

The need for an environmental bill of rights

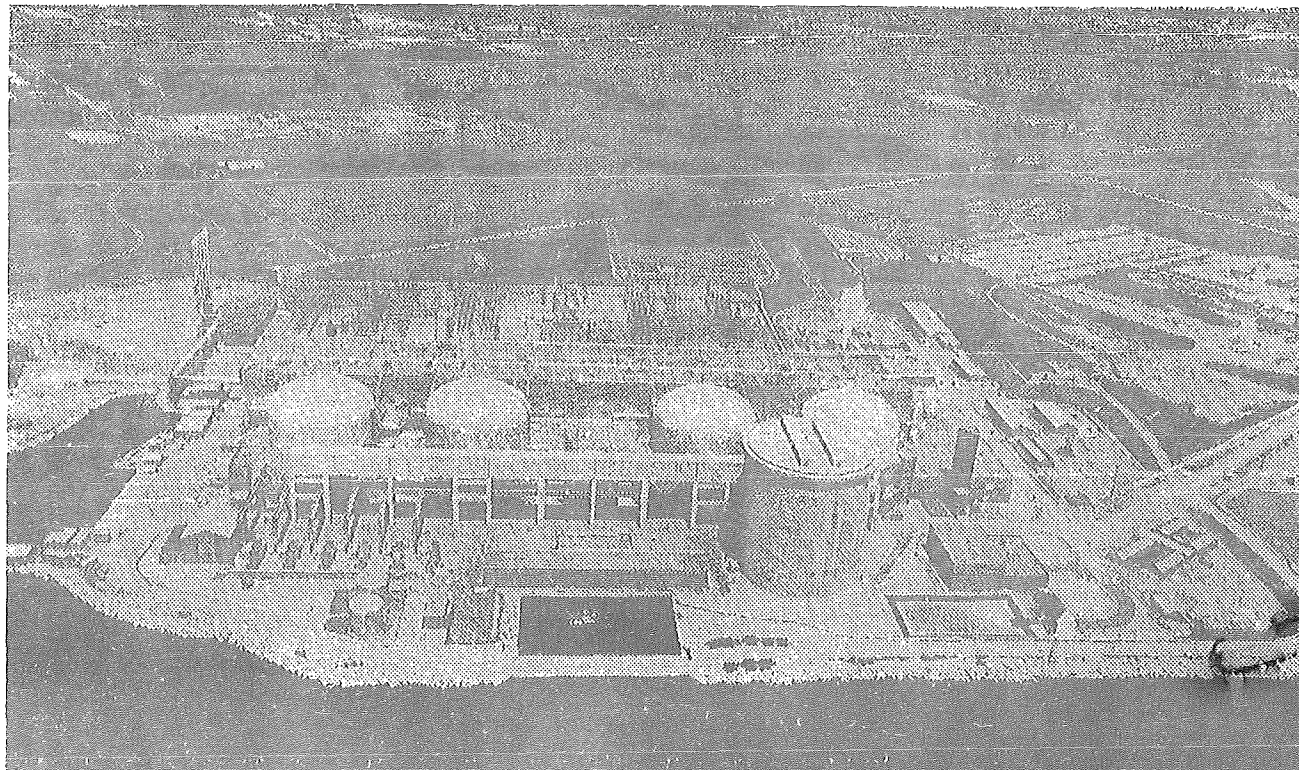
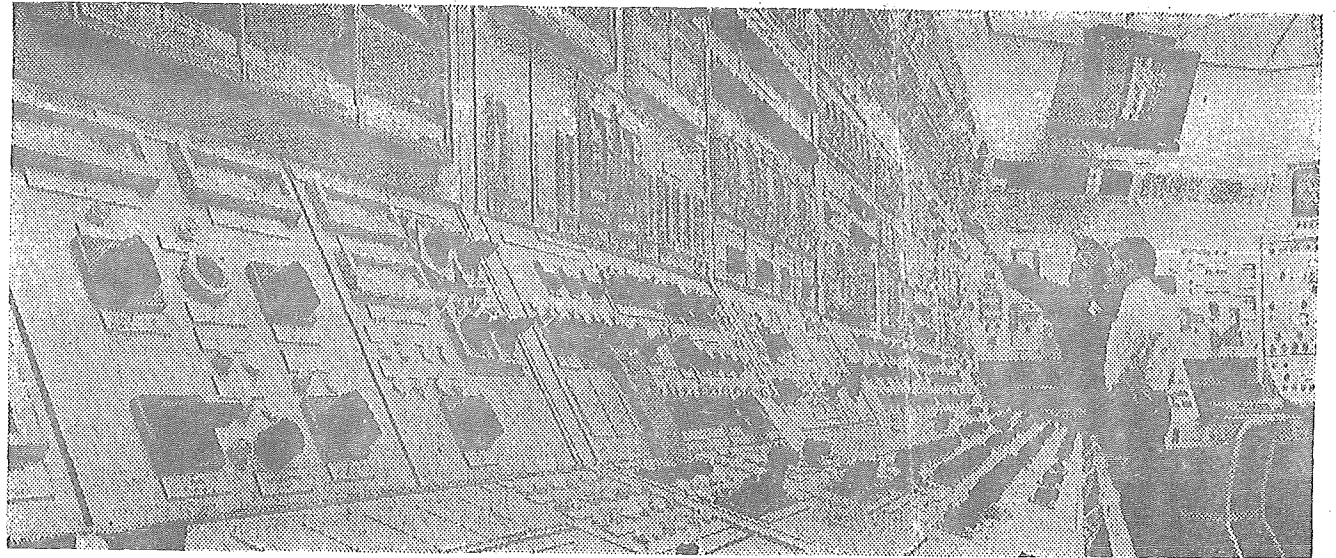
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FIRST IT WAS the environmental crisis. Now it is the combination of an energy crisis and an economic crisis—the threat of a depression—and concern for the environment seems like a fad compared to the prospect of not having enough oil for our furnaces.

But the link between these crises has been overlooked, for to solve one is to solve others. The best solution is conservation. The efficient use of energy would cut pollution and measures taken to reduce pollution would have the effect of conserving energy.

For example, smaller automobiles would use less gas, thus simultaneously saving energy and decreasing the emissions which account for more than half of all urban air-pollution. The use of rapid intercity trains would be a vastly more efficient use of energy than airplanes, would reduce air- and noise-pollution and would prevent the massive gobbling up of valuable farmland for new airports.



Workmen (top) make checks in Pickering station. Second generator is planned; others will be built elsewhere.

As for the economic crisis, few people realize the potential for stimulating economic growth and reducing the rolls of the unemployed which environmental protection can itself provide. Too often environmental concern is blamed for the loss of jobs. Frequently the reverse is true. The manufacture of pollution-control equipment, sewage-treatment plants, an expanded mass transit program, the rehabilitation of parks and harbors, to name a few activities, could themselves generate jobs.

Rush to bottom

One does not have to go in for predictions of catastrophe to be concerned at the way decisions are made every day which continue the headlong rush to the bottom of the oil well, and which also have grave effects on the environment without any real effort to determine the effects of these policies and projects, or, when they are known, to take them into account.

We know that we must choose—we must balance the public benefits of urban and industrial growth against the public harm of yet greater deterioration of our natural and human environ-

ment. But in practice the choice is usually made by default, because all the hidden costs of a proposed development—consumption of energy, social and environmental consequences—are almost never made explicit and made public.

We have no planning mechanisms which would allow us to foresee and control the demands we make on the environment and on our resources of energy.

The Ontario Government, to its credit, is—or was—moving to create such a mechanism. It promised legislation nearly two years ago—the first government in Canada to do so—requiring environmental impact assessments of proposed projects expected to have a significant effect on the environment. But we are still waiting.

An environmental impact assessment is a study of a project's anticipated effects upon the natural and human environment, its use of energy and other resources and possible alternatives to it. It is a planning aid which measures the direct and indirect costs of a project in terms of environmental degradation, waste of energy, and social disruption.

These indirect or hidden costs have rarely received any consideration by the project developer and have usually been left to be paid by the local community or future generations.

In the words of John Fraser, Progressive Conservative MP for Vancouver South and former environmental critic for the Conservative party, this "concept is so essentially sensible that the wonder ought to be that its proponents have had to fight so hard to gain acceptance for the proposition."

But if an assessment is just another formal requirement to be met before a project is approved—a piece of paper to be filed with a government department and forgotten—it will be useless. What we need is a public forum where we can get answers to such questions as where and how should this project be built so as to do the least damage to the environment and to make efficient use of energy and resources? Or, all things considered, should this project be built at all?

Embarrassing silence

Despite recent promises regarding environmental impact assessment legislation, the Ontario Government has of late fallen into an embarrassed silence on the subject.

Conversations with Environment Ministry officials suggest that the delayed legislation will be weak. The procedures it sets up will be discretionary, like much of our present environmental legislation. They would give the Government powers to use as and when it sees fit, but which it could not be called to account for failing to use or for misusing.

This results in certain deficiencies.

First, consider a project where no assessment is done—either because the Government decides the project is too small or for another reason.

For example, with the Pickering Airport, no federal studies were done to determine what the project's environmental effects and energy consumption would be, or to consider whether the cost of the airport—in loss of prime farmland, in the spread of urban sprawl, in disruption of local communities—would be worth it, or whether we should turn to other means of transportation.

There was no way for concerned citizens to force an environmental assessment to be done. The massive public pressure that was brought to bear against the airport did no more than bring about a "slow trial". Because the objectors did not have the necessary funds to properly present their case, because damaging information was kept secret and because the decision to build the airport had already been made, the hearing was a farce.

As a Globe and Mail editorial noted at the time, "When minds close, inquiry is futile."

Second, let us suppose that an assessment has been done, but it is inadequate. Such is the case right now with regard to offshore drilling in the Arctic. Studies have been done stressing the positive aspects—the economic benefits to accrue from the oil and gas, the safety precautions which the oil companies have promised to take—with only crude and limited consideration of environmental factors.

Yet we know that even if all existing safety measures were carried out carefully and consistently there may be an environmental disaster of gigantic proportions, such as an oil well blowout, whose consequences could extend to a change in the climate of North America.

Third, let us suppose that an assessment has been done and it is a good one as far as it goes. But it deals only with the particular project, not with the rationale behind the entire program of which the particular project is a part.

For example, the Ontario Government has committed itself to the increasing use of nuclear power. A second nuclear generating station has recently been approved for Pickering and at least nine other stations and plants are expected to be built by 1990.

This commitment has been made in spite of serious risks: the danger of an accident discharging large quantities of radiation; the cumulative effects of routine discharges of low-level radiation; the rising incidence of lung cancer in uranium miners; the yet-unresolved problem of how to dispose of highly radioactive wastes.

Under these circumstances, if environmental impact assessments are done for nuclear plants they are likely to deal only with the question, "Where should this particular plant be located?" By then it will be useless for them to try to deal with the really vital question, "Are the risks inherent in nuclear power too high to be acceptable?"

Could be undercut

The commitment to go nuclear will already have been made. Yet unless such questions as this are given serious consideration, early enough in the planning process for the answers to influence the decision, the whole process of environmental assessment will be undercut.

Environmental impact studies for such things as nuclear plants and drilling proposals must look at alternative, non-polluting sources of energy. At present, almost all of the research being done by both government and industry on energy is concentrated on the traditional expensive sources.

Finally, let us suppose that the assessment is well-researched and objective, but that the Government proceeds with the project despite the assessment's warnings of major environmental damage. With discretionary procedures there is no way for citizens to force the Government to heed the recommendations of its own report, nor even to force it to make the report public.

In short, discretionary environmental impact assessment procedures can be emasculated when it is administratively or politically convenient to do so. They are a wide-meshed net, from which it is far too easy for environmentally devastating projects to escape—by accident or design.

For example, in November, John Rhodes, Minister of Transport and Communications, announced a major extension of the Don Valley Parkway, without any prior debate or public consultation. One day earlier, the Canadian Environmental Law Association had received a letter from Mr. Rhodes regarding his ministry's position on environmental impact assessment. It stated in part:

"Since 1971 our ministry has been developing its own in-house methods, procedures, and staff towards the objective of fully integrating environmental assessment and public participation into each phase of project development from planning through to operation. We adopted this approach in a voluntary sense in that there were no legislated requirements at that time. In other words, this ministry has been evolving ways of meeting the intent of the Ontario legislation (on environmental assessment)."

Apt expression

Considering the secrecy surrounding the planned highway extension, Mr. Rhodes' choice of the word "evolution", to describe the change which in-house procedures have brought about in his ministry's decision-making process, was an apt one.

The change from business as usual is so slight as to be invisible to the naked eye, and so slow that the time that will have elapsed by the time Mr. Rhodes' stated objectives are reached will have to be measured on a geological time scale.

We need laws which do not merely give the Government the power to protect the environment—power which it may or may not choose to exercise. Environmental laws must be enforceable in the courts by citizens, if for one reason or another the Government does not act responsibly. Otherwise, they are of limited value.

Governments to date have tended to view environmental impact assessment as a management technique—management of the environment, management of natural resources and, not least, management of public opinion. Their provisions for public participation have accordingly been, by and large—as Richard Soberman, transportation consultant for Metro Toronto, said in reference to the Pickering Airport inquiry—"public manipulation".

This does nothing to enhance confidence in government. The suggestion that citizens wait until the next election is not good enough. In the intervening time, a destructive project can move ahead, doing irreversible damage to the environment.

An environmental impact assessment process, guaranteed by law, would be the intelligent translation of society's environmental values into action. A discretionary procedure would be an environmental bill of goods—no substitute for an environmental bill of rights.