

MEMO re Port Hope

13/2/76

Heather

My apologies for the tardiness in replying to your memo. Unfortunately, all my work is about two weeks behind schedule these days.

At our meeting in Port Hope, I set out to the residents (about 20), in a most general fashion, some causes of action which they might have. I ~~outlined~~ said that it was impossible to give a precise legal opinion for two reasons:

- 1) My own lack of knowledge of the facts and the law;

will.

I would like to be kept involved
in this, at whatever level may be
helpful. Please keep in touch.

John.

P.S. Also present were two lawyers:

Willis Day from Port Hope.

Stewart from Cobourg.

farm ~~on~~ directly below the old
Pigeon Hill dump, and whose
cows were dying. It was at
her late husband's request that
the runoff from the dump was
channelled to a pipe, rather than
left to run down an open ditch
across his farm. This is the pipe
which has been the subject of much
media attention to date. - "arsenic,
radium and uranium being pumped
into Lake Ontario".

I don't have their names - Annette
may, and Pat Lawson certainly

the area of political, as opposed to legal, action. They were pessimistic on that score, however - Port Hope generally depends on Eldorado as their main employer, and apparently there is already some considerable hostility being directed against those who would rock the boat. Barry suggested that Eldorado may be planning on pulling out of Port Hope anyway, and will welcome this situation as their excuse.

Other interesting personages:

- three media people, all sympathetic
- the old woman who owns the

- 3) Difficulties of proof.
- causation: Toronto Metals problem
 - existence of damage - especially to health
 - foreseeability

- 4) Possible limitation periods
- various gov't agencies & Crown corp's may have their own special protections
 - when do they start to run - when was the cause of action complete?

The meeting was organized by Pat Lawson (Annette has her address, etc.) Barry Spinner from Energy Probe attended and gave a good, informative talk (and apologized for his predecessor).

Both Barry & I suggested that their solutions and remedies may lie more in

- b) 4's - Eldorado
- ~~Gov~~ AEC
 - other gov't regulatory agencies
 - builders of new homes, under implied warranty of fitness

2) Causes of action

a) Nuisance

- strict liability (Hyland v Fletcher)
- general nuisance
- public nuisance.

b) Negligence

- in breach of duty to oversee and regulate.
- in allowing radioactive substances to escape, etc.

c) Contract

- vis-a-vis new homes.

2) Each situation would have to be dealt with individually.

I went on to indicate the complexities vis a vis:

4) Parties

- a) π 's - I saw four general classes:
- those suffering from property damage
 - those suffering from anticipated property damage, or loss in value due to scare.
 - those suffering health problems due to contamination of their own property
 - those suffering health problems due to contamination generally (the air, beaches, schools, etc.)