

[REDACTED]

From: Thom Fitzgerald [REDACTED] >
Sent: May-05-15 4:20 PM
To: Office of the Legislative Counsel
Subject: Financial Measures Act 2015

Dear Law Amendments Committee,

I'm writing to ask that you recommend changes to the Financial Measures Act 2015. My letter is long, but not too long, as the changes to law being examined today affect tax laws and a crown agency with which I've worked closely for over twenty years. The results of your proceedings will change my life dramatically, as legislation does, and by nature has always done. That's why I want to tell you about the impact that the Nova Scotia Film Industry Tax Credit and the agency Film and Cultural Industries Nova Scotia has had on my life as a Nova Scotian, and the impact the new legislation will have.

I would have loved to take the opportunity to appear before you as a citizen today, but I am in Toronto for a screening of my 1997 film, *The Hanging Garden*, at the Toronto International Film Festival Bell Lightbox Cinema. Standing in front of an audience of Nova Scotia film fans in Toronto, instead of in front of you, will be bittersweet. You see, the making of *The Hanging Garden* in 1996 was very tightly tied to support from Film and Cultural Industries Nova Scotia (then known as the NSFDC- Nova Scotia Film Development Corporation, but I'll refer to it as FCINS in this letter). Part of the Financial Measures Act 2015 is a repeal of Chapter 20 of the Acts of 1990 Film and Creative Industries Nova Scotia Act, which due to the role of that legislation in my personal history and my life in Nova Scotia is heartbreaking to contemplate.

I moved to Nova Scotia as part of university, a student exchange in the late 1980s. In New York, I'd heard about Atlantic Filmmakers Cooperative, an artist-run centre, which, by the way, is funded in part by FCINS. AFSCOOP taught a 16mm filmmaking course at Nova Scotia College of Art and Design and, though I was a painting student, my professor in New York recommended it to me. That NSCAD 16mm filmmaking course changed my path in life, and the vibrant AFSCOOP community welcomed me to the world of being Nova Scotian. I've been a Nova Scotian ever since, some 27 years.

I remember that the first person to express tangible faith in my talent for writing a screenplay was my mom. Mom let me live on her credit card for several months in order to write a first draft of the script, which I wrote in Duncan's Cove near Ketch Harbour, at a dining room table

overlooking the sea. Occasionally I would try out bits of dialogue on a family of seals living in the cove, and if the seals paid attention to my performance I figured the scene was engrossing. The good people at Telefilm Atlantic and FCINS recognized the potential of that screenplay and they both afforded me script development loans to improve it. I knew it was just part of their job to have faith in the talent of Nova Scotians, but that didn't lessen the impact those loans had on a young man's confidence.

Once I had a finished script, FCINS gave me, an aspiring filmmaker in my twenties, some tiny bit of travel money, maybe two hundred dollars, in 1995 to go to the United Kingdom for a co-production conference. I remember how triumphant it felt to return to Nova Scotia having turned that \$200 grant from FCINS into a \$100,000 license from Britain's Channel 4 toward making my first feature, *The Hanging Garden*. I remember how that same trip I had raised development funding from the UK, France and Germany toward a second film, *Beefcake*, and how those countries as well as Italy ultimately financed *Beefcake*. I remember how European confidence in my talent helped inspire Ontario companies like Alliance Atlantis and Odeon to also invest hundreds of thousands into those movies, and Telefilm to commit their investment of federal funds. FCINS also felt confident to make an investment in the production of the movie. And of course the Nova Scotia Film Industry Tax Credit completed the financing. I remember feeling good paying back those development loans, and mom's credit card.

I remember standing on Nova Scotia soil as a novice director with little experience, directing a local crew that had just finished working on James Cameron's *Titanic*, though some of the crew came from Montreal because Quebec put some money into the film as well. I remember directing actors that had worked with the world's best filmmakers like Jane Campion, Danny Boyle and David Cronenberg as they all brought my words and visions to life. And I remember standing on stage when *The Hanging Garden* won the top prize at Toronto International Film Festival, and then traveling right around the globe to film festivals, and then around the globe again with the commercial theatrical release. I even vividly remember feeling terrible for forgetting to thank Telefilm Atlantic and FCINS when I received Genie awards from the Academy of Canadian Cinema and Television for that film. Mine wasn't the only career launched by that movie; it won recognition for many, and ultimately everyone involved. All of that was made possible by—what's the right word for it—a bit of seed money, a bit of guidance from FCINS. It was a powerful message from the government to me, that Nova Scotia is a place of ambition and vision. A home.

I also remember something I found very strange at the time... a pervasive understanding that amidst a great success that I would inevitably soon be leaving Nova Scotia. All across Canada and even at home, people spoke to me of that expectation. "Great job, now you can move to Toronto, Vancouver, Hollywood!" As an immigrant, it was simply puzzling then. Now, with a quarter century as a Nova Scotian in my experience, I understand the history that led people everywhere to that presumption. Leaving is what young Nova Scotians do. Yet I had

chosen Nova Scotia and I never contemplated leaving Nova Scotia. Not until this year and the terrible circumstance imposed upon the cultural community by this Liberal government budget.

Instead of leaving, I went on to make many movies and more recently tv shows in Nova Scotia. I also made some movies in other places around the world—Africa, Asia, Europe, the US... but always made my home in Nova Scotia. Always continued to work here. Sometimes FCINS directly supported those productions, and sometimes they did not. FCINS always had more applications for funds than they had funds to invest or loan. I understood that. Of my last three productions, FCINS provided funding for only one. Yet I continued to view them as essential support for my industry and my business.

My last feature, *Cloudburst*, for example, was financed through private sources and the NS Film Industry Tax Credit—specifically presales to broadcasters like TMN/HBO and Movie Central and a \$1M+ advance from a Los Angeles sales company—all money brought into the Nova Scotia economy from elsewhere. That film depicts Nova Scotia as a place of tolerance and celebrates our province's stunning beauty, and it won thirty film festival best picture awards worldwide.

My current tv series *Forgive Me* is financed by the Alberta based broadcaster Super Channel and the Canadian Media Fund, and the NS Film Tax Credit. That show's been a wonderful creative experience, pairing young Dalhousie Theatre graduate Mike McLeod, playing a Catholic priest, with many of the best actors in the world, like four time Oscar nominee and Tony and Emmy winner Jane Alexander who lives on the south shore of NS, Oscar winner Olympia Dukakis, Oscar winner Brenda Fricker, seven time Emmy winner Edward Asner—all working in supporting roles with a young Nova Scotian star. The country has taken notice of Mike's talent, with a Canadian Screen nomination and ACTRA award for his work as a leading man.

My current project that did receive financial support from FCINS is a niche tv series called *Sex & Violence* which has received many accolades for its cast, at the Canadian Screen Awards and ACTRA Awards. Again, Nova Scotian stars in leading roles, recognized across the country for their excellence. Over twelve episodes so far, that show has provided over eighty principal roles to Nova Scotia actors. In addition to FCINS and the NS Film Industry Tax Credit, *Sex & Violence* is financed by BC based cablecaster OUTtv and the private Eastlink Fund which was administered by FCINS. The future of *Sex & Violence* is of course up in the proverbial air due to the crippling instability of the Nova Scotia screen industry created by this Liberal government budget.

This brings me to the subject of the Eastlink Fund, a private fund regulated by CRTC, the Canadian Television and Radio Commission, and formerly administered by FCINS. I've watched in awe as this government has wavered, backpedalled and whirled with confusion regarding FCINS, first announcing its entire elimination and firing its staff, moving one film expert over to Nova Scotia Business Inc. Then the government rehired a couple of staff from FCINS when it was made clear to them that the Eastlink Fund existed and could not be moved over to NSBI without the approval of the CRTC, a process which could take many months and an approval which may be withheld because NSBI does not have the requisite expertise and focus on the film industry. So this Financial Measures Act was then rewritten to keep FCINS intact as a CRTC certified independent production fund. Yet the former FCINS staff persons with Eastlink Fund expertise were rehired for only six weeks. My company submitted an application regarding *Sex & Violence* to the Eastlink Fund in April at their published deadline, to an FCINS office that was closing permanently that very day, yet has now been reopened, albeit temporarily. That Eastlink Fund deadline may or may not be respected. Despite the Liberal leadership repeating in the legislature that the programs of FCINS have moved to NSBI, the fate of the FCINS equity funding program is unknown but the broad implication has been that it is simply gone, and the Eastlink Fund can't just be moved to NSBI willy nilly. These issues are not abstract to me, as they seem to be to the politicians running this province. I'm an actual employer of Nova Scotians. I have a tv series that shot a season 2 and the BC based broadcaster would like to spend more of its money in Nova Scotia doing a season 3. But the FCINS investment in the show has vanished, the Eastlink Fund investment in the show exists but is presently inaccessible, and the tax credit / incentive fund support for the show varies wildly depending on whether I start shooting on a Tuesday or a Wednesday this summer. Good grief. What do I, as an employer, tell all those actors and the dozens of crew people on *Sex & Violence* about the future of their jobs? Their livelihoods? All I can think to tell them is that I'm working to try to ascertain the future of the previous funding, and that I'm looking into sources outside of Nova Scotia to replace the funding lost. To be honest few of those alternate funding sources allow for the show to continue in Nova Scotia. Other jurisdictions offer funding that support their own industrial and economic concerns, just like NS did a month ago.

It's painfully clear given the series of events described above that the government did not take the opportunity to become informed about its decisions prior to making them. The best thing the government could do now is to amend the Financial Measures Act to restore FCINS and its humble budget for another year allowing time to consult and become educated on the real-life economic impact of eliminating it. And by consultation, I do not refer to the sort of gun-to-the-head discussions whereby the complete collapse of the industry is scheduled for a few weeks away due to an impossibly bad legislative change, as we recently saw with regards to the NS Film Industry Tax Credit. If the government decides it is in the economic interest of the province to eliminate equity investment in film and television, it should be done in consultation with the producer clients of FCINS, with the nonprofit clients of FCINS, with the CRTC, and with Eastlink. It should not be done with the ignorance and haste with which it is presently being done.

The FCINS equity investment program, I've heard, fails under scrutiny from an investment perspective. That's fair enough. As much as film and television is an intersection of culture and industry, its value has to be measured culturally as well as industrially. Some films recoup some money, and others recoup none. An interesting thing about film and tv is its newfound longevity. Here I am speaking in Ontario at a screening of a film I made 18 years ago in Nova Scotia. You know what? The same film, *The Hanging Garden*, I also introduced at retrospective screenings in Athens, Greece and Milan, Italy in the last couple of years. I'm getting older, and very rarely does a week pass now when I don't see my work in the TV Guide. I also see *Trailer Park Boys*, *Hope For Wildlife*, *Mr. D*, *The Candy Show*, *Haven*, *The Disappeared*, *Margaret's Museum*, *New Waterford Girl*, *Black Harbour*, *Pit Pony*, *Big Driver*, *Poko*, *Inspector Gadget*, *Love That Boy*, *Charlie Zone*, and so, so many more. It's part of Nova Scotia's place in the world. It's cultural reflection and cultural value across the country and around the world.

I don't wonder so much what will happen to me; I am fortunate to have opportunities and I have confidence in my career. But I wonder what happens to Nova Scotia's leading actors when its labor-based tax credit becomes an incentive fund. I wonder what happens to Nova Scotia's filmmakers when it becomes a province without development support for screenwriters and equity support for directors. This government appears to think our industry exists in a strange little bubble, and not as part of a national and global industry. Most other provinces will continue to have a film agency that develops and finances cinematic stories by their local artists. Nova Scotia will not. How do we compete industrially, economically, culturally and socially with other jurisdictions that see the value returned on film industry investment? The simple answer is that we won't be able to compete. Nova Scotia will witness its creative people emigrate to jurisdictions where support for their voices and visions will be deemed as having value. The NS film industry will become one designed to service the creative vision of artists from other jurisdictions who deign to shoot in Nova Scotia for the 25% film incentive—if those artists and producers from other jurisdictions even can be made to feel secure that our new “soft-capped” incentive won't run out of money halfway through a fiscal year. It seems the next generation of Nova Scotia talent will not have the support I have had, and I don't understand why. It does nothing to balance the budget... when the revenue from having a film industry goes away, it will increase the budget deficit.

So many people have worked so hard for so many years to make the Nova Scotia film and television industry one of substance and stability. This government witnessed some of that substance in the industry's response to this budget. You will continue to see it in the tenacity we'll demonstrate in our efforts to save our productions from collapse as the year goes on.

The public understands that it's rare for the Law Amendments Committee to recommend changes to legislation. But aren't these rare times, and isn't this a rare circumstance? The Liberal Party was elected on a platform that promised to extend the former film industry tax

credit for five years. For those of you that are members of the Liberal Party, take this opportunity to say to your constituents that a Liberal Party platform promise has real value, and that the promises you personally make as elected officials are not worthless. Don't allow your current leaders to taint the Liberal Party for the next generation as the party that will tell any lie to get elected. And for heaven's sake, stop repeating the lie that the Liberal Party did not actually change the tax credit, you sound as ridiculous as Rob Ford saying he didn't smoke crack. That particular bit of politicking is embarrassing to all Nova Scotians. The best thing for Nova Scotia is that government leaders be held accountable for its campaign promises by the government itself. We all know there are Liberal Party MLAs who want to represent the good will of the Nova Scotian people and who want to be part of a government that is truthful and transparent. I respectfully ask that the Law Amendments Committee use its power, however limited, to improve this government and improve Nova Scotia by recommending that the FCINS and Film Industry Tax Credit legislation remain unchanged in this budget, to stabilize and strengthen the Nova Scotia film industry the way that the government promised they would when they ran for office on that platform.

Sincerely,

Thom Fitzgerald