

Ottawa to deal with broadcast report

OTTAWA — The Caplan-Sauvageau report on broadcasting has set off a flurry of activity within the department of Communications as bureaucrats weigh the implications of the political decisions which must be made; it will soon receive close scrutiny by the Commons.

The Report of the Task Force on Broadcasting Policy — informally, the Caplan-Sauvageau Report — was officially made public on Sept. 22, 15 months after work had begun on what was, at first, a six-month project. It is now the responsibility of the minister, Flora MacDonald, to guide

the report through the various stages of examination. She has promised a new broadcasting act as a result of the study by the end of the Conservative term of office.

A thorough and exhaustive study of the state of broadcasting in Canada, the report has met with general approval within the industry, indicating that the high expectations created by the time and energy put into the study were met (see article pp. 9).

MacDonald has said that she will act promptly to bring the report before the Commons, the first step being to submit it to the Standing Committee on

Communications and Culture.

The members of this committee for the current parliamentary session were named Oct. 15 and DOC insiders expect Jim Edwards (PC-MP Edmonton South) to be elected president. During the 1985 session, he served as the parliamentary secretary to the minister of Communications.

Edwards age 50 has spent most of his professional life in the broadcasting industry. In 1967, he joined CFRN AM/FM in Edmonton, resigning his post as general manager in 1984. That year he was elected

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Non-theatrical industry looks to Ottawa for financial help

OTTAWA — Situation desperate reports a federal government task force commissioned in May 1986 to study the non-theatrical film and video industry.

The 38-page report entitled *The Other Film Industry*, released Oct. 6, recommends a \$15 million per year support package for the industry to ensure a balance between public and private sources of product.

The main problem as the task force sees it is that the small Canadian market makes it difficult for Canadian producers to recoup the cost of producing Canadian material indigenously. Only 30 to 40 per cent (or approximately \$11 million) of the total non-theatrical purchases made in Canada in 1985 were of Canadian material. Sixty per cent of this Canadian material was bought from a federal or provincial government institution with the remaining 40 per cent from private industry.

The report also states that the non-theatrical sector is "generally neglected or completely ignored when government policies are formulated and programs established."

Thus in order to ensure a balance between public and private sources of production, major recommendations within the support package are as follows:

- a rebate program to encourage increased purchases of Canadian non-theatrical material.
- creation of a production fund.
- establishing of a marketing, promotion and advertising program.
- a 150 per cent Canadian content credit for eligible films shown on television.
- an increase in the capital cost allowance to 150 per cent allowable in the first year for eligible films.
- a tax credit of 150 per cent for Canadian corporations which use private production companies to produce eligible films.

Also recommended is that the NFB should share half of its production volume with private companies; that Canadian distributors be allowed to tender for the distribution of NFB films. The CBC should avoid repackaging programs that compete with private sector programming and allow Canadian distributors to handle 50 per cent of videocassette and other non-theatrical materials.

The interests of Canadian non-theatrical producers and distributors should be the subject of stronger federal copyright legislation and a joint federal/provincial training program should be established to help improve the use of audiovisual materials in education.

Non-theatrical programs include films and videos used in classrooms from kindergarten through university, audio/visual training materials, 16mm prints or videos borrowed from public libraries or government departments, demonstration films or videos used in hospitals, museums and industry.

Co-chairpersons appointed to the task force by the former communications minister Marcel Masse were François N. Macerola, commissioner of the National Film Board of Canada and Merit Jensen of the Winnipeg Film Group.

Task force members were Aimée Danis, Les Productions du Verseau Inc.; Cari Green, Canadian Filmmakers Distribution West; Bernie Hart, Media Services, Nova Scotia Department of Education; Les Modolo, Marlin Motion Pictures.

Astral and Telefilm into romance series

MONTREAL — Eight TV movies based on the romance novel will be shot in Montreal for approximately \$1 million each on two week schedules. Entitled *Shades of Love*, the series is being financed by Astral Film Enterprises in association with First Choice Canadian Communications Corporation and L/A House Romances Inc. (Los Angeles) with the participation of Telefilm Canada. The series will be released on TV and to the home video market simultaneously in Canada and the U.S. during the spring of 1987. Stewart Harding is producer, Ken Atchity is executive producer.

Lilac Dreams, the first in the series is shooting during the first two weeks in October. Director is Marc Voizard. Dack Rambo who currently stars in Dallas as Jack Ewing will play the leading man.

Titles in the series include *Rose Café*, *Champagne for Two*, *Sincerely Violet*, *Make Mine Chartreuse*, *Garnet Princess*, *Coincidence in Crimson*, *Ballerina and the Blues*.

UK accepts Cancon case-by-case

MONTREAL — The British television industry has agreed to grant a 100 per cent British content ruling to Canada/U.K. co-productions on a case by case basis following a meeting Sept. 17 and 18 of the Canada/U.K. Film and Video Mixed Commission in London, England.

Paterson Ferns, president of Primedia Productions Ltd., Toronto, who has worked extensively with the British industry as an independent Canadian producer, characterizes as "successful" this meeting between representatives of both governments, industry and unions.

The meeting was held to finalize details of the Canada/U.K. co-production treaty

signed in 1975 and amended in 1985 to include television.

"I would say a great clarification took place," says Ferns, who is also a past president of the Association of Canadian Film and Television Producers and the Canadian Film and Television Association.

The focus of the meeting was centered on the reluctance of Britain's Independent Broadcasting Authority (IBA), the regulatory agency for independent British television, to give 100 per cent British content approval to Canada/U.K. co-productions under the extended agreement.

With jurisdiction over the 15 independent ITV channels in Britain, the IBA has held fast to the British Broadcasting Act

allowing for 14 per cent of all programming to be foreign of which a minimum of 1.5 per cent is reserved for Commonwealth programming. This ruling has relegated Canada/U.K. co-productions to the programming margins already crowded with U.S. programs and a high percentage of Australian programs, Vladimir Skok, policy advisor with the Canadian federal department of Communications, says the "defensive position" taken at the outset of the meeting by the IBA might have been avoided by more in-depth consultation prior to the signing of the 1985 amendment.

However, Skok says the mixed commission succeeded in softening this position.

This was accomplished, he says, by a clarification of the treaty advantages in Canada for a British producer which includes 100 Canadian content status and subsequent access to Canada's feature film and broadcast funding.

The need for an agreement amenable to both sides was underscored by Telefilm Canada statistics showing \$50 million generated by British/Canadian co-ventures outside of the co-production treaty, in the past two years, and \$40 million generated by co-productions.

The British were also nudged towards re-thinking their position, says Skok, by the undeniable high quality of Denys Arcand's *Le Déclin de l'empire américain* and Kevin Sullivan's *Anne of Green Gables*, two award winning Canadian films drawing large British audiences at the time of the meeting.

per cent withholding tax is just a down-payment on what could be as high as a 65 per cent income tax on high-income performers; as well, hotel costs, airfares, transportation, per diems are being reclassified as taxable).

The tax that is causing so much consternation, particularly for B.C., whose film industry is 90 per cent U.S. generated, is a result of the new Canada/U.S. tax treaty, which officially came into effect Jan. 1, 1985, though a year of grace was given in which the most beneficial treaty (old or new) could be applied. In 1985, then, U.S. performers chose the old treaty which stated that employees of a corporation (in the case of film performers, loan-out personal

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Taxes pull Viacom out of BC

VANCOUVER — Viacom Productions Inc., the Los Angeles company that is producing the *Return of Perry Mason* series which shot in Toronto and Vancouver last year, has cancelled its fall shoot in Vancouver because of "uncertain application of Canadian tax laws to foreign performers." It is the first loss of a confirmed production to hit the West Coast, but will not be the last if the new implementation of income tax on foreign film stars is not relaxed or at least clarified to U.S. producers.

While production companies in the East are being asked to open their books to federal audits, the 11 producers currently shooting in Vancouver are keeping a nervous silence, but tacitly agree that the uncertainty of the application of the tax is unfair (the 15

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service corporations) that didn't have a permanent residence in Canada were not taxable when they worked here.

The new treaty has defined categories more carefully, differentiated personal service corporations from the others, and have stated that employees of personal service corporations are now subject to Canadian income tax. To make matters worse, not only are salaries taxable but so are all benefits. The 15 per cent withholding tax is just a down payment on what could be much more — just how much more won't be known until the performers file their Canadian tax returns in April — but with Canadian tax rates being substantially higher than in the U.S. (the corporate rate for taxable income next spring.) Revenue Canada is currently compiling an information booklet which will outline artists' status, and possible tax incentives or credits, but the situation remains unclear.

Hockey players and baseball players have been exempted from paying income tax in a special provision in the treaty, and artists working on films and television productions would like to have the same exemption applied to them. But Revenue Canada representatives claim that they are only carrying out the articles of the treaty, and that no changes can be made unless the treaty is renegotiated.

George Chapman, business representative of IATSE 891, believes that the tax question

New Cinema Fest highlights Japan

MONTREAL — Although the Japanese are the focus of attention this year, the 15th annual International Film Festival of New Cinema and Video in Montreal (Oct. 16-26) promises a wide range of productions from around the world.

Featured screenings in five venues in downtown Montreal include **Down By Law** directed by Jim Jarmusch; **God's Country**, Louis Malle; **Désordre**, Olivier Assayas; **Maine Océan**, Jacques Rozier; **Caravaggio**, Derek Jarman; **Danse à contre-jour**; **Dancing in the Dark**, Leon Marr.

Special attention will be given to Japanese film and video represented by such selections as **Afternoon Breezes**, Hitoshi Yazaki; **Blind Alley**, Go Riji; **Paradise View**, Tsuyoshi Takamine; **Half Man**, Sogo Ishii; **Pour Kayako**, Kohei Oguri; **Promesse**, Yoshishige Yoshida; **Attack on a Bakery**, Naoto Yamakawa and others.

must be resolved quickly before more losses of productions occur. He pointed out recently that there are several cases where production companies that are scouting B.C. are making up two budgets — one for Canada and one for alternate U.S. locations. If the Canadian tax situation remains unclear, or if higher Canadian tax rates are applied to U.S. performers, the production companies will simply shoot in the U.S. He points out that although many U.S. producers are fans of B.C. as a place to spend their production dollars, their attitude is "basically non-combative. They don't want to fight — they'll just go where it's cheaper and easier."

Diane Neufeld, B.C.'s Film Commissioner, is very concerned about the tax. "From my point of view, what's the point of marketing a product that nobody wants? The product is essentially being sabotaged." She says that her office receives a steady stream of calls from U.S. producers about the tax. "The political system in the States is different than here, and the relationship between the film commissions and the government is different. I don't have a hot line to the governor, but producers call me and say, 'Fix it! What are you doing? This tax is ridiculous — we're bringing money into your country and providing jobs, so just fix it!' All I can do is tell them that we have a lobby group and that we're doing all we can, but there are no guarantees."

Apparently Kent McLean, director of Source Deduction Branch at Revenue Canada, and Revenue Canada employee Jim Ivey, have already met with Ontario industry representatives, with a shouting match being the result. They are coming to Vancouver in October and will be met by smaller industry groups who plan to make use of their world-famous cooperative style in the discussions. According to Neufeld, "We want to talk to them with a constructive attitude. I don't think that the powers that be had an inkling of the ramifications to this industry when they made the Act, the Treaty and the Regulations to the Act, but once they realize that they'll cripple a \$100 million industry if they impose the tax, they'll look at it another way. As far as I'm concerned, it's a problem and we'll solve it together."

Warren Carr, one of Vancouver's busiest and well-respected production managers, says that his daily phone calls to Columbia Pictures Business Affairs people (he is currently p.m. on Columbia's feature **Roxane**) involve questions about the tax. "Every day they ask me what's going on up

here, and when are we going to start lobbying. I've written a letter to Michael Wilson as has virtually everyone on our crew, and I hope it'll have some impact, but we may even have to take it to the protest level to be recognized." Carr describes Article 16 as symptomatic of a lack of understanding of the differences between performing artists such as rock stars, who take their Canadian gate back home with them, and performers who lend their names to movies that bring money into this country. "My feeling is that the article is not detailed enough. They seem to have failed to recognize the difference between importing and exporting money. I haven't earned a dollar from a Canadian production company in five years — I've worked for 20th Century Fox, Lorimar and Columbia Screen Gems — and I'm worried that I won't be working next year."

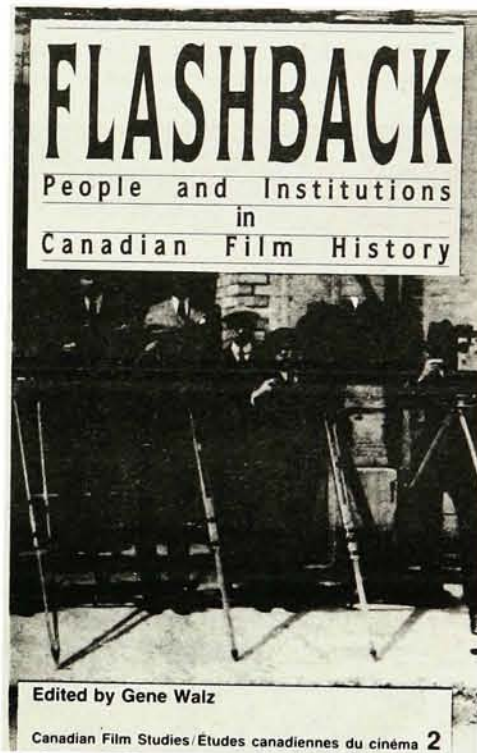
George Chapman is organizing the making of a videotape that will be shown to Revenue Canada and possibly the Minis-

ter of Finance. It will be a composite of interviews and statements by local service industry representatives, union members, producers and provincial and city government officials on the tax. During a recent crew lunch break at Dominion Bridge (**Roxanne**), Chapman and the volunteer cameraman collected video testimonials to the industry's concern over what is perceived here as the inevitable end of the industry if the tax prevails. The meeting was attended by Deputy Premier Grace McCarthy. McCarthy has spoken out strongly against the tax on several occasions, and at the recent Motion Picture Production Celebration Day, declared that "We will aggressively address the problem. We believe that if hockey players can be exempt, then the people who leave \$75-\$80 million behind them after filming in B.C. each year...could have the same exemption. We will work towards that." In a recent statement to the press, McCarthy said that even though the regulations are being imposed all

across Canada, they have the effect of discriminating against B.C. with its high proportion of foreign film production. "It seems like our film industry is being penalized for being so successful," added the minister.

While bevy of tax lawyers look at possible areas of flexibility in the interpretation of the treaty, industry insiders and U.S. producers maintain an uneasy vigil. Meantime there have been speculations on the lack of vision of Canadian negotiators of the tax treaty. The concensus seems to be that they couldn't have foreseen the devastating impact that taxing U.S. film performers would have on the film production support industry in this country.

But the U.S. will gain if its producers decide not to take their productions and their money out of the U.S.A. — most of the productions that decide against Canada go back to the States, which must be cause for celebration among the many lobby groups in the U.S. which oppose "runaway" production.



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