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Taking the Minister to court, personally

by Dianne Saxe on January 21, 2010



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Jeffrey Lowes, Director of Government Relations for M-REP Communications, claims to have launched a private prosecution against the Minister of the Environment, John Gerretsen personally, and five senior civil servants.

Mr. Lowes argues that Ontario's ban on the cosmetic use of pesticides is not based on good science, and he has threatened several parties with litigation for supporting such a ban. Now, he alleges that the 2008 *Cosmetic Pesticide Ban Act* and Ontario Regulations 63/09 breach the federal *Pest Control Products Act* (2002, c 28). His sworn Information allegedly states: "John Gerretsen, Dale Henry, Geoff Cutten, Wanda Michalowicz, Lorna Poff, Violet van Wassenauer on or about the 22 day of April, 2009 at the City of Kingston in the said Region East and elsewhere in the Province of Ontario did fail to exercise their assigned fiduciary responsibilities by not taking reasonable care to ensure that the Ministry of Environment complies with the Pest Control Products Act (2002, c28) and its regulations and did thereby commit an offence contrary to section 70 subsection 2 of the Pest Control Products Act."

There have certainly been times when I have wished I could take the Minister or his staff to court, but this charge has no chance of success. Among other things, the Attorney General can stay any private prosecution; civil servants aren't liable for public legislation; the government is not a corporation, and I think Mr. Lowes misunderstands s. 70 of the PCP Act. But it's interesting that Mr. Lowes is still fighting the battle that the "lawn care" industry lost two years ago.

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These are Federal Charges I believe you are misguided in your arguments.

Some suggested reading:

<http://www.canlii.org/en/on/laws/stat/rso-1990-c-...>

<http://laws.justice.gc.ca/en/C-50/index.html>

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DSS 32p

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Yes, thank you, I believe our post is clear- you have laid your charges under a federal law, the Pest Control Products Act. Please explain why you are continuing to attack the cosmetic pesticides law, when the major pesticide distributors have accepted it?

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The lawn care industry has a foundation, four pillars in which to provide their goods and services. One: the product has been registered with Health Canada. Two: the product has to work. Three: the product and methods need to be cost effective. Four: Their use should not increase our environmental footprint. We are indifferent on if the products are organic or synthetic. Now we have been asked to lower our professional standards to accommodate a personal belief system. Through questionable methods it got traction with the McGuinty government.

We do not represent any of the companies that manufacture the products. We represent only the professional applicators that have been told to use un-registered products or products that do not work.

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DSS 32p · *6 days ago*

Thank you, Mr. Lowes, as mentioned in my post, your charges were laid under a federal statute, the Pest Control Products Act. Why are you still fighting this issue, when the major pesticide distributors have moved on?

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The industry has taken issue with the false claims in medical reports held by activists.

There is a misconception - created by activists, politicians, and the media - that the industry will be compliant and allow accusations and public statements to go unchallenged. The industry will provide the venue (a court room) for individuals and organizations to try to prove their beliefs minus the hearsay and conjecture. We will be dealing with all the false claims and questionable medical reports in a civil court in the not to distant future.

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Guest · *5 days ago*

Dianne, you mention that you believe Mr. Lowes has misunderstood the PCP Act... in what way? Also can the Province's Attorney General stay a federal prosecution? I would have imagined that the Minister and the provincial staff would have been protected from legal action if they were acting in good faith in carrying out the responsibilities of their job.

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Uncle Adolph · *1 day ago*

There needs to be accountability in this decision making process(Ontario Ban on Pesticides).

For arguments sake, Lets just say that if the Minister was:

Promoting an Illegal Alternative Product, Azadirachtin (neem oil) through the Ministry of the Environment and supporting False Safety Claims/Submissions from groups like the Canadian Cancer Society, Canadian Physicians for the Environment, Ontario College of Family Physicians regarding legally registered and tested federal products. John Gerretsen should be on the hit list.

In order to put the Ontario Ban in place certain requirements were needed. Alternative products that would replace the existing chemicals and be reasonably effective (upto 80%). That is where the problem lies. Registered Vinegar replaces Roundup with 40% the effectiveness and triple the price, There is no replacement for selective weed control for Dandelions (unless you mention Sarritor which is upto 40% effective if the sun is low, the sky is clear, the ground is wet and you had your fingers crossed when applying it (\$125 per 9Kg bag wholesale)) that is effective and a Registered Product. Corn Gluten is 40% effective on crabgrass suppression at 3 times the price at 200 lbs of product required per 10,000 ft home per application. There is no registered products for insect / fungus control (grub, european chafer, Asian beetle). But the MOE says go ahead and use NEEM OIL (\$800 per litre) TreeAzin Emergency Registration until Aug 2010 FOR TREES ONLY, requiring a Certified Arborist and a Licensed Applicator. The catch is that Licensed Pesticide Operators in Ontario are only allowed to use REGISTERED PRODUCTS with the Federal Government so they cannot apply NEEM OIL unless its an emergency Registration use.

2,4-D and Roundup are at least 80% effective products and very cheap to store, use and apply. Very little is needed to treat weeds and they have been rigorously tested all over the world. They are used on a lot of food we eat.

Neem Oil can cause Liver Damage and is not near as effective as imidacloprid in combatting Insects. Imidacloprid is used in dog collars flea control.

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DSS 32p · 2 hours ago

We have the same system of accountability for all statutes - Parliamentary democracy, subject to the Constitution. I often disagree with what government does, but that does not justify putting anyone on a "hit list".

Dianne

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