

LEGAL EYE

by Michael Bergman

The recent acquittal of American director John Landis on criminal charges relating to the deaths of actors, both adult and child, on the film *Twilight Zone* has focused attention on the safety standards in the motion picture industry generally. The industry has always been a hazardous place. Indeed between the turn of the century and the 1920s, actors generally had to perform stunts themselves without the assistance of stunt men or stunt coordinators. In recent years the emphasis on greater and greater realism has increased the risks of stunts and special effects involving human participation.

The Canadian film industry does not seem to have reacted to the safety problem. True, stunt men, stunt co-ordinators

and other experts are used in hazardous situations. Nevertheless as amply demonstrated in the *Twilight Zone* project, these measures are insufficient. The Canadian film industry has yet to implement any voluntary safety codes and while Canadian productions are subject to the same health and security regulations imposed by federal and provincial governments on all industries, there is yet to exist any special government rules covering the special safety hazards of the film industry in particular.

The Canadian film industry, no matter how professionally managed, is particularly susceptible to safety problems. Several reasons can be advanced for this. Although in Hollywood there is a declining

use of the backlot of studios where films can be shot in a more controlled environment, virtually all Canadian production can be said to be shot on location without the use of studios. This results in a more ad hoc approach to safety setups since moving from location to location necessitates purely temporary measures. Canadian filmmakers are also subject to greater budgetary restraints and consequently cannot always evoke the necessary funds to complete safety systems.

It is probably inevitable that some kind of serious accident will sooner or later occur on a Canadian film site. This in turn raises the spectre of both criminal and civil liability. One can easily see the possibility of the former where film personnel whether the director, the producer or somebody else, pushes a scene or a stunt to the edge such that in an attempt to

create realism there is a reckless disregard for human life and safety. In these events accidents causing injuries or death can result in criminal charges of criminal negligence, manslaughter and even murder. The very thought of these possibilities probably conjures up a first impression expressed by the word 'ludicrous', but the charges against John Landis demonstrates that this is far from the case. Neither should his acquittal create the presumption that artistic and creative license know no bounds and are immune from criminal prosecution.

Of more common and, to most minds, probable outcome of any accident causing injury or death on a film site is civil liability. Invariably it is expected that these kinds of liabilities are covered by insurance. While this presupposes that the insurance policy exists it does not take into account the possibil-

ity that the policy is not broad enough in its coverage or that it is not high enough in its indemnity payments. The tendency of the courts to increase the quantum of injury awards coupled with the dramatic increase in insurance premiums during recent years may result in some producers, particularly those of low-budget films, finding themselves unable or unwilling to obtain sufficient insurance coverage.

The failure to attend to safety precautions has a tendency to sooner or later catch up with those involved. Accidents, especially when they become numerous and public, diminishes the reputation of any industry and invites further government intrusion and regulations. The cost of safety measures may be seen as appreciable, but the cost of failing to implement safety measures can be much higher. Accidents can only result in higher insurance premiums, greater legal fees, increased production complications and diminished investor confidence. The last is of particular consequence. After all, since in Canada there is a tendency for the individual investors to be the owners of the film negative or tape, they themselves may ultimately become unwitting parties to any suit for damages arising out of the making of a film. John Landis, fortunately for himself, was acquitted but the industry should learn the lesson.

Michael N. Bergman •

Barrister & Solicitor Member of the Bars of Quebec, Ontario and Alberta, with offices in Montreal and Toronto.

Fecan would rather switch than fight for quality TV

TORONTO — Ivan Fecan, after two years at NBC Productions in California, is returning to CBC to become director of programming for English television.

The 33-year-old Fecan will replace Jack Craine, 59, who will now work for the CBC on a proposal to beam a Canadian channel into the U.S. market.

Fecan, who previously worked for CBC television between 1980-85, said he believes CBC can make more high-quality programming that reflects Canada's uniqueness.

Since 1985, Fecan has worked as vice-president, creative affairs, for NBC Productions. His CBC appointment was effective August 3.



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EXTRAS INC.

#300-1110 HAMILTON ST. VANCOUVER, B.C. V6B 2S2  
(604) 683-3008