

ANDREI KHABAD / INFORMATION FILMS INC.



# When the Story Changes



(From top) *Battle of Wills*, dir. Anne Henderson (2009); *Bananas!\**, dir. Fredrik Gertten (2011)

*Battle of Wills* and *Bananas!\** are two documentaries that haven't wrapped up conclusively

BY MAURIE ALIOFF

**M**OST NARRATIVE DOCUMENTARIES arc, climax and conclude for good, whatever happens when the cameras stop rolling. Errol Morris never returned to the people he obsessively tracked in *The Thin Blue Line*. Allan King didn't offer an update on Billy and Antoinette Edwards, the *Married Couple* of his excruciatingly, groundbreakingly intimate film.

A few high-profile doc projects have followed on-going stories, most famously Michael Apted's "Seven Up" series, which launched in 1964 and

every seven years has returned to characters representing a cross-section of British society. Likewise, Joe Berlinger and Bruce Sinofsky's *Paradise Lost: The Child Murders at Robin Hood Hills* (1996), their film about a trio of probably innocent teenagers charged with child rape and murder, was followed by *Revelations: Paradise Lost 2* (2000).

Stories like these, loaded with bizarre twists and focused on victimized characters you can't help empathizing with, lend themselves to follow-ups. And from time to time, something so

dramatic and unexpected happens after production wraps, docmakers with no plans for sequels feel they must return to the story. In the cases of Swedish doc-maker Fredrik Gertten's *Bananas!\** and veteran Canadian filmmaker Anne Henderson's *Battle of Wills*, possible sequel projects were discussed the moment production wrapped and the films were close to release.

*Bananas!\**, an international cause célèbre since the summer of 2009, recounts the story of Nicaraguan banana plantation workers who claim that in the 1970s, exposure to the dangerous pesticide DBCP made them infertile. The film follows Cuban-American lawyer Juan Dominguez's representation of the workers in an intricate lawsuit against the Dole Food Company, a legal action meant to achieve more than financial compensation for the men. Dominguez also intended the case to be a "bellwether" precedent-setter that would open legal doors for all the Nicaraguans who had been damaged by Dole's use of a chemical banned in the USA and was so clearly harmful that its manufacturer, Dow Chemical, was reluctant to supply it.

Dole reacted to *Bananas!\** with a massive attack on the movie, Fredrik Gertten's production company and Juan Dominguez himself, accusing him of fraudulently arguing for plaintiffs who never worked on the Nicaraguan plantation or who weren't really sterile. The multinational fruit purveyor short-circuited screenings of *Bananas!\** at the 2009 L.A. Film Festival, where it was scheduled to premiere; then it torpedoed the docmakers with a lawsuit of its own.

Even though Dole backed off from this lawsuit in the aftermath of protests by everyone from international documentary filmmakers to the Swedish parliament, Gertten and his colleagues are still reeling from the impact of the attack, both financially and creatively. When not consulting with his lawyer, Gertten has been navigating tricky insurance issues and engaging in other less than creative endeavours. "We are a small business," he told me, and apart from other costs, "we also have to put a price tag on our own work. When you spend so much time in defending yourself, you don't have energy to do other films. That's risky. Who pays my salary? Who pays for my kids' clothes?"

As I write, *Bananas!\**, which has an American distributor, is finally about to be released in the U.S. At first, "Dole withdrew without prejudice," Gertten points out, "meaning they could sue again," and naturally, the threat of legal harassment

frightened American distributors and broadcasters (although in Canada, Mongrel Media has released *Bananas!\** on DVD).

Last November, the situation changed when Gertten's company, WG Film, was granted an anti-SLAPP motion it had filed against Dole in Los Angeles. Not only does the motion stop the fruit company from using the courts to block Gertten's movie, Dole must also cover the filmmaker's attorneys' fees and costs.

Anne Henderson's *Battle of Wills* did not get bombarded by heavy corporate artillery, but the film's protagonist, a retired Bell engineer, has devoted himself and his life savings to challenging powerful British cultural institutions that ignore his existence. In his seventies, Lloyd Sullivan of Ottawa is still leading an elaborate and costly campaign to prove that a portrait his grandmother once stashed under her bed is the only known picture William Shakespeare posed for while he was alive. Compared to the two widely accepted images of Shakespeare, "it's a younger and more bohemian face," says Henderson, "an image of someone you could imagine being attached to a theatre company, burning the candle at both ends." If Sullivan is right about his claim, "the potential value of this image is absolutely in the stratosphere."

Although Sullivan's "Sanders" portrait—named for its creator, the retiree's probable ancestor—passed a battery of stringent scientific tests, its authenticity has been rejected by English critics and academics allied with London's National Portrait Gallery, which holds the picture of Shakespeare known as the "Chandos," and the powerful Shakespeare Birthplace Trust in Stratford-upon-Avon. "A small cabal of insiders," Henderson argues, "control Shakespeare's image," an extremely valuable one reproduced on everything from publications to coffee mugs to T-shirts. Sullivan himself is driven by passion, not the hope of a financial bonanza.

Just when Henderson's movie was set to screen at various venues and air on Bravo, Stanley Wells, the patrician chairman of the Shakespeare Birthplace Trust, unveiled a surprise: the 300-year-old "Cobbe" portrait. "Shakespeare Found!" blared The Trust, and the Cobbe played big-time all over the media, including the front page of *The New York Times*, *The Washington Post*,



and the *Guardian*. Henderson speculates that Wells, about to retire, might have been craving a last hurrah, and it wasn't going to be the brave new image from Canada.

*Bananas!\**, after evoking the hardscrabble lives of the alleged pesticide victims, cuts to L.A. where it introduces its protagonist, Cuban-American lawyer Juan "Accidentes" Dominguez, through a garish ad on the back of a bus. A specialist in personal-injury lawsuits, Dominguez has an office with spectacular views of downtown L.A., heroic portraits of himself and the bust of a Roman emperor. Gertten match cuts the iconic bust to the lawyer's noble profile, establishing the red Ferrari-driving high-roller's self-promoting vanity. In Nicaragua, meeting with the plaintiffs and addressing crowds of plantation workers, Dominguez seems sincere, concerned and passionate about winning even if he also seems to be on a major saviour trip.

During the courtroom scenes, Gertten's documentary offers a clear explication of the case as it unfolded, teasing out the facts: Dole offered no protection for or monitoring of its workers and continued to use the pesticide even after no one else did. In fact, the president and CEO of Dole Food, David DeLorenzo, admits under oath to all the accusations directed against his company.

While for Gertten, "my heroes are the workers. My heart belongs to them," he does show Dole's lawyer scoring points when he cross-examines the plaintiffs and sets out a convincing case that some of them were sterile before they worked for

the corporation, or never were sterile.

Could Dole's allegations against Hernandez, which it has used to subject the workers' case to more courtroom battles, have merit? Is Dominguez in any way a scam artist? Although Gertten doesn't whitewash Dominguez, he believes in the lawyer's basic decency. "He might be an adventurer in the sense of jumping into something new," says the filmmaker. "He wants to be respected, he wants to make some money, he wants to score more beautiful girls, and of course, he wants to do something for his clients." And by the way, "it's not a crime to have bad taste or drive a red Ferrari."

For Gertten, Dole's counterattack is all about spin that's "full of lies and facts that nobody can check," partly because their allegations depend on statements from anonymous "John Doe" witnesses. "When

It's complicated for you to tell it to your readers. And that's the meaning of spin."

In the midst of last year's roller-coaster ride, Gertten and his colleagues immediately began talking about a follow-up doc, but they didn't want to continue tracking the ongoing legal skirmishes. "The interesting new film to make is about freedom of speech," Gertten told me, "and I am making one on what happened to us." Even though his insurance company is wary about what he might come up with, "we have been working, editing and talking a lot. We believe that through one experience, you can see a bigger pattern. The idea is to tell our story, but through it, see the obstacles and risks that documentary films are now coming up against."

Gertten emphasizes that in an era when traditional media is struggling to survive, docs made over long periods of time are

taken to establish the authenticity of his Shakespeare portrait and discredit the Cobbe, she uses the pronoun "we," as if she's crossed over from being an observer of Sullivan's cause to embracing it.

Henderson says she wants to "shake up accepted myths and add another layer to the Shakespeare mystery," which isn't served by Disneyfying and marketing such a protean, iconic figure. Shakespeare's importance lies in the astonishing versatility of his output and his immeasurable cultural and linguistic influence. She suspects that a powerful institution's surprise discovery of yet another living portrait was driven by Stratford-upon-Avon's drop in tourism. Apparently, it's been losing numbers to the re-creation of the Elizabethan Globe Theatre, which is in a hot-ticket area in London that includes the New Tate.

Henderson laughs that she's just a "flea buzzing around the heads of the Birthplace Trust," but on the other hand, she believes that as more and more people are exposed to Sullivan's passion, his credibility rises and the authenticity of the other contenders diminish. Certainly, viewers of the film on Bravo or at venues like the Smithsonian Institute in Washington, have responded strongly.

Henderson hopes that she and her producer, Nathalie Barton, will be able to raise funding for a sequel to her "art history mystery" and have it ready for the 2012 Summer Olympics in London. "As part of the Olympics," says Henderson, "there will be a cultural Olympiad which will feature an exposition on London playhouses. And there has been some discussion that the Sanders portrait would be the face of the exhibition. It would be fabulous, another chance for the Sanders portrait to be exhibited in London, and a lot of people would see it.

"What's lovely about this story," Henderson concludes, "is that it parallels Shakespeare's work. He was an outsider who often created characters far from the mainstream. He wrote very powerful roles for prostitutes, pickpockets and gravediggers, as well as kings. He could become the everyman and would probably take great delight in Lloyd's confrontation with the powers-that-be." **POV**

---

**Maurie Alioff** is a film journalist, critic, screenwriter and media columnist; he has written for a range of publications, including *Take One Magazine*, the *Cannes Market Daily*, *The New York Times*, *northernstars.ca* and *CTVM.info*. A major banana consumer, he is currently trying to avoid Dole products.



OLIVIER LÉGER

*Battle of Wills* cinematographer Philippe Lavalette and director Anne Henderson

you see the film, you see there is nothing to sue. It was cleared by the insurance company, by the ITVS [which holds rights] and by major broadcasters around Europe. I had the feeling that when Dole saw the film, they wouldn't like it, but they wouldn't sue."

Gertten isn't too happy about the fact that Dole's spin "filtered into the circles of filmmakers, some of whom thought, 'Ahhh, how funny, he made a mistake, and now he refuses to admit it. Maybe Dole is right. This stupid filmmaker is a nice guy, but he's stubborn and refuses to admit that everything's changed.' The spin creates so much confusion you forget the main point: Dole was using a pesticide no one else used, and that was banned. It gets really complicated. It's complicated for me to tell the story to you.

.....  
doing the probing investigative journalism abandoned by TV and newspapers. "We tend to dig up stories that have power." But he warns that powerful entities like Dole will increasingly deploy lawyers to block distribution of embarrassing stories, and PR operations that organize campaigns against pictures like Michael Moore's *Sicko*. "The community of filmmakers, broadcasters and distributors really needs to look into this rapidly growing problem."

For Anne Henderson, the Shakespeare Birthplace Trust's sudden revelation of the Cobbe portrait prompted her desire to follow up *Battle of Wills* with a "new chapter" of the story. When Henderson talks about the actions Lloyd Sullivan has