

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

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“UNDER SURVEILLIANCE”

July 27, 2006

Ms. Jennifer Hooper, Director
Inspections, Investigations and Enforcement Secretariat
655 Bay Street, 14th Floor
Toronto, Ontario, M7A 1T7

By Fax July 27, 2006 to (416) 326-9624

Dear Ms. Hooper:

Re: EBR Registry Number RH06E0001
Regulatory Modernization Act – Bill 69

The Ontario Property and Environmental Rights Alliance (OPERA) is a provincial coalition of trade associations, community organizations and concerned citizens launched in 1994 under a mandate “to protect, and entrench in law, landowner rights and responsibilities against arbitrary restrictions and decisions of government”. In the intervening 12 years OPERA has made numerous submissions to provincial and federal government agencies, attended many policy meetings and workshops, shared research with Alberta and American landowner coalitions, publicly commented in both print and electronic media on various government decrees and circulated public interest information bulletins to municipalities across Ontario.

In our long experience with government initiatives aimed at controlling private lives and property by regulation, OPERA never encountered the ominous implications and police state language that characterize Bill 69. This so-called Regulatory Modernization Act brings new meaning to the word “modern”. It also licenses any “inspector” attached to any Ontario regulatory agency to surreptitiously “observe” and report alleged infractions of any provincial statute or policy.

On behalf of OPERA members and those thousands of citizens who are unlikely to ever hear about Bill 69, we repudiate that statute as now proposed. On the following grounds, we contest its limited publication, question its claimed purpose and deplore its autocratic language.

1. In the past 6 months the Ontario Ministry of Natural Resources (MNR) helped manipulate existing Ontario statutes so as to extend district Conservation Authorities policing power for both hazard and natural heritage wetlands as well as source water regulations at local taxpayer expense. On May 9 that agency then introduced proposals to “strengthen” (read expand) interpretation and enforcement of the provincial Species at Risk Act. And only 5 weeks later, on June 16th, the Ministry of Labor announced proposals for Bill 69, a truly frightening example of enforcement excess.

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“to protect, and entrench in law, landowner rights and responsibilities”

In our view, these interconnected proscriptions reveal a latent Ontario government ambition to be not only the tireless inventor but, in conjunction with its sub-agencies and NGO confederates, also the implacable enforcer of statutory contrivances that arbitrarily erode the social and economic prospects of its unsuspecting constituents.

While claiming to welcome public comment within a prescribed time frame, it appears that invitation is featured only in EBR Registry announcements. These are documents published exclusively as Internet postings on government web pages where affected but uninformed Ontario citizens without a computer and an Internet connection will never find them. So much for our allegedly transparent, accountable Ontario government and the charade it calls “public consultation”.

2. OPERA records brief comment on some revealing examples of Bill 69 rhetoric that appear in EBR Registry RH06E00001 as follows:

Registry: - “by authorizing special teams of compliance officers, the legislation would provide opportunities for staff to work together in areas that require special consideration

OPERA: - “Special teams of compliance officers” and “special levels of consideration” are euphuisms best suited to, and certainly reminiscent of, an experiment in state intervention that most of the civilized world condemned 65 years ago.

Registry:- “the proposed Act would authorize Ministers, or their delegates, to publish a range of compliance information about organizations, and conviction information about individuals”

OPERA :- In our view, this clause openly invites corporate and citizen character assassination via the printed word at the whim of elected politicians and unelected bureaucrats, an inducement that sly legislation might validate but a vigilant judiciary would never sanction or excuse.

Registry: - “the Act would allow field staff acting under the authority of one statute, to disclose observations likely to be relevant to another statute, to a person who administers or enforces the other statute”

OPERA : - In the middle of the last century this kind of pervasive state surveillance and undercover cross-reporting was a defining feature of life and death in a totalitarian regime later renounced as a criminal conspiracy by an international court.

Registry: - “the proposed Act would authorize a prosecutor to request that a court consider relevant previous convictions as an aggravating factor in sentencing a defendant”

OPERA – By ignoring common law protocol that disallows evidence relating to previous convictions in determining guilt and punishment in a current hearing, this proposal, in and of itself, violates established jurisprudence and exposes the virulent mind set of provincial policy makers.

Registry: - “if the court decided that a more severe penalty was not warranted because of the previous conviction(s), it would have to provide reasons for that decision”

OPERA: - We doubt Ontario citizens, if made aware of the implications buried in this outrageous recommendation, would agree that provincial agencies, including the omnipotent Ministry of Labor, should have, or ever be given, the authority or the means to pre-specify conditions under which judicial decisions are to be rendered in Ontario courts.

3. In Bill 69 as proposed there are, of course, soothing explanations and qualifying phrases that blur its draconian tone and ambience. Still, whatever their number and intent, such standard issue medications offer no protection against the long term effects of this statute on the principles of due process, natural justice and democratic governance. In that context, OPERA unequivocally opposes Bill 69 as now proposed.
4. If approved as-is by the Ontario legislature, this Bill would multiply the already excessive enforcement and penalty options now available to numerous provincial Ministries, boards and commissions in their separate efforts to transfer private rural land to public benefit by regulation without compensation. Thus, when advised of Bill 69 proposals, municipal councils and landowner groups across Ontario can be expected to focus public attention on the inadequate distribution, intimidating content, dubious worth and dire consequences of this so-called Regulatory Modernization Act.

OPERA appreciates this opportunity to present a brief commentary on Bill 69 and respectfully asks that the issues and anxieties listed therein are carefully reviewed by the Ontario government in general and the Ministry of Labor in particular.

Yours truly

R.A. (Bob) Fowler, OPERA Secretary

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