"AN OVERVIEW"

Condensed OPERA Remarks to a Public Meeting Convened Sept.07//06 at Thunder Bay

Good evening, ladies and gentlemen, I'm Bob Fowler from Wellington County and Secretary of the Ontario Property and Environmental Rights Alliance, or OPERA in shorthand.

OPERA is a coalition of trade associations and landowner organizations launched in 1994 with a mandate "to protect, and entrench in law, landowner rights and responsibilities against arbitrary decisions and restrictions of government". Our major focus is lack of constitutional land ownership rights in Canada. We operate as a research centre, a communication hub and, where indicated, a collective voice of protest. A Management Committee supervises our activities but the coalition pays no salaries or expenses and doesn't solicit or accept government funding. We rely solely on membership dues to cover all costs and we provide an Internet web site where material of interest to readers in politics, real estate, finance, law and municipal planning is posted from time to time.

My remarks this evening will touch on the origins and consequences of Ontario government land use policies. I'll also try to outline some of the resulting pressures on municipal councils.

Let's begin with an overview on ownership of private property. First, we need to define the word "property". In the context of OPERA's mandate and my comments this evening, "property" means land, real estate, geography – nothing else. We emphasize this distinction because politicians invariably reject the case for constitutional property "rights" by insisting necessary legislation would have to include personal entitlements such as Old Age Security, Canada Pension Plan and the Ontario Hospital Insurance Program etc. as well as intellectual property such as patents and copyrights. This, of course, is political smoke and mirrors. But it generates enough confusion to keep land ownership rights off government radar screens.

In the absence of those rights, federal and provincial bureaucrats have been inventing regulations since the end of World War II that are, in effect, government liens on thousands of acres of private land.

Here's some background.

The British North America Act authorized provinces and territories in Canada to enact property ownership laws. That authorization was also included in our 1867 Canadian Constitution which mandated similar federal legislation as well. But in the 1980's back room politics removed property rights from the Constitution and never resurrected them, as promised, in our Charter of Rights and Freedoms. Most Canadians, unaware of that crucial omission, incorrectly assume that their commercial right to own land is constitutionally protected. And therefore safe from government statutes that compromise use, title, mortgage worth and market value of those privately owned assets. Strange, isn't it! For a country awash in every conceivable "right", none of its citizens have a constitutional right to own land. The right that stands as the cornerstone principle of Western civilization and English common law. The one that an enlightened Russia wrote into its constitution in the 1980's and even communist China recognized in 2004.

But wait! There's another nail in Canada's property rights coffin.

The Preamble of a 1976 United Nations (U.N.) conference in Vancouver states that ***"Land, because of the crucial role it plays in human settlements, cannot be treated as an ordinary asset controlled by individuals. Private land ownership is also a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice"***. Karl Marx once said communism is dedicated to the abolition of private property. Does his ghost now reside at the U.N.?

In 1992 at Rio de Janeiro the U.N. convened a so-called Earth Summit arranged and chaired by Canadian multi-millionaire Maurice Strong, a personal friend and business associate of former Prime Minister Paul Martin. Mr. Strong is currently No. 2 in the U.N. pecking order and a heavy hitter in various global organizations such as the World Bank. He's also the godfather of numerous Non-Government Organizations that "advise" senior governments in Canada and throughout the world on allowable uses of land. His quoted motto for personal ascent on the ladder of life – "think like a socialist, act like a capitalist"

At Rio an international treaty known as the Convention on Biological Diversity was introduced as a keynote item in the overall program which was called Agenda 21 (meaning 21st century). It was immediately approved and signed for Canada by our then-current Prime Minister Mulroney. In contrast, the U.S. delegation at Rio and, later, the U.S. Congress declined to ratify the Convention after reviewing its frightening risks to national sovereignty. But, in our True North Strong and Free, every province and territory lined up to endorse it.

So let's re-cap. Canadians have no statutory right to own land and, even if they did, their federal and provincial legislators are under contract to a global bureaucracy that equates private land ownership with social injustice. Welcome to the gulag!

What does U.N. opposition to ownership rights have to do with folks who own land in Ontario? Well, for one thing, the Biological treaty required Canada to enact environmental and endangered species legislation to U.N. standards by the year 2000. Accordingly, a federal Species at Risk Act was approved in December of that year and Ontario's Ministry of Natural Resources is "strengthening" a provincial statute of that name as we speak. Meanwhile, the national Kyoto Protocol was introduced several years ago and the Ontario government has expanded its regulatory choke-hold on private property in a revised Conservation Authorities Act. In addition, separate Biosphere Reserve and Wildland designations were applied to vast tracts of Canadian geography throughout the 1990's.

The former encourages plant, animal, bird and aquatic life while discouraging human habitation. The latter, jointly promoted by the Canadian Parks and Wilderness Society and the World Wildlife Fund, is based on an intent to return most of North America to wilderness. Think I'm making this up? Visit the Internet Google search engine for web page links to Agenda 21, Biosphere Reserves and the Wildland Project.

In Ontario, the provincial government, a Convention co-signer, has been equally diligent on its land control file. In 1994 it issued a Wetland Policy Statement, since frequently expanded. In 1990 it labeled the 450 lineal miles of the Niagara Escarpment as well as the entire Long Point Conservation Area along Lake Erie as U.N. Biosphere Reserves.

Later a huge chunk of the Georgian Bay eastern shoreline was so identified. Later still, all this geography was re-branded "World" Biosphere Reserve, presumably to conceal its U.N. roots. Meanwhile, during the 1990's all public and private land between Ontario's Algonquin Park and the Adirondack Mountains in New York State has been designated Wildland. Likewise all land between America's Yellowstone Park and the northern border of British Columbia, an area the size of Alberta. Never openly acknowledged or truthfully explained by senior governments in this country, these unilateral labels on vast tracts of Canadian real estate threaten the social and economic prospects of countless unsuspecting citizens whose use and title of their private land can be later compromised at government whim or impulse. Do these sweeping declarations, uncluttered by advance public consultation, signal political support for constitutional property rights in Canada? Do they ensure clear title, maximum mortgage worth and best market value for the legal owners of affected private land? Do they reinforce government of the people, by the people, for the people? Is Wayne Gretsky a ballet dancer?

Can the dots be connected between the U.N. lust for global governance and lack of statutory property rights in Canada? Absolutely! Can provincial statutes that impact private land ownership in Ontario be linked to land use regulations around Thunder Bay? Absolutely! Can creeping socialism thrive and grow dressed up in noble causes that resonate with Canadian voters. Absolutely! What are some noble causes enthusiastically promoted by senior governments and their NGO advisors over the past 40 years? How about ecological preservation, environmental cleansing and natural heritage? All of which are obviously essential, universally popular and entirely legitimate objectives. They're also easily exploited, whether by accident or design, to mask rampant state control and massive re-distribution of wealth?

Let's be clear. Those commendable environmental aims are fully supported by every thinking Canadian, particularly folks with a propriety and financial investment in land. After all, many landowners live and work every day with nature and have a vested interest in sustaining the viability and value of their property. Others maintain at their own expense historical buildings and infrastructure on their land. Still others transform arid landscapes into lush vistas of trees and plants. While living in the country for 25 years I always reminded government visitors that I had planted more new trees on my 75 scrub acres than any MNR Minister had ever planted in his Bay Street office or in his suburban garden.

Nevertheless, soaring government rhetoric that helps merchandise these worthwhile objectives never mentions their enormous social and economic cost. Shifting control of private land to the state by regulation may indeed provide a lasting benefit to society at large. But only at the direct expense of individual owners/lessees whose asset and enterprise is substantially devalued by whatever rules are applied to achieve that transfer. Just ask any banker or real estate agent about a long term mortgage or market value pricing for private land burdened with a restrictive government designation. OPERA calls the whole process extortion by statute. Governments call it wise use of resources. What do YOU call it?

We've mentioned that the U.N. and its energetic agent, Maurice Strong, are linked to powerful Non-Government Organizations (NGOs). Many of these infuse senior governments with graphic scenarios of looming environmental disaster. In prescribing property manipulation as a basic remedy for these doomsday events, governments and NGOs seldom call private landowners private landowners. Instead, they're called "stakeholders", a generic title that automatically provides equal recognition to "other interested people". And who are these other interested people? Why, they're the career bureaucrats, professional lobby groups, urban planners, academic consultants and environmental extremists all working hard to transform privately owned rural land into a public resource without paying for it!

Or call private landowners "stewards" which neatly avoids any mention of the "O" word. The dictionary says a steward is "a person who administers the property of another". But government spin doctors say that "another" means generations of citizens yet unborn. By that reasoning Canadian landowners are conscripted janitors of their own property waiting for a fresh crop of equally disenfranchised replacements.

Other fashionable control labels abound. One is "sustainable development", which usually means whatever flavor-of-the-week its government promoters want it to mean. And there's always "the public good" – the all-inclusive cover for statutory land fraud when usual disguises are inappropriate or inadequate. Will we ever know the name and qualifications of civil servants who decide what is and what isn't "public good"? Are farmers and other rural landowner's included in the faceless multitude called "the public"? If they are, does suborning their assets one regulation at a time without due process of law count as "good"?

Without property rights legislation and in view of U.N. bias against private land ownership, how do the Ontario government and its stable of NGOs react? The short answer – with great enthusiasm. We have in this province several Ministries each with land planning departments convinced that private owners are not able or entitled to manage their own property. We have fund raisers for environmental NGOs consorting with politicians and senior bureaucrats in the hallways of the provincial legislature. Needless to say, their executives periodically emerge as government consultants whose duties, apart from dispensing large chunks of taxpayer dollars, are not clear and whose personal remuneration is never published. We have land use agencies, committees, boards, commissions, policy workshops ad infinitum, all unelected, unassailable and unaccountable. These always include plenty of NGO delegates but seldom include landowners directly affected by the statutes that germinate there. Whatever their alleged purpose, these myriad groups can each be counted on to churn out endless streams of quasi-professional argument for more public control of land the provincial government doesn't own and won't buy.

We have, as well, 36 Conservation Authorities, surrogate agents of the Ministry of Natural Resources but, according to legislation, the paid servants of their host municipalities. Thanks to MNR "adjustments" of the Conservation Authorities Act, these are now empowered to enforce all prohibitions related to designated wetlands and the Source Water Protection Act. Given current MNR efforts to have Ontario's Species at Risk Act match or exceed its U.N.-inspired federal example, there now exists a real possibility that district CAs will soon be tasked by the Province, or even by some municipalities, to assume enforcement of that scary legislation as well.

And we have, of course, lots of benign labels to disguise government moves against private property – Smart Growth, Endangered Spaces, Oak Ridges Moraine, Hazard Land, Wetland, Conservation Land, Environmentally Sensitive Land, Area of Natural and Scientific Interest, Wildlife Habitat, Places to Grow, Greenbelt, Sensitive Landscape, Protected Countryside. There's more but you get the idea! Under these and other warm, fuzzy titles lurk countless Ontario laws that directly impact ownership of private land. Many of these are necessary and useful. Some are outstanding and should be acknowledged as such. But let's never forget that fresh and ever more intrusive land use proscriptions with potentially dire consequences for Ontario taxpayers are being enacted by federal or provincial agencies almost every month.

Finally, we have in Ontario an urban population seemingly oblivious to the manifest dangers of too much government and too many regulations aimed at tighter state control of rural land. Given the threat of U.N. global governance, resulting shrinkage in national and provincial sovereignty and a steepening slide into a socialistic swamp, those apathetic folk may eventually, but perhaps too late, wake up and smell the servitude. Stephen Leacock, a Canadian humorist, said it best - "socialism will never work except in Heaven where they don't need it or in Hell where they already have it"

We emphasize the pervasive influence of NGOs on the land use policies of elected administrations across Canada. The voices of these groups are many, their wealth extensive, their connections powerful, their dedication unlimited. A 1996 best seller "Trashing the Economy" profiles 25 organizations that tend to encourage more government control of private property. Of these, The Nature Conservancy, Sierra Club and World Wildlife Fund successfully lobbied the Ontario government in 2002 for "public body status" on the Niagara Escarpment. We understand that first-ever anointment places these groups on equal footing with local municipal councils in regulating Escarpment land.

Ten years ago The Nature Conservancy of Canada pocketed a $600 thousand "gift" from MNR to "design a system by which the government of Ontario might acquire additional lands for public parks". Result? A Natural Heritage Information Centre at Peterborough partnered by MNR, The Nature Conservancy and the Ontario Federation of Naturalists. At taxpayer expense this ingenious joint venture there maintains a database of all properties on which allegedly endangered plant, animal, bird, aquatic or bacterial life have been reported by government biologists and, we suspect, by week-end hikers and amateur bird watchers as well. How many acres of private land in Ontario are now listed on that database? Don't even ask! OPERA asked. And was told access to its "classified" sections is reserved for environmental groups. And, in any case, needs advance permission and an assigned pass word.

We've already mentioned that MNR is now proposing to "strengthen" Ontario's existing Species at Risk Act, an initiative not unrelated to the Peterborough property list. That being the case, an abbreviated paragraph from "Trashing the Economy" is instructive:

"The Nature Conservancy's Natural Heritage Program, a joint venture with more than 40 state (provincial) governments, lists natural wonders and habitats of endangered plants and animals. The money to do this comes from state (provincial), federal and private funds. TNC sends in a botanist, zoologist, ecologist and data processing specialist. They ransack all available records, texts, theses and museum collections to establish just what the state (province) has to protect and enter all that information on a database. The Nature Conservancy's Biological and Conservation Data System is distributed across 76 locations in the U.S., Canada, the Caribbean and Latin America. It consists of 45 files sub-divided into 2000 data fields. The database holds information on 65,000 plant and animal species in 400,000 locations. The Conservation Data Center Network is an elaborate TNC-owned system operated to train government agents to identify and track private property to enforce land use controls. In essence, TNC constructs a land use control database in a state (province) and then gives the system to the government. Listing private property in the Natural Heritage Program focuses government attention on it. This creates the expectation that it will someday be declared an undevelopable preserve, thus destroying its marketability as productive land.

In 2004 assets of the U.S. based Nature Conservancy were reported to be approximately 12 billion dollars and its income exceeded expenses that year by over 200 million dollars. This is the allegedly non-profit, U.N.-approved, green giant whose Canadian connection got 600,000 dollars from the MNR to track private property for future designation or acquisition. Designation or acquisition by whom, we may ask! Well, municipal Official Plans are required to recognize heritage lands "identified" by MNR. And its database associate at Peterborough, The Nature Conservancy, is said to already own about 45,000 acres of Ontario geography in its own name. Go figure! We assume this massive inventory awaits later "government approved" development or profitable re-sale to government agencies. Meanwhile it's exempted from municipal property taxes thanks to Environmental Bill of Rights proposals by Conservancy partner and fellow-traveler, the Ministry of Natural Resources.

Pay attention, Mr. and Mrs. Ontario Landowner – your property, your livelihood and, by projection, maybe your comfortable old age may be in the environmental cross-hairs of NGO snipers as we speak.

Now let's look at an essential buffer between landowners and Big Brother provincial agencies - municipal councils. OPERA believes the best government is the closest government and accordingly defends the concept and structure of local government at every opportunity. After all, dealing face-to-face with local people we know and perhaps voted for is infinitely better than negotiating electronically with an answering machine or a bureaucrat in distant Toronto or Ottawa.

That said, citizens have a duty to elect strong local councils and a right to afterwards measure their competence and monitor their performance. So pre-election public meetings are critically important as a forum to pose land use policy questions for each candidate. However, it must be remembered that key land planning decisions by Ontario local councils originate with, and are subject to, legislated statutes and regulations produced at Queen's Park. These include the Planning Act, Municipal Act, Conservation Authorities Act, Environmental Bill of Rights and Provincial Policy Statement. Every municipal councilor needs to be familiar with the contents of these five documents. In one or more of them we find, for example, that local planning "shall be consistent with "natural heritage" protection. This, of course, is an open invitation for provincial agencies to play regulatory roulette with private property through municipal Official Plans. Still, councils have some options in dealing with this Catch 22 situation where activities of district CAs are involved.

For example:

1. Have a written contract with district CAs listing type, extent and cost of all services being provided.
2. Prepare a by-law to require a line report in all tax bills indicating annual cost of district CA services.
3. Press for land ownership rights in the rural division of the Association of Ontario Municipalities.
4. Convene public meetings prior to necessary by-law for each expansion in CA municipal services. *
5. Review and possibly revise or cancel CA services in favor of regulatory enforcement by local staff. **
6. Financially support a private sector organization to monitor Queen's Park land use decrees. ***

4.* Required under Planning Act re: each expansion of CA services to municipality.
5. ** By legislation CA regulatory policing is at the pleasure and request of each municipal council.
6. *** Some councils, frustrated by the sheer mass of provincial land decrees, rely on outside research.

In conclusion, let's summarize 5 of the legislative blunt instruments Queen's Park has proposed or approved in just the past 14 months. Each appeared as a posting "for public consultation" on the government's Environmental Bill of Rights (EBR) registry web site where affected citizens without a computer and an Internet connection would, of course, never see it.

June, 2005:
Ministry of Municipal Affairs designates almost 2 million acres of land, much of it privately owned, including the Oak Ridges Moraine and the Niagara Escarpment, as a Golden Horseshoe Greenbelt – perceived as urban parkland with huge tourism potential - introduces Protected Countryside label in fringe areas - 5-member Foundation and 9-member Committee include past or present NGO executives and numerous government functionaries, past and present, but no individual private landowners – $25 million Queen's park gift over 5 years for promotion – hearings of necessity through Expropriation Act not applicable - citizens cannot invoke legal action - no independent municipal lot severances – no appeal process - no compensation for economic loss to affected landowners.

December, 2005
Ministry of Environment announces Source Water Protection Act (Bill 43) – unidentified "stakeholders" but no affected landowners consulted in advance - 60 days for written comment only - key definitions imprecise and open to bureaucratic interpretation -– no public meetings – municipal well zones mapped but related prohibitions not published – punishment structure severe and explicit - no owner compensation – unannounced inspection of private infrastructure - many restrictions and fees but none specifically explained – additional police powers to local Conservation Authorities - inspection/enforcement costs charged to local landowners through municipal taxes – Sept 8 Press Release announced formation of an Advisory Panel dominated by government "insiders' and militant NGOs.

March, 2006
Ministry of Natural Resources "adjusts" Conservation Authorities Act - district CAs empowered to police natural heritage as well as hazard wetlands – adjacent wetlands joined in larger "complex" – 400' buffer around provincially significant wetlands in local Official Plans – buffer equals 23.5 acres under government lien for every 1 acre of wetland – inspection/enforcement of Source Water Protection Act by district CAs – prior owner notice and consent not mandatory for government inspections – real estate transactions to require CA comment with any proponent costs at CA discretion likely to include designated fees and possibly land transfer "gifts" as well.

May, 2006
Ministry of Natural Resources proposes "strengthening" provincial Species at Risk Act to meet or exceed existing federal legislation – ownership rights subordinate to plant and animal habitat protection – species selection Committee includes MNR staff, NGO executives and aboriginal delegates but no private landowners – owner compensation at Ministerial discretion – penalties increased to maximum $250,000.00 fine and 5 years in jail – alleged violators prosecuted under government criminal law powers – removal of "willful" as regards intent from statement of charges equals removing "premeditated" in assessing guilt and punishment in a murder trial.

June, 2006
Ministry of Labor announces Bill 69 as a "Regulatory Modernization Act" – encourages all government inspectors on private property at any time to observe and report alleged infractions of any provincial regulation - allows publication of compliance and conviction information relative to any provincial statute – authorizes prosecutors to ask that a court consider previous convictions as an aggravating factor in sentencing a defendant – if deciding more severe penalties are not warranted because of previous convictions, a court must provide reasons for that decision.

These command-and-control provincial announcements reveal a determination to enlarge the purpose and expand the power of central government at the expense of individual freedoms and municipal authority. As revealed in the content and jackboot language of Bill 69, they scorn judicial independence, ignore human rights and violate natural justice. And they spell real and present danger for private owners of land, particularly rural land, across Ontario.

This province is in desperate need of legislation that confirms the right of private citizens to own land free of U.N. supervision, government harassment and NGO manipulation. Under the BNA Act our Ontario government has been authorized to enact that protection for almost 140 years. But it won't happen unless determined municipal councils, informed Ontario landowners and concerned voters make it happen. Until then, we can only assume that too many politicians, academics, bureaucrats and urban planners in Ontario share with the United Nations a deep-seated conviction that private property is a public resource that's open at any time to state confiscation by regulation without compensation.

OPERA believes that conviction and the legislated manipulations that sustain it are ethically deficient, morally wrong, legally questionable and politically indefensible.