

SPRAY THE FOREST, KILL THE LAND

Environmental ecologists in shock

by Geoff Martin

Mr. Justice Merlin Nunn of the Nova Scotia Supreme Court Trial Division on Thursday, September 15 ruled that sufficient evidence of the hazards of herbicide spraying had not been provided. With this, the plaintiffs and the Nova Scotian environmental/ecologist movement went into a state of shock.

The fifteen plaintiffs and their support groups had incurred over \$200,000 in costs, which amounted to virtually all of their possessions. And the case had been receiving national and international attention.

For about one year, the

group of most Cape Breton landowners have been trying to prevent Nova Scotia Forest Industries (NSFI), a branch of the Swedish company *Stora Kopparbergs*, from spraying 2,4-D and 2,4,5-T. Both contain dioxin, a cancer-causing chemical, and were used in highly concentrated form by the United States in Vietnam.

The plaintiffs argued that because of the potential health hazards posed by dioxin, the company should not be permitted to use the chemical in Nova Scotia. The company argued that there was little risk that the chemical will cause any health hazard for the plaintiffs or for

anyone else.

The herbicides are used to kill broad-leafed hardwood trees in order that the softwood fir trees can grow more quickly and then be harvested by the pulp and paper companies.

According to Canadian litigation law, the *onus* (or burden or proof) rests with the plaintiffs. Many people, including the federal minister of the environment, Charles Caccia, have suggested that since it is difficult to prove this type of chemical either safe or unsafe, the company wishing to use the chemical should have to demonstrate its safety.

As for the trial itself, one of the most outstanding features was the volume and complexity of evidence. The trial transcript is over 3000 pages long, while the submissions run into the tens of thousands of pages. Yet on many points both defendant and plaintiffs agreed.

It was agreed, for example, that dioxin is a dangerous substance, that it can be concentrated in animal tissue at up to 60,000 times the background level, and that dioxin induces spontaneous abortions in some animals with unpredictable effects in others.

Ironically, a number of the plaintiffs' assertions were challenged by the counsel for the defendant, even though they were accepted by many of the defendant's expert witnesses. For example, defence counsel did not accept that dioxin has been found in human mother's milk, and that dioxin is a cancer-causing agent, both of which are generally agreed upon.

In reviewing Mr. Justice Nunn's decision, it appears that his perception of the biases of the expert witnesses were important. Much of his decision rested on his assessment that the plaintiffs' wit-

nesses were partisan while the defendant's witnesses were more objective.

In his decision, Mr. Justice Nunn writes that "I feel it is my responsibility . . . to add that, while I do not doubt the zeal of many of the plaintiffs' witnesses or their ability, some seemed at many times to be protagonists defending a position, thereby losing some of their objectivity."

Peter Cumming, writing in a trial report published by the plaintiffs, writes that there were a number of inconsistencies in a number of the defendant's witnesses.

Under cross-examination Dr. Logan Norris appeared to have deleted unfavourable test results in a final published study on the leaching effects of TCDD (dioxin). Dr. Michael Newton, another witness for NSFI, introduced an untranslated French article into evidence, which when translated appeared to say something different from what Dr. Newton maintained it said.

As Mr. Justice Nunn commented in his decision before rendering it, this is an issue for legislation, not the courts. But for at least fifteen citizens of Nova Scotia, their slogan, "We came for justice but we found none" expresses their current feelings.



Who are spraying in N.S. this year?

by A.D. Wright

Contrary to most popular views, the herbicide 2,4-D is still widely used in N.S. It is almost as common as the weeds it destroys.

It is versatile; it will kill broad-leaf weeds while leaving regular crops untouched. The temptation for the farmer growing corn, wheat, or hay to use it is great. Not only does it save money on weeding, but the spraying need not be repeated every year.

"It's quite beneficial," said Head Weed Control Inspector John Thompson. "It's just not an uncommon material," he said.

Another group using herbicides is the Nova Scotia Power Commission, which sprayed 2223 acres of land along their power-line right-of-ways between late May and early August of this year. They used

Tordon 101, a Dow Chemical containing 2,4-D and Picloram, a chemically similar but longer-lived substance. Herbicide spraying is a regular summer event, preventing heavy vegetation growth along right-of-ways. The NSPC claims the spray "will not affect humans who might eat plants or berries which might have received spray."

The various municipal governments also may use herbicides. The province has a "Weed Control Act" which states that property owners should eliminate certain weeds from their land. It is up to the County governments to appoint a "Weed Inspector" to see that this is done.

Not all counties have done this, but where they have, the Weed Inspector is the person who determines where weeds

such as ragweed, poison ivy, jimson weed and ragwort, among others, have flourished.

The Department of Highways, as a property owner, is responsible by this act for some weed control. The Weed Inspector will say, for example, that a stretch of road has ragweed growing beside it. His report will pass through the Departments of Transportation, Agriculture and Marketing, Health, and the Department of the Environment before reaching Municipal Council for final approval. Assuming all is in order, the Department of Highways will send the actual road crew to do the spraying using a special spray truck.

As to the hazards of herbicides on humans, Thompson responded, "We have no information to support these claims."

Banned in three provinces

Dioxin, an unavoidable contaminant of the phenoxy herbicide 2,4,5-T, is one of the most toxic chemicals known to man. Laboratory studies have linked dioxin to cancer, suppression of the immune system, miscarriages and birth defects. Its effects have already been tragically documented in the lives of returning U.S. Viet Nam veterans and in the mass evacuation and "selling out" of Times Beach, Missouri. The scientific community has recently issued statements that there is no "safe" or "acceptable" level of dioxin.

Although 2,4,5-T is banned or severely restricted in the United States, Denmark, Italy, Sweden, the Netherlands, West Germany and three Canadian provinces, Scott Paper persists in its use of this dioxin-contaminated herbicide in Nova Scotia forests. As the multi-national forest companies and chemical corporations take the profits, we,

the people of Nova Scotia, take these risks.

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