(i) a majority of the directors of which are Canadians as herein defined; and
(ii) at least two-thirds of the ownership interests in which are beneficially owned by Canadians as herein defined; or
(c) a corporation incorporated under the laws of Canada or of a province of Canada
(i) a majority of the directors of which are Canadians as herein defined.
(ii) a majority of the outstanding shares of which are beneficially owned by Canadians as herein defined;
(iii) at least two-thirds of the outstanding voting shares of which are beneficially owned by Canadians as herein defined.

"voting share" means a share carrying a voting right under all circumstances or under some circumstances that have occurred and are continuing, and includes a bond, debenture or other debt obligation currently convertible into such a share and a currently exercisable option or right to acquire such a share or convertible debt obligation.

9. (1) On application in the prescribed form and manner specified in the regulations, the Minister may determine that the applicant shall be entitled to import any cinematographic work, or any film product derived from a cinematographic work or broadcast-authorized exhibition of film products to the general public and, for the purposes of this subsection, any theatrical or other premises operated by an affiliate of the said person shall be deemed to be operated by that person.

10. General licence or proprietary licence may be transferred.

11. (1) If a general licence or a proprietary licence of the applicant has reasonable grounds to believe that (a) the licencee has ceased to be a person to whom the licence could be granted, if the licencee were then to apply for the licence.

(b) the licence or an affiliate of the licence holder has contravened or failed to comply with any provision of this Act or the regulations or any term or condition of a general licence or a proprietary licence, unless the licencee has been notified of the action that the Minister proposes to take and has been afforded a reasonable opportunity to make representations to the Minister in relation thereto.

Regulations

15. The Governor in Council may make regulations (a) exempting any film product or film from the application of this Act on the basis of the length, language, intended audience or content of the film product;
(b) prescribing what constitutes Canadian film products, or a class of Canadian film products;
(c) prescribing the amount or the manner of determining the amount to be invested by a licensee for the purposes of section 11;
(d) prescribing the form and manner of making applications for licences under this Act, the information to be furnished in connection therewith and the procedure to be followed in the consideration of such applications.

Enforcement

16. No person shall knowingly furnish any false or misleading information or knowingly make any misrepresentation
(a) for a general licence or a proprietary licence,
(b) for the purpose of procuring the grant of a general licence or a proprietary licence, or
(c) in connection with the use of a general licence or a proprietary licence.

17. Where the Minister notifies the Minister of National Revenue that the Minister requires copies of invoices of film products that have been imported or of other customs documents relating thereto for the purpose of enforcing this Act or the regulations, the Minister of National Revenue may, notwithstanding section 107 of the Customs Act, make such copies available to the Minister of National Revenue, or to any person to whom the Minister presides that have been designated by the Minister for the purposes of this section.

18. (1) Where a person who contravenes or fails to comply with any provision of this Act or the regulations or any term or condition of a general licence or proprietary licence is not guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding six months or both.

(2) Where an offence under subsection (1) is committed on more than one day or is continued on more than one day, it shall be deemed to constitute a separate offence for each day on which the offence is continued or committed.

(3) Where a body corporate commits an offence under subsection (1), every person who at the time of the commission of the offence was a director, officer or agent of the body corporate is guilty of the like offence unless the act or omission constituting the offence took place without the person's knowledge or consent or the person exercised due diligence.

Curtains for Art?

by John Timmins

On Oct. 14, 1987, Michael Wilson introduced the House of Commons during Question Period and, skillfully, neither confirmed nor denied that any new Canadian film distribution policy would be subject to ratification under a new free-trade agreement with the United States.

It was not as easy for the Finance minister to deflect questions on the following day, but he did. On that day, the opposition had in its hands a briefing paper addressed to James Baker, U.S. secretary and Clayton Yeutter, U.S. trade ambassador.

Under the sub-heading CULTURE in upper case letters, the paper, dated mid-Oct., outlined the Canadian position on free-trade in three short paragraphs including "a promise to solve Jack Valent's problem on film distribution within the next two weeks..."

Wilson told the House that Flora MacDonald, minister of Communications, had made a commitment to "ensure that Canada is treated as a separate market for film distribution..." that commitment still stands," said Wilson.

Broadbent's reply: "Some of us are inclined to believe something other than that. We are going to look with interest at Bill the minister has promised to introduce.

Repeated efforts to control what is seen on Canadian screens and where box office receipts are spent have gone down to defeat with a succession of government changes.

The most recent minister to try wresting control away from the Americans, who consider the Canadian feature film market a potato market whose product dominate 96.5 percent of North American theatrical box office, is Communications Minister Flora MacDonald. Her fight began in 1986 when she succeeded Marcel Masse in the Communications portfolio. Masse, some say, was too strong and thus conveniently moved to Mines and Resources where he could be as strong as he wanted to be.

No sooner had MacDonald landed her new job when she inherited the Report of the Film Industry Task Force, Canadian Cinema - A Solid Base, commissioned by Masse in Nov. 1985 around the time the Parti Quebecois was abandoned the tough distribution legislation in Bill 109 under threat of a Quebec boycott by Jack Valen'tis Motion Picture Export Association of America (MPAA).

Authored by Stephen Roth and Marie-Jose Raymond and delivered to Masse in Feb. 1986, the report strongly recommended the film fund and the Canadianization of the film distribution industry. If Canada were going to foster an indigenous production industry and take more than three per cent of box office, we would have to create an indigenous distribution industry.

It was clear to the authors that the seven U.S. major studios were unsympathetic to "our" problem and self-assured that cinema lay safely within the sacred realm of free-enterprise. Where the market decided, where the Majors were concerned, were non-negotiable.

Several weeks later in April 1986, the Gulf and Western-owned MCA-Universal, one of the Majors, bought out the Canadian distribution rights of Atlantic Releasing. This effectively cut off Norstar, which had previously held sub-distribution rights from Atlantic Releasing, from many independent U.S. and foreign titles and gaining unrestricted access to the distribution of these titles in Canada.

When Norstar cried unfair...
distribution

cont from p. 25

competition, Jeremy Kinsman, deputy minister of Communications, went on record saying "it would never happen again" (hinting for the first time that there might be a new distribution policy in the works) and the Roth-Raymond report on the weakness of Canadian distributors in their own market, remained an open book.

In July, MacDonald unveiled the feature film fund, an annual $55 million to be administered by Telefilm Canada for Canadian films with a Canadian distribution agreement. It was well received by the industry but did not solve the marginalization problem and, what's worse, the free-trade debate was beginning to rear its ugly head.

On Oct. 22, Jack Valenti slipped in and out of Montreal under cover of darkness to sign a deal with Lise Bacon, Quebec's minister of Cultural Affairs. The deal was condemned by many as a distortion of the original intent of Bill 109 because it failed to curb the Majors who still control 80 per cent of Quebec box office revenues.

By the new year, it was still uncertain whether Macdonald would take action on the distribution recommendation in the Roth-Raymond report. The free-trade debate had found a focus on whether cultural industries were negotiable which prompted U.S. trade ambassador Clayton Yeutter to utter, at a Washington trade conference, Feb. 3, "We're not afraid of competing with Canadian culture so they shouldn't be afraid of American culture."

Yeutter's unfortunate words were answered 10 days later by the communications minister who announced the National Film and Video Products Act with which she promised to create a domestic market for commercial/theatrical film and video and to stem the importation of foreign product.

Legislation would create a licensing system for the importation of film and video which would divert close to seven per cent of $26 million of $305.5 million in U.S. movie box office, video and TV sales to Canadian distributors who would in turn re-invest in Canadian production. The altruistic view was that distribution legislation would, for the first time, codify U.S. film distribution rights to 85 per cent of the Canadian market.

MacDonald told a very receptive Canadian film industry that legislation could be expected within "a few weeks." Aside from concerns that licenses be specific and the definition of world rights be as tight as possible, most of the industry believed the thing would fly, if given a chance.

She also said that the proposed legislation was not likely to be regarded as a barrier to free-trade. This was an easy assertion to make as Canadian cultural industries represent five per cent of total trade with the U.S. and film a mere fraction of that.

"No one ever said that we were going to stop our cultural development because there are ongoing trade negotiations. In a sector of the economy were there is such development, no one is going to put a cover on it and wait until trade negotiations are over," she said (Cinema Canada No. 139).

April ("the cruelest month") came and went with no sign of distribution legislation, only Hollywood's chief lobbyist knocking on MacDonald's door to say that her exemplary legislation would cause a "contagious effect" around the world and that 25 per cent (not seven per cent) of revenues to U.S. distributors in Canada would be lost.

Ronald Reagan had, reportedly, already given Mulroney an earful during a state visit in March just as he had done in March 1985 when the Quebec Bill appeared to be getting out of hand.

By May, the industry was still on-side with MacDonald, respectful of the minister's busy schedule which included a backlog of legislation and the Parliamentary committee hearings on the Report of the Task Force on Broadcasting Policy. The industry was patient with the delays naturally incurred in drafting any pivotal piece of legislation.

Rumor had it that the introduction of this legislation would be timed with the opening of the Cannes Film Festival, May 7, where distribution deals are...
bought and sold. It was not to be.

A few days earlier on May 4, MacDonald had met with the Parliamentary Standing Committee on Communications and Culture and discredited any possibility of a Canadian-wide boycott by the U.S. majors.

MacDonald said she did not have to answer to anyone outside of Canada and that her government had a commitment to introduce legislation shortly. On May 8 and 9, during the House of Commons Question Period, she restated this commitment.

By this time, the free-trade debate was permanently situated on the front page of most Canadian newspapers and occasionally on the back pages of the odd U.S. daily. When asked in the absence of Flora MacDonald whether the ways and means committee of the U.S. Congress had called the proposed legislation an impediment to free-trade, Pat Carney, minister of International Trade, said that the Americans had overreacted and that legislation will be introduced.

Thus, there was hope that legislation would be introduced for first reading prior to the summer recess of the House of Commons (June 30-August 11).

Despite explanations of government legislative priorities, problems with tax reform and legal technicalities in the drafting of the Bill — and despite repeated assurances from MacDonald — there seemed to be a consensus throughout the Canadian film industry that legislation had been poorly shelved for the duration of the free-trade talks which raged behind closed doors through the summer to its fateful conclusion at midnight Oct. 3, 1987.

---

**NFB NEWS**

**NATIONAL FILM BOARD OF CANADA**

- Victoria Snow nominated for best performance by a lead actress.

**NATIONAL FILM BOARD OF CANADA**

The National Film Board of Canada, founded in 1938, is an independent Crown corporation that produces and distributes films and videos for a wide range of audiences. The Board's mission is to create and distribute compelling Canadian audiovisual content that reflects the diversity of Canada and its people, and to promote the audiovisual sector as a vital part of Canada's cultural and economic fabric.

**NATIONAL FILM BOARD OFFICE**

The National Film Board Office is a production centre that produces and distributes films and videos for a wide range of audiences. The Office's mission is to create and distribute compelling Canadian audiovisual content that reflects the diversity of Canada and its people, and to promote the audiovisual sector as a vital part of Canada's cultural and economic fabric.

**NFB LIKES UP WITH READER'S DIGEST**

In its debut into the home video market, Reader's Digest has commissioned the National Film Board of Canada to produce a series of short films. The films will be distributed through Reader's Digest's home video division.

**NFB ATLANTIC PRODUCER HONOURED**

Rex Tasker, founder of the NFB's Atlantic production centre and its first executive producer, has been honored with a special award. Tasker is recognized for his pioneering work in the film industry and his contributions to the development of the NFB's Atlantic region.

**NFB RECEIVES TEN GEMINI NOMINATIONS**

The National Film Board has won ten Gemini Awards for its work on this year's Gemini Awards, the Academy of Canadian Cinema and Television's annual awards for excellence in Canadian film and television. The Board took two nominations; one for Tommy Douglas: Keeper of the Flame, and another for The Final Battle.

**NATIONAL FILM BOARD OFFICE**

The National Film Board Office is a production centre that produces and distributes films and videos for a wide range of audiences. The Office's mission is to create and distribute compelling Canadian audiovisual content that reflects the diversity of Canada and its people, and to promote the audiovisual sector as a vital part of Canada's cultural and economic fabric.

**NFB OFFICES IN CANADA**

- Headquarters - Montreal (514) 283-9253
- Pacific region - Vancouver (604) 666-3411
- Prairie region - Winnipeg (204) 949-2812
- Ontario region - Toronto (416) 973-0899
- National Capital - Ottawa (613) 966-4259
- Quebec region - Montreal (514) 283-4823
- Atlantic region - Halifax (902) 426-7350

**MONTREAL**

Canadians reported far-reaching sales at the annual MIFF 1987 (Oct. 26-Nov. 5) in Milan, Italy.

Jan Rofekamp of Films Transit in Montreal concluded a four-picture deal with Channel 4 which includes the films Sonatine, Marie s'en va l'Enfant, It Can't Be Winter Because We Haven't Had Summer Yet, Le Lys casse.

These Quebec-made films will be part of a 12-film Canadian contemporary feature film series to be aired by Channel 4 in 1989. Among other films being looked at by Channel 4, says Rofekamp, are The Decline of the American Empire, Anne Trister, Family Viewing and Train of Dreams.

Aska Films reports sales of The Kid Brother, winner of the Grand Prize at the 1987 Montreal World Film Festival, to France, Italy, Iceland, Switzerland, Greece, Belgium, Taiwan, Korea, Israel and Bahrain.

SNC International concluded package deals with a number of countries. The most popular titles were Switch in Time, Blindside, Hello Mary Lou (From Night II).

Cinema Plus International announced sales of Un Zoo la nuit (Night Zoo) and Train of Dreams with France, Switzerland, Greece, Home Video. A major deal for Un Zoo la nuit was finalized with Japan.

The SC Entertainment Corporation announced that it reached a total sales of $125 million (U.S.), mostly in pre-sales, for domestic and foreign rights to its seven-picture package.

Image Organization's Pierre David announced that the film Pin was sold to Japan, Australia, U.K., West Germany, South Africa, Switzerland, Holland, Norway and Denmark. Babar: The Movie went to West Germany, Switzerland, Austria, Greece, Israel, Mexico, Singapore and South Africa. The Care Bears in Wonderland sold throughout Europe as did Crazy Moon.

The Rene Malo film Les Portes tournantes (Revolving Doors), scheduled for completion in January, was sold to West Germany, France, Australia, Switzerland, Belgium, Portugal, South Africa and Israel.

Vancouver-based Modern Cinema Marketing concluded video deals with Greece for Deadly Intruder and Ticket to Heaven.