercial affair and serves no other purpose than profit through entertainment. It also ignores an important element of the reason for American films' international success, direct or indirect control of distribution and film financing. Of greater implication though is the notion that if unimpeded the American film industry will remain dominant and grow worldwide. The American film industry is ready to face foreign competition because it does not believe that foreigners can make any significant inroads by pure competition either in the U.S. or their own domestic market. It is for this reason the trade restrictions on American feature films are considered so abhorrent; they are the only effective remedy against the dominance of American film. In Canada content guidelines, government funding and forced Canadianization form such trade restrictions.

An equally enlightening article is Marcel Masse's response to Mr Valenti's views which subsequently also appeared in the *Montreal Gazette*. Mr. Masse's piece shows the gap between the American and Canadian thinking on the film industry. Mr. Masse talks of cultural priorities, of the need for Canadians to see them-

selves through our own film industry. He explains that dominance of American films in Canada has caused at least 90% of film revenue to flow out of the country causing domestic film financing problems. American dominance of distribution reduces or forecloses screen time. He acknowledges that something must be done although he suggests no specific remedy.

Although Mr. Masse speaks of business opportunities, his primary concern is the fulfilment of cultural objectives through the growth of a Canadian feature film industry. He gives the clear impression that although it has economic effects the Canadian film industry operates for extra economic objectives.

To the extent that Messrs. Valenti and Masse are representative of their countries' position on film and trade it is evident that they are not talk-

ing the same language. There is a striking difference between Mr. Valenti's and Mr. Masse's point of view. The former says the American film industry cannot compete unless trade barriers (external) are reduced, the latter says the Canadian film industry cannot compete unless trade barriers (internal) are imposed. Free trade is about reducing trade barriers. In this context Mr Masse's position does not appear to be in sync with the general direction of the trade talks.

Neither does Mr. Masse's views appear to concur with those of other members of the government of which he is a part. The general thrust of the Government has been to deregulation, privatization and non-intervention. The Foreign Investment Review Agency's (now Investment Canada) powers have been reduced. Shoe import quotas have been

slashed. The Prime Minister has declared an era of Canada - U.S. trade cooperation. Regard-

less of Mr Masse's personal sincerity the Government's credit-

Broadway & HOLLYWOOD BOOKS

- First editions, out of print & rare books
- Current releases
- Specializing in the Golden Age of Broadway & Hollywood
- Mail orders — credit cards
- Free 1/2 hr. parking at Municipal lot
- Open Monday-Saturday 11-6

17 YORKVILLE AVENUE
2ND FLOOR • BETWEEN YONGE & BAY • 926-8992



THE COMPLETION GUARANTORS
for features,
television series,
and international co-productions

LES GARANTS D'ACHÈVEMENT
pour séries de télévision,
longs métrages
et co-productions internationales

Michael Spencer, President
1001, de Maisonneuve Blvd. West, Suite 910
Montreal, Quebec H3A 3C8
Telephone: (514) 288-6763
Telex: 055-62276

36 years of experience

bility on protecting cultural sovereignty must be rated as low.

Furthermore, it is difficult to imagine a Government dedicated to free trade foregoing an agreement which it claims will open a multi-billion dollar market for Canada just to protect the Canadian film industry. Insisting on cultural sovereignty makes an excellent tactic. It pacifies public opinion while being flexible enough to permit the giving of ground on commercial cultural issues. Only the force of public opinion could prevent a Government otherwise hell-bent on free trade from compromising the interests of the Canadian film industry in the talks.

Unfortunately the Industry has been a poor advocate of its own cause and suffers from a public relations problem. This is typified by the recent feature article in *Macleans* magazine. The article tells us there is a boom of American production in Canada occupying all our crews. At the same time the native film industry is in disarray, decline and possible disintegration. Although the article is about the industry, at least one-half is devoted to Margot Kidder as the girl who goes to the big city (Hollywood), makes good and comes home (sometimes).

Many readers of the *Macleans* article will draw the conclusion that Americans are anxious to make films in Canada; we are part of the Hollywood scene. On the other hand native film producers are a nuisance whose inconsistent record is more often than not poor and a burden to the taxpayer. In this perspective why would anyone allow the interests of the Canadian film industry to impede Free Trade?

It is high time the industry took up its own cause, creating a positive impression of itself and garnering broad public support. This will be the cornerstone of the industry's defense to the encroachment on its protection and growth by Free Trade (not to mention the other benefits of public awareness). This support will make it hard for the Government to compromise the industry in the talks.

The need for a lobby campaign is immediate. It must be effective before the talks develop their own momentum and the disadvantages become submerged although just as real. Cultural sovereignty is only a tactic, it should be a goal. It never will be a goal because the idea of commercial stability and growth for Canadians through Government intervention defeats the entire purpose of Free Trade.

A rather frank feature on Canada in the respected British publication, *The Economist* not only concedes this point but suggests that Canadians have no other reasonable choice but to see their sovereignty diminished in return for the benefits of open competition with the U.S. In this feature with the disparaging title, "Timid Canada", we are advised that Canadian efforts to restrict foreign films and TV will fail in the face of public demand for U.S. material and limited government resources." ...the country's cultural policy, like its trade, is drifting... towards more imports..." *The Economist* feature suggests that we must not only accept a compromise on cultural policy to gain the benefits of Free Trade but that Free Trade is the only hope for Canada to find its place in a competitive world.

Free Trade, the elimination of barriers to competition between Canada and the U.S. will mean the end of an aggressive Canadian cultural policy especially in commercial culture. Canada's future can be just as, if not more, assured without Free Trade; we don't have to be timid. The destiny of Free Trade need not be our fate. The Canadian cultural community must of necessity oppose Free Trade - our existence is at stake.

Footnote:

It is interesting to note the tone of the various articles referred to in my essay. Mr. Valenti's is aggressive - the American way is the best. Mr. Masse's is apologetic - Americans should thank their lucky stars to have neighbors like us. *Macleans*' is grateful - Americans are making us Hollywood North. *The Economist* is

resigned - if the Mother country had to join the European Economic Community, little Canada should link up with the U.S. I may be tone deaf but I don't care for any of their music.

Michael N. Bergman, barrister and Solicitor, is a member of the Bars of Quebec, Ontario & Alberta with offices in Montreal & Toronto.

**SCREEN WRITER'S WORKSHOP
Conducted by Syd Field**

Author of "ScreenPlay" & "The Screenwriter's Workbook"
"The most sought after screenwriting teacher in the world"

- THE HOLLYWOOD REPORTER

- focuses & defines dramatic structure
- demonstrates how to create better characters
- Read & Discuss 1st 10 pages of an award-winning screenplay
- Discussion & written exercises to sharpen screenwriting skills

April 19 & 20 - 9:30 to 4:30
Ramada Inn - Downtown Toronto

Information: International Literary Services
469-7444

**URGENT
To All
Members
of PAND**

At the general meeting Monday February 17, 1986, members of Performing Artists for Nuclear Disarmament (PAND) unanimously resolved that the following statement be released:

The ABC-TV mini-series "Amerika" currently being cast in Toronto and filming here starting May 20, deals with the after-math of a takeover of the United States by the Soviet Union.

PAND expresses its strong concern that the production may be detrimental to the cause of world peace and disarmament in this, the International Year of Peace.

**Performing Artists For
Nuclear Disarmament
(416) 533-3859**

THE EDWARD G. AGENCY LTD.

Is Moving Up
1st April, 1986

730 Yonge Street,
Suite 228,
'The Charles Promenade'
Toronto, Ontario,
M4Y 2B7.
(416) 960-8683