

HANSARD – JUNE 20, 2006

ENVIRONMENTAL BILL OF RIGHTS

Mr. John Tory (Leader of the Opposition): My question again is for the Premier. I point out that not one of those people thanked you for keeping the purchase price secret that was paid for with their money.

Premier, you were once quoted as saying, "I think it's perfectly clear that this minister has not assumed her own special responsibility, and that is to advance the cause of the environment at the cabinet table. It is apparent that nobody on that side of the House has assumed that responsibility, but there is only one person in particular who is charged with that responsibility, and that's the minister herself." That was you talking about a previous Minister of the Environment.

Premier, what specific efforts were made by your Minister of the Environment, in dealing with your latest energy scheme, to ensure that the Environmental Bill of Rights was upheld and complied with? What efforts were made by her in those discussions?

Hon. Dalton McGuinty (Premier, Minister of Research and Innovation): Let me tell you a little about the process we've instituted here, and that was already under way with respect to our energy plan, by way of public consultation.

Leading up to the development of the plan, there were Ontario Power Authority public hearings last year; that was the first opportunity for the public to participate. Our government then led town halls in 12 communities; that was a second opportunity to participate. We also provided a listing on the Environmental Bill of Rights registry; we've received responses there. We set up an energy ministry website as well, seeking advice from the public there; that was the fourth opportunity. We're now going to send this plan to the Ontario Power Authority, which is going to develop the integrated power supply plan. They will be meeting with groups in the public throughout the summer and the fall; that's the fifth opportunity for public input. The OPA will then send this plan to the Ontario Energy Board, which is a process that takes about one full year; that will be the sixth opportunity. Then each and every project that's to move ahead by way of new generation will be subject to an environmental assessment.

Those are seven separate opportunities for Ontarians --

The Speaker (Hon. Michael A. Brown): Thank you. Supplementary?

Mr. Tory: I would say to the Premier that that's a very interesting compendium of meetings, many of which the public didn't even know how to find, but which had nothing to do with the question, which is what efforts your Minister of the Environment made, who has sworn to uphold the environment as her responsibility, and which you pointed out, when you used to talk about this in opposition, was her responsibility. What did she

do to uphold and to put forward the law, the Environmental Bill of Rights and its requirements in particular?

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Yesterday, the Environmental Commissioner of Ontario, an independent and respected officer of this Legislature, berated your government for "escaping its responsibility to be transparent and accountable" and went on to say that no government in the 12-year history of the Environmental Bill of Rights had tried to pull the type of environmental skulduggery that your Minister of Environment has allowed to happen here.

Premier, the Environmental Bill of Rights is one of the most important foundations of the Ministry of the Environment. Your job, and that of your minister, is to uphold that law and to respect that law. Why did you, instead, allow yourself to be bamboozled into skirting that law, and why would your own Minister of the Environment not have objected to this side-stepping of the law? Why didn't somebody speak up for the Environmental Bill of Rights in the process you just talked about but where you didn't answer my question? Why did nobody speak up for the Environmental Bill of Rights?

Hon. Mr. McGuinty: Again, the leader of the official opposition is having difficulty with the fact that he's staring into the face of a government that is determined to move ahead with a new plan for energy to ensure that by 2025 we have safe, clean, reliable electricity. He wants us to freeze in our tracks.

We've created seven separate opportunities for Ontarians to comment. We think there is ample opportunity, in the past, today and going into the future, with respect to making sure we get this plan right. The members opposite, somehow, for some reason -- notwithstanding the fact that we find ourselves behind the eight ball in Ontario -- are determined to grind this to a halt. We are bound and determined to move ahead. There are seven separate opportunities for public comment. We think that is more than adequate.

Mr. Tory: There's still no answer on the Environmental Bill of Rights, and the province of Ontario is frozen in its tracks because of the weak leadership that began with irresponsible promises you made in the 2003 election. Now, the lack of respect for the Environmental Bill of Rights is simply another example of you and your government saying one thing before the election and doing exactly the opposite after --

Interjections.

The Speaker: Stop the clock. Order. I'm having great difficulty hearing the Leader of the Opposition.

Mr. Tory: One day, you're a steward of the environment and the next day you're finding ways, with your dithering and broken promises and so on, to skirt the law of the land.

The former Minister of the Environment, Leona Dombrowsky, wrote in an editorial in 2004 that the Environmental Bill of Rights is "one of the most effective pieces of legislation in Canada" and that "it has done more than just enshrine environmental values in legislation; it has given citizens the means to make their voices heard." She goes on from there.

As with my previous question on Caledonia, what do you and your government have against transparency, accountability and openness? Why are you not prepared to be open with the taxpayers of Ontario? Why are you and the Minister of the Environment now ignoring and side-stepping the law in terms of what was required of you to do in this instance under the Environmental Bill of Rights? Why were you a big advocate for the environment before the election and now, any chance to skirt the law, that's what you find? Why the switch?

Hon. Mr. McGuinty: It is just a little bit rich to hear from the leader of the official opposition, representing a party which seemed to go to great lengths in government to absolutely decimate the Ministry of the Environment. We picked up that Ministry of the Environment, got it off the ground, onto its knees, on its feet and back in the race. We are proud of the recovery effort we made to the Ministry of the Environment. I'm proud of my Ministers of the Environment, whether they were Jim Bradley, Leona Dombrowsky or Laurel Broten. When it comes to the environment, I'll put our record up against that previous government's record any day. Seven separate opportunities to comment on our plan -- we look forward to moving ahead with that plan and receiving those comments.

ENVIRONMENTAL ASSESSMENT

Mr. Howard Hampton (Kenora-Rainy River): My question is for the Minister of the Environment. Minister, yesterday, Ontario's Environmental Commissioner, an independent, respected, neutral, third-party environmental advocate who is appointed by all of us here in the Legislature, said that you, as Minister of the Environment, were involved in an unprecedented violation of Ontario's environmental laws. The Environmental Commissioner said that you, as minister, breached the legal requirement of Ontario's bill of rights when you, the minister, secretly exempted the McGuinty government nuclear mega scheme from a provincial environmental assessment. You failed under the Ontario Environmental Bill of Rights.

My question, Minister, is this: Will you stand up and admit that what you did is wrong, rescind the secret exemption, guarantee that the \$40-billion nuclear mega scheme will go before a thorough and proper environmental assessment under the laws of Ontario, and comply with Ontario's Environmental Bill of Rights, the law of Ontario?

Hon. Laurel C. Broten (Minister of the Environment): As Minister of the Environment, I want to be very clear with Ontarians. Every single project that will be built in this province, as we do what those governments before have not done and build a new supply of clean, green energy, will be the subject of an environmental process. That process will take place in their community. They will be able to participate in that

process, have their voices heard, raise their issues and concerns, participate close to home, talk about those issues, and not a single project will be built in this province if I have any concerns that the health or the environment of Ontario is at risk. That's my commitment to the people of Ontario. That's our obligation: to lead forward to a future without coal, to get windmills built, to get new power supply online, and protect the environment at the same time.

Mr. Hampton: Minister, you can refer to all kinds of issues outside of answering the question, but here's the reality. On June 14 in this Legislature, you said there was no legal requirement in the Environmental Assessment Act of Ontario for the McGuinty nuclear mega scheme to undergo a provincial environmental assessment. But even as you spoke the words here in the Legislature, you had signed a secret exemption order on June 12 to enable the McGuinty nuclear mega scheme to escape the legally required provincial environmental assessment, and at the same time you shirked your responsibility to notify the people of Ontario about your secret regulation, about your secret exemption, even though it's the law of Ontario under the Environmental Bill of Rights that you do so.

Minister, you have broken and undermined Ontario's environmental laws, not once but twice. How can you --

The Speaker (Hon. Michael A. Brown): The question has been asked. Minister?

Hon. Ms. Broten: I'll repeat to my friend opposite what I have said in the past. We have been entirely consistent in our approach to this subject matter. Broad government policy direction is not the appropriate subject matter of an environmental assessment. That's the decision I made with respect to the coal replacement plan. You didn't have any concerns about that. That's the decision that has been made with respect to the integrated power supply plan, which will be a reflection of that broad government policy.

What will be the subject matter of very vigorous environmental assessment will be every single project that might or might not be built in this province. At the same time, we have put forward a requirement on the OPA and the OEB to consider the environment as they make their decision with respect to a long-term supply plan. They will look at rationale. They will look at needs and alternatives. They will raise the issues of the environment as we build a new, clean, green supply of energy. The regulations put in place are simply to confirm the decision and the position --

The Speaker: Minister. Final supplementary?

Mr. Hampton: You talk about the Ontario Power Authority. The OPA has already made up their mind on both nuclear and coal. That's like saying that you, as Minister of the Environment, turn it over to the fox to look after the chickens in the henhouse. They've already made their decision. They're pro-nuclear; they're pro-coal.

Here's the absurdity of your position, as quoted today in the press. You said that the government chose a step of including by way of designation to exclude. It makes no

sense at all. Here's the reality. The Environmental Commissioner doesn't have to kowtow to Dalton McGuinty to keep his job. He's independent and he's respected. He said you undermined Ontario's Environmental Assessment Act and you failed to comply with Ontario's Environmental Bill of Rights. You have failed as Minister of the Environment. When are you going to do the honourable thing and resign?

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Hon. Ms. Broten: I know it's very confusing to my friend opposite, but the law is very clear: Broad government policy is not the subject matter of an environmental assessment. In order to confirm that decision and make it very clear, as I indicated -- again, apparently very confusing -- we had to designate it in order to exclude it.

That being said, our position has been absolutely consistent. The regulation is administrative in nature. What it says to Ontarians who may want us to change the law is that we are confirming the law. We will apply the law and we will continue with the law that exists in this province. We will have an environmental assessment of every single project that is going to be built in this province, and we will ensure that Ontarians are protected as we build a new future, with 10 times the conservation we have at present, double the renewables, less greenhouse gases, less mercury and less pollution going into the environment. That's the future I want for my kids, and we're moving toward that future.

The Speaker: New question. The leader of the third party.

Mr. Hampton: My question is to the Premier. I don't think Ontario's Environmental Commissioner is confused. He knows what's going on. This is really about your leadership and your standards as Premier. Maybe you believe that watering down Ontario's environmental laws is acceptable. Maybe you believe that signing an order in secret, in the backroom, to escape a proper Ontario environmental assessment is acceptable, but I think the majority of people in Ontario don't think it's acceptable at all. And maybe you believe that an environment minister who undermines and breaks Ontario environmental laws deserves to be in your cabinet, but I don't think people across Ontario believe that.

Premier, they're your standards. Do you believe that someone who undermines Ontario's environmental laws, who breaches Ontario's Environmental Bill of Rights, can continue as your Minister of the Environment?

Hon. Dalton McGuinty (Premier, Minister of Research and Innovation): Again, I'm pleased to inform the leader of the NDP, and to confirm for the people of Ontario, that throughout this procedure -- we're talking about building new nuclear reactors here; that takes 10 years -- there are going to be seven separate opportunities for the people of Ontario to comment on this plan. We think that's ample opportunity to get the very best advice and to allow our public to lend shape to this plan so it's the best it can possibly be.

What this is really all about is that the leader of the NDP is opposed to the construction of any new generation in Ontario. That's what it's all about. We are charged with a special responsibility on this side of the House, which is to keep the lights on, and we will do what it takes to get that done.

Mr. Hampton: Here's what it's about: It's about a Premier who is desperate to have his \$46-billion nuclear mega scheme escape any kind of proper environmental assessment in the province. It's about a Premier who likes to give speeches filled with platitudes about the environment, but who isn't prepared to follow Ontario's own environmental laws.

Here is what the Environmental Commissioner said: "This is the first regulation under the Environmental Assessment Act that has not been posted on the Environmental Registry for public review and comment in the 12-year history of the Environmental Bill of Rights. This decision goes against the whole principle of government accountability and transparency enshrined in the act."

Premier, is that acceptable conduct for a Minister of the Environment in your government? Is that acceptable conduct for the McGuinty government?

Hon. Mr. McGuinty: It's interesting to note that the regulation which the leader of the NDP is commenting on was posted on the public website for regulations. That's where he found it. There's no particular secret there. That regulation was passed in cabinet. It's not a secret room. It's not a secret process. That's where it was done.

Again, I think what this is really all about -- and we need to be up front about this -- is that the leader of the NDP is intent on doing whatever he possibly can -- he has been pretty straightforward about this until now -- to ensure that there's no construction of new generation in Ontario, ever. I understand that. That's his position. He thinks that is progressive; I see it as antiquated. We have a different sense of the future here. We think that we've got a responsibility to make sure we have a plan in place, which we now have in place, to ensure that the people of Ontario, through to 2025, have a reliable supply of clean, safe, affordable electricity. And that's what we're doing.

Mr. Hampton: Premier, this is about a Dalton McGuinty who doesn't want his nuclear mega scheme to go before a proper Ontario environmental assessment, where the people of Ontario might be able to suggest some positive alternatives rather than building risky, expensive and unreliable nuclear plants. This is about a Premier who's looking for a place to hide.

I want to quote a question that was asked: "I think it's perfectly clear that this minister has not assumed her own special responsibility, and that is to advance the cause of the environment at the cabinet table.... It's apparent that there's nobody over there taking any interest in preserving our environment, and we're going to pay for that for a long time to come." Premier, those are your words. Those are the standards you set in opposition.

I'm asking you now, Premier: Is it acceptable for you, Dalton McGuinty, to have a Minister of the Environment who not only undermines the Environmental Assessment Act but disobeys --

The Speaker: The question has been asked. Premier?

Hon. Mr. McGuinty: Just on one front, to give you some indication of what this particular Minister of the Environment has accomplished for the people of Ontario so far: She has reduced reliance on coal by 17%, reduced sulphur dioxide emissions by 28%, reduced nitrous oxide emissions by 34%, reduced carbon dioxide emissions by 15% and reduced particulate smog emissions by 28%.

Again, I accept that the leader of the NDP will do everything he possibly can to ensure that our province and this economy do not have the benefit of a clean, safe, reliable supply, long into the future, of electricity. I understand that. That is his position. On the one hand, he talks about the loss of manufacturing jobs, he talks about the problem of getting reasonably priced electricity, but on the other hand he will not support us in our efforts to ensure we have those kinds of things in place.

We have a plan in place now. We've submitted it to the Ontario Power Authority. There will be seven separate opportunities for Ontarians to comment on the plan, and we look forward to moving ahead with our plan.

ENVIRONMENTAL ASSESSMENT

Mr. Howard Hampton (Kenora-Rainy River): My question is for the Premier. Here's the situation that your nuclear mega scheme now presents to the people of Ontario. Shawn-Patrick Stensil of Greenpeace says, "What are they trying to hide? A good plan could withstand scrutiny." Dr. Mark Winfield of the Pembina Institute says, "The government is attempting to deny Ontarians their right to know the real costs and risks associated with the government's electricity plan." Keith Stewart of the World Wildlife Fund says, "Premier McGuinty is telling Ontarians they have to pick their poison -- coal or nuclear -- while ramming through a plan that forces us to accept both."

You've been trying to avoid a proper Ontario environmental assessment. The question I have, Premier, is: Now that you've got your Minister of the Environment undermining our environmental laws and breaching some of our environmental laws, don't you think it's better, more open, more honest and more transparent to just obey Ontario's environmental laws rather than trying to hide from them?

Hon. Dalton McGuinty (Premier, Minister of Research and Innovation): I can understand why the leader of the NDP would have Ontarians believe otherwise, but in fact there's going to be an environmental assessment for our specific projects. I think he's very much aware of that, but somehow he would have us believe otherwise.

That's just the culmination of a series of opportunities, and I listed them earlier. The environmental assessment on a project basis will be preceded by six separate opportunities for Ontarians to have a say and to have comments.

Putting up a new nuclear reactor would take 10 years. Again, I understand that the leader of the NDP is dead set against more nuclear energy in the province of Ontario. I understand that; I accept that. But on this side of the House, we are charged with making sure that we keep the lights on; making sure that we put in place a plan to ensure that we have a reliable supply of clean, safe, affordable electricity. That's what we are doing.

Mr. Hampton: Premier, you can try that line on people; the fact is, it takes 10 years to build nuclear plants, so building nuclear plants over the next 10 years is not going to do anything to keep the lights on this summer or next summer or the summer after that. This is about your attempt to hide from Ontario's environmental protection laws.

This is what Jack Gibbons of the Ontario Clean Air Alliance says. He calls your scheme "a huge betrayal." Dr. Rick Smith of Environmental Defence says, "The government [is] sucking up to the nuclear industry acolytes, coal barons, [and] well-heeled development lobbyists." Rick Lindgren of the Canadian Environmental Law Association says, "The Ontario government knows that the provincial energy plan is unlikely to survive the rigorous scrutiny and public interest test under the" Environmental Assessment Act.

Anybody who knows anything about the history of cost overruns at nuclear power plants in Ontario knows what you're trying to do here. You're trying to escape the law; you're trying to hide from Ontario's environmental laws. Premier, why don't you stop the manipulation? Why don't you just submit --

The Speaker (Hon. Michael A. Brown): The question has been asked. Premier?

Hon. Mr. McGuinty: If we are so determined to keep this from public view and to do this under cover of darkness, then why is it that we have been so public with our plan? Why is it we're talking about ensuring that we meet the energy gap that's going to arise between 2014 and 2025? We're talking about that today. There are at least two elections between now and 2014. We don't have to proceed with this plan at this point in time, but we are because we feel a responsibility to do so.

The leader of the NDP would have us shy away from this indefinitely. I can tell you that when I have the opportunity to travel on behalf of Ontarians outside this province, one of the pieces of information that members of the investment community are looking for is, "Will you have a long-term, reliable supply of clean, safe, affordable electricity?"

We are taking this on. The leader of the NDP would prefer that we not do that. He prefers to bury his head in the sand, as did the previous Conservative government. We are going to take this on. We are going to have this debate. It will surely be a most important part of the election, but we will move forward in Ontario with a good plan for safe, clean, reliable electricity.

ENVIRONMENTAL ASSESSMENT

Mr. Peter Tabuns (Toronto-Danforth): My question is for the Minister of the Environment. Minister, on June 14, I directly asked you when you would announce the provincial environmental assessment of the McGuinty government's energy supply mix plan, as required under the Ontario Environmental Assessment Act. You replied "that broad government policy, abstract in nature, is not subject to the Environmental Assessment Act." Yet two days earlier, on June 12, you signed this cabinet order creating regulation 276/06, exempting the McGuinty government's energy supply mix plan from a provincial environmental assessment. You exempted it from requirements for thorough public scrutiny. Minister, will you admit you failed to do your job, which is to protect the environment, and that you caved to the Premier and the energy minister?

Hon. Laurel C. Broten (Minister of the Environment): My position has been very consistent throughout, and I repeat what I said to you on June 14: that broad government policy direction is not the appropriate subject matter of the environmental assessment. What is the appropriate subject matter of environmental assessment are specific projects. This is the same position that the ministry had with respect to the coal replacement plan, the same decision that the ministry had with respect to the IPSP. It's consistent with the Electricity Act and it's consistent with the Environmental Assessment Act.

Some may want us to change the Environmental Assessment Act. The regulation that cabinet has put forward clearly indicates that we are going to uphold and apply the law. For your information, we are not going to change the law. That's why the decision is an administrative one in nature. We're not seeking consultation on a proposal to change the law, but rather indicating a clear and consistent -- we have had the same consistent position throughout. We are going to apply the Environmental Assessment Act, an act which does not apply to broad government policy.

Mr. Tabuns: Minister, you knew full well when you answered my question that the Ontario Environmental Assessment Act applied and that you had already moved to exempt the energy supply mix plan from a provincial environmental assessment. Minister, you lied to this House. When --

The Speaker (Hon. Michael A. Brown): I need you to withdraw that comment.

Mr. Tabuns: No.

The Speaker: I'll give you one more opportunity to withdraw that comment.

I name the member, Mr. Tabuns.

Mr. Tabuns was escorted from the chamber.

Interjections.

The Speaker: Order. New question.

Mr. Howard Hampton (Kenora-Rainy River): It's clear on the record. It's right there in Hansard.

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): On a point of order, Mr. Speaker: The leader of the third party used the term "The minister lied in the House." I think he should withdraw that.

The Speaker: I did not hear the member say that, but if he did, he should withdraw.

Mr. Hampton: I said it's on the Hansard record, Speaker.

Interjections.

The Speaker: I did not hear it, so new question.

Interjections.

The Speaker: Stop the clock. Order. The leader of the third party will come to order. New question.

ENVIRONMENTAL BILL OF RIGHTS

Mr. Howard Hampton (Kenora-Rainy River): My question is for the Premier. This is what Ontario's Environmental Commissioner has to say: "The Environmental Bill of Rights requires ministries to post on the Environmental Registry any proposed new regulation that will have a significant effect on the environment -- before the regulation is passed -- to allow the public a meaningful opportunity to review and comment on the proposal."

Your proposal is for a \$46-billion nuclear scheme. Is it your position, Premier, that your government's \$46-billion nuclear mega scheme will have no significant effect on the environment and therefore didn't need to comply with the Environmental Bill of Rights?

Hon. Dalton McGuinty (Premier, Minister of Research and Innovation): Clearly, the leader of the NDP considers seven separate opportunities for public comment to be less than adequate. I know that he in fact would not be happy with 70 separate opportunities for the public to comment because he remains adamantly opposed to putting in place any new kind of generation in the province of Ontario. We see things differently. I expect that we will continue to have this important debate through the campaign and beyond.

I just want Ontarians to know where we're coming from on this particular matter. We are mindful of our special responsibility in government to ensure that we have in place a plan that will, long into the future, ensure that Ontarians have access to safe, clean, reliable

electricity. We will do what is necessary, again while being mindful of our responsibility also to ensure that Ontarians have continuing opportunities to have input into that plan.

Mr. Hampton: I'd be happy, and I think the majority of Ontarians would be happy, if the McGuinty government would just obey the law of Ontario.

I want to quote again the Environmental Commissioner: "This is the first regulation under the Environmental Assessment Act that has not been posted on the Environmental Registry for public review and comment in the 12-year history of the Environmental Bill of Rights. This decision goes against the whole principle of government accountability and transparency enshrined in the act. Exempting the province's long-term electricity plans from the environmental assessment process -- to consider the possible impacts of those plans -- is clearly environmentally significant and should have been posted on the registry for public comment." That's the Environmental Commissioner, a neutral advocate to ensure that Ontario's environmental laws and processes are observed.

Premier, do you think it's acceptable for your government to break not only the Environmental Assessment Act but the Environmental Bill of Rights?

Hon. Mr. McGuinty: To the Minister of the Environment.

Hon. Laurel C. Broten (Minister of the Environment): The Environmental Commissioner and I had an opportunity to have a discussion today and for me to indicate to him that, yes, there is a history of precedent in this province: 21 times, regulations have been posted for information only. And they've been regulations like this one, regulations where we're confirming that we will apply the law, that we are not proposing to change the law. It's as simple and straightforward as that.

That being said, in light of a very good discussion with the Environmental Commissioner -- and I'm aware of his indication yesterday that he'd like Ontarians to have yet another opportunity to review and comment on the regulation, confirming that the IPSP is not the subject matter of the Environmental Assessment Act. In the spirit of the EBR, I've instructed my ministry to make that opportunity -- yet an eighth opportunity -- available for Ontarians to log on to the Ministry of the Environment website, find the link to the Environmental Registry, and provide comments and information that they might like to provide us with, with respect to this regulation. There's ample opportunity for Ontarians to participate over the next 10 years as we build --

The Speaker (Hon. Michael A. Brown): Thank you. New question.