



BLUE-GREEN PROVINCE

The Environment and the Political
Economy of Ontario

MARK S. WINFIELD

Blue-Green Province

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Political Economy of Ontario



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For Maya and Alan

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Acronyms

BATEA	best available technology economically achievable
CELRF	Canadian Environmental Law Research Foundation
CIELAP	Canadian Institute for Environmental Law and Policy
COGP	Committee on Government Productivity
CSR	Common Sense Revolution
EBR	Environmental Bill of Rights
ENGO	environmental non-governmental organization
GGH	Greater Golden Horseshoe
GTA	Great Toronto Area
IPSP	Integrated Power System Plan
IWA	Interim Waste Authority
MISA	Municipal/Industrial Strategy for Abatement
NAOP	Nuclear Asset Optimization Plan
OMB	Ontario Municipal Board
OMMRI	Ontario Multi-Material Recycling Incorporated
OPA	Ontario Power Authority
OPG	Ontario Power Generation
OWMC	Ontario Waste Management Corporation
PC	Progressive Conservative
PPS	Provincial Policy Statement
PUC	Public Utilities Commission
RESOP	Renewable Energy Standard Offer Program
TSSA	Technical Standards and Safety Authority
WCI	Western Climate Initiative
WDO	Waste Diversion Ontario

Preface

Ontario has been the site of some of Canada's most important environmental policy success stories – the near universal implementation of municipal sewage treatment on the Canadian side of the Great Lakes, major progress in the initial phases of acid rain control and the cleanup of water pollution from the pulp and paper sector, and, most recently, investments in renewable energy flowing from the province's Green Energy and Green Economy Act running into the billions.

The province has also witnessed some of the country's greatest environmental disasters – cholera and typhoid outbreaks in the nineteenth and early twentieth centuries, the result of the disposal of untreated human and animal wastes in the same waters from which communities drew their drinking water; the clogging of once productive northern rivers with pulp mill effluent that left them devoid of fish, unfit for swimming or drinking, and giving off odours as would “nearly knock you down”¹ for miles along their length; the mercury poisoning of Aboriginal people on the English-Wabigoon River system downstream from other mills; the creation of a 104-square-kilometre dead zone, completely barren of vegetation, around Sudbury's metal smelting operations; the Hagersville tire and Plastimet PVC fires; growing incidences of smog episodes that are estimated to cause fifty-six hundred premature deaths a year; and the May 2000 Walkerton drinking water disaster in which seven died and twenty-three hundred became ill.

Old challenges remain and new ones continue to emerge – an electricity system that seems destined to remain dangerously over-reliant on nuclear power even in the aftermath of the Fukushima nuclear disaster in Japan; a free-for-all of mining development in the hitherto pristine boreal forest and coastal lowlands of the far north; Aboriginal people living in the shadow of Sarnia's Chemical Valley finding the “sex ratio” (number of boy babies born relative to the number of girls) of their community declining dramatically, with chronic exposure to toxic chemical pollution widely speculated to be

the cause; and a remarkable case of policy amnesia and a resulting renaissance of enthusiasm for regulatory “reform,” despite the province’s recent experience with the potentially deadly consequences of such exercises. The story told here reflects on these successes, failures, and challenges; the forces that have defined their outcomes; and their implications for the future of environmental policy not just in Ontario but in other jurisdictions as well.

The book examines the formulation and implementation of environmental policy at the provincial level in Canada’s most populous province, from its beginnings with the recognition of the connections between pollution and public health in the nineteenth century to the first decade of the twenty-first. The book also addresses the general silence of the conventional scholarship on Ontario’s politics and economy on environmental matters. Finally, it speaks to the province’s political evolution since the Common Sense Revolution of the mid-1990s.

As director of research with the Canadian Institute for Environmental Law and Policy between 1992 and 2000 and environmental governance program director and sometime policy director with the Pembina Institute from 2001 to 2007, I was a direct participant in many of the events described in these pages. But the volume is not a personal memoir. Rather, the book reflects on the events it describes against the backdrop of Ontario’s changing environment, economy, and society.

Mark Winfield
North Toronto
May 2011

Acknowledgements

I must first acknowledge the contributions of my graduate assistants from the Master of Environmental Studies Program at the Faculty of Environmental Studies at York University without whom the project could not have been finished. I owe a particular debt to Mark McNeil for his work in finding and bringing together the historical data on public opinion and the environment and Ontario's economy, as well as to Vikas Gautam and Paul Izdebski for tracking down innumerable details, press clippings, and documents vital to the story.

I also wish to thank my students at the York University's Faculty of Environmental Studies in ENVS 2400 (Introduction to Environmental Management), and in particular 5178 (Canadian Environmental Policy I) and 6178 (Canadian Environmental Policy II), where many of the ideas that found their way into this book were initially test driven.

J. Stephan Dupre at the University of Toronto's Department of Political Science provided exceptional guidance in the development of the PhD thesis on which the early chapters of this book are based. David McRobert, former in-house counsel at the Office of the Environmental Commissioner of Ontario, provided invaluable comments and advice in his reviews of the final manuscript.

I must also acknowledge the roles of the George Cedric Metcalf Charitable and EJLB Foundations, which provided crucial support for my research while at the Canadian Institute for Environmental Law and Policy and the Pembina Institute and to the colleagues at both organizations with whom I had the privilege to work.

I owe debts of thanks to many other colleagues and collaborators over the years. I am especially grateful to Dave Whorley, formerly with Brock University's Department of Political Science, who was an excellent guide to the universe of "new public management"; Doug Macdonald of the University of Toronto's Centre for the Environment for his insights into the

environmental policy process; and Bob Gibson of the University of Waterloo's Faculty of the Environment for his illuminations of the concept of sustainability.

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Finally I must express my thanks to my partner, Ramani, for help and advice throughout the process, and to Maya and Alan, for their patience for all the time Daddy was locked in the basement when he was supposed to be playing.

Blue-Green Province

1

Introduction

Ontario is Canada's second largest province. Encompassing over a million square kilometres it is larger than France and Spain combined, and would be second only to Alaska among the US states in terms of geographic size.¹

The province is conventionally divided into two major regions.² In the northern two-thirds of the province, the Boreal Shield ecozone, where Boreal Forest and muskeg overlie the Precambrian rock of the Canadian Shield, dominates. The southern third, defined by the Mixedwood Plains ecozone of the Great Lakes and St. Lawrence Lowlands, provides the largest concentration of prime agricultural lands in Canada and contains a number of physiographically and ecologically important features, including the Niagara Escarpment and the Oak Ridges Moraine.

Ontario's two major ecozones have also largely defined the province's major economic regions. The Boreal Shield has historically been dominated by resource extraction, particularly forestry and wood processing for lumber and pulp and paper, and metal mining and smelting. The Mixedwood Plains of the south were rapidly converted to agricultural uses with European settlement. Over the twentieth century, the relative economic significance of agriculture declined as a diversified manufacturing economy emerged along the shores of the southern Great Lakes. The southern economy is now increasingly dominated by the services sector.

The province has a population of 13 million. Eighty percent of this total lives in urban centres. The Greater Golden Horseshoe, along the western end of Lake Ontario, including the Greater Toronto Area (defined as the City of Toronto and the regional municipalities of Durham, York, Peel, and Halton), City of Hamilton, the Niagara Peninsula, and Kitchener-Waterloo-Guelph region, constitutes the largest concentration of population and urban communities, with 8 million residents. Population growth is very strongly concentrated in this area and, to a lesser extent, the Ottawa region, driven by a combination of in-migration from other parts of Ontario and Canada and immigration from outside Canada.³

Approximately one-third of Canada's total population lives in Ontario, and with an annual gross domestic product in the range of \$500 billion, the province accounts for roughly 40 percent of Canada's total economic output. In international terms, Ontario's population, area, and economy approximates those of the larger US states and are larger than those of most member states of the European Union.⁴ The province has also been ranked consistently over the past fifteen years among the top six sources of releases and transfers of Canadian National Pollutant Release Inventory- and US Toxics Release Inventory-listed pollutants among the Canadian provinces and US states. The province has held the number two position, after British Columbia, for the most recent four years (2003-6) for which data have been reported, with releases and transfers of more than 347 million kilograms of pollutants in 2006.⁵

The status of provincial governments as the dominant actors in the formulation and implementation of environmental policy in Canada has grown significantly since the mid-1990s. The provinces have always enjoyed a strong constitutional foundation for the management of the environment and natural resources as a result of their jurisdiction of public lands and natural resources, public health, municipal institutions, property and civil rights, and "matters of a local or private nature."⁶ The 1998 federal-provincial National Accord on Environmental Harmonization emphasized the lead role of the provinces in the prevention and control of pollution and the conduct of environmental impact assessments on major projects.⁷ Despite this dominance, the literature on environmental politics, policy formulation, and implementation at the provincial level in Canada is extremely limited.

British Columbia, where there has been a good deal of interest in forestry-related policy and politics is the exception to this rule.⁸ General texts on Canadian environmental and natural resources policy have tended to take federal or national perspectives and, in most instances, provide only broad overviews of provincial developments.⁹

Scholars have written on the history of economic development and related natural resources policies in Ontario.¹⁰ Others have examined specific policy issues with significant environmental dimensions to them, notably electricity policy.¹¹ Generally, however, these works have lacked a strong environmental or sustainability perspective.¹² Environmental policy has tended to be overlooked in the standard texts on the government, politics, and the political economy of Ontario,¹³ and there has been little historical analysis of the role of the environment in the province's politics.

This study focuses on environmental protection, defined in terms of air quality, water quality and quantity, and waste management, and how environmental matters have been seen to relate to the economic and social evolution of the province. Land-use planning, natural resources extraction and processing, and energy and electricity policy are examined as well

where they help to further understanding of the province's approach to the environment. The focus is on the post-Second World War period, highlighting the years since the establishment of the Ministry of the Environment in 1971.¹⁴

Analytical Approach

In the pages that follow, an institutional-ideological approach broadly along the lines of the model classically employed by G. Bruce Doern and Glen Toner in their work on the National Energy Program is adopted.¹⁵ This framework offers a number of advantages. It allows explicit consideration of the historical, material, physical, and economic context within which policy is being made and implemented. This is important given the structural changes to Ontario's economy and society over the study period. The framework also emphasizes the role of institutional factors in the formulation and implementation of public policy. The relatively high levels of executive autonomy enjoyed by majority governments in cabinet-parliamentary systems of government such as those that exist at the provincial level in Canada, and the strong jurisdictional position of provincial governments with respect to the environment, energy, and natural resources under Canada's constitution, are especially relevant here. In addition, the approach places substantial weight on the impact and evolution of underlying normative ideas about the role of government broadly, and the concepts that define the discourse on the individual policy issues under study. The views held by different actors about the relationship between protection of the province's environment and economic development are potentially central in this case.

The framework developed by Doern and Toner has been criticized for failing to differentiate appropriately between the roles of state and non-state interests and actors in the policy process.¹⁶ It also neglected the impact of other potentially important variables outside of the state, such as public opinion or the levels of media coverage regarding an issue. As a result, a modified version of the framework, shown in Figure 1.1, is employed here. Specifically, societal forces outside of the state, such as public opinion and the roles and changing power positions of non-state actors, including business interests and environmental non-governmental organizations and other civil society organizations, are treated as separate variables.

Within this structure, special attention is given to the changing levels of societal concern for the environment; the shifting conceptions of the appropriate roles of government in relation to the province's economy, society, and environment; and the relationship between these two potentially important drivers of environmental policy. Public concern for an issue may be reflected in public opinion survey data, media coverage, and other avenues. There is a well-established proposition that government activity on an issue will coincide with high levels of public concern or interest, and will wane

Figure 1.1

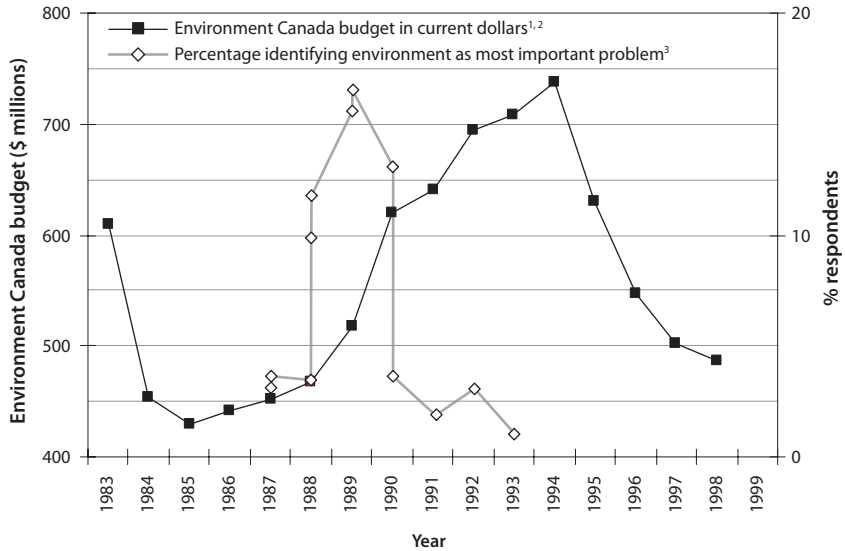
Analytical framework for Ontario environmental policy			
Material/physical/ economic factors	Normative factors	Institutional factors	Societal factors
North/south eco- zone and economic divisions	Ideas about role of the state: • Activist/progressive • Managerial/ facilitative • Neo-liberal	Cabinet- parliamentary government • Mandates and functions of specific agencies	Public opinion Interest and advocacy groups
Demographic and economic divisions between GGH/ Ottawa and rest of province	Environmental policy paradigms: • Pollution control/ maximum sustain- able yield • Pollution prevention/ soft energy paths • Sustainable development • Sustainability/ managing without growth	Federalism	Media
Structural economic change: shift from manufacturing to services in south; decline of resource extraction and processing in north		Courts and rule of law Aboriginal and treaty rights	
Great Lakes basin location and eco- nomic relationship with United States			
Regional climate change impacts			

as public interest declines. This is known as an “issue-attention cycle.”¹⁷ In the case of the environment in Canada, for example, Kathryn Harrison found that the rise and decline of Environment Canada’s budget followed the peaks and troughs in the level of public concern for the environment (see Figure 1.2.)¹⁸

High levels of public concern offer governments the possibility of political reward for action and the risk of blame for inaction or perceived failure. Levels of media attention given to an issue also generally rise with its public profile and decline with its fall, producing self-reinforcing effects in both directions.¹⁹ Levels of public concern may also affect the resources and political influence of non-state actors. The potential electoral benefits and risks associated with government action or inaction during periods of high public salience of an issue can counterbalance the normally dominant structural

Figure 1.2

Trends in public attention to the environment and Environment Canada's budget, 1983-99



Notes:

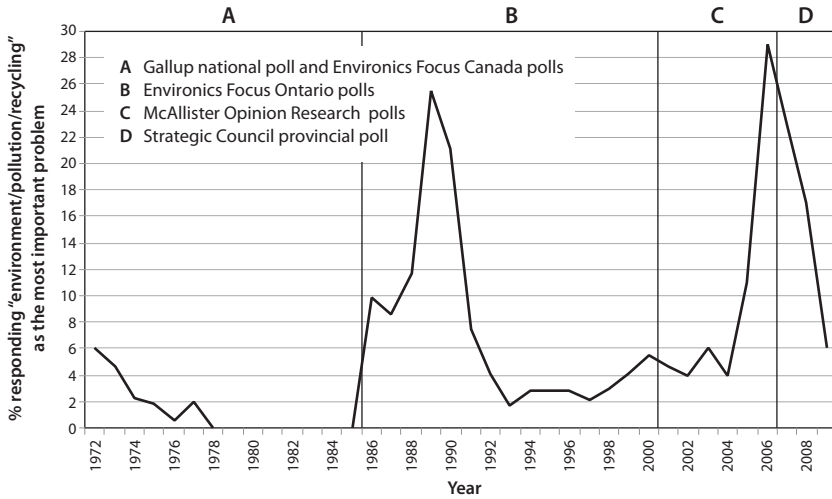
- 1 Budget figures are from the main estimates for 1993-94 and later, and are mid-year forecasts for earlier years.
- 2 In 1993-94, the Parks Service was moved from the Environment Department to the new Canadian Heritage Department. For comparison purposes, the Parks budget has been subtracted from budget figures for 1992-93 and earlier.
- 3 Source: Gallup Canada. Prior to February 1987, Gallup Canada did not report percentages of respondents identifying the environment as the most important problem.

Source: Adapted from K. Harrison, "Retreat from Regulation: Evolution of the Canadian Environmental Regulatory Regime," in *Changing the Rules: Canadian Regulatory Regimes and Institutions*, ed. G.B. Doern et al. (Toronto: University of Toronto Press, 1999), Figure 6.1.

power of business interests relative to civil society organizations.²⁰ These are important motivators for policy action, providing key ingredients for the formulation of policy windows during which significant departures from established policy may take place.²¹ As a result, long periods of policy stability, correlating with low salience of the issue, may be interrupted by periods of intense policy change when public interest is high.²²

As Figure 1.3 shows, the three distinct waves of public concern for the environment in Ontario since the Second World War (from the late 1960s to the mid-1970s, from the mid-1980s to the early 1990s, and most recently from 2004 to 2008) have been separated by longer periods of relatively low environmental concern.

Figure 1.3

The environment as top-of-mind concern in Ontario and Canada, 1972-2009¹


¹ There is no consistent time series polling data on environmental issues in Ontario available over the study period. This figure was created from five data sources. The Environics and McAllister data are Ontario-specific. For the remaining three polls, the responses from the Ontario samples, where available, were employed.

Sources: See Appendix 2.

Underlying Concepts of the Role of the State

Since 1945 and especially since 1985, Ontario governments have taken a variety of approaches to their functions. Some have seen their role as *facilitative* and *managerial* and have taken measures that they perceive as necessary to facilitate economic growth and development (understood in conventional terms to mean urbanization, natural resource extraction, processing and export, and industrialization), such as the provision of physical or social infrastructure. Initiatives in fields like the environment beyond what is seen to be essential to economic development occur as they become politically or practically necessary, not as a result of the state seeking an expanded role in these areas. The Progressive Conservative governments of premiers Frost, Robarts, and Davis, stretching from 1949 to 1985, perhaps best illustrated this approach as they presided over a steady but incremental expansion of the scope of government activity, culminating in the emergence of what has been described as a service state.²³ The Liberal McGuinty government, first elected in 2003, is widely seen to have adopted a similar approach to governance, one which has been closely associated with what has tradition-

ally been seen as the province's dominant progressive conservative political culture.²⁴

Activist or progressive governments, by contrast, may see their role as more directive in shaping the economy and society. Rather than simply responding to public demands and issues as they arise or as is required to support economic development understood in conventional terms, such governments typically aspire to fostering more just or environmentally sustainable societies. Specific issues may be seen as symptoms of deeper economic, social, or environmental problems that need to be addressed through public policy. They are also likely to envision a more active role for the state in formulating and implementing economic strategy and in doing so may challenge long-held assumptions and power relations. In Ontario, such an approach was most evident during the first (1985-87) Peterson government and first half (1990-93) of the Rae NDP government that followed.

Under what are sometimes referred to as neo-conservative, but which are more accurately described as *neo-liberal*, paradigms, governments seek to minimize state interference with the market and speak of maximizing individual freedom. Neo-liberal governments tend to see the market as the most efficient arbitrator of resource allocations.²⁵ The role of the state is simply to facilitate private sector economic activity, particularly through the most efficient possible provision of the physical and legal infrastructure needed to attract investment, but little beyond that. This approach was exemplified in the Common Sense Revolution of the early years (1995-98) of the first Harris government.²⁶

Within the context of these broader concepts regarding the role of the provincial state, understandings of the relationship between economic development and protection of the environment have also evolved. Environmental matters were initially understood as local issues and treated as elements of the public health functions of local governments. However, increasing recognition of the scale of the impacts of industrialization, urbanization, and population growth and of their potential to obstruct economic development led to an uploading of responsibility for environmental management to the provincial level. An emergent pollution-control environmental policy paradigm accepted the character and increasing scale of economic activities and attempted to add end-of-pipe measures to industrial processes to reduce the release of pollutants.²⁷ Changes to the underlying production technologies were not contemplated, and pollution-control measures were not pursued to the point of threatening the underlying economic model or the profitability of the affected facilities.

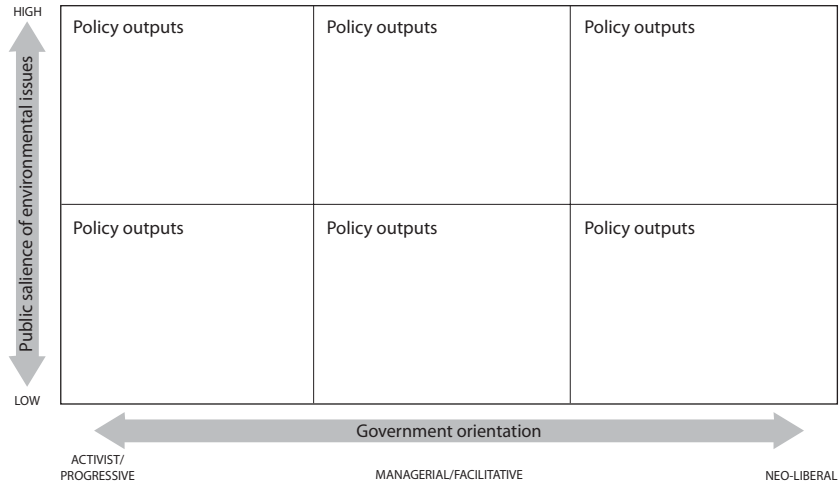
The pollution-control policy paradigm began to face serious challenges from the mid-1970s onward. The International Joint Commission and the developing Great Lakes science community, working under the auspices of

the 1972 Canada-US Great Lakes Water Quality Agreement, began to highlight the failures of the traditional model, particularly regarding toxic pollutants. Proposals began to be made for more fundamental changes to industrial practices than just adding pollution-control equipment to existing processes. The use or formation of polluting substances needed to be prevented in the first place. The emergence of the acid rain issue undermined the “dilution is the solution to pollution” approach of the pollution control model at the same time, further reinforcing the potential appeal of a more preventative paradigm.²⁸ In the energy field, the difficulties with Ontario Hydro’s nuclear construction program led to debates over the viability of alternative, soft energy paths, based on energy conservation and efficiency, and smaller scale, decentralized, and renewable sources of electricity supply for the province’s electricity system.²⁹

Growing international recognition that industrial activities were having serious global-level impacts evident in such phenomena as ozone depletion, climate change, and biodiversity loss, as well as rising demands to address the economic development needs of the global poor, led to the emergence of the concept of sustainable development. The sustainable development principle, introduced by the World Commission on Environment and Development in its 1987 report, *Our Common Future*, acknowledged the dependency of economic activities on the health of the global biosphere, with the implication of a need to integrate environmental and economic decision making on an equal basis, rather than pursuing environmental protection as a facilitative adjunct to a conventional growth-oriented economic path. Unfortunately, the notion of sustainable development emerged in the context of the growing global dominance of neo-liberal ideas about the role of the state and was largely lost in the resulting general retreat of state activity, particularly in North America.³⁰

Over the past decade, a series of catastrophic events, ranging from the Walkerton, Ontario, and North Battleford, Saskatchewan, drinking water disasters to, more recently, the 2005 Hurricane Katrina tragedy in New Orleans and the global financial crisis of 2008, has led to a reassertion of the importance of the basic health, safety and security, and economic regulatory functions of the state.³¹ In the meantime, the scientific and economic case for government-led policy action on climate change has become overwhelming.³² Governments around the world, including Ontario’s, have been remarkably ambiguous in their response to this situation. Neo-liberalism and the associated Washington Consensus has seemed in retreat,³³ but no consensus around the future role of the state has emerged,³⁴ The situation has been exacerbated by the domestic political difficulties suffered, after its initial promise, by the Obama administration in the United States.³⁵ Further developments of the sustainability concept have emphasized the importance of pursuing development options that can provide mutually reinforcing

Figure 1.4

Environmental policy matrix: Government orientation and public salience of environmental issues – Conceptual


environmental, economic, and social benefits and of avoiding, to the greatest extent possible, paths that require trade-offs among these goals, but these have found only limited traction among governments so far.³⁶ Similarly, recent works challenging the centrality of growth to economic policy, like Peter Victor's *Managing without Growth*, have found substantial public audiences but had virtually no impact on public policy to date, even in the wake of the 2008 financial crisis.

The overall conceptualization of the relationship between the variables of the public salience of environmental issues and governmental orientation is shown in Figure 1.4. The vertical axis charts the public salience of environmental issues, recognizing that it has tended to alternate between very high and low levels. The horizontal axis characterizes governments' ideational norms, across a spectrum ranging from activist/progressive to neo-liberal. The possible policy outputs arising from various combinations of public salience and governmental orientation are shown within the matrix.

The Ontario Context

Politics and Political Culture

The postwar period that is the focus of this book was characterized by a long period of political stability stretching from the mid-1940s to 1985. The period began with the Progressive Conservative (PC) government of Premier George

Drew (1943-48) and carried through administrations led by Leslie Frost (1949-61), John Robarts (1961-71), and William Davis (1971-85), although a significant portion of the Davis period was as a minority government (1975-81). Indeed, the PC dynasty was described as the “longest surviving one-party state this side of Albania.”³⁷

In contrast, the period since 1985 has been one of relative instability, with governments of all three parties represented in the legislature holding office.³⁸ Frank Miller briefly succeeded Davis as Progressive Conservative Party leader and premier in 1985. However, Miller was seen to have pushed the party too far to the right. A weak campaign in which environmental issues unexpectedly emerged as a significant factor, along with internal divisions within the party over Davis’s decision to provide funding to Catholic schools, laid the groundwork for an end to the dynasty.

As a result, David Peterson’s Liberals came to power in 1985, first as a minority government via an accord with the NDP, then as an overwhelming majority in 1987. A combination of factors, including public anger over an early and apparently unjustified election call, the premier’s role in the Meech Lake Accord, and a weak Liberal campaign in which environmental issues again played a significant role, led to the defeat of what had been a relatively activist Liberal government by the NDP, with Bob Rae at the helm.³⁹

The five-year NDP government was beset by economic difficulties. These were attributed in part to the impact of the 1988 Canada-US Free Trade Agreement and the interest rate policies of the Bank of Canada.⁴⁰ The poor economic situation, in conjunction with a social contract imposed on public sector workers as a result of fiscal restraint, a decision on not to proceed with public auto insurance, difficulties in meeting the expectations of traditional constituencies once in government, and a perception of overall incompetence, meant that by 1995 the NDP had lost much of its traditional base of support and been unable to establish a new one.⁴¹

The demise of the NDP government set the stage for the Progressive Conservatives’ unexpected return to power in 1995. Public anger over tax levels; a perception that the Liberals, the favoured successors to the NDP going into the campaign, did not stand for anything; and a very strong campaign focused on the decidedly neo-liberal Common Sense Revolution platform provided the ingredients for a PC victory under the leadership of Mike Harris.

The Progressive Conservatives were returned with a majority government in 1999 despite an ambitious, ideologically driven, and divisive agenda of tax cuts, spending reductions, deregulation (particularly in relation to the environment and natural resource management), and restructurings in the health, education, and municipal sectors in their first term.⁴² The second Harris government was presented with greater management challenges as the impact of its first-term initiatives in the health, education, and municipal

sectors became increasingly apparent. The May 2000 Walkerton disaster focused attention on the effects of spending reductions and the regulatory withdrawal by the province that had defined the first mandate.⁴³

Public fatigue with the level of conflict associated with the “revolution” and its consequences, and the inability of Harris’s successor, former finance minister Ernie Eves, to distance himself from his predecessor, set the stage for the election of a Liberal majority government led by Dalton McGuinty in October 2003. The McGuinty government, whose approach, in contrast to the Harris Progressive Conservatives, emphasized the traditional values in Ontario politics of civility, moderation, and competence, was re-elected in 2007, having undertaken a range of initiatives related to land-use planning, drinking water safety, energy, and industrial pollution. The McGuinty government has faced major challenges in its handling of the consequences of the 2008 economic crisis for Ontario, and the outcome of the 2011 election remained an open question.

One of the most notable features of the McGuinty period has been the emergence for the first time of the Green Party as a significant presence in Ontario politics. The party has shown a consistent fourth-place standing in public opinion polls since 2004 and polled as high as 12 percent leading up to the 2007 election.⁴⁴ Although not winning any seats, the Greens ultimately received 8 percent of the popular vote. The long-term durability of this level of support and its impact on the province’s politics have yet to be seen.

Political Culture

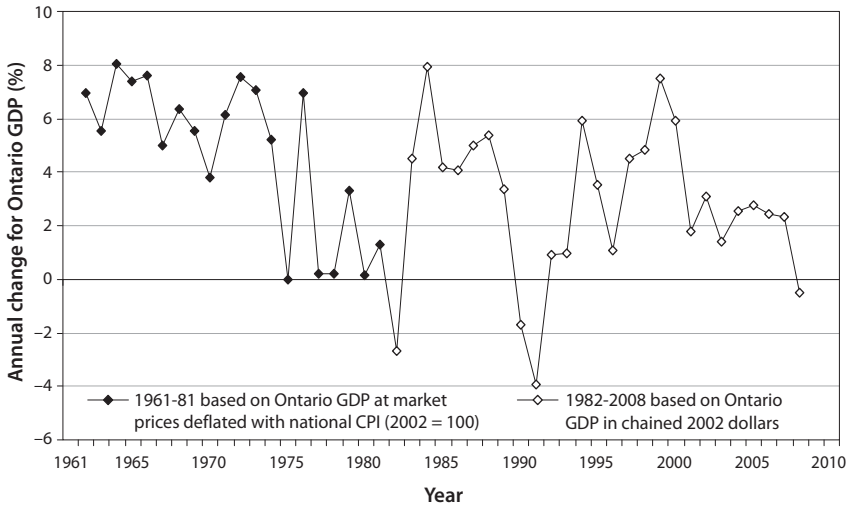
The succession of postwar governments and elections have unfolded in the context of a provincial political culture that has been defined by Sid Noel in terms of five operative norms: (1) the pursuit of economic success, (2) an assumption of economic and political pre-eminence in confederation, (3) a requirement for managerial efficiency in government, (4) an expectation of reciprocity in political relationships, and (5) a balancing of interests in public policy making.⁴⁵ These five elements have been seen to provide the foundations of the province’s progressive conservative political culture and the success of the “big blue machine” of the Progressive Conservative dynasty. In the context of the relative instability of the period since 1985, there is considerable debate as to whether these norms still hold in Ontario politics. Some argue that the Common Sense Revolution represented a major and permanent shift in the province’s political culture; others contend that the success of the McGuinty government, particularly in the 2007 election, indicated that the progressive conservative norms still hold.

Economic Conditions and Structure

Ontario experienced a “long boom” from the mid-1940s to the early 1970s. Following the end of the Second World War, a combination of forces, many

Figure 1.5

Annual percent change in Ontario GDP, 1962-2008



Source: CANSIM Table 3840002 – gross domestic product (GDP), expenditure-based, provincial economic accounts, annually (dollars) series V1585724 Ontario; chained (2002) dollars; gross domestic product (GDP) (January 1, 1981, to January 1, 2008; Data: 28) and V.

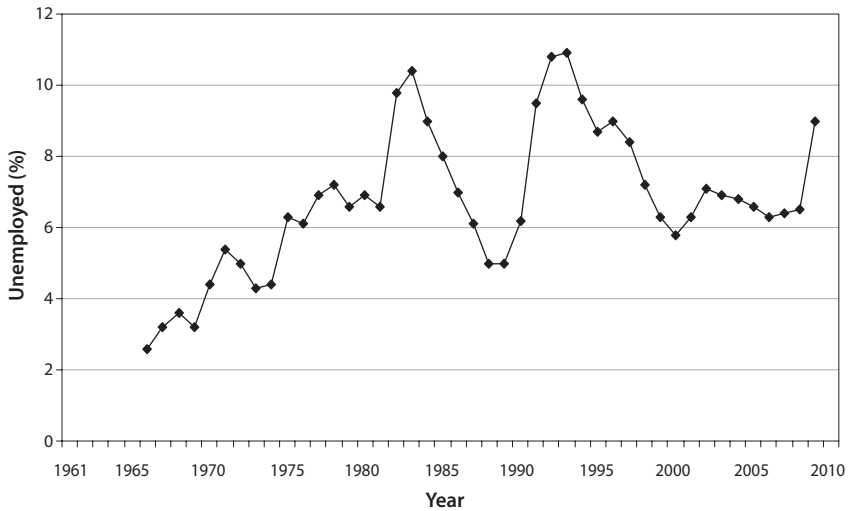
external to Canada and some internal, triggered the longest sustained period of economic expansion the country had ever experienced. Despite a few ups and downs, notably in the late 1950s, from the middle of the 1940s to the early 1970s the overriding strength of the economy continually pushed up incomes and accommodated a rapidly growing labour force.⁴⁶ This long boom coincided with rapid population growth and a shift of the population from rural communities to urban centres.⁴⁷

As shown in Figures 1.5 and 1.6, tracking the annual changes in provincial gross domestic product and unemployment levels, the province's economic situation has been far less stable since the mid-1970s.⁴⁸

In part reflecting the global impact of rising energy prices,⁴⁹ the postwar rate of GDP growth began to level off in 1974, approaching zero in 1975 as the first Davis government reached the end of its mandate. The unemployment rate rose above 6 percent at the same time. A modest recovery took place in the late 1970s, but the province was soon falling toward the “Great Recession” of 1982.⁵⁰

By 1983, another recovery was underway, leading into what has been called the “little boom” of 1985-89. That boom was followed by a major downturn in 1990 and 1991, described in some quarters as the worst recession since the 1930s.⁵¹ A very modest recovery began in 1992 and 1993,

Figure 1.6

Ontario unemployment rate, 1966-2009

Source: Canada, Statistics Canada, *Canadian Economic Observer: Historical Statistical Supplement, 2009/2010*. Catalogue no. 11-210-XWE, August 12, 2010.

followed by a long period of economic expansion from 1995 onward,⁵² driven in large part by a flourishing economy in the United States. The economy slowed again between 2001 and 2003, the result of the decline of the high-tech sector and the 9/11 terrorist attacks.⁵³

The recovery that followed continued until the global financial crisis of 2008. The impacts of that crisis on Ontario were severe. The province's economy lost nearly 250,000 jobs between the fall of 2008 and spring of 2009, and the province was left projecting a deficit of \$19.17 billion in its 2010 budget.⁵⁴

Structural Changes Over Time

Ontario's economy has undergone substantial structural changes over time. In the south over the twentieth century, a large and relatively diversified manufacturing base emerged along the shores of the southern Great Lakes, displacing agriculture as the dominant economic activity. A major chemicals and petrochemicals sector was established in the southwest, along with a steel sector focused in Hamilton, and branch-plant manufacturing facilities throughout the region, including a major automobile parts and assembly sector.⁵⁵

Over the past three decades, employment in the primary resource sectors, particularly forestry and metal mining, has declined significantly. Full-time

employment in forestry, for example, fell by nearly 40 percent between 1976 and 2006; full-time employment in mining fell nearly 45 percent between 1986 and 2006.⁵⁶ The changes at individual facilities are even more striking, with employment at the International Nickel Company (Inco – now Vale Inco) in Sudbury falling from over 17,000 in the late 1960s to just over 3,000 in 2010.⁵⁷ Although total employment in manufacturing has remained relatively stable since the mid-1970s, the sector's relative contribution to employment has fallen substantially and become more unstable.⁵⁸ Major facilities, like the Stelco steel mill in Hamilton, which once employed 25,000, have shut down completely.⁵⁹ Similar outcomes have occurred in agriculture, with total average employment in the sector remaining stable (subject to wide variations from year to year) but its relative contribution to total employment declining.⁶⁰ Transportation equipment dominates the remaining manufacturing activities in southern Ontario.⁶¹

Growth in employment has been concentrated in the business and personnel services sectors, and the gains there have more than made up for the losses in the manufacturing and resource sectors.⁶² The expansion of the service sector has been an important factor in the province's avoidance of the rust belt fate of economic and population decline of many of the neighbouring states on the US side of the Great Lakes.⁶³ Services now account for 79 percent of Ontario's total employment and 70 percent of GDP.⁶⁴ The growth in service sector employment has been overwhelmingly concentrated in the Greater Golden Horseshoe and Ottawa regions, creating an increasing bifurcation between these regions, which have seen continued employment and population growth, and the rest of the province, where population and employment have generally been in decline.⁶⁵

The Ontario governments that have held office since 1985 have struggled with the impact of these structural economic changes and their implications for economic strategy. The Peterson government began to talk about the management of the transition to an information-based economy but was uncertain of what part the province should play in the process. The NDP government had a sense of the need to define the province's role more clearly and engaged in the most serious effort seen in the province to reconceptualize the relationship between economic success and environmental protection away from a zero-sum proposition, but it was unable to move effectively to implementation.⁶⁶

The Harris government, by contrast, consistent with its neo-liberal ideology, seemed to reject the idea that government might play a useful instrumental role in the economy, with the result that its primary economic strategy was a combination of tax cuts and the removal of government red tape.⁶⁷ The McGuinty government envisioned much more active roles for itself in economic strategy but has struggled between efforts to develop a

post-industrial creative service and knowledge-based economy, and support for traditional sectors, particularly automobile manufacturing, forestry, and mining.

Outline of the Book

The structure of the book is essentially historical, as it follows the evolution of environmental policy and institutions and the underlying normative context of environmental policy in Ontario. The chapters are structured around the lives of the province's successive governments and begin and end with provincial elections, which often prove to be watershed moments in the evolution of the province's environmental policies.

Chapter 2 covers the process of institutional and legislative formation with respect to the environment in Ontario. The story begins with the establishment of municipal responsibilities for public health in the 1880s and then the increasing assumption of responsibility by the province for the regulation of water quality and use, air pollution, and waste management through the Frost and Robarts governments of the 1950s, 1960s, and early 1970s. The process culminates in the creation of the Ministry of the Environment and adoption of the Environmental Protection, Ontario Water Resources, and Environmental Assessment Acts during the first Davis government, completing the legislative and institutional framework for environmental protection in Ontario that essentially remains in place to the present day. The implementation of that framework, once established, becomes a complex and highly contested matter throughout the remainder of the Davis period. The result is a long period of almost painfully incremental progress and, from time to time, retrenchment.

Chapter 3 examines the environmental dimension of Ontario's "quiet revolution" with the relative activism of the 1985-90 Liberal Peterson minority and then majority governments. The period is marked by the first serious efforts to consider the implications of structural economic change and the concept of sustainable development for the province, but also by increasing conflict with industrial and municipal interests and within the government over the extent of its environmental initiatives.

Chapter 4 considers the role of the Rae NDP government. That government would be marked by numerous environmental initiatives, including the adoption of an Environmental Bill of Rights. However, efforts to implement the recommendations reflecting the sustainable development concept flowing from the Ontario Round Table on Environment and Economy and the government's own Fair Tax Commission would flounder in the face of the economic and political challenges faced by the Rae administration.

Chapter 5 looks at the neo-liberal Common Sense Revolution of the first Harris government. Consistent with the Common Sense Revolution's focus

on minimization of role of the state, this is a period of major regulatory and institutional retrenchment, with the environmental protection functions of the Ontario government being singled out for special attention.

Chapter 6 focuses on the second Harris government, which followed the 1999 election, and the government of Harris's successor, Ernie Eves. Although expected to be a continuation of key themes of the Common Sense Revolution, the period would emerge as a crucial transitional phase in Ontario environmental policy. The May 2000 Walkerton drinking water-contamination disaster brought an end of the environmental dimension of the Common Sense Revolution and marked the beginnings of a return to incremental activism on environmental issues.

Chapter 7 examines the approach of the McGuinty Liberal government that came to office in October 2003, in part on the basis of a platform that proposed a major re-engagement with environmental issues. The government would launch a series of initiatives related to land use, energy, climate change, drinking water protection, and climate change, but its record would also be marked by some profound contradictions on environmental matters.

Chapter 8 provides overall conclusions. The interplay between the variables of levels of public concern for the environment, the successive modern provincial governments' conceptions of their own roles, and changing economic conditions are assessed. Reflections on the potential future evolution of the relationship between the province's economy, environment, and politics are provided as well.

2

The Environment and the Dynasty

The emergence of environmental protection as a function of federal and provincial governments is a relatively recent development in Canada. Distinct environmental agencies began to be established only in the early 1970s, and some provinces did not complete the adoption of comprehensive environmental protection legislation until the 1980s.¹ In Ontario, the foundations of the current institutional and legislative framework around the environment were established during the long Progressive Conservative dynasty of premiers Drew, Frost, Robarts, and Davis, which lasted from 1943 to 1985. The period was marked by a major expansion in the provincial government's role in Ontario's society and economy in general and by the emergence of the environment as a distinct public policy issue.

Municipal Responsibility, Public Health, and Common Law (1880s-1950s)

The first legislative structures in Ontario to provide for what would now be recognized as the protection of the environment were contained in the Public Health Act, first enacted in 1884. From the time of its passage until the mid-1950s, the act was the primary instrument for overseeing the development of municipal water and sewage works, the operation of private septic systems, and the discharge or deposit of material (i.e., pollutants and waste) into watercourses.² The legislation flowed from the increasing scientific understanding of the connections between disease and the disposal of human and animal wastes into water bodies that were also the sources of drinking water, with the result of high death rates from water-borne diseases and, from time to time, epidemics.³ In Toronto, for example, when a break in the water pipe that bypassed the city's "tide less and practically stagnant" harbour – into which the untreated effluent of 175,000 people flowed – to draw water from the open waters of Lake Ontario broke, allowing the harbour water to

enter the city's water supply, the result was an outbreak of typhoid.⁴ The need to respond to such situations was highlighted by an emerging urban public health movement accompanying the increasing professionalization of public health services.⁵

The original Public Health Act's primary focus was on the potability of municipal water supplies and the public health aspects of disposing of municipal sewage.⁶ From 1895 onward, approval from the Provincial Board of Health (and subsequently the provincial Department of Health following its creation in the 1920s) was required for sources of drinking water supply and the disposal of sewage. In 1906, the act was amended to make it an offence to pollute sources of drinking water.⁷

In the early decades of the 1900s, municipal governments began to assume responsibility for the control of air pollution as an extension of their duties in the area of public health, through the enactment of smoke abatement bylaws. The regulation of the land disposal of wastes emerged as a municipal function at approximately the same time. In practice, however, disposal sites were rarely ever subject to any serious regulation, and often the only public agency visiting a landfill or dump was the local fire department.⁸ Environmental matters outside urban areas were essentially left as private matters, to be resolved among landowners on the basis of the common law principles of riparian rights, nuisance, and strict liability. In large parts of northern Ontario, especially those areas that were "unorganized" and did not have municipal government, many services were provided by the Department of Lands and Forests, including the operation of small dumps and landfills.⁹

As for natural resources management, by the late nineteenth century, increasing public and professional concern over the unsustainable harvesting of renewable natural resources, particularly forests, led to the emergence of a North American natural resources conservation movement. Like the urban public health movement, the conservation movement was grounded in the developing relevant academic disciplines and professions. The conservation movement had a populist dimension as well, connected to the broader progressive movement and its drive for the professionalization of public services, and highlighted, for example, by the appeal of US president Theodore Roosevelt's initiatives to establish the US national parks system and US Forest Service.¹⁰ The conservation movement's dominant stream, which strongly influenced the development of Ontario's Department of Lands and Forests, emphasized the rational management of renewable natural resources to maximize sustainable yield, in effect improving the efficiency and viability of the underlying extractive model of economic development, with little or no attention given to wider ecosystem functions or values.¹¹

The Emergence of the Provincial Role (1950s-1975)

With the tremendous growth in population and industrial activity of the 1940s and 1950s, especially in the large urban centres in southern Ontario, the need for the provincial government to play a more active role in an increasing range of areas, such as education, municipal government structures, land-use planning, and the provision of major infrastructure, became increasingly apparent.¹² Many of these fields had traditionally been left in the hands of municipalities, which found the demands of a growing and increasingly urban population beyond their capacity to coordinate and provide services for. At the same time, the strong postwar period of economic expansion provided the revenues needed by the federal and provincial governments to assume a much wider range of responsibilities. The province's annual budget expanded from \$300 million in 1949 to \$4 billion by 1970.¹³ The increasing provincial investments in infrastructure and expansion of social programs were intended to ensure that the economic success that the province was enjoying would continue.¹⁴

In the case of the environment, the immediate postwar period of the late 1940s and early 1950s brought with it something of a renaissance of the conservation and public health movements that had emerged in North America, including Ontario, in the late nineteenth century. By the end of the 1920s, the beginnings of institutional and legislative frameworks for more sustainable approaches to natural resources management and the control of pollution had been established.¹⁵ There was now a growing recognition within governments of the ground that had then been lost with respect to sustainable resources management and pollution control during the Great Depression and Second World War.¹⁶ In 1946, a Conservation Authorities Act was adopted, providing for the creation of watershed-based conservation authorities to improve the management of water and land resources at the local level.¹⁷ A Planning Act was also enacted, enhancing the authority for municipalities or joint municipal planning areas to develop official plans and zoning regulations.¹⁸

The need for further improvements in the coordination of municipal sewage treatment and disposal and the provision of water in particular became increasingly apparent. The 1950 report of the Ontario legislature's Select Committee on Conservation highlighted the need for improvements in water supply to facilitate "industrial and population expansion" and the widespread lack of sewage treatment facilities.¹⁹ In 1952, a Pollution Control Board of Ontario, consisting of representatives of the Departments of Agriculture, Health, Lands and Forests, Mines, Municipal Affairs, Planning and Development, and the Ontario Research Council was established to develop proposals for legislative reform to deal more effectively with air and

water pollution. The establishment of the board reflected concerns about the fragmented and limited authority of provincial agencies in the control of pollution, and the deterioration of pollution-control efforts during the Depression, war, and immediate postwar era.²⁰

A significant driver of the province's responses had been a series of successful legal actions by downstream riparian landowners against industrial and municipal facilities whose discharges had severely affected the waters flowing through or past their properties. The first of these cases related to the pollution of the Spanish River by a reactivated pulp and paper mill owned by the Kalamazoo Vegetable Parchment (K.V.P.) company. When the mill reopened in the summer of 1946, it began to discharge chemically impregnated, digested wood fibres into the river. The river, which had supported a commercial fishery and tourist fishing camps, became devoid fish and began to give off a noxious smell from the mill site at Espanola down to Georgian Bay.²¹ The province ultimately adopted legislation setting aside a series of court decisions, including one delivered by the Supreme Court of Canada in the riparian landowners' favour requiring the mill to reduce its discharges or shut down.²² In adopting the K.V.P. Company Act, Premier Leslie Frost noted that with industrialization and population growth, "a certain amount of pollution" would be unavoidable but that "we are determined to hold that to the least possible limit."²³

The province's response to the K.V.P. litigation notwithstanding, riparian landowners continued to pursue successful actions against new sources of water pollution. In the mid-1950s, landholders downstream from municipally operated sewage treatment plants in Richmond Hill and Woodstock succeeded in obtaining injunctions against the discharge of partially treated sewage from the facilities.²⁴ These events, and the threat similar litigation posed to the Frost government's vision for the province's economic development, compelled a response. Beginning with the passage of the Ontario Water Resources Commission Acts of 1956 and 1957, the province began to assume a more direct and systemic role in the management and protection of its environment.

The Ontario Water Resources Commission Acts provided for the establishment of the Ontario Water Resources Commission, a body to be appointed by the lieutenant governor in council,²⁵ and granted it authority over the use of water resources in the province and the maintenance of their quality. The acts required the approval of the commission before a work that removed water from a water body or discharged materials into it could be constructed and operated. The requirement applied to both industrial water works and municipal sewage treatment plants. The commission also was empowered to make orders regulating or prohibiting the discharge of sewage (municipal and industrial) into waters and to issue directives to industrial

or commercial enterprises that made sewage treatment and disposal arrangements the commission regarded as unsatisfactory.²⁶

In effect, the new legislation replaced the ad hoc system of municipal and occasional provincial oversight under the Public Health Act and common law litigation by riparian landowners with a comprehensive system of provincial approvals and regulation, covering municipal and industrial uses of water and discharges of pollutants, administered by the provincial Ontario Water Resources Commission. Among other things, the new legislation provided statutory authorization of the activities and operations approved under it, effectively precluding the possibility of further common law litigation by downstream landowners against municipal or industrial sources of water pollution.²⁷

In practice, the Ontario Water Resources Commission occasionally imposed directives on major industrial sources of water pollution in the province.²⁸ However, the commission's most significant activities from the late 1950s onward were to finance and supply water and sewerage services to municipalities. This involved the construction and operation, by the commission, of a large number of new sewage treatment plants and water works throughout the province, a role consistent with the overall provincial strategy of major public investments in infrastructure to smooth the transition to a modern urban and industrial economy and society.²⁹ The province's initial responses to other environmental issues were much more limited. For example, despite a 1957 recommendation from the Select Committee of the Legislature on Air Pollution for the establishment of a provincial air pollution control commission, responsibility for dealing with air pollution was explicitly assigned to municipalities through the Air Pollution Control Act enacted the following year.³⁰

Pollution and protection of the environment began to coalesce as a distinct public policy issue from the mid-1960s onward. As shown in Figure 1.3, by the late 1960s, the issue was emerging in public opinion polling as a question of national interest, building toward a peak in public concern in the early 1970s. Public attention became focused on the need for government action that went beyond the basic public health goals of providing for potable water supplies and adequate municipal sewage treatment facilities. In Ontario, the degradation of the Great Lakes as a result of industrial pollution and municipal sewage discharges, along with growing evidence of the widespread presence of persistent hazardous contaminants in the environment, was of particular concern.³¹

These developments were accompanied by an increasing policy advocacy role on the part of the existing naturalist and conservation organizations, including the Federation of Ontario Naturalists (founded in 1931 – now known as Ontario Nature) and the Conservation Council of Ontario (founded in

1953 as part of the postwar renaissance of the conservation movement). In addition, as occurred with other new social movements emerging in the late 1960s and early 1970s, such as those related to the status of women and consumer interests, new environmental non-governmental organizations began to be established.³² Many groups emerged in response to local issues, such as the proposed Spadina Expressway in Toronto. Others, like Pollution Probe, founded in 1967, and the Canadian Environmental Law Association, founded in 1970, would evolve in more formal directions, focusing on provincial and national issues as well as local ones.³³

In response to the growing media and public attention devoted to issues related to environmental quality, the Robarts government passed the 1967 Air Pollution Control Act. Under the act, the minister of health assumed responsibility for the licensing and control of sources of air pollution in the province, a function that had been explicitly assigned to municipalities a decade earlier.³⁴ The Pesticides Act, which provided the Department of Health with the means to regulate the use of pesticides and herbicides in the province, was enacted the following year.³⁵ Although the bulk of the Ontario Water Resources Commission's functions fit tidily within the ambit of the facilitation of economic development, both by eliminating the possibility of common law litigation interfering with development activities and providing sewer and water infrastructure, the new legislation marked the beginnings of a new provincial role whose explicit object was environmental protection.

The first significant use of the Air Pollution Control Act was in the spring of 1970, when it was employed to impose a control order on Inco's smelter at Sudbury, requiring that it reduce its sulphur dioxide emissions from 4,860 tonnes per day to 675 tonnes per day by 1978.³⁶ This was to address acute environmental damage in the Sudbury area caused by Inco's emissions. By the late 1960s, the emissions from the Sudbury smelters had produced a 40-square-mile dead zone completely barren of vegetation. Another 140-square-mile area supported only shrub and herbaceous cover, and vegetation over another 1,700-square-mile area was adversely affected in some way.³⁷ The Sudbury situation was so severe that it was rumoured that the US National Aerospace and Space Agency (NASA) had selected it as a training site where its astronauts could practise walking in an environment as devoid of life as the moon. Consistent with the notion that dilution was the solution to pollution prevalent at the time, Inco was encouraged to build a 380-metre "superstack" on its smelter, with the intention of dispersing the pollutants over a wider area and thereby reducing their concentration when they reached the ground. During the same period, faced with growing public concern over industrial water pollution, the Water Resources Commission issued control orders against Dow Chemical Company and the Reed Pulp and Paper Company, requiring that these companies end their mercury

discharges into the St. Clair and English-Wabigoon River systems respectively. The pollution from Reed Paper had significantly affected the Aboriginal communities living downstream from the mill.³⁸

The movement toward a more active provincial role continued with the passage of the Waste Management Act in June 1970. Under this act, anyone wishing to establish a waste disposal site was required to receive the approval of the minister of energy and resources management. The act also provided authority to regulate the collection and transportation of liquid industrial and hazardous wastes.³⁹

The late stages of the Robarts government were also marked by efforts to establish a vision for future development of what would become known as the Greater Toronto Area. One of the most important features of the vision was the Design for Development initiative, a precursor for work that would follow under the Harris-Eves and McGuinty governments.⁴⁰ GO Transit was created as part of these initiatives, providing the beginnings of a regional commuter rail network.

With the arrival of William Davis as leader of the Progressive Conservative Party and premier in March 1971, the government launched a number of significant initiatives intended to establish a modern and progressive image, and distinguish itself from the previous Robarts administration.⁴¹ In the context of continuing evidence of strong public concern, and an election expected in the fall of 1971, the environment emerged as a significant focus of the new administration's efforts in this regard. Logging activities in Quetico Provincial Park were halted and a multi-million dollar lawsuit related to water pollution against Dow Chemical at Sarnia launched, the construction of the Spadina Expressway in Toronto stopped, a regional land-use and transportation plan initiated for the Toronto region, and an agreement signed with the federal government committing Ontario to participating in the implementation of the Canada-US Great Lakes Water Quality Agreement to be signed the following year.⁴² The Canada-Ontario agreement committed \$50 million for the construction and upgrading of municipal sewage treatment facilities in Ontario.⁴³ In addition to these specific initiatives, the Department of Energy and Resources Management was renamed the Department of the Environment, making Ontario the second province after Alberta to establish a distinct environment department.⁴⁴

The creation of the new department was accompanied by the adoption of a comprehensive Environmental Protection Act in July 1971. The new legislation consolidated the previous Air Pollution Control and Waste Management Acts and provided more general authority to deal with all sources of pollution. The act defined the "natural environment" broadly to include the "air, land and water or any combination or part thereof, of the Province of Ontario" and provided a general prohibition against the discharge of contaminants into the environment that might impair its quality. The act

provided for the establishment of regulations by the lieutenant governor in council regarding the amount, concentration, or level at which contaminants could be discharged into the environment. A certificate of approval, whose terms and conditions were legally enforceable, would be required to construct, alter, or extend any works or equipment likely to emit any contaminant into the environment. The terms and conditions of certificates of approval granted by the department could be appealed to the Environmental Hearings Board. The Environmental Protection Act also transferred responsibility for the regulation of the use of pesticides and herbicides in the province from the Department of Health to the Department of the Environment. As a concession to the agricultural community, a general exemption was provided for most farming activities.⁴⁵

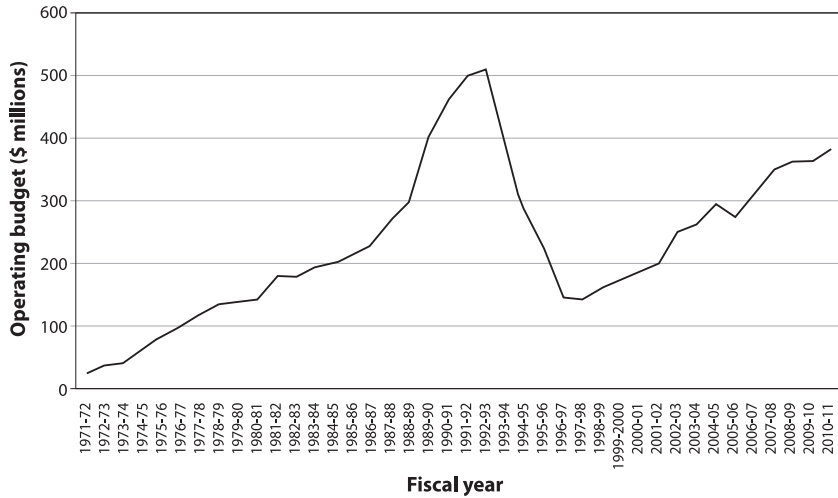
The process of consolidating responsibility for environmental protection functions within the Ministry of the Environment accelerated after the October 1971 election, which resulted in a Progressive Conservative majority government.⁴⁶ Flowing from the work of the Committee on Government Productivity (COGP), initiated under Premier Robarts, the Government Reorganization Act of 1972 dissolved the Ontario Water Resources Commission and transferred its functions to the Ministry of the Environment as well.⁴⁷ As shown in Figure 2.1, the ministry's operating budget grew steadily from this point onward, until the late 1970s, reflecting the process of establishing the ministry's basic regulatory functions.

Consistent with the dominant pollution-control approach to environmental protection, the Ontario Ministry of the Environment's principal enabling legislation, the Environmental Protection and Ontario Water Resources Acts defined environmental degradation narrowly in terms of the release of contaminants into the air, land, and water and were intended to ensure that pollution-control equipment would be added to existing facilities that were causing pollution problems, and that pollution-control components would be included in the design of new plants.

Although there was no notion on the part of the provincial government that more fundamental changes in economic activity would be required, there was some recognition of the potential linkages between environmental protection and other areas of public policy, including economic development and natural resources management. However, these issues were not to be dealt with directly by the ministry but, rather, through the coordinating mechanisms provided by the implementation of the COGP reforms, particularly the Cabinet Committee on Resources Development, under whose aegis the new Ministry of the Environment fell. The other ministries assigned to this group were labour, natural resources, agriculture and food, industry, tourism, and transportation and communications. A provincial secretary for resources development chaired the cabinet committee.⁴⁸

Figure 2.1

Ministry of the Environment operating budget, 1971-2011 (nominal \$, not corrected for inflation)



Source: 1971-98, A. Kranjc, "Whither Ontario's Environment: Neo-Conservatism and the Decline of the Ministry of the Environment," *Canadian Public Policy* 26, 1 (March 2000): Table 1; 1998-2010, Ontario Ministry of Finance, Ontario budgets, 1998-2010.

Environmental Assessment

The final step in the establishment of the initial institutional and legislative framework for environmental protection in Ontario did not take place until just before the 1975 election. By the late 1960s and early 1970s, there was an emerging view in Canada that the pollution-control model for environmental protection was inadequate in that it failed to address environmental impacts that went beyond the generation of waste materials requiring disposal.

Canadian thinking in this regard was greatly influenced by the passage of the US National Environmental Policy Act in 1969. This statute established the development of environmental impact statements as the principal means of insuring that a comprehensive environmental review of new government projects took place.⁴⁹ Environmental impact assessments were intended as a more preventative approach to environmental protection. Impact assessments would also provide an opportunity to shift from a technological emphasis on controlling emissions of pollutants to a wider concern for the social, economic, and environmental implications of development.⁵⁰

In Canada, the steady flow of enabling legislation in the environmental field on the part of the federal government between 1970 and 1975 included

the establishment of the Federal Environmental Assessment and Review Process by cabinet directive in December 1973.⁵¹ In response to this trend toward more proactive approaches to environmental protection, the Ontario Ministry of the Environment issued a *Green Paper on Environmental Assessment* in September of that year. The Green Paper noted that the pollution-control regime established under the Environmental Protection and Ontario Water Resources Acts frequently failed to identify and address cumulative, secondary, and off-site environmental effects. Consequently, a procedure was needed to bring about an integrated consideration, at an early stage in its development, of the environmental impacts that might be generated by a project.⁵²

The process envisioned in the Green Paper was intended to provide a means of insuring that significant environmental effects would be given due consideration, alongside economic and social factors, in cabinet decisions. In particular, the Green Paper suggested that the minister of the environment, with the support of his or her ministry, could address the cross-sectoral aspects of environmental issues through an environmental assessment process.

Legislation to implement the proposals contained in the Green Paper was promised in the March 1974 Speech from the Throne. However, the Environmental Assessment Act was not introduced into the Ontario legislature until the following year. The legislation ultimately received Royal Assent on July 18, 1975, the last day of the session of the legislature before the September 1975 election.

The act provided a very wide definition of the environment, including physical features (both natural and manmade), biological subjects (plant and animal life, including man), and what might be termed human and ecological systems ("social, economic and cultural conditions that influence the life of man or a community; any part or combination of the foregoing and the interrelationships between any two or more of them"). "Enterprises or activities" or even "proposals, plans or projects in respect of an enterprise or activity" by or on behalf of the province, a public body, or a municipality would be subject to the act unless exempted by the lieutenant governor in council. Private sector projects would be excluded unless and until designated for assessment by cabinet.⁵³

The act established what a proponent would be required to submit to an assessment of an undertaking. There were to be descriptions of the purpose of the undertaking, functionally different means of meeting that purpose, and alternative methods of carrying out the undertaking. There also was to be an explanation of the rationale, on the basis of its net environmental effects, of the particular approach to be taken in carrying out the project. The act provided for extensive public involvement in the environmental

assessment process. "Any person" could require a hearing by the Environmental Assessment Board (previously the Environmental Hearings Board), subject to the minister's right to refuse a hearing if he or she considered the request frivolous or vexatious "or that a hearing is unnecessary or may cause undue delay."⁵⁴

The act provided that a proponent could not proceed with an undertaking until (1) the environmental assessment had been accepted by the minister of the environment and (2) the minister, in consultation with cabinet, had given his or her approval to proceed with the undertaking. Provincial agencies or municipalities could not grant other approvals or loans, grants, or subsidies until the former two conditions were met.⁵⁵ In addition, either on personal volition or in response to a request for a hearing, the minister could refer the assessment to the Environmental Assessment Board for a hearing and decisions on the acceptability of the environmental assessment and approval of the undertaking. Cabinet, within twenty-eight days of the board's decision, could vary or rescind the board's decision or require a rehearing by the board.

The final version of the act marked a significant departure from the original Green Paper proposal, which had envisioned an information-gathering process. Instead, the act provided for a legally binding decision-making process in which the Ministry of the Environment would play a key role. Implicit in the legislation was the suggestion that the cabinet committee process set up under the COGP reforms might not be effective in dealing with the cross-sectoral aspects of environmental issues.

The outcome can be explained by several factors. The province's increasingly well-established environmental organizations, particularly the Canadian Environmental Law Association, had engaged in an effective advocacy campaign around the legislation. In addition, the government perceived the need for a significant environmental initiative going into the 1975 election, particularly given the absence of new environmental legislation other than the adoption of the Niagara Escarpment Planning and Development Act in 1973,⁵⁶ following the enactment of the Environmental Protection Act in 1971. The government's desire to be seen to act was particularly acute in the context of expectations of a strong focus on the environment from the NDP in the upcoming provincial election campaign.

Reports issued by the Solandt Commission in 1974 and 1975 further reinforced the case for greater public consultation and involvement in decision making. The commission, established in 1972 to review Ontario Hydro's planning processes, was highly critical of the Crown corporation's practices.⁵⁷ More broadly, in the context of growing criticism of Ontario Hydro's ambitious plans for the expansion of the role of nuclear power in the province, a Royal Commission on Electric Power Planning, under the chairmanship

of Arthur Porter, was established to review Ontario Hydro's overall approach to electricity system planning the day before the Environmental Assessment Act received Royal Assent.⁵⁸ The initial exemption of private sector projects from the act's requirements blunted objections from business interests.

Although not proclaimed in force for fifteen months after its adoption, the enactment of the Environmental Assessment Act in 1975, at the end of the first Davis government, marked the completion of the basic institutional and legislative framework for environmental protection in Ontario that remains in place today.⁵⁹ Implementation of the framework would be another matter altogether.

Implementing the Framework (1975-85): The Environment If Necessary, But Not Necessarily the Environment

As the new system of provincial regulation emerged in the 1960s and early 1970s, several things became apparent. The early phase of the environment ministry's existence was characterized by the emergence of very close working relationships between ministry staff, both at the senior management and operational levels, and representatives of the regulated industries. Standards and conditions of approvals were established through closed-door negotiations between the ministry and regulated entities. This type of bipartite-bargaining governing paradigm was common among Canadian environmental protection agencies during the early stages of their existence.⁶⁰

In the Ontario case, this tendency was reinforced by a number of factors beyond the existence of strong professional ties, especially among engineering staff, carried over from the Water Resources Commission and Department of Energy and Resources Management, between ministry and industry pollution abatement personnel. Until the establishment in the late 1960s and early 1970s of new non-governmental organizations like the Canadian Environmental Law Association and Pollution Probe, there was no real ENGO presence around pollution issues to challenge the industry-government relationship that emerged at the time of initial agency formation.

Moreover, the content of certificates of approvals and other requirements were typically set at the regional or local industrial district levels. Officials at these levels generally felt that much of the relevant technical expertise and knowledge lay with the companies involved and that they themselves lacked the financial and technological resources to take an aggressive approach to the establishment of pollution-abatement requirements. Companies that were significant employers in a given community had additional bargaining advantages. As a result, compromise was an important factor in determining compliance deadlines and even in the establishment of specific abatement requirements.⁶¹

In addition, reflecting the overall priority given to facilitating economic development, the approach the ministry adopted to setting the air- and water-quality guidelines that formed the basis of local officials' negotiating positions was intended to minimize potential economic impact on affected facilities. In a reversal of what would later be termed the precautionary principle, the ministry tended to take a lack of scientific knowledge about the extent of the hazards posed by pollutants to be grounds for caution but not for prohibiting discharge. Under this "no known effects" approach, if there was no firm evidence of environmental or health hazards available, the overriding value or importance of the substance, or of the enterprises with which it was associated, was to be recognized. Setting standards on the basis of a non-degradation principle, or the best available abatement technology, was explicitly rejected by the ministry in favour of "no known effects."⁶²

With respect to environmental law enforcement, the ministry regarded negotiation as the first step in dealing with breeches of the terms and conditions of approvals and orders. Prosecutions were only undertaken as measures of last resort. Legal proceedings were seen to shift expertise and resources from pressing investigatory work, and rarely to lead to immediate environmental benefits or deterrent sentencing. In addition, the prosecution option was viewed as a hostile action, likely to discourage further cooperation on the part of the industry concerned and to harden adversarial attitudes.⁶³

Minority Government and a Changing Political and Economic Context

The political environment around this bipartite bargaining approach to the implementation of environmental legislation began to change in the early 1970s. In contrast to the approach of the province's established conservation organizations, which had tended to engage in quiet behind-the-scenes advocacy through professional contacts within the provincial government, the newer ENGOs, like Pollution Probe and the Canadian Environmental Law Association, that had now emerged adopted a different approach. Largely formed by university students and faculty, these new organizations began to publicly challenge the results of the relationship between the ministry and regulated entities. By the mid-1970s, the new ENGOs were evolving from their initial issue-oriented ad hoc structures to more mature forms, employing full-time research staff and enjoying substantial financial support from the public and a number of philanthropic foundations with an interest in the environment.⁶⁴ They also had well-developed contacts with the relevant professional and academic communities in the province, which greatly enhanced their policy capacity. The Canadian Environmental Law Association's evolution would take a particularly important turn in 1978

when the organization obtained status as a specialty clinic within the province's newly formed system of legal-aid clinics, providing it with permanent funding to employ staff counsel and support staff.⁶⁵

Although their success in breaking open the close relationship between the government and regulated entities would be limited, the new ENGOs did begin to build strong contacts with the Liberal and NDP opposition at Queen's Park. These relationships would prove very important in the aftermath of the 1975 provincial election, which marked the beginning of an extended period of Progressive Conservative minority government.⁶⁶

In the same election, the Ontario Liberal Party was reduced to the status of third party in the legislature. Liberal Party leader Robert Nixon resigned shortly thereafter and was replaced by Dr. Stuart Smith. Smith arrived with the intention of leading the Liberal Party in a more progressive direction than it had taken in the past, with the environment playing a significant role in the new focus, repositioning the party from a location sometimes to the right of the Progressive Conservatives to a more centrist orientation. Prior to the 1975 election, the Liberal opposition had tended to give attention to environmental matters only within the context of the consideration of specific legislative proposals. Smith's wider emphasis would become particularly important after the Liberal Party's return to the status of official opposition following the June 1977 election.⁶⁷

The environment had already emerged as a focus for the New Democratic Party. Between 1970 and 1975, under Stephen Lewis's leadership, the NDP had made considerable efforts to highlight environmental issues. Severe industrial-pollution problems in NDP ridings, including Inco's emissions in Sudbury, were given special attention, along with the loss of agricultural land to urban sprawl in southern Ontario – an issue of concern to the urban progressive element of the party's base. These efforts continued after the 1975 election, spearheaded by Michael Cassidy, who succeeded Lewis as NDP leader following the 1977 election. The focus on acute pollution problems at specific facilities that were the subject of widespread local concern and which were often closely linked to occupational health and safety concerns had considerable popular appeal in the affected communities and in the party's organized labour constituency.

As a result, despite the consideration that, as shown in Figure 1.3, public concern for the environment as a top-of-mind public policy issue began to decline from 1972 onward, and the evidence by 1974-75 that with the impact of global oil shocks of the mid-1970s the long boom that defined the Ontario economy since the end of the Second World War was coming to an end (see Figures 1.5 and 1.6), the government found itself faced with what was effectively a bipartisan environmental opposition in a minority government situation. Ministers of the environment became the subject of consistent and sustained criticism from both opposition parties during question period.

Perhaps even more importantly, the opposition parties combined their strength to gain control over the activities of the legislature's Standing Committee on Resources Development. The opposition parties then used the committee to draw attention to environmental issues. The management of liquid industrial wastes, the emerging issue of acid rain, and water pollution from the pulp and paper industry were the major focal points of the committee's work.⁶⁸ The opposition parties also collaborated to compel the government to establish a select committee of the legislature to review the activities of Ontario Hydro, particularly the utility's commitment to the expansion of nuclear power in Ontario.⁶⁹

The Ministry of the Environment's emerging planning mandate, established by the Environmental Assessment Act, attracted considerable critical interest. Once proclaimed in October 1976, the act drew attention to the cross-sectoral aspects of environmental matters. There was an increasing focus on the ability of the minister of the environment to defend environmental interests in relation to other ministries' activities, through the co-ordination and review role granted to the environment minister by the act.

The opposition parties' focus on environmental issues led to the development of close relationships between the Liberal and New Democratic Parties and the province's environmental movement. Liberal leader Stuart Smith drew several individuals from the province's environmental movement into the party's caucus research staff. The New Democratic Party also developed significant personnel ties with environmental organizations. Colin Isaacs, an NDP MPP, for example, moved to the position of executive director of the Pollution Probe in 1981, and a number of Pollution Probe and Greenpeace Canada staff joined the party's research bureau. Although no formal arrangements for the establishment of common policy positions between the opposition parties and environmental organizations were made, there was an extensive informal exchange of ideas and information. This played an important role in setting the policy advocacy agenda of the legislative opposition and environmental interest groups. Both opposition parties regarded the input of environmental organizations as helpful; for their part, environmental groups felt that they could advance their case with both the Liberals and New Democrats.

The Governmental Response

The government's response to this dynamic took a number of forms. At the political level, the tenure of environment ministers in the portfolio was kept short, at an average of less than seventeen months, limiting the amount of time ministers were exposed to intense opposition party and environmental group pressure.⁷⁰ A similar approach was taken to other portfolios subject to heavy political attention, particularly the Ministry of Energy, which was the focal point for criticism of Ontario Hydro's nuclear expansion plans.⁷¹

In policy terms, the government adopted a strategy of incremental responses on the specific environmental policy issues that were the targets of opposition and ENGO attention. This was particularly evident following the 1977 election and appointment of Harry Parrott as minister of the environment in August 1978 and in the run-up to the 1981 provincial election.

With respect to liquid industrial and hazardous wastes, a ban on the deep-well disposal of hazardous wastes was adopted in 1976 after threats from both opposition parties to raise it as a matter of confidence.⁷² This was followed by the release of a seven-point program on liquid industrial wastes in October 1978, which included a proposed ban on direct landfilling of liquid wastes, and the enactment (although not proclamation) of a "spills bill" in December 1979.⁷³ The Environmental Assessment Act was applied to a number of high-profile private sector proposals for hazardous waste disposal facilities in the same year.⁷⁴ By 1980, the government was signalling its willingness to consider prosecution as an option of first resort in environmental law enforcement with respect to handling and disposal of hazardous and liquid industrial wastes.⁷⁵ At the end of the year, the government announced the creation of a Crown corporation, the Ontario Waste Management Corporation (OWMC), to construct a major hazardous waste disposal facility in South Cayuga, at the mouth of the Grand River, but then exempted the project from the requirements of the Environmental Assessment Act.

On acid rain, new control orders were ultimately imposed against the leading sources of sulphur dioxide in the province, the Inco facility in Sudbury and Ontario Hydro's coal-fired power plants. The Inco control order, imposed in May 1980,⁷⁶ followed a 1978 extension of a 1970 control order, a move that had prompted widespread calls for the resignation of the minister of the environment of the time, George McCague.⁷⁷ The order was subsequently translated into a regulation under the Environmental Protection Act in December 1980. A January 1981 control order on Ontario Hydro required it to reduce its combined sulphur dioxide and nitrogen oxide emissions by 42.5 percent within three years.⁷⁸ A new control order also was imposed against the Reed Pulp and Paper pulp mill at Dryden.

The tortuous path that defined the government's approach to the application of the Environmental Assessment Act perhaps best illustrated its incremental and managerial approach to environmental issues. A wide range of provincial agencies was exempted from the act's application upon its proclamation in 1976,⁷⁹ and temporary exemptions provided for conservation authorities and municipalities. However, the act was to apply to the most development-oriented agencies of the government, the Ministries of Natural Resources and of Transportation and Communications, and Ontario Hydro, as well as the Ministry of the Environment itself.

In practice, a pattern of regular cabinet exemptions of major projects undertaken by these agencies emerged quickly, beginning with that of the

proposed Darlington nuclear power station immediately following the 1977 election.⁸⁰ The exemptions for conservation authorities and municipal projects were eventually removed in 1977 and 1980 respectively, although in both cases arrangements were made for class assessments of routine projects and exemptions for minor undertakings.⁸¹ The pattern of exemptions of major provincially initiated undertakings, like the 1980 OWMC proposal, continued.

Similarly, in response to continuing NDP pressures over the loss of farmland to urban development in southern Ontario, a review of the Planning Act, first enacted in 1946, was launched in 1977. The Planning Act Review Committee recommended that the legislation be amended to permit the province to give greater policy direction to municipalities in land-use planning, particularly in relation to matters of provincial interest, such as the protection of agricultural land, provision of low-income housing, and gravel extraction. However, no action was taken on these proposals.⁸² In 1978, the provincial cabinet approved Food Land Guidelines, requiring that municipalities provide justifications for the development of prime agricultural lands (defined as specialty croplands and Canada Land Inventory classes 1 to 4 soils) for non-agricultural purposes. But the guidelines would never be adopted as formal policy under the Planning Act, with the result that they were not binding on municipalities.⁸³

The environment ministry's incremental responses to opposition and environmental organization pressures occurred within the broader context of a wide range of relatively progressive measures taken by the Progressive Conservative minority government between 1975 and 1981. Other examples of initiatives of this nature included the imposition of rent review in 1977 and the passage of a comprehensive Occupational Health and Safety Act in 1978.⁸⁴

These developments prompted increasingly intense opposition from the affected private sector economic interests, especially in the context of what by 1979 was an emerging decline in the province's economy following the mild recovery that had been evident from 1975 onward.⁸⁵ In December 1979, cabinet attempted to respond to private sector economic concerns on a government-wide basis. Official guidelines for the preparation of cabinet submissions on policy proposals, legislation, and regulations were introduced. The guidelines required that the rationale for the accompanying proposals include an evaluation of their effects on private sector economic interests, including the cost of compliance, investment capital availability, and employment and consumer price levels.⁸⁶ The underlying implication was that the government's incremental progressive responses to opposition and interest-group pressures in a minority government context was not to reach a point of interfering with the overriding goal of economic development as conventionally understood.

Even in the area of Ontario Hydro's approach to electricity system planning, where the February 1980 report of the Porter Commission delivered an "indictment" of the utility's expansion program, there was no fundamental change in direction.⁸⁷ The commission recommended that the supply planning-based approach to developing the electricity system employed by Ontario Hydro, with its fixation on large-scale nuclear plants, be abandoned for the flexibility of demand management and smaller scale additions. Moreover, in the context of the increasingly unstable economic context, the commission doubted whether the certainty of the growth in demand, which had justified supply planning from Ontario Hydro's inception, would ever return. Yet, by the time of the March 1981 election, the government had included accelerated construction of the Darlington nuclear power plant and an increased reliance on electrical energy as part of the economic development elements of its campaign platform.⁸⁸

The Dynasty's Last Majority

Despite the evidence of declining economic conditions, the provincial election of March 1981 resulted in a Progressive Conservative majority, leading to the resignations of the leaders of the Liberal and New Democratic Parties.⁸⁹ In February 1982, Stuart Smith was replaced by David Peterson, and Michael Cassidy by Bob Rae. Both parties retained a strong interest in environmental issues, particularly the control of acid rain and the application of the Environmental Assessment Act. However, given the outcome of the election, the opposition parties were deprived of the leverage they had possessed during the minority period. The government's renewed control of the committees of the legislature was especially significant in this sense.

The level of attention given to environmental issues was also affected by the severe economic downturn of the "Great Recession" of 1982 and the decline of the environment as a top-of-mind public policy issue.⁹⁰ In fact, where they reported any results at all on the question, polling organizations indicated zero or near-zero respondents identifying the environment as a leading issue between 1976 and the mid-1980s.⁹¹ The government placed a strong focus on economic recovery, including counter-cyclical investments in major infrastructure projects such as highway expansions.

Although the legislature's Select Committee on Ontario Hydro Affairs was an early casualty of the Progressive Conservatives' renewed majority, the government did ultimately accept almost all of the Porter Commission's recommendations following the 1981 election.⁹² Moreover, in the context of falling electricity demand as a result of the recession of the early 1980s; deeper structural changes beginning to emerge in the Ontario economy, particularly a decline in the role of manufacturing and resource extraction and processing and the growth of less energy-intensive service sector activities;⁹³ and high

interest rates, Ontario Hydro was compelled to accept that its nuclear expansion program was simply not viable. Construction on the Darlington facility was slowed down, and other projects cancelled outright, in 1982, while the utility placed a focus on demand management.⁹⁴

Beyond Ontario Hydro's changes in direction, which were largely driven by external economic developments, the pace of environmental initiatives otherwise slowed considerably after the 1981 election. In the face of ongoing opposition and environmental group attention, Ontario did join the Canadian federal government in lobbying the US Congress and Environmental Protection Agency to impose controls on sources of acid rain in the United States.⁹⁵ However, the province refused to act on domestic sources until there was some indication of American action.⁹⁶

Pressures on the provincial government increased significantly in late 1983 when the Canadian Coalition on Acid Rain decided to refocus its attention on Canadian sources of acid precipitation, especially Inco's facilities in Sudbury. The coalition, originally consisting of twenty-six major Canadian environmental, cottagers', and hunting and fishing organizations, primarily based in Ontario, had been formed in 1981 for the principal purpose of lobbying the US government for action on the acid rain issue. The coalition received financing from the Ontario and Canadian governments to support these efforts. After two years of lobbying in Washington, the coalition had concluded that the US Congress was unwilling to act in the absence of significant Canadian efforts to control acid-rain-causing emissions.⁹⁷

In March 1984, the Ontario government reached an agreement with the federal government and the other provinces for a unilateral 50 percent cut in Canadian sulphur dioxide emissions by 1994. However, the province took no immediate measures toward the achievement of this goal. The minister of the environment specifically refused to make a commitment to take action against Inco, pending studies of the economic condition of the metals and smelting industry in Canada.⁹⁸ Moreover, the government proceeded with the completion of a 211-megawatt coal-fired electricity-generating plant at Atikokan in northwestern Ontario, with the intent of generating electricity for export to the United States.

Although on a November 1981 recommendation of the chairman of the OWMC, Dr. Donald Chant, the government agreed to drop the South Cayuga site for the OWMC's proposed facility and to permit the corporation to begin a province-wide search for a more suitable location,⁹⁹ it refused to reconsider the facility's exemption from the Environmental Assessment Act.¹⁰⁰ When legislation creating the OWMC was adopted in July 1981, it was made clear that the corporation would be exempted from the requirements for public hearings under the Environmental Protection Act and Ontario Water Resources Acts as well.¹⁰¹ Faced with strong industry opposition, the Ministry

of the Environment failed to follow through on a June 1983 *Blueprint for Waste Management* intended to update the province's approach to the management of liquid industrial and hazardous wastes. The Blueprint would have strengthened regulatory oversight of the management of these wastes and placed an emphasis on reducing the amounts of waste generated in the first place. A 1983 Ministry of the Environment initiative to review and modernize the effects-based approach to standard setting for air pollutants met with the same fate as the Blueprint in the face of industry opposition.¹⁰²

There were several controversial exemptions of provincial initiatives from the Environmental Assessment Act in the post-election spring of 1981, particularly in relation to highway construction projects.¹⁰³ There were also repeated extensions of the exemption granted by the Ministry of Natural Resources in order to prepare a class environmental assessment for timber management on Crown lands.¹⁰⁴

In response to continuing opposition party and ENGO criticism, an Environmental Assessment Advisory Committee was appointed in July 1983 to review requests for exemptions from the act.¹⁰⁵ The number of undertakings designated for review under the Environmental Assessment Act gradually expanded, especially with the act's application to municipal undertakings from 1980 onward.¹⁰⁶ A Consolidated Hearings Act, permitting the establishment of a joint board of the Environmental Assessment Board and Ontario Municipal Board, to provide "one-window" environmental and land-use planning approvals of major projects, was enacted in June 1981. The legislation was intended to respond to municipal concerns over the potential duplication of approval processes.¹⁰⁷ Ultimately, two cabinet reviews of the operation of the Environmental Assessment Act occurred. Both resulted in formal endorsements of the statute's full application.¹⁰⁸

Revisions were adopted to the Planning Act in 1983, following through on the 1977 recommendations of the Planning Act Review Committee. The amendments provided for the definition of provincial interests and procedures for the review and approval of policies by cabinet. All decision-making authorities, including local governments and the Ontario Municipal Board, were required to "have regard to" these provincial policies in their decisions. However, the development of official plans by municipalities continued to be discretionary.¹⁰⁹ The only provincial policy actually adopted under the amendments gave priority to mineral aggregate (sand and gravel) extraction over any other form of development.¹¹⁰

Conclusions

The initial period of provincial institutional and legislative formation around the environment in Ontario, beginning in the immediate postwar re-emergence of the conservation movement and culminating in the 1971

enactment of the Environmental Protection Act, the creation of the Ministry of the Environment in 1972, and the passage of the 1975 Environmental Assessment Act, coincided with the long postwar economic boom enjoyed by the province and an unbroken Progressive Conservative political dynasty. Buoyant government revenues and widespread acceptance of the expansion of government services and need to modernize the provincial state, as highlighted by the COGP process, provided the context for the uploading of environmental protection functions from municipalities and the ad hoc common law regime to the provincial government.

At the same time, the establishment of a provincial regime for environmental management occurred within the framework of an overriding governmental focus on the facilitation of economic development. This was seen as necessary to provide the revenue base needed to respond to increasing public demands for government services, including health care, education, and social services, as well as those related to the environment. Economic development was understood in conventional terms, particularly natural resource extraction and processing (i.e., forestry and mining) in the north and branch-plant manufacturing in the south.

The emerging pollution-control regime was very much conceptualized as an adjunct to the economic-development function of the state. Consistent with its managerial and facilitative orientation, the province was prepared to intervene where the degradation of resources, or public concerns about pollution, became barriers to development. This was particularly evident in the activities of the Water Resources Commission, with its overwhelming focus on infrastructure provision to facilitate development. Even as the province adopted a more comprehensive approach to environmental protection in the late 1960s and early 1970s, the bipartite bargaining approach to the implementation of the emerging regime made it clear that protection of the environment would be pursued only up to the point where it might interfere with industrial activities. Notwithstanding the experimentation with new institutional and legislative structures, like the cabinet committee system introduced during the first Davis government under the COGP reforms and the Environmental Assessment Act, intended to improve the cross-sectoral integration and comprehensiveness of environmental decision making, the underlying notions of economic development were not open to challenge.

As the province's economic situation became more difficult from the mid-1970s onward, the Progressive Conservative government's willingness to engage in institutional and legislative innovation declined significantly. In the context of increasing resistance from resource and industrial economic interests, and an extended period of minority government, the province's approach to the environment became increasingly managerial and issue

specific. The Davis government was prepared to act if there were sufficient opposition party, ENGO, media, and public pressures to do so. As demonstrated by the government's approaches to the implementation of the Environmental Assessment Act, and to the issues of acid rain, liquid industrial wastes, and urban sprawl, the responses tended to be incremental and the pace of actual implementation painfully slow.

With the return to majority government in 1981 and the economic downturn of the early 1980s, the pace of environmental initiatives seen during the minority government period, slowed considerably. Economic initiatives took on even greater importance. The government's desire, for example, to pursue aggressive countercyclical investments in infrastructure development, such as highway construction projects, complicated efforts to implement the Environmental Assessment Act, while the fragile economic situation provided the justification for inaction on acid rain, air pollution, and industrial waste management issues.

The one area where a more fundamental change in direction did occur was that of Ontario Hydro's nuclear expansion program. Notwithstanding the intense criticism levelled at the strategy from sources ranging from the minority-government-period Select Committee on Ontario Hydro Affairs to the Solandt and Porter Commissions, the Crown corporation's abandonment of the strategy in 1982 was driven by a collision with the economic realities of declining electricity demand and rising interest rates, more than any fundamental shift in governmental thinking about economic development.

The key period of institutional and legislative formation toward the end of the Robarts government and the early stages of the Davis administration coincided with the emergence of the environment as a distinct public policy issue, with public concern as measured through public opinion polls peaking in the early 1970s. The period was also marked by the emergence in Ontario of environmental non-governmental organizations, in the modern sense of organizations prepared to engage in very public policy advocacy. The public salience of environmental issues, as reflected in polling data, declined from 1973 onward as economic conditions became more challenging. Yet, perhaps surprisingly in the context of the apparent decline in public concern, both opposition parties maintained a strong focus on environmental issues throughout the 1975-85 period. The opposition focus, in combination with ENGO activities and the media attention both the opposition and ENGOs attracted to environmental issues, were the key drivers of the environmental initiatives that were undertaken by the government.

The legislative and institution framework for environmental management put in place by the governments of Premiers Frost, Robarts, and Davis was by far the most comprehensive of those adopted by the Canadian provinces

during their initial phase of environmental policy formulation. Nevertheless, the governments of the PC dynasty remained firmly attached to conventional models of economic development, to which environmental protection was regarded as a facilitative adjunct. Initiatives to protect the environment were taken where political circumstances required it and they did not threaten economic development. The implementation of specific measures requiring actual changes to industrial practices and the development of infrastructure was halting and sporadic.

The substantive results of this approach were mixed. Perhaps the clearest area of progress was the improvements in water quality flowing from the increasingly widespread installation of municipal sewage treatment plants facilitated by federal financing under the Canada-Ontario Agreement on Great Lakes Water Quality and its successors. Improvements were also made to some of the most egregious individual sources of industrial air and water pollution, and the adoption of basic end-of-pipe pollution-control equipment, dealing with conventional pollutants, became widespread.¹¹¹

The outcome of the 1981 election seemed to demonstrate that this incremental and managerial approach was sufficient during the period of low public concern for environmental issues of the late 1970s. However, as economic conditions improved and the levels of public interest in the environment began to rise again from 1984 onward, it left the government of Frank Miller, who succeeded Davis as premier in January 1985, hopelessly ill-prepared to respond. At the beginning of the May 1985 election campaign, PC pollster Allan Gregg warned that "the issue of the environment could pose a significant threat if allowed to become an issue in the campaign." Miller's staff ignored this advice, and by the middle of the campaign, John Tory, the campaign secretary, would "shudder in hindsight over the blindness of Miller's managers."¹¹²

3

The Environment and Ontario's Quiet Revolution

The 1985 election marked a watershed in the evolution of environmental policy in Ontario. The minority and the majority Liberal governments of David Peterson, which signalled the end of the PC dynasty, would be periods of major institutional growth and transformation for the Ministry of the Environment. In the context of the work of the World Commission on Environment and Development,¹ efforts would begin in Ontario to reframe the relationship between the environment and economy from environmental protection being an adjunct to conventional economic development in a more integrative direction.

The “little boom” enjoyed by Ontario from 1983-89, reflected in Figures 1.5 and 1.6, provided the economic foundation for a wide range of governmental initiatives during both the accord and Liberal majority periods, reflected in the substantial growth in government expenditures over the period. By 1990, signs of economic trouble were emerging, and by 1991, the province would be described as being in the most severe recession since the Great Depression.²

The Peterson government coincided with the second global wave of public concern for the environment. As shown in Figure 1.3, the trend toward re-emerging public concern for the environment had already begun to make itself felt by the time of the 1985 election and would reach its peak in Canada in 1989. In Ontario, the environment was seen as a key issue for middle-class urban voters, a crucial source of electoral support for the Liberal government.³

The Peterson governments carried with them a far more activist orientation than their Progressive Conservative predecessors on a wide range of fronts beyond the environment. Although the changes seen in Ontario fell short of the scale of those seen in Quebec in the 1960s, the period between 1985 and 1990 has been described as Ontario's own “quiet revolution,”⁴ during which the province bucked international trends toward the retrenchment of government activity. Prompted in part by concerns over the impact

of the Canada-US Free Trade Agreement being pursued by the federal government, the Peterson government also began to explore the need for more sophisticated approaches to economic development in the context of the increasingly evident structural changes in the province's economy from a manufacturing and resource extraction and processing base to one grounded chiefly in services and knowledge.⁵

The Liberal Minority Period 1985-87

The Accord and the End of the Dynasty

The May 2, 1985, provincial election was the harbinger of an environmental policy revolution in Ontario. The election resulted in a minority PC government led by Frank Miller, with fifty-two seats in the legislature, faced by forty-eight Liberals and twenty-five New Democrats. The Liberals and New Democrats combined to defeat the government in the house on June 18, 1985. Miller's government was replaced by a Liberal minority led by David Peterson. The Liberals were brought to power through an accord negotiated with the NDP. The agreement, signed May 28, provided that Peterson would not call an election for two years after becoming premier. (The Peterson government took office on June 26, 1985.) During that time, the New Democrats would not move or vote a no-confidence motion in the legislature and defeat the minority government. Under the terms of the accord, the new Liberal government was to undertake an agreed-upon program of public policy and legislative reform during the two-year period.⁶

The Progressive Conservatives had considered a substantial environmental program for their platform, including a \$100 million superfund to clean up contaminated sites, and a hit squad of environmental inspectors. However, these proposals had been rejected by cabinet and the campaign team. As a result, the Progressive Conservatives were caught unprepared when the environment, along with separate school funding and, to a lesser extent, women's issues, became the sleepers of the campaign.⁷ The Tories' poor record on the environment came to be exemplified by the reaction of Miller's environment minister, Morely Kells, to a spill of polychlorinated biphenyls (PCBs) from a truck along 250 kilometres of Trans-Canada Highway near Kenora. Vehicles following the truck were sprayed with the chemical, including a car carrying a pregnant woman. Dismissing the significance of the event, the minister observed that "if you are a rat eating PCBs on the Trans-Canada highway, you might have some problem."⁸

The policy component of the agreement reflected the coming to power of what had been, since 1975, effectively a bipartisan opposition coalition on environmental policy, reinforced by the role the Progressive Conservatives' poor environmental record had played in the 1985 election, in the context of re-emerging public concern for the issue. In addition to requirements for

reforms regarding freedom of information, extra billing by doctors, rent review, pay equity, labour law, private pensions, and day care, there were significant provisions related to environmental protection. Select committees of the legislature were to be established to oversee Ontario Hydro and to investigate environmental issues. The "spills bill" of 1979 was to be proclaimed during the new government's first legislative session and the Royal Commission on the Northern Environment, begun in 1977, wound up.⁹ In the second year, an independent audit of Ontario's forests was to be conducted.¹⁰ Measures were also to be taken to improve environmental law enforcement and to implement the principle of "polluter pays."

Frank Miller resigned as PC party leader in August 1985. Larry Grossman was selected as his successor in November of that year. Grossman, as leader of the opposition, attempted to respond to his party's declining fortunes by taking it in a more progressive direction.¹¹ In the environmental field, Susan Fish, who had served as minister of the environment in the brief post-election Miller government, was appointed environment critic. Fish was a key ally of Grossman in the party and widely regarded as a red Tory.¹² Like her New Democratic counterpart, Ruth Grier, Fish would support the government's efforts to implement the environmental components of the accord and, occasionally, press it for further action.

The result of these developments, in combination with the rising public prominence of the environment as a public policy issue (see Figure 1.2), was to permit the new minister of the environment, Jim Bradley, to launch an effort to "turn the ministry around."¹³ Bradley sought to transform the ministry from an agency used to operating through bipartite bargaining relationships with the industries it regulated and a deferential approach to the defence of environmental interests within the government, to one that would aggressively articulate environmental concerns in its dealings with industry, municipal governments, and other provincial agencies. Numerous reforms would be initiated in relation to industrial pollution. In addition, the new minister would strengthen and consolidate the cross-sectoral role of the ministry, especially through the environmental assessment process.

Bradley was the first Ontario minister of the environment to be appointed to the Priorities and Planning Committee and Management Board of Cabinet. Holding his position until the Liberals' defeat in 1990, he gave the environment portfolio a degree of stability that was in marked contrast to the multiple ministerial turnovers of the Progressive Conservative period.¹⁴ The new minister actively sought to cultivate the province's environmental organizations as his principal constituency. This was particularly evident in the decisions to provide operating and project funding to a number of environmental groups. Bradley's political staff, originally largely drawn from

the Liberal Caucus Research Bureau, would maintain close contacts with ENGOs throughout the life of the Liberal government. Several individuals would be recruited from environmental organizations into the minister's office.

Remaking the Ministry of the Environment

Bradley's efforts to expand the Ministry of the Environment's role and to transform it into an aggressive defender of environmental interests were accompanied by substantial growth in the ministry's budget, as illustrated in Figure 2.1. The new resources were primarily allocated to the ministry's regulatory functions related to pollution control and strengthening support for environmental assessment, rather than its utility functions in the provision of sewer and water services.¹⁵

The increases in the environment ministry's budget reflected the high level of support on the part of the premier and cabinet for Bradley's efforts to raise the ministry's status and to bring about a cultural change in its approach to its environmental protection mandate. Cabinet's endorsement of the minister's endeavours was reinforced by the need to implement the environmental components of the Liberal-NDP Accord that had brought the Liberals to power. It was also an expression of the more activist orientation of the government as a whole, reflected in the substantial expansion of government expenditures, buoyed by a booming economy.¹⁶

Pollution Control and Waste Management

Between 1985 and 1987, several initiatives were taken in the fields of water and air pollution, hazardous and municipal solid waste management, and environmental law enforcement. These measures were intended to address criticisms of the ministry's policies and practices that had been expressed by the legislative opposition and environmental organizations over the previous decade. In some cases, this involved acting on proposals that had been developed by the ministry under the Davis government but never implemented. Others, like the Municipal/Industrial Strategy for Abatement, were entirely new in character.

The Municipal/Industrial Strategy for Abatement

The Municipal/Industrial Strategy for Abatement was launched in June 1986. The program was intended to control both hazardous and conventional liquid discharges from municipal and industrial sources. Reflecting the language of the 1978 revisions to the Canada-US Great Lakes Water Quality Agreement, the program's stated goal was the "virtual elimination of persistent toxic pollution from our waterways."¹⁷ This was to be achieved through the establishment of effluent standards based on the best available technol-

ogy economically achievable (BATEA) for municipal sewage treatment plants and three hundred major industrial facilities in nine sectors (petroleum refining, organic chemicals, pulp and paper, metal mining and refining, iron and steel, metal casting, industrial minerals, inorganic chemicals, and electric power generation). The effluent standards were to be set on a sector-wide basis, with a regulation for each of the nine industrial sectors covered by the program to be promulgated under the Environmental Protection Act. Both maximum discharge concentrations and contaminant load limits per unit of production were to be imposed. Allowable effluent levels were to be lowered as technology improved. The program made provision for the implementation of higher, site-specific effluent standards where receiving water bodies were already considered to be significantly degraded.¹⁸ A second phase of the program was to address industrial discharges from twenty-two sectors to municipal sewer systems. It was estimated that more than twelve thousand industrial facilities in the province discharged wastes into municipal sewage systems.¹⁹ Since municipal sewage treatment systems were generally not designed to deal with industrial wastes, toxic pollutants passed through municipal sewage treatment plants and were discharged into receiving waters. In other cases, industrial wastes could interfere with sewage treatment plant operations, pose occupational hazards to plant workers, and contaminate sewage sludge with toxic substances. Although some municipalities had adopted sewer use bylaws to control industrial discharges to their sewage systems, industrial facilities discharging into municipal systems had never been subject to any provincial regulatory oversight.

The overall program design drew heavily on the approaches taken by the US Environmental Protection Agency in the implementation of that country's Clean Water Act. The work of the agency was also to inform the definition of best available technology discharge standards for each sector and the new standards for ambient water quality that were to be adopted as part of the program.²⁰

All of this marked major departures from past ministry policy. The no-known-effects approach to standard setting, which had been heavily criticized by environmental advocates, was to be abandoned in favour of BATEA.²¹ The process of negotiating the allowable effluent levels was to occur on a province-wide basis, rather than being left in the hands of regional offices with very limited resources. The bipartite bargaining model for negotiating actual discharge standards was to be replaced by multi-stakeholder advisory committees for each of the nine sectors. These committees would consist of representatives of the public and the relevant economic interests. Broader public input was to be sought through meetings and written responses to draft regulations. The program was to be fully implemented by December 1989.²² In addition, a Drinking Water Surveillance Program, involving regular testing, on a voluntary basis, of municipal drinking water quality was

launched in 1986, with the intention that the program would eventually serve all municipal water supplies.²³

Countdown Acid Rain

In December 1985, the minister of the environment announced the imposition by cabinet of special regulations on the four largest sources of acid-causing gas emissions in the province.²⁴ Under the program, known as Countdown Acid Rain, Inco, Ontario Hydro, Falconbridge, and the Algoma Steel Co. were required to reduce their total sulphur dioxide emissions from the 1980 level of 1,772,000 tonnes per year to 795,000 tonnes by 1995. Specifically, Sault Ste. Marie's Algoma Steel was required to reduce emissions from its iron ore sintering plant to 125,000 tonnes per year by 1994, although reduced production meant it had little difficulty meeting the target. Similarly, the Falconbridge nickel-copper smelter in Sudbury was given a limit of 100,000 tonnes. The facility had been permitted to emit up to 154,000 tonnes prior to the 1986 regulations, but its actual emissions that year were only 90,000 tonnes. Ontario Hydro planned to meet its 1994 target of 175,000 tonnes per year largely by mothballing coal-fired generating facilities as new nuclear plants, particularly Darlington, came into service.²⁵ Implicit in this choice was a decision not to fit most of the coal-fired plants, which would be held in reserve, with modern air pollution-control systems. The decision would turn out to have significant consequences for air quality when the nuclear facilities ran into serious reliability problems in the late 1990s.

In contrast to the situations of Algoma Steel, Falconbridge, and Ontario Hydro, the requirements on Inco required substantial changes to the facility. Bradley had originally intended to pursue a target of 150,000 tonnes for the Inco smelter in Copper Cliff. However, direct lobbying of the premier by the company's chair and president led to a final compromise target of 265,000 tonnes, with a requirement that the company report on the feasibility of meeting a 175,000-tonne target in the future.²⁶ All four companies were to make annual progress reports to the Ministry of the Environment on their steps toward this goal.²⁷ A further regulation was made under the program prohibiting the use of oil or coal with a sulphur content of more than 1 percent in any new or modified boiler, with the exceptions of those used for household heating and at Ontario Hydro's generating facilities.²⁸

The program permitted the implementation of the intergovernmental commitment made by the then Progressive Conservative minister of the environment, Andy Brandt, in March 1984, to a unilateral 50 percent cut in sulphur dioxide emissions from Ontario sources by 1994. Following hearings by the Select Committee on the Environment, formed under the aegis of the Liberal-NDP Accord, a provision of the program permitting Ontario Hydro to bank emissions in years when little use was made of its coal-fired plants for use in future years was eliminated in May 1987.²⁹

Waste Management

Hazardous and Liquid Industrial Wastes

In September 1985, several amendments to Regulation 309 (Waste Management), which had been recommended in the 1983 *Blueprint for Waste Management in Ontario*, were adopted.³⁰ These revisions included comprehensive definitions of hazardous and liquid industrial wastes, as well as other related materials, such as recyclables, waste-derived fuel, and dust suppressants. The manifesting and waybilling requirements, first put in place in the early 1970s, were expanded to include solid hazardous wastes as well as liquid industrial wastes. The requirements were also brought into line with the requirements of the federal Transportation of Dangerous Goods Act of 1980. Generators of hazardous waste in the province were required to register, on a one-time-only basis, with the Ministry of the Environment by September 1986, providing information on the types and amounts of waste they produced, collected, handled, and stored.³¹

On July 5, 1985, the 1979 "spills bill" was proclaimed.³² The proclamation of the bill was one of the elements of the Liberal-NDP Accord. The Environmental Compensation Corporation provided for by this amendment to the Environmental Protection Act was created shortly thereafter. Regulations establishing procedures for victims of spills to obtain compensation also were promulgated.³³

Municipal Solid Waste

An increased emphasis was placed on industrial and municipal waste reduction, reuse, recycling, and recovery (the 4Rs). An \$8.5 million funding program for municipal solid waste management was put in place in the spring of 1987. The program included financial assistance to municipalities for their long-range waste management planning. Other components were intended to aid municipalities and industries in diverting municipal solid wastes from landfill. They included capital grants to municipalities for the development of 4R facilities and education programs. Funding also was made available to help support markets for recovered materials.³⁴

The funding program, in combination with the activities of Ontario Multi-Material Recycling Incorporated (OMMRI), facilitated the establishment of blue box curbside recycling programs in over three hundred municipalities between 1986 and 1990.³⁵ OMMRI had been created in the spring of 1986 by the soft drink industry as a vehicle to provide funding (\$20 million) for the curbside recycling of soft drink containers. OMMRI's contribution was in exchange for the government's December 1985 decision to permit the use of aluminium cans as soft drink containers and to reduce requirements for the use of refillable containers originally introduced in 1976.³⁶ Capital costs for new blue box programs were to be split evenly among OMMRI, the

Ministry of the Environment, and the participating municipality. It was expected that the operating costs of the program would be covered through the sale of the materials collected through it.

Environmental Law Enforcement

The requirements of the Liberal-NDP Accord regarding environmental law enforcement were reinforced by the widely reported discovery of a “blob” of hazardous chemicals in the St. Clair River in August 1985.³⁷ In July 1986, the minister of the environment introduced Bill 112, the Environmental Enforcement Statute Law Amendment Act. The legislation was to amend the Environmental Protection, Ontario Water Resources, and Pesticides Acts to expand the investigation and enforcement powers available to the ministry. Under pressure from the NDP, the proposed act was withdrawn. A revised version of the bill was then reintroduced and passed,³⁸ with the support of the NDP and Progressive Conservatives, in December 1986.³⁹ In addition to compelling the government to increase the levels of fines provided for by the bill, the two opposition parties cooperated to amend the bill to provide for the imposition of minimum fines for some offences and to eliminate a requirement that officials obtain the permission of the minister of the environment prior to initiating prosecutions.

Under the provisions of the legislation, private corporations were made responsible for the acts of their employees, and corporate officers and directors were given a direct and personal duty to prevent pollution offences. Financial securities could be required as part of virtually any control order or approval. Crown immunity was removed for agencies of the provincial government. Jail terms of up to one year could be imposed on company officers and agents for serious pollution discharges and offences involving liquid industrial wastes. Corporate fines were raised to a maximum of \$25,000 for a first offence and up to \$50,000 for a second offence. Second offences involving either actual pollution or the violation of a stop order became punishable by fines of up to \$100,000. Fines of up to \$500,000 were made available for the most serious offences involving liquid industrial or hazardous wastes. Previously, penalties under the Environmental Protection and Ontario Water Resources Acts had been a maximum of \$5,000 for a first offence and \$10,000 for each subsequent offence. The courts were also empowered to require the cleanup of pollution discharges, set out measures to prevent future occurrences, and impose additional penalties to strip “ill-gotten” profits.

A sixty-five-member Investigations and Enforcement Branch was established within the Ministry of the Environment to carry out enforcement activities. This action completed the process, begun in 1980, of separating the enforcement of environmental law through prosecution from the ministry's normal procedures for inspection, abatement, and the negotiation of

Table 3.1

Total Ministry of the Environment fines for environmental offences in Ontario, 1985-2010

Year	Fines (\$)	Environmental penalties (\$)
1985-86	605,000	
1986-87	681,234	
1987-88	900,012	
1988-89	1,870,017	
1989	2,009,066	
1990	2,211,205	
1991	2,724,295	
1992	3,633,095	
1993	2,533,607	
1994	2,427,833	
1995	3,065,504	
1996	1,204,034	
1997	955,000	
1998	863,840	
1999	1,509,000	
2000-01	3,241,575	
2001-02	3,922,160	
2002-03	3,028,190	
2003-04	2,870,620	
2004-05	2,435,964	
2005-06	4,152,525	
2006-07	3,014,100	
2007-08	5,720,575	9,000
2008-09	3,515,950	79,562
2009-10	4,046,750	93,164

Sources: M. Winfield and G. Jenish, *Ontario's Environment and the Common Sense Revolution: A Four Year Report* (Toronto: Canadian Institute for Environmental Law and Policy, 1999); K. Clark and J. Yacoumidis, *Ontario's Environment and the "Common Sense Revolution": A Fifth Year Report* (Toronto: Canadian Institute for Environmental Law and Policy, 2000); Ontario Ministry of the Environment, *Environmental Penalty Report for 2008* (Toronto: Ministry of the Environment, 2009) Ontario Ministry of the Environment, *Environmental Penalty Report for 2009* (Toronto: Ministry of the Environment, 2010); Ontario Ministry of the Environment, response to Freedom of Information Request A-2011-00077, February 2011. Environmental penalties data presented on a fiscal-year basis as opposed to the calendar year basis contained in the annual reports. Data for 2009-10 environmental penalties covers only April 1, 2009 – December 31, 2009. Data for January 1, 2010 – March 31, 2010, was not yet publicly available.

control orders, program approvals, and certificates of approval. Under the previous approach, the close working relationships between ministry staff and regulated industries had led to a perceived unwillingness to initiate prosecutions. The problem had been highlighted during the Standing Committee on Resources Development's hearings in 1978 and 1979 regarding liquid industrial waste management, acid rain, and pollution control in the

pulp and paper industry. The ministry's legal services branch was also substantially strengthened. The result, as shown in Table 3.1, was that the total penalties imposed for environmental offences in Ontario began to rise dramatically, from \$605,000 in 1985-86 to over \$2.2 million in 1990.

Environmental Assessment

One of the major features of Bradley's tenure as minister of the environment was the consolidation of the ministry's cross-agency review and coordination role through the Environmental Assessment Act. Major changes were made to the membership of the Environmental Assessment Board in the spring of 1986. Michael Jeffery, a prominent environmental lawyer, was appointed chair, and Grace Patterson, a former executive director of the Canadian Environmental Law Association, was appointed as full-time vice-chair. In the following months, new full-time appointees replaced all of the existing part-time members of the board.

The exemption granted to the Ontario Waste Management Corporation's proposed hazardous waste treatment and disposal facility was withdrawn in July 1985.⁴⁰ The *Class Environmental Assessment for Timber Management on Crown Lands* was finally submitted by the Ministry of Natural Resources to the Ministry of the Environment at the end of that year. The preparation of the Class Environmental Assessment had been the subject of an ongoing dispute between the two ministries since the early 1980s. Under the Davis government, the cabinet had granted the Ministry of Natural Resources repeated extensions of the deadline for the document's completion. The submission of the assessment signalled the shifting power relationship between the two ministries. The application of the Environmental Assessment Act to all new public and private energy-from-waste projects and waste incineration facilities with a capacity of more than 100 tonnes of waste per day was announced in March 1987. The act's application to new municipal solid waste management facilities was also reaffirmed.⁴¹

Exemptions of major provincial undertakings from the Environmental Assessment Act became increasingly rare. When they did occur, the environment minister was able to obtain substantial concessions from the agency seeking an exemption. This was a significant departure from the situation that had existed during the Progressive Conservative period, when the cabinet regularly granted exemptions from the act's requirements with no compensating concessions to the Ministry of the Environment.

The most prominent example of this new pattern was the minister of the environment's decision not to require a hearing before the Environmental Assessment Board regarding the construction of a logging road by the Ministry of Natural Resources in the Temagami region of northeastern Ontario. The road had been the subject of ongoing controversy. In exchange for this concession, which was heavily criticized by environmental organizations

and by New Democratic MPPs,⁴² in May 1988, the Ministry of Natural Resources promised the creation of fifty-three provincial parks and an end to “non-conforming uses” in existing parks.⁴³ Similarly, the exemption of the Ataritari housing project in downtown Toronto was accompanied by extensive conditions imposed by the Ministry of the Environment.⁴⁴ These developments reflected the minister of the environment’s efforts to employ his capacity to obstruct, through the Environmental Assessment Act, projects undertaken by other provincial agencies or municipal governments, in order to expand the environment ministry’s role.

Energy and Ontario Hydro

On the energy front, the Select Committee on Energy, established under the accord, recommended at the end of 1985 that Ontario Hydro be permitted to complete two of the four reactors being built at Darlington, pending the committee’s final report. That report, delivered the following year in the aftermath of the Chernobyl nuclear accident in Ukraine, repeated many of the Porter Commission’s criticisms of Hydro’s focus on nuclear expansion at the expense of energy conservation. At the same time, the committee recommended that the Darlington project, on which \$7 billion had already been spent, be completed.⁴⁵ Final approval to proceed with completion, by then estimated as likely to carry a final cost of \$11 billion, was granted by cabinet just before the September 1987 election.⁴⁶ Although the NDP members of the select committee had dissented from both the interim and final recommendations regarding Darlington, breaking the accord to attempt to bring down the government over a nuclear construction project that was not an issue on the public radar screen was seen as a non-starter for the party.⁴⁷

The Accord Period as a “Perfect Storm”

The 1985-87 period demonstrated, for the first time in Ontario, the potential impact on environmental policy of the combination of an activist government and high salience of public concern for the environment. A decade of bipartisan opposition interest in the environment had laid the groundwork for environmental aspects of the Liberal-NDP Accord that brought the PC dynasty to an end after the 1985 election. At the same time, the minority government situation muted more managerially oriented opposition within the Liberal government to environmental initiatives. Rising levels of public concern for environmental protection at the provincial, national, and international levels provided the political foundation for the province’s activism, while the economic recovery from the downturn of the early 1980s supplied the economic security and fiscal capacity needed to support an activist provincial government. At the cabinet table, Bradley’s environmental initiatives were supported by several other senior ministers, including Attorney General Ian Scott.

The Liberal Majority Government, 1987-90

The September 1987 election resulted in a Liberal majority government with ninety-five seats in the legislature, faced by nineteen New Democrats and sixteen Progressive Conservatives. The initial signals after the election suggested that the government's environmental activism was likely to continue. In the month following the election, the premier replaced Rod McLeod, the deputy minister of the environment – whose conflicts with Bradley over the ministry's activist direction had escalated into what was described as a "floor war" between the levels of the ministry's headquarters on Toronto's St. Clair Avenue in which their respective offices were housed – with Gary Posen. Posen was a veteran intergovernmental affairs official. Yet, with the expiry of the Liberal-NDP Accord and a majority in the legislature, long-standing divisions within the Ontario Liberal Party on environmental issues soon began to re-emerge. From the fall of 1987 onward, municipal and industrial discontent with the Ministry of the Environment's growing activism would find increasingly powerful support within cabinet.

The NDP, which became the official opposition after the 1987 election, continued to press the government for additional action on environmental matters, particularly during question period.⁴⁸ However, given the Liberals' majority and the NDP's consequent loss of the balance of power, the New Democratic members of the legislature found they had lost much of the leverage they had held during the minority period.

The Progressive Conservatives, for their part, began to move in a more conservative direction following Larry Grossman's resignation after losing his seat in the election. Andy Brandt, a senior caucus member who had served as minister of the environment during the last Davis government, was appointed interim party leader, a role he would play until replaced by Mike Harris in May 1990. Susan Fish, who, like Grossman, had lost her seat in the 1987 election, was replaced as environment critic by Margaret Marland. Both Marland and Don Cousens, the Progressive Conservatives' municipal affairs critic, represented ridings on the borders of Metropolitan Toronto that were undergoing rapid population growth.⁴⁹ In this context, the PC critics would begin to voice municipal concerns about the environment ministry's increased activism, particularly as it related to waste management and infrastructure funding.

A number of environmental initiatives would be taken by the government in the post-election fall of 1987 and spring of 1988 and, as shown in Figure 2.1, the Ministry of the Environment's budget would continue to expand as the minority government initiatives became fully reflected in the ministry's estimates. However, the pace of the introduction of new environmental measures would begin to slow considerably from the spring of 1988 onward.

The Clean Air Program

The Liberal majority government's first, and ultimately only, major pollution-related initiative was announced in November 1987, when the minister of the environment introduced a companion Clean Air Program (CAP) to the Municipal/Industrial Strategy for Abatement (MISA) water pollution initiative.⁵⁰ The program was an extension of the Regulation 308 review initiated by the Davis government in 1983. CAP was intended to address the shortcomings of the known-effects approach to standard setting that the ministry had employed from the time of its formation. In particular, the documentation introducing CAP noted that the existing approach failed to account for things like long-range transport, long-term deposition, long-term effects, the persistence and bioaccumulative characteristics of certain pollutants, and the additive and synergistic effects of pollutants from multiple sources.⁵¹

Like the MISA program, CAP proposed major changes to the ministry's approach to the management of air pollution. The program sought to impose direct emission limits, based on the best available control technology on all air pollution sources of any appreciable size "at the base of stack."⁵² The intention was to eliminate the reliance on the effects of dispersion and to reduce the effects of pollution implicit in the point-of-impingement approach used by the ministry and exemplified by Inco's Sudbury superstack. Under the point-of-impingement approach, emission limits were established on the basis of the amounts of each pollutant estimated, according to models used by the ministry, to be falling a set distance from a stack. The approach had the effect of providing incentives to build higher stacks to increase the dispersion of pollutants, rather than actually reducing the amounts of pollutants being released. The existing models also assessed the impacts of each stack at a facility individually and did not consider the cumulative effects of all of the pollutant releases from a facility at the point of impingement.

Instead, under CAP, air pollutants were to be divided, compound by compound, into three levels of concern, based on their toxicity, persistence, bioaccumulative properties, and transport characteristics. Higher levels of control would be required for the pollutant classes of greatest concern. Ambient air-quality standards were also to be reviewed. As with MISA, the work of the US Environmental Protection Agency was to form the basis of the new emission and ambient air-quality criteria for Ontario. There were also efforts to make the standard-setting process more open, particularly through the establishment of the Advisory Committee on Environmental Standards, with representation from both industry and the public.

The Intervenor Funding Project Act

In June 1988, then attorney general Ian Scott, who had acted as commission counsel to the Berger Inquiry, the first major public inquiry in Canada to

employ intervenor funding, introduced the Intervenor Funding Project Act.⁵³ The act permitted panels of the Environmental Assessment Board, the Ontario Energy Board, and the Joint Board under the Consolidated Hearings Act to provide funding to bona fide public interest intervenors for such things as legal fees and expert witnesses. Proponents would be required to pay the cost of funding, unless this would impose substantial hardship, in which case the board could proportion costs between intervenors and the proponent. The statute was enacted in December 1988, with the support of both opposition parties.⁵⁴ The legislation was perceived as a major victory for the province's non-governmental organizations. Having won the struggle over the application of the Environmental Assessment Act, ENGOs were finding they then lacked the resources needed to intervene effectively, with legal representation and expert witnesses, in the major hearings before the Environmental Assessment Board and other forums that were taking place as a result.

Industry and Municipal Responses

The accord period was marked by a significant increase in the number of prosecutions under Ontario's environmental protection legislation. The conviction rate proved to be very high, and the size of fines issued by Ontario courts for environmental offences began to increase substantially.⁵⁵ Although the strengthened enforcement regime, particularly in the context of the introduction of personal liability for environmental offences among company officers and directors, increased the level of attention given to environmental management matters in the private sector, it also prompted increasing complaints from those affected. At the same time, concerns began to be expressed over the ultimate effects of the ministry's new approach to standard setting contained in the MISA and Clean Air programs.

As in the late 1970s, industrial resistance to additional environmental initiatives in the context of the wide range of progressive measures being taken by the provincial government was particularly strong. In the case of the Peterson Liberals, major legislative reforms had been adopted in the areas of housing, labour law, workers'-compensation, and private pensions as a result of the Liberal-NDP Accord. Following the 1987 election, the introduction of pay equity and the imposition of the Employer Health Tax in the 1989 budget added to the discontent.

Industrial concerns related to environmental matters began to be articulated within cabinet by several ministers, most notably the provincial treasurer, Robert Nixon.⁵⁶ As a result, with the expiry of the accord and a secure majority in the legislature, cabinet-level resistance to new environmental initiatives grew, and the rate of implementation of the new programs already announced decelerated.

Movement on the MISA program for the three hundred industrial direct dischargers slowed considerably after the 1987 election. The discharge monitoring regulations required for the program were adopted only in early 1990, and negotiations on the setting of BATEA standards for each industrial sector were initiated in mid-summer of that year. Although these delays were partially due to the unexpected technical complexity of the program, cabinet-level resistance to the promulgation of new regulations was a significant factor.⁵⁷ The implementation of the Clean Air Program was deferred. This was the result of successful arguments within cabinet on behalf of the affected industries that the demands of simultaneously acting on both the program and MISA were excessive.⁵⁸

The Ministry of the Environment also found itself in growing conflict with the province's municipal governments and, through them, with successive ministers of municipal affairs and housing. Tensions were particularly acute over the amount of time required to complete the environmental assessment process, especially for new municipal solid waste management facilities. Municipal governments argued that the environmental assessment process for waste management undertakings was "too cumbersome ... too uncertain ... [took] too long to complete ... [and was] inordinately expensive."⁵⁹ In addition to the concerns about environmental assessment, municipal complaints began to emerge over the rising costs of operating the blue box curbside residential recycling program.⁶⁰ Originally it had been expected that the sale of materials collected through the program would cover the program's operating costs to municipalities. This was not proving to be the case, leaving municipalities with an extremely popular but money-losing program.⁶¹

A 1988 discussion paper on the indirect-discharge component of the MISA program, intended to control industrial discharges into municipal sewage systems, added further fuel to the municipal fire.⁶² The ministry's threat to prosecute those municipalities unwilling to live up to their enforcement responsibilities regarding the discharge of industrial wastes into municipal sewer systems as part of the program was of particular concern. Many municipalities argued that, in the absence of adequate financial assistance from the province, they lacked the resources to control sewer use adequately.⁶³ A model sewer-use bylaw that municipalities could adopt voluntarily while the BATEA regulations for industrial discharges to sewers were developed was released at the same time as the discussion paper, but progress on the indirect-discharge dimensions of the MISA program ceased from that point onward.

The Ministry of the Environment's emphasis on funding and upgrading sewer and water services in existing urban areas rather than supporting the expansion of services to new areas led to more conflict with municipal

governments. The ministry's policy had the potential effect of limiting the growth of urban communities in the southern part of the province. This precipitated complaints from municipal governments and the land development industry that the ministry was imposing unnecessary delays on new development.⁶⁴

Further protests emerged from municipalities and the land development industry that the Ministry of the Environment was employing its review role in the land-use planning process to delay the approval of official plan amendments. These were required under the Planning Act to permit new housing development on unurbanized lands, typically high-quality farmland in southern Ontario. Reflecting its much more assertive approach to inter-agency matters, the Ministry of the Environment had adopted a practice of refusing to conduct its part of such reviews until other provincial agencies with environmental concerns, principally the Ministries of Natural Resources and of Agriculture and Food, had completed theirs. The Ministry of the Environment then combined these reviews with its own and presented an aggregated "environmental" position to the Ministry of Municipal Affairs and Housing, which had overall responsibility for the administration of the Planning Act.⁶⁵ The Ministry of the Environment took the view that Municipal Affairs and Housing was in a significant conflict of interest in official plan-amendment reviews, as its principal mandate was to articulate municipal concerns within the provincial government.⁶⁶

The Governmental Response

The Peterson government's responses to these growing conflicts over its environmental activism and industrial and municipal resistance both inside and outside the government took a number of forms. The situation presented particularly complex challenges to the government. Environmental matters continued to be a central concern of middle-class urban voters, a constituency widely regarded as a crucial source of electoral support for the Peterson government.⁶⁷ In addition, as shown in Figure 1.3, overall public concern for environmental issues remained extremely high, reaching a peak in Canada in 1989.

To address concerns over the environmental assessment process, the Environmental Assessment Process Improvement Program was initiated by the Ministry of the Environment in April 1988. The length of the government review stage of the environmental assessment process had continued to expand, as had the period of time necessary to complete hearings before the Environmental Assessment Board.⁶⁸ The need for action was seen as especially acute in light of several very large undertakings scheduled for review under the Environmental Assessment Act. The Ontario Waste Management Corporation's project and the Ministry of Natural Resources' Class

Environmental Assessment for Timber Management on Crown Lands were of particular concern.⁶⁹ In both cases, the government review stages had taken several years to complete, with hearings before the Environmental Assessment Board expected to extend over several more.⁷⁰ The implications of large numbers of municipalities finding themselves in need of new waste management facilities between 1990 and 1995 also suggested that measures to address the time issue were necessary.⁷¹ In addition, there were growing concerns among environmental organizations over the costs of participating in environmental assessment procedures.

In the fall of 1988, a deputy minister, reporting to the provincial treasurer, was appointed to specifically address the environmental, land-use, and transportation concerns of municipalities in the Greater Toronto Area (GTA – generally defined to include Metropolitan Toronto, and the regional municipalities of Durham, York, Peel, and Halton). The government's budget the following spring substantially increased allocations for the environment ministry's utility planning and operations program, which included the provision of sewer and water services to municipalities.⁷² Concern over the economic impact of traffic congestion on Highway 401 through Toronto had already led the province to decide to proceed with the construction of Highway 407, just north of Metropolitan Toronto, through the so-called parkway belt system first identified as a potential highway corridor in the 1960s.⁷³ A groundbreaking ceremony took place for the sixty-nine-kilometre highway, to stretch from Highway 410 in Brampton to Highway 48 in Markham, just before the 1987 election.⁷⁴ There seemed little consideration of the potential impact of the project on future development and transportation patterns in the sprawling Durham, York, and Peel regions, whose municipal leaders supported the project precisely in hope of the further development it would spur.

A study on the GTA's "greenlands" was initiated in October 1989 by the new GTA office under the leadership of Liberal MPP Ron Kanter. The study, published in July 1990, drew attention to the importance of the Oak Ridges Moraine and the lack of protection for the moraine and other important natural heritage features in the region.⁷⁵ Although the report was delivered too late in the Peterson government's life for any action to be taken on its recommendations, Kanter's efforts laid the groundwork for the future initiatives of the Harris and McGuinty governments to adopt legislation to manage and partially protect the moraine from development and to establish a larger greenbelt within the region respectively. In parallel with the launch of the Kanter study, the province asked the Royal Commission on the Future of the Toronto Waterfront (the Crombie Commission), established by the federal government in March 1988, to report on waterfront development issues along the entire western basin of Lake Ontario, from the eastern boundary of Durham Region to the western boundary of Halton Region.⁷⁶

However, it was the growing crisis over the potential lack of municipal waste disposal facilities, with the anticipated closure of the Britannia Landfill in Mississauga and Keele Valley Landfill in York Region, that occupied much of the GTA office's attention. In March 1989, the premier announced an agreement with GTA municipalities to exempt from the Environmental Assessment Act three interim landfill sites for their use.⁷⁷ A Solid Waste Interim Steering Committee was established to conduct a search for the sites. The arrangement had been facilitated by the deputy minister for the GTA. The announcement directly contradicted a statement made by the minister of the environment the previous summer that interim sites would not be exempted from environmental assessment.⁷⁸ The premier's action, which was strongly criticized by environmental organizations and both opposition parties in the legislature,⁷⁹ set in motion a chain of events that would significantly affect the 1990 and 1995 provincial elections. The Progressive Conservatives apparent reversal on the issue of facilitating the approval of new landfill capacity apparently was motivated by the consideration that some of the most likely locations for the interim GTA landfill sites were in ridings held by PC members.

At a more conceptual level, the Ontario Round Table on Environment and Economy was established in 1988. The notion of the round table flowed from the September 1987 report of the National Task Force on Environment and Economy, established under the auspices of the Canadian Council of Resource and Environment Ministers.⁸⁰ The task force itself had been inspired by the final report of the World Commission on Environment and Development, delivered in April 1987.⁸¹ The World Commission, chaired by former Norwegian prime minister Gro Harlem Brundtland, had proposed a fundamental reconceptualization of the relationship between economic development and environmental protection. The commission's proposals were constructed around the principle of sustainable development, a concept based on the recognition of the dependency of economic activities on the health of the global biosphere and the need for economic development to meet basic needs, particularly in the developing world. The implication was that environmental and economic decision making must be integrated so that development could occur in a manner that "meets the needs of the present, without compromising the ability of future generations to meet their own needs."⁸²

The Ontario Round Table was a multi-stakeholder body, consisting of approximately twenty representatives from business, ENGOs, and the resource- and environment-related members of cabinet. It was initially chaired by former Liberal minister of health Murray Elston and mandated to:⁸³

- Establish a framework to guide and coordinate the development of a provincial strategy for sustainable development.

- Develop an outreach program to enhance the knowledge and awareness of the principles of sustainable development.
- Undertake and support research needed to highlight and reinforce the principles of sustainable development.

Unfortunately for Peterson, the round table would offer no immediate solutions to his government's increasingly public internal debates over its environmental policy directions. It would be nearly two years before it produced its first report.

Ontario's first experiment with environmental taxation, a \$5 tire tax, was incorporated into the 1989 budget. The tax was reputedly prompted by a massive tire dump in Hagersville that had caught the eye of the treasurer on his commute from his riding to Queen's Park. Under the tax, \$155 million was collected, but only \$10 million was actually spent on recycling programs. The tax would ultimately be scrapped by the Rae government in its 1993 budget.⁸⁴

In the meantime, the government's emerging broader economic strategy made no reference to the environment-economy questions raised by Brundtland and to be addressed by the round table. Prompted in part by concerns over the impact of the free trade agreement with the United States being pursued by the federal government on the province's branch-plant manufacturing base, the 1988 three-volume report of the Premier's Council, *Competing in the New Global Economy*, recognized, for the first time, the extent of the changes that had been taking place in the Ontario economy since the mid-1970s and attempted to come to grips with the implications of globalization and the knowledge/information revolution for the province's human capital and industrial structure.⁸⁵ The council, established in 1986, was a multi-stakeholder body similar in structure to the round table, whose membership included six cabinet ministers (trade, treasury, skills, labour, education, and colleges and universities). The council's report noted the challenges facing the province's traditional resource and manufacturing sectors and the increasing importance of knowledge- and service-based economic activities.⁸⁶ However, the council included no one with environmental expertise, and its report included no discussion of environmental issues or the potential implications of the structural economic changes that it observed for the environment-economy relationship in Ontario.

In a more immediate sense, in the face of growing clashes within the government between ministers representing more traditional economic development models and the minister of the environment, with his increasingly assertive expression of the environmental protection mandate, Peterson dissolved the Cabinet Committee on Economic Policy and replaced it with the Cabinet Committee on Economic and Environmental Policy in August

1989.⁸⁷ Although the new committee's membership was the same as that of its predecessor, its stated intention was altered considerably. In its new form, the committee was to bring environmental concerns up to the same level of priority as economic development. The committee also was to serve as a forum within which conflicts between economic development and environmental protection could be resolved.⁸⁸ The chair of the committee was to alternate between the minister of the environment and the provincial treasurer. The previous committee had been chaired by the treasurer alone.

The extent of the discord within cabinet over environmental protection and economic development became apparent the month after the creation of the new cabinet committee. A discussion paper entitled *Reforming Our Land Use and Development System*, which had been initiated by the provincial treasurer, was leaked to the public. "Project X," as it became widely known, recommended that, in the short term, the requirements of the Environmental Assessment Act be folded into those of the Planning Act, whose administration would remain the responsibility of the Ministry of Municipal Affairs and Housing. In the longer term, Project X proposed that the Environmental Protection and Ontario Water Resources Acts be consolidated with the Planning Act into a Sustainable Development Act. The Ministry of Municipal Affairs and Housing would administer the new legislation.⁸⁹

The Project X proposal was quickly withdrawn as a consequence of a very strong negative reaction from the province's environmental movement, New Democratic and Progressive Conservative members of the legislature, the media, and the agricultural community. Even the Association of Municipalities of Ontario suggested that the proposal, in effectively suggesting the abolition of the Ministry of the Environment, went too far.⁹⁰

The back-and-forth struggle over the government's environmental direction continued. In November 1989, the minister of energy, Lyn McLeod, announced that all new undertakings by Ontario Hydro would be subject to the Environmental Assessment Act.⁹¹ The decision was particularly crucial in the context of a twenty-five-year electricity demand-supply plan delivered to the minister of energy by the corporation the following month. The plan, although including – for the first time in Hydro's history – substantial targets for electricity conservation and demand management, proposed ten new nuclear reactors, including a major facility at Blind River on the North Channel of Georgian Bay, and more than thirty natural gas-fired generating plants.⁹² A review under the Environmental Assessment Act meant that the assumptions underlying the plan, such as the notion that increased electricity supply was essential to economic growth, would be open to scrutiny. In addition, alternatives to Hydro's proposal, such as a greater emphasis on energy conservation, would have to be considered. Unlike the Porter Commission and the select committees of the legislature, the Environmental

Assessment Board would have actual authority to approve, reject, or require modifications to Hydro's plans.

The following spring, a second initiative emerged from the provincial treasurer that seemed intended to weaken the Ministry of the Environment's influence. Stating that he hoped to create an agency akin to the Ontario Water Resources Commission, Nixon proposed to transfer the environment ministry's responsibilities for municipal sewer and water services to a Crown corporation.⁹³ The corporation was to report to the minister of municipal affairs and housing rather than to the minister of the environment.⁹⁴ In exchange, responsibility for the Niagara Escarpment Commission, which had been created in 1973 to oversee land-use planning on the escarpment, was to be transferred from the Ministry of Municipal Affairs and Housing to the Ministry of the Environment.

Notwithstanding the latter transfer, the result would have been to shift approximately half of the environment ministry's budget to an agency with whose principal clientele the ministry had been in ongoing conflict.⁹⁵ At the same time, amendments were proposed by the Ministry of Municipal Affairs and Housing to the Planning Act that were intended to reduce the amount of time required for development approvals. These measures prompted suggestions from environmental interest groups and the New Democratic legislative opposition that the government was attempting to pursue Project X by other means.⁹⁶

Moreover, the issue of urban development and land-use planning was itself emerging as an area of vulnerability for the government. The good economic conditions of the late 1980s prompted a development boom in the regional municipalities of York, Durham, and Peel, which surrounded what was then Metropolitan Toronto. Public concerns began to emerge over the pace of development, the loss of prime agricultural lands and green space to urban sprawl, and in York Region, the relationship between municipal governments and the development industry.⁹⁷ The absence of official plans to control or guide development in York and Peel Regions⁹⁸ added to perceptions of a wild west situation with respect to land development.

Among other things, these concerns manifested themselves through a growing number of requests to the minister of the environment that development proposals be reviewed under the Environmental Assessment Act. The Environmental Assessment Advisory Committee, to whom most of these requests were referred, concluded that the Ministry of Municipal Affairs and Housing was failing to have due regard for environmental considerations and the cumulative effects of development.⁹⁹

The situation also began to raise wider questions about the relationship between the Ontario Liberal Party and the development industry. It emerged that the chair of Ontario Place, Patricia Starr, a prominent Liberal, had engaged

in illegal fundraising activities on behalf of the party, involving members of the industry. The episode led to the resignation of Gordon Ashworth, the executive director of the Premier's Office, in June 1989.¹⁰⁰ It was subsequently revealed that Ashworth had vetoed an inquiry proposed by the Ministry of Municipal Affairs and Housing into the relationship between developers and municipal politicians in York Region.¹⁰¹

Despite the growing conflict within the government over environmental issues, two additional pieces of significant legislation were enacted in 1989. A new Aggregate Resources Act replaced the 1971 Pits and Quarries Control Act. New legislation had been introduced in 1979, flowing from a review of the Pits and Quarries Control Act initiated in 1975, but never enacted by the Davis government. The 1989 act expanded the responsibilities of operators to mitigate the environmental and social impacts of aggregate extraction but also maintained the restrictions, introduced through the 1971 legislation, on the ability of municipalities to constrain aggregate operations.¹⁰² Second, amendments were made to the Mining Act requiring that mine operators have approved mine closure plans.¹⁰³ Operators were also required to provide realizable financial assurances, such as cash, bonds, or letters of credit, for mine closure, remediation, and potential post-closure care costs. The legislation was intended to ensure that the public did not have to assume the costs of remediating abandoned mines, even when the operator went bankrupt. However, the amendments were not proclaimed in force until after the Peterson government's defeat in the 1990 election.¹⁰⁴

On top of the impacts of the government's failure to respond to the emerging land development issue in the GTA beyond the initiation of Kanter's greenlands study, the government's environmental reputation was further damaged by a fire at the very scrap tire storage facility in Hagersville that had inspired the \$5 tire tax contained in the government's 1989 budget. The fire burned for more than two weeks in February 1990.¹⁰⁵ The facility had been subject to a Ministry of the Environment control order, but the implementation of the order had been delayed while the owner appealed to the Environmental Appeal Board and then divisional court.¹⁰⁶

By the time of the Hagersville fire, it was becoming clear that the government intended to call an election before the end of 1990.¹⁰⁷ As a result, action on the sewer and water corporation and Planning Act proposals being advanced by the treasurer and minister of municipal affairs and housing was delayed. Instead, the government took a number of measures intended to re-establish its standing on environmental issues in the face of its increasingly public internal conflicts.¹⁰⁸ The creation of a large provincial park in Toronto's Rouge River Valley was announced in March 1990. In the government's last legislative initiative before the election, amendments were made in June to the Environmental Protection Act removing automatic stays of

control orders under appeal, which had been a factor in the Hagersville fire. The liabilities of existing and past owners of contaminated sites were expanded by the same amendments.¹⁰⁹

By July 1990, the round table had issued a challenge paper outlining six guiding principles for sustainable development, namely anticipation and prevention; full cost accounting, informed decision making; living off the interest; quality of development over quantity; and respect for nature and the rights of future generations.¹¹⁰ The report arrived too late to have any impact on the government's direction before the election that was called for September 1990. Six multi-stakeholder sectoral task forces, dealing with agriculture and food, forestry, energy and minerals, manufacturing, transportation, and urban development and commerce, were established at the same time to recommend specific measures to implement sustainable development in these sectors.¹¹¹ However, none would complete any significant work before the election.

Conclusions

Consistent with its managerial orientation, the Davis government's introduction of new environmental measures had generally occurred only in response to the emergence of very strong and consistent pressures from both legislative opposition parties, the province's environmental movement, and the media. Beyond the initial phase of legislative and institutional formation in the early 1970s, activity in the environmental field largely had been confined to the extended period of minority government between 1975 and 1981. Even then, the government remained reluctant to undertake major initiatives, and implementation of what measures were adopted tended to be painfully slow. Economic development, understood in conventional terms, was given clear priority over environmental protection.

The situation changed dramatically after the 1985 election. The election result led to a Liberal minority government, brought to power via an accord with the NDP. The accord, reflecting the level of focus of both opposition parties on environmental issues, and the role the issue had played in the 1985 election campaign, included several major environmental provisions. The activist orientation of the accord-based minority government environment, in combination with rising levels of public concern for environmental issues and an economic recovery, provided a near "perfect storm" for the new minister of the environment, Jim Bradley, who launched a series of initiatives intended to transform his ministry's approach to its mandate.

Between 1985 and 1987, regulations were adopted under the Countdown Acid Rain program to implement the previous government's unfulfilled commitment to reduce sulphur dioxide emissions from the major sources in Ontario. In addition, an overhaul of the regulation of industrial water pollution was launched under the auspices of the MISA program, the 1979

"spills bill," was proclaimed, and a much more aggressive approach to environmental law enforcement implemented. In the area of environmental assessment, the exemption granted to the Ontario Waste Management Corporation was withdrawn, and the Ministry of Natural Resources' Class Environmental Assessment for Timber Management on Crown Lands was finally submitted for review by the Ministry of the Environment. In addition, exemptions of significant provincial undertakings from the Environmental Assessment Act became rarer. When they did occur, the minister of the environment was able to obtain significant concessions from the agency seeking the exemption.

The ministry's more assertive approach to its mandate was supported by a substantial expansion of the agency's budget. At the same time, the new minister sought to cultivate the province's community of environmental interest groups as the ministry's principal constituency, displacing its previous approach to policy formulation through bipartite bargaining with regulated industries.

However, by the time of the 1987 election, which resulted in a substantial Liberal majority, the Ministry of the Environment's more assertive behaviour was prompting strong responses from the affected industries. The new approaches to standard setting contained in the MISA program and companion Clean Air Program, announced just after the election, along with the ministry's more aggressive approach to law enforcement, were sources of particular concern. Municipal grievances over the ministry's new direction began to emerge at the same time. Issues related to solid waste management planning and approvals, the municipal dimensions of MISA, the ministry's efforts to employ its utility functions in the provision of sewer and water services, and its role in the land-use planning process to affect decisions regarding land use were all sources of growing conflict.

The intensifying industrial and municipal criticism the environment ministry's new approach to its mandate began to be articulated with increasing strength within cabinet. The provincial treasurer was particularly sympathetic to both industrial and municipal interests in this regard. Municipal concerns also were articulated by the minister of municipal affairs and housing and by Progressive Conservative critics in the legislature. In the meantime, progress on the MISA and Clean Air programs slowed, and the pace of the introduction of other new initiatives by the Ministry of the Environment came to a virtual halt.

Within the government, the situation was seen to present a complex dilemma. On the one hand, the government was faced with increasingly intense resistance to environmental initiatives from industrial interests and municipal governments. On the other hand, environmental issues had emerged as a key concern among important constituencies for the Peterson government. The Ontario Round Table on Environment and Economy created in

the summer of 1988 to consider the longer-term implications of the Brundtland report for Ontario offered little immediate help in resolving these conflicts. The broader review of economic strategy initiated under the auspices of the Premier's Council recognized the emergence of significant structural changes in the Ontario economy away from resource extraction and processing and manufacturing and in the direction of knowledge- and service-based activities but failed to make any connection between these developments and the environment-economy relationship.

A number of institutional initiatives were taken to contain the government's growing internal divisions over its environmental direction. A deputy minister, reporting to the provincial treasurer, was appointed to address specifically the environmental, land-use, and transportation concerns of municipal governments in the GTA. The move ultimately led to the exemption of interim landfill sites for the GTA from the Environmental Assessment Act over Bradley's objections. The result reinforced the criticism of the government from environmental organizations and the NDP opposition in the legislature.

A further attempt to manage the situation was made through the creation of a Cabinet Committee on Economic and Environmental Policy in August 1989 as a forum for resolving divisions within the government over economic development and environmental protection. In theory the committee elevated environmental concerns to the same status as economic development, although in practice it also constrained the minister of the environment by collectivizing decision making over environmental matters.

Despite these steps, other developments did serious damage to the government's environmental reputation. The Project X proposal that emerged from the treasurer's office a month after the creation of the new cabinet committee, the failure to deal effectively with emerging public concerns over sprawling urban development in the GTA, the Hagersville tire fire, combined with lack of progress on MISA and the Clean Air programs, all added to the perception that Bradley's influence within cabinet was on the wane.

On the whole, the 1985-90 period was one of major progress on the environment. There was an enormous institutional strengthening of the Ministry of the Environment in terms of its operational budget, its government-wide influence through the Environmental Assessment Act, and a fundamental shift in its approach to environmental law enforcement. The latter, especially in the context of the introduction of personal liability for environmental offences on the part of company officers and directors, would prompt major changes in business practices in Ontario, including the widespread establishment of environmental management systems.¹¹² The Countdown Acid Rain program, along with its Quebec counterpart, would prove one of most successful initiatives in the history of Canadian environmental policy. The programs ultimately exceeded the 1984 target

of a 50 percent reduction in sulphur dioxide emissions by 1994, although it would later emerge that the achievement of these reductions was inadequate to fully address the environmental and health impacts of acid rain.¹¹³

In response to the report of the Brundtland Commission, the government had set in motion what would emerge as the most substantial exploration of the environment-economy relationship seen in the province's history through the Round Table on Environment and Economy process, but this work had had no tangible impact on policy by the time of the 1990 election. Instead, the increasingly public divisions within the government were cast very much in terms of an environmental protection versus economic development dichotomy, embodied in the clashes between the treasurer and the minister of the environment. The positions of both sides were presented in conventional terms. Environmental protection was understood as a more aggressive approach to requiring pollution-control measures from industrial facilities, rather than the deeper changes in economic structure implied by the Brundtland report, whereas economic development was conceptualized in terms of traditional industrial and resource extraction and processing activities, and the rapid urbanization of regions surrounding Metropolitan Toronto. The government's inability to move beyond these conceptualizations and the impact of the resulting conflict on its environmental-policy reputation would leave Peterson remarkably vulnerable on environmental issues as he called an election, three years into his mandate, for September 1990.

4

Sustainable Development, Restructuring, and Recession

The unexpected arrival of Bob Rae's NDP government, following a campaign in which the Liberals' environmental performance figured prominently, likely deflected a major retrenchment on environmental issues that seemed to be developing within the Peterson government, particularly in light of the worsening economic outlook. Coming into office just after the peak of the second wave of public concern for the environment (see Figure 1.3), the first half of the Rae government would be marked by several major environmental initiatives. The NDP government's arrival also coincided with an intensification of discussions at the international level, flowing from the Brundtland report and leading up to the 1992 United Nations Conference on Environment and Development. In Ontario, the Round Table on Environment and Economy and the Fair Tax Commission offered the first serious expressions of the implications of the Brundtland Commission's sustainable development concept for Ontario.

Unfortunately, Rae's government would soon find itself confronted with a severe recession, exacerbated by the impact of the Canada-US Free Trade Agreement on the province's branch-plant manufacturing economy and the interest rate policies of the Bank of Canada.¹ A very modest recovery began to emerge by 1992 and 1993, but the government found itself under major fiscal pressures, particularly the growth of the provincial deficit, largely driven by social service costs arising from the recession, despite the implementation of substantial tax increases.² The precipitous decline in the status of the environment as a top-of-mind public concern that flowed from the economic downturn and a host of other challenges the Rae government would find itself facing provided little opportunity to follow through on the work of the round table and Fair Tax Commission.

The Environment and the 1990 Election

The Liberals entered the 1990 election campaign with an apparent commanding lead in the polls.³ Yet, many within the Liberal Party, including

Environment Minister Bradley, had argued unsuccessfully against an election call only three years into the Peterson's mandate.⁴ The result of the September 1990 election was perhaps as much a surprise to the winners, Bob Rae's NDP, which emerged with a seventy-four-seat majority government on the basis of 38 percent of the popular vote, as it was to David Peterson's Liberals, who were reduced to thirty-four seats. The Progressive Conservatives, whose leader, Mike Harris, had only assumed office in May 1990, emerged in third place with twenty seats. Peterson resigned immediately following the election. He was eventually replaced, after a series of interim leaders in early 1992, by his former energy and natural resources minister, Thunder Bay MPP Lyn McLeod.

Several factors contributed to Peterson's defeat. The election itself was seen as unnecessary and opportunistic only three years into the government's mandate. At the same time, the premier was seen to have overfocused on constitutional issues, particularly the fate of the 1987 Meech Lake Accord, rather than on more concrete provincial policy matters.⁵ A third significant factor was the role of various interest groups and protestors in the election campaign. These actors, operating on the widely accepted assumption that the Peterson government would be re-elected, launched aggressively critical interventions in the campaign in the hope, at least among the more established interests, of prompting commitments to further action from the government during the campaign. Environmental organizations were perhaps the most prominent of these groups.⁶

The activities of environmental organizations were particularly effective in the context of the continuing high levels of public concern over environmental issues evident in public opinion polls. In pre-election polls, the environment typically ranked second, after the proposed federal Goods and Services Tax (GST), among unprompted responses to questions regarding the top issues and concerns requiring the provincial government's attention.⁷ The polls also revealed discontent over the government's environmental record, with six in ten respondents considering the government's spending on the environment (a proxy for overall action) as inadequate.⁸

The province's ENGOs were very active in their critique of the Liberal government's record throughout the campaign. The most spectacular manifestation of these efforts, and one which set the tone for much of the campaign, was Greenpeace toxics campaigner (later City of Toronto Councillor) Gord Perks's intervention fifteen seconds into the premier's press conference in the Queen's Park media studio to announce the election call. Perks laid a "talking briefcase" on the table in front of the premier, with the following tape-recorded message:

Mr. Peterson, this is a message from Greenpeace. We are here today to protest your government's failure to protect the environment. There are five reasons

why we are doing this. First, you failed to protect us from toxic chemicals going into the water. In 1986 you promised to eliminate toxic chemicals from going into our water system and not one single regulation had been passed by your government. In 1987 you promised clean air legislation. There is no clean air legislation. Your promise is a lie. Before you were elected you promised not to build any more nuclear reactors ... Mr. Peterson, your record is a record of failure. It is not acceptable to us or Ontarians.⁹

Other ENGOs attacked the government's record on municipal waste diversion,¹⁰ the Project X episode, and the treasurer's sewer and water corporation proposal, to the point of describing Environment Minister Bradley as "the white shield that David Peterson hides behind."¹¹ The 1989 exemption of proposed interim GTA municipal waste disposal sites from the Environmental Assessment Act added local displeasure in the candidate host communities around Toronto. The Patricia Starr affair (discussed in Chapter 3), and the government's apparent failure to respond to public concerns over municipal land-use planning practices in the GTA and the resulting conversion of prime farmland into low-density tract housing (i.e., urban sprawl) added more fuel to the electoral fires.¹²

The NDP arrived in office with some distinct strengths on the environmental front. In addition to the strong performance of its long-time environment critic, Ruth Grier, during the Liberal government, the party had engaged in considerable internal thinking over environmental matters and their relationship to economic development. These discussions had culminated in a detailed policy statement on the environment in April 1990.¹³ The document reflected the party's need to address the concerns of its organized labour constituency over the economic impact of environmental protection measures, while exploiting the opportunity presented by Bradley's increasingly public struggles with more conservative elements of the government in the context of very high levels of public concern for the environment. Borrowing themes from the Brundtland Commission, these potential conflicts were at least cosmetically resolved by stressing the importance of measures such as industrial waste reduction, energy efficiency, and natural resources conservation in terms of both environmental protection and economic well-being.

The party's 1990 election platform, *Agenda for People*, included extensive environmental provisions. There were proposals for an environmental bill of rights; immediate passage of a safe drinking water act, with the goal of completely eliminating toxic chemicals from entering lakes and rivers by 2000; a "real zero discharge program," including "bans and phase-outs on the use of persistent toxins in industry"; taxes on packaging that could not be recycled or reused; the extension of the Countdown Acid Rain program

and an overhaul of air pollution legislation to “mandate zero discharge of toxic chemicals into the air by the year 2000”; prevention of the conversion of prime agricultural land (classes 1 to 3) to non-farm uses and the introduction of a land speculation tax to slow the “conversion of valuable farmland to other uses”; and allowing GO Transit to raise money on the bond market to finance capital costs for public transit improvements in southern Ontario.¹⁴ On the whole, the platform reflected an activist orientation across a wide range of areas. In addition to its environmental provisions, the platform contained proposals for increasing public school funding, the introduction of public auto insurance, raising the minimum wage, pay equity for women, the expansion of non-profit child care, employment equity, strict rent controls and support for non-profit housing, and increases in social assistance rates, as well as tax reductions for low-income earners and a minimum corporate tax.¹⁵ The election outcome was widely interpreted as a decision by Ontario voters in favour of the directions of the Liberal-NDP minority government, effectively electing the junior partner in the accord.¹⁶

The Grier Period, September 1990-February 1993

Given the declining economic situation, public top-of-mind concern for the environment began to fall between 1990 and 1991, largely displaced by economic issues (see Figure 1.2). Yet, at least initially, the government’s environmental agenda, reflecting the provisions of its platform, was fairly ambitious.

Ruth Grier was appointed as minister of the environment in the first Rae cabinet. Grier carried forward many of the major themes of her Liberal predecessor’s tenure at the ministry. The emphasis on a robust approach to environmental law enforcement continued. This was reflected in, among other things, the increasing levels of fines for environmental offences being obtained by the ministry, exceeding \$3.6 million in 1992. Consistent with the government’s overall decision in its first budget to “fight the recession, not the deficit,” the growth in the ministry’s operating budget was maintained, also reaching a peak in 1992.¹⁷ The strong relationship between the ministry, at least at the political level, and the province’s ENGO community continued as well.

Toxic Substances and MISA

The MISA program remained a major focus of the ministry’s work, with the first actual discharge regulations, for the pulp and paper and the petroleum refining sectors, being adopted in 1993.¹⁸ The program had become progressively more contentious, particularly with the International Joint Commission’s increasingly emphatic calls for zero discharge of persistent toxic substances in the Great Lakes. The commission’s directions culminated

in a recommendation contained in its 1992 *Sixth Biennial Report* on Great Lakes water quality that, given the prominence of chlorinated organic substances on lists of priority pollutants identified under the Canada-US Great Lakes Water Quality Agreement, chlorine be phased out as an industrial feedstock. The province, for its part, set in motion the development of a list of candidate substances for bans or phase-outs, based on their toxicity, persistence in water or sediments, and potential to bioaccumulate. A primary list of twenty-one substances, based on a scan of eight hundred substances found in or released to Ontario surface waters, was published in April 1992, along with a secondary list of forty-six substances.¹⁹ These proposals were seen as serious threats by the affected industries, as they would require the phase-out of certain product lines and even more fundamental changes to industrial processes, as opposed to the traditional pollution-control model of simply adding additional end-of-pipe equipment to reduce emissions.

The development of the pulp and paper sector regulations was especially fractious. Consistent with the International Joint Commission's recommendations, the government initially proposed that sector be required to achieve zero discharge of organochlorines (expressed as total absorbable organic halides), such as dioxins and furans, the key persistent toxic pollutants generated by the sector. The substances had been specifically targeted for "virtual elimination" under the 1978 revisions to the Great Lakes Water Quality Agreement. The final version of the regulations, however, merely required that facilities report on how they might reach zero discharge by 2002.²⁰ Regulations for the remaining seven sectors followed in 1994 and 1995.²¹ The discharge standards for these sectors largely reflected pollution-control and prevention technologies already in place in the affected facilities and therefore did not require additional major investments.²²

The ministry moved to revive discussion on the indirect-discharge elements of the MISA program, dealing with the estimated twelve thousand facilities that discharged industrial wastes into municipal sewage systems, in 1994.²³ However, the primary focus was on voluntary action by indirect dischargers. No regulations dealing with these facilities, or regarding discharges from municipal sewage treatment plants, as proposed in the original 1986 MISA program, were adopted before the end of the NDP's mandate. More broadly, the 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem, laying out Canada and Ontario's commitments to implementing the Canada-US Great Lakes Water Quality Agreement over the 1994-2000 period, made it clear that "voluntary and cooperative initiatives by responsible parties will be the primary mechanisms to achieve real and measurable reductions in the use, generation or release of both persistent, bioaccumulative and toxic substances, and other substances impairing the Great Lakes Basin Ecosystem."²⁴

Municipal Solid Waste

Municipal solid waste (MSW) emerged as a second key theme during Grier's term as minister of the environment. The NDP reaffirmed the previous government's waste diversion goals of 25 percent by 1992 and 50 percent by 2000. A Waste Reduction Office was established within the Ministry of the Environment and a series of discussion papers released on regulatory initiatives for waste reduction, modifications to the approvals process for recycling facilities, municipal powers related to waste management, and measuring progress on waste diversion. A Waste Management Act, including amendments to the Environmental Protection Act to implement some of the regulatory proposals contained in the ministry's discussion papers, was introduced in October 1991 and adopted the following April.²⁵ Regulations requiring source separation of wastes from the industrial, commercial, and institutional sector; requiring that large food, beverage, paper, and chemical manufacturing facilities conduct packaging audits and develop waste reduction work plans; and to facilitate approvals of composting and recycling facilities were subsequently adopted in 1994.²⁶ A ban on the establishment of new MSW incineration or energy-from-waste projects was announced in March 1991 and adopted via regulation in September 1992.

In the meantime, municipal complaints about the costs of operating the blue box curbside recycling program, first introduced in 1986, were growing. The program was enormously popular, with sustained participation rates of 80 to 90 percent among households to which it was offered. Despite the government's intention to require that blue box programs be provided in all municipalities with populations over five thousand residents, some municipalities were threatening to cut back or even terminate their programs. Municipalities claimed that blue box recycling was costing up to \$200 per tonne, whereas sales of the materials recovered from the program, which were supposed to cover the program's operating costs, were averaging only \$30 per tonne. By comparison, waste collection and disposal costs were said to be in the range of \$90 to \$120 per tonne. Municipalities found themselves paying 60 percent of blue box program operating costs, with the province contributing 22 percent. OMMRI and its successor, OMMRI II, launched in 1990, were covering only 4 percent of the costs.²⁷

The soft drink industry, anxious to avoid the expansion of requirements to use refillable containers, or even the enforcement of the post-1986 requirement that at least 30 percent of soft drinks be sold in refillable containers, began to try to persuade other industries generating materials that ended up in the blue box to contribute to its operating costs. The soft drink industry also began to lobby the provincial government for a "backdrop" regulation that would require these other sectors to contribute.²⁸ A range of potential funding models were proposed by the soft drink industry, grocery products

manufacturers, the Canadian Institute for Environmental Law and Policy, and the government's own Waste Reduction Advisory Committee.²⁹ All of these proposals reflected, to varying the degrees, the model of the German Green Dot system established in 1991. Under that system, product manufacturers and importers assumed responsibility for post-consumer packaging wastes, largely through financial contributions to an organization called *Duales System Deutschland*, which then financed the collection and recycling of the materials. The underlying idea was to compel packaging users to internalize the post-consumer management costs of the packaging they put into the marketplace, with the expectation that, in response, the use of packaging would be reduced, and products and packaging redesigned to facilitate reuse or recycling. In practice, the blue box funding issue was never fully resolved during the life of the NDP government. Rather, funding continued on the basis of ad hoc contributions from OMMRI II and extensions of the provincial municipal recycling support program.

The 1992 Waste Management Act addressed a third dimension to the municipal solid waste issue, one that would eventually do enormous political damage to the Rae government. The legislation provided for the creation of a provincial agency, the Interim Waste Authority, first announced by Grier in November 1990, "to search for and select" a waste disposal site for GTA municipalities. In effect, the NDP set aside the Liberals' Solid Waste Interim Steering Committee's proposal for a disposal site in Durham Region, where the NDP had won a number of seats on the basis of its opposition to the project, to set in motion a site search throughout the GTA. Motivated by opposition from members of the government's northern caucus and Grier's own belief in the principle that regions should take care of their own wastes, the government's initiative blocked Metropolitan Toronto's plans to ship its waste nearly a thousand kilometres north by train to the abandoned Adams iron ore mine near Kirkland Lake. In effect, the province took responsibility for identifying disposal sites out of the hands of the GTA municipalities altogether. The move was widely seen as politically unwise, as it would mean that local anger over any proposed sites would be directed entirely at the provincial government. In addition, the initiative was strongly opposed by Pollution Probe and the Canadian Environmental Law Association (CELA), which saw the potential for a Ontario Waste Management Corporation (OWMC) of municipal waste management.³⁰ The OWMC's highly controversial proposal for a hazardous waste disposal facility in the Niagara Region was still the subject of an ongoing environmental assessment hearing at the time.

By 1992, the Interim Waste Authority had identified fifty-seven candidate sites in the GTA. Notwithstanding the authority's very thorough site selection process, designed to meet a modified version of the Environmental Assessment Act requirements,³¹ the effort prompted storms of protest in the

municipalities outside Toronto, as the three facilities ultimately identified – to be located in Durham, Peel, and York Regions – would have to accept waste from the city as well as from the host municipalities.³²

The Environmental Bill of Rights

The third major initiative during Grier's tenure with the ministry was the development of an Environmental Bill of Rights, as promised in the 1990 NDP platform. The legislation would be the first major new environmental statute to be adopted in Ontario since the enactment of the 1975 Environmental Assessment Act. Drawing on US state-level precedents in Michigan and Pennsylvania, the concept of the Environmental Bill of Rights had been first advanced in the 1970s by CELA and the Canadian Environmental Law Research Foundation (CELRF). CELA and CELRF's proposals had included the concept of an environmental ombudsman, public participation in the setting of environmental standards, improved access to government information, relaxed standing rules to permit citizens to defend the environment in courts and tribunals, and provisions for class actions.³³

Environmental bills of rights had been introduced as private members bills by Liberal and NDP members of the legislature in the aftermath of the 1981 election, but none was enacted. A bill introduced by then NDP environment critic Ruth Grier did pass second reading in December 1987 but was not returned to the legislature after referral to committee. Grier had introduced a final, unsuccessful bill in 1989.³⁴ In the meantime, a number of aspects of the original CELA and CELRF proposals had been addressed through other legislation during the Peterson government, particularly the adoption of provincial and municipal freedom of information and protection of privacy legislation, and the Intervenor Funding Project Act.

The formation of the twenty-five-member Environmental Bill of Rights Advisory Committee was announced in December 1990. The committee included representatives of the provincial government, municipalities, and business, labour, and environmental organizations. The advisory committee reached consensus on several principles for a bill, but there was no agreement on how these principles should be implemented. Subsequently, in October 1991, the smaller Task Force on the Ontario Environmental Bill of Rights was appointed to draft the legislation. The task force, co-chaired by the deputy minister of the environment and a lawyer from the Office of the Attorney General, included representatives of business and environmental organizations and the Ministry of the Environment's Legal Services Branch, as well as a lawyer in private practice.³⁵

The task force's final report was delivered in December 1992,³⁶ and Bill 26, *An Act Respecting Environmental Rights in Ontario*, was introduced by Grier's successor as minister of the environment, Bud Wildman, in May 1993. The bill was ultimately adopted in December 1993 and proclaimed in

force on February 15, 1994. The Environmental Bill of Rights that emerged from the task force and legislative process was a complex piece of legislation, which, perhaps surprisingly, included no substantive rights to a clean environment. Rather, reflecting the areas where consensus could be reached on the multi-stakeholder advisory committee and task force, the legislation focused on procedural rights in environmental decision making.

The Environmental Bill of Rights established an electronic environmental registry on which proposed legislation and regulations, policies, and approvals to be made under legislation designated for the purposes of the bill had to be posted for public comment before being finalized. In addition, the right of members of the public to appeal environmental decisions where such rights exist for proponents was established, subject to a stringent test for leave to appeal.³⁷ The provision addressed a long-standing anomaly in the Environmental Protection Act whereby facility operators and proponents could appeal decisions regarding approvals and control orders to the Environmental Appeal Board but affected members of the public could not. Processes through which members of the public could request reviews of laws, regulations, and policies, and investigations of suspected violations of environmental laws, with the requirement that the provincial government respond to these requests, were also established. Where requests were rejected, the province would have to provide justifications for its decisions.³⁸ Part VI of the legislation established a right to sue, subject to extensive procedural and substantive limitations, to prevent, halt, or seek the remediation of environmental harm to a public resource and removed some limitations on standing in cases of public nuisance causing environmental harm.³⁹

Institutionally, the bill required that ministries designated under the legislation develop "statements of environmental values" explaining how the purposes of the act would be applied in their decision making.⁴⁰ These purposes included the prevention, reduction, and elimination of the use, generation, and release of pollutants; the protection and conservation of biological, ecological, and genetic diversity; the protection and wise management of natural resources, including plant life, animal life, and ecological systems; and the identification, protection, and conservation of ecologically sensitive areas or processes.⁴¹ Finally, the Environmental Bill of Rights created an Office of the Environmental Commissioner as an officer of the legislative assembly, similar to the provincial auditor. However, the commissioner was not directly mandated to assess and report on the environmental performance of the provincial government or the impacts of its decisions on environmental quality.⁴² Rather, the primary mandate of the office was to report on the government's compliance with the largely procedural requirements of the legislation.⁴³ Eva Ligeti, an environmental law teacher at Seneca College, was appointed as the province's first environmental commissioner in May 1994.

Energy and Electricity

The NDP arrived in office with the intention of implementing major changes in the direction of Ontario Hydro. The April 1990 *Greening the Party, Greening the Province* document had proposed to reduce the province's energy intensity by 3.5 percent per year for the next twenty years, and the government's first Speech from the Throne proclaimed a moratorium on nuclear construction.⁴⁴ Marc Eliesen, a former chair of Manitoba Hydro, and deputy minister of energy under Peterson, was appointed chair of Ontario Hydro in April 1991. Hydro's existing board opposed the government's intention to make Eliesen chief executive officer and appointed the corporation's vice-president of corporate planning to the role instead. By June 1992, the Power Corporation Act had been amended to provide that Hydro's chair would also be its CEO, expand the board with five additional appointments, and permit the government to give policy directives to the board, all to address the apparent revolt by the existing board.⁴⁵

In the meantime, the realities of the recession led first to the modification, in January 1992, of the demand-supply plan (DSP) filed in December 1989 to defer the building of any new large-scale power plants. A year later, the DSP was withdrawn altogether. By then Eliesen had departed to become chair of BC Hydro, and Maurice Strong, who had chaired the 1992 United Nations Conference on Environment and Development, was appointed as Ontario Hydro's chair. Faced with dramatic increases in electricity rates, excessive generating capacity and declining demand as the Darlington facility came into service, and a \$26 billion debt, largely arising from Darlington and the earlier Pickering and Bruce projects, Strong had already called Hydro a "corporation in crisis" before the legislative committee reviewing his appointment.⁴⁶ Strong's ambitious plans for restructuring the utility included references to the integration of sustainable development and eco-efficiency into the whole organization.⁴⁷ In practice, Strong's would oversee the layoff of 30 percent of Ontario Hydro's staff between 1993 and 1994. Despite the central role that energy efficiency played in "greening the economy" as part of the government's overall Industrial Policy Framework, the ambitious conservation programs launched under the DSP, along with the nuclear construction department, emerged as the major victims of the restructuring.⁴⁸ Given the need for revenue to service the utility's debt, spending on energy efficiency to further reduce demand was seen by Strong as an unhelpful "subsidy."⁴⁹

Reconceptualizing the Environment-Economy Relationship

As part of its response to the severe recession, the restructuring occurring in the Ontario economy, and anticipated impacts of the North American Free Trade Agreement, which the NDP opposed, the government released *An Industrial Policy Framework for Ontario* in July 1992. The framework explicitly

linked, for the first time in Ontario, the “greening” of the economy to the province’s overall economic strategy. Building on themes first identified in the 1988 report of the Premier’s Council it emphasized the need to move the Ontario economy to higher value-added activities and away from the simple production of raw materials and other basic inputs for industrial production.⁵⁰ The concept was presented as the preferred alternative to a strategy of relying on low-cost labour and eroded social and environmental standards.⁵¹

Along with greening the economy, the policy framework emphasized investments in training and skills development and in public and technological infrastructure, and as well as the fostering of partnerships within sectors. The policy’s environmental element highlighted the development of a strong environmental technologies and services sector in Ontario; the greening of existing industries through waste reduction and pollution prevention rather than end-of-pipe pollution control; improvements in energy efficiency as a way of increasing cost competitiveness and ensuring that economic development, largely defined in terms of land use, was environmentally sustainable.⁵² At the same time, perhaps reflecting the NDP’s labour base, the document was oriented toward an economic foundation of manufacturing and resource processing, as opposed to embracing the shift in the employment base toward more service- and knowledge-based sectors.

Two months later, the Ontario Round Table on Environment and Economy delivered the most sophisticated effort seen so far to reconceptualize the environment-economy relationship along the lines of the recommendations of the Brundtland Commission and the themes emerging from the 1992 Rio Conference, which was attended by Environment Minister Grier. The round table’s report, *Restructuring for Sustainability*, delivered in September 1992, sought to highlight the potential for responses to the economic restructuring the province was suffering, as well as strategies for sustainable development, to be mutually reinforcing.

The round table had included the ministers of the environment, agriculture and food, energy, municipal affairs and housing, industry, trade and technology, and natural resources, as well as CEOs from the manufacturing, resource, and finance sectors, and labour, academic, and ENGO representatives.⁵³ The report began by stating that

if Ontario is to prosper, it will have to restructure for sustainability, reshaping its economy to reflect environmental costs and value ...

traditional responses to environmental problems – react and cure strategies – are no longer adequate. It is essential now to anticipate and prevent obstacles to sustainable development.⁵⁴

The round table's major recommendations, reflecting the work of the main round table and the sectoral task forces set up under Peterson in 1990, included:⁵⁵

- Reducing the energy intensity of the Ontario economy by 3 percent per year over the next ten years.
- Ending the release of persistent toxic substances by 2000.
- Protecting agriculturally and environmentally sensitive lands from development.
- Moving to full cost pricing of water.
- Using financial incentives to promote sustainability.
- Redirecting research and development investments toward sustainability.
- Providing skills upgrading and training for current workers.
- Improving corporate disclosure of environmental performance.
- Creating an office of the commissioner of sustainability.
- Conducting economic and environmental sustainability reviews of all proposals requiring cabinet approval.
- Requiring that all ministries and Crown agencies develop sustainable development strategies.

Climate Change

In addition to its overall recommendations, the round table was asked by the government to address, for the first time, the issue of global climate change in an Ontario context. Canada had committed to the stabilization of its greenhouse gas (GHG) emissions at 1990 levels by 2000 under the United Nations Framework Convention on Climate Change, adopted at the 1992 Rio Conference. The round table recommended that in addition to the stabilization target, the province reduce its emissions by 20 percent by 2005 and by between 70 and 80 percent by 2030. Specific recommendations included requiring the Ontario Energy Board to adopt a "least-cost" planning approach and giving the board authority over electricity rates, incentives to promote renewable energy, biennial upgrading of energy-efficiency standards, increasing public transit ridership, improving vehicle fuel efficiency, methane collection at large landfills, and implementation of market-based approaches to reduce emissions of carbon dioxide and other GHGs.⁵⁶

In April 1994, the minister of environment and energy formally committed Ontario to the goal of the stabilization of the province's GHG emissions with a longer-term target of a 20 percent reduction.⁵⁷ Two months later, the legislative assembly endorsed a commitment to reduce Canada's GHG emissions by 20 percent relative to 1988 by 2005.⁵⁸ Ontario participated in the joint meetings of energy and environment ministers that became the primary

institutional vehicle for federal-provincial coordination on climate policy, but no tangible policy measures flowed from these commitments and initiatives in Ontario. Voluntary action by major industrial emitters of GHGs, through the federally sponsored voluntary Climate Registry, established under the auspices of the first federal-provincial National Action Program on Climate Change, released in 1995, was implicitly accepted by Ontario as the primary policy tool for responding to the climate change issue.

The Wildman Period, February 1993-June 1995

Its vision for the integration of economic prosperity and environmental sustainability notwithstanding, the round table delivered its report to a government increasingly preoccupied with the impacts of the recession and its own deteriorating fiscal situation, driven in part by rising social assistance costs flowing from an unemployment rate approaching 11 percent.⁵⁹ The deficit for the 1992-93 fiscal year was climbing toward \$12 billion, and debt-servicing costs threatened to consume a growing portion of the province's budget.⁶⁰

In this context, the promotion of economic growth and the reduction of expenditures increasingly overshadowed environmental concerns in the government's agenda.⁶¹ Adding to the government's problems on the environmental front were the political fallout from the Interim Waste Authority's (IWA's) search for waste disposal sites in the GTA, and the rapid decline of the environment as a leading issue of public concern in the period immediately following the Rio Conference.

Ruth Grier was transferred to the role of minister of health and replaced by Natural Resources Minister Bud Wildman as the head of a now combined Ministry of Environment and Energy in February 1993. The shift was motivated by several factors, including the degree to which Grier had become the target of public and municipal anger over the IWA's work. Industrial concerns over what was regarded as an overzealous approach to the implementation of the MISA program, reinforced by the publication of the candidate substances list for bans and phase-outs, was an additional factor. At the same time, under pressure from the departing Grier, the premier decided to continue the IWA's efforts rather than permit Metropolitan Toronto to pursue its plan to ship to the Adams Mine site near Kirkland Lake, defeating much of the political rationale for the shift.⁶²

The pace of environmental initiatives slowed from the point of the cabinet shuffle onward, and the principle focus of the government became completing the work that had been set in motion during the Grier period, particularly the MISA program for the direct-discharge industrial sectors; the source separation, waste audit, and waste reduction planning regulations under the 1992 Waste Management Act; and the introduction and

enactment of the Environmental Bill of Rights. Regulations were adopted to fulfill Ontario's obligations under the federal-provincial agreement regarding the implementation of the Montreal Protocol on ozone-depleting substances as well.⁶³

Ontario Hydro DSP, Crown Timber Management, and OWMC Environmental Assessments

The more robust application of the Environmental Assessment Act during the Liberal period had set in motion three major hearings that reached their conclusions during the life of the Rae government: the Class Environmental Assessment for Timber Management on Crown Lands and the Ontario Hydro Demand-Supply Plan (DSP) before the Environmental Assessment Board, and the environmental assessment of the Ontario Waste Management Corporation's (OWMC's) proposed hazardous waste facility before a joint board of the assessment board and the Ontario Municipal Board. Although Ian Scott's Intervenor Funding Project Act resulted in the provision of substantial funding to NGO intervenors in these processes, the boards' formal, legalistic processes were in hindsight poorly suited to what became de facto policy inquiries into forest management, electricity supply and demand, and hazardous waste management.

The Ontario Hydro DSP hearing ended just before Wildman's appointment, with the utility's withdrawal of the plan in the face of declining electricity demand and Hydro's own financial difficulties. The OWMC's proposed hazardous waste disposal facility was rejected by the Joint Board in November 1994, largely on the basis of concerns regarding potential contamination of groundwater from the facility's proposed landfill.⁶⁴ The corporation, which at that point had spent an estimated \$180 million, largely on planning and approvals for its proposed plant, appealed the decision to cabinet. The cabinet rejected the appeal in February 1995, effectively ending the corporation's efforts to establish a disposal facility but directing it to continue its waste reduction, recycling, and pollution-prevention activities. The government announced its intention to adopt pollution-prevention legislation, intended to reduce the generation of hazardous wastes at source, at the same time.⁶⁵ However, no legislation appeared before the end of the government's mandate.

The Environmental Assessment Board delivered its decision on the Class Environmental Assessment for Timber Management on Crown Lands in April 1994. Although it approved the Ministry of Natural Resources' undertaking, and the ministry's overall directions in forest management for the following nine years, the board imposed 115 terms and conditions in its decision. These terms and conditions addressed issues such as the development and approval of timber management plans, public participation in the

forest management planning process, reporting to the public and legislature on forest management at the management unit and provincial level every five years, and protection of non-timber values in forest management.⁶⁶

The province followed the Environmental Assessment Board's decision with the enactment of the 1994 Crown Forest Sustainability Act, replacing the Crown Timber Act and proclaimed in force in April 1995. Reflecting the sustainable development language of the Brundtland report, the new statute broadened the purposes of forest management in Ontario from the maximization of sustainable yield to include the social, economic, and environmental needs of present and future generations.⁶⁷ Sustainability was to be defined through forest management and planning manuals to be developed under the act to include the conservation of large, healthy, and diverse forests and the maintenance of forest health through practices that emulate natural activities and avoid adverse effects.⁶⁸

At the same time, the legislation deepened the tenure of existing timber management licence holders over Crown forests through the introduction of long-term sustainable forest licences. Although based on the theory that long-term tenure provided licence holders with incentives to invest in sustainable forest management, the system also severely limited opportunities to experiment with other forms of tenure, such as community-based forestry, where access to forest resources is controlled by the communities dependent on the industry, as virtually all of the available Crown forests were allocated under the licensing system. The new system also transferred responsibility for most forest management activities to licence holders, removing what had been effectively subsidies to the industry in the form of road construction and other activities undertaken by the province.⁶⁹ The new arrangements responded in part to the softwood lumber trade dispute with the United States, where US producers argued that Canadian lumber imports were underpriced as a result of, among other things, the provision of these sorts of services by provincial governments.⁷⁰

Land-Use Planning

Perhaps the most ambitious environmental initiative of the second half of the Rae government related to land-use planning. The Patricia Starr affair at the late stages of the second Peterson government had highlighted growing concerns over urban sprawl in the GTA and the overall integrity of the land-use planning system. In June 1991, the Commission on Planning and Development Reform was established under the chair of former City of Toronto mayor John Sewell. The commission reported in June 1993,⁷¹ recommending extensive changes to the Planning Act and the development of a complete set of provincial planning statements to guide provincial and municipal decision making under the act. Up to that point, provincial policy

statements, which were intended to provide policy guidance to municipalities, had been developed only in relation to mineral aggregates (1983), flood plain planning (1988), affordable housing (1989), and wetlands in southern Ontario (1992). Food Land Guidelines, intended to preserve prime agricultural lands in southern Ontario, had been approved by cabinet in 1978 but were never adopted as policy under the Planning Act. In terms of policy direction, the commission's recommendations placed a strong emphasis on what would later be termed "smart growth" principles.⁷² The commission's proposed set of provincial policy statements stressed limiting urban sprawl, protecting prime agricultural lands and natural heritage features from urban development, and promoting compact mixed-use urban development that would strengthen the viability of non-automobile-based transportation modes.

The commission also noted that the existing Planning Act had no purposes section and recommended that such a section be added. The language proposed by the commission reflected the sustainable development language of the Brundtland Commission, stating that the purposes of the act should be to foster economic, environmental, cultural, physical, and social well-being; promote the protection and conservation of the environment and natural resources for the benefit of present and future generations; provide for "open, fair, accessible, timely, accountable and efficient" planning processes; and encourage cooperation and coordination among differing interests.⁷³

Following the principle that the province should speak through policy rather than intervening in land-use planning decisions on an ad hoc, case-by-case basis, the commission recommended that planning decisions be required to be consistent with provincial policy. The existing provisions of the Planning Act required only that planning authorities "have regard to" provincial policies. The requirement had been interpreted as merely requiring that a decision-making body could not dismiss the policy statements out of hand but was under no obligation to conform with them.⁷⁴ The commission also made it clear that the requirement for consistency with the policy statements should apply to any body exercising authority that affected planning matters: municipalities; provincial ministries, agencies, boards and commissions; the Ontario Municipal Board, and Ontario Hydro. The minister of municipal affairs and housing would retain the authority to review and approve official plans and official plan amendments of upper-tier municipalities (i.e., counties, regional municipalities and Metropolitan Toronto), while upper-tier municipalities would approve the plans of lower-tier municipalities (i.e., cities and towns).⁷⁵

In addition, responding to the concerns in the GTA that had in part prompted its formation, the commission recommended that all municipalities be required to have official plans,⁷⁶ that documents related to planning decisions be made available to the public at nominal cost, that municipal

council and committee meetings dealing with planning matters be carried out publicly, and that public involvement in decision making be strengthened. The commission also recommended that provision be made for inter-venor funding in Ontario Municipal Board appeals of planning decisions affecting a significant segment of the public and concerning the public rather than just private interests.⁷⁷

Amendments to the Planning Act, largely following the commission's recommendations outlined above, were introduced in May 1994 and adopted in December of that year.⁷⁸ The purposes of the revised act – stated to be the promotion of “sustainable economic development in a healthy natural environment” – were less broad than those suggested by the commission, although a lengthy list of provincial interests, largely reflecting the commission's recommendations, was included.⁷⁹ A comprehensive set of provincial policy statements, reflecting the commission's proposals, was also released in May 1994.⁸⁰ The new policy statements dealing with natural heritage, environmental protection, and hazard lands; economic and community development; housing; agricultural lands; energy and water conservation; waste reducing, reuse, and recycling; mineral aggregates and mineral and petroleum resources; and interpretation and implementation, along with the revisions to the Planning Act, came into force in March 1995. The overall result was interpreted by the government as a significant success, including the apparent buy-in from the development industry and municipalities.

Despite the consideration that the original impetus for the Sewell Commission arose from land-use planning issues in the GTA, the NDP's GTA-specific planning initiatives were more limited.⁸¹ Responsibility for the administration of the Niagara Escarpment Planning and Development Act and the Niagara Escarpment Commission was transferred from the Ministry of Municipal Affairs and Housing to the Ministry of the Environment early in the government's mandate. In addition, technical studies were conducted to follow up on the 1990 Kanter report regarding greenlands in the GTA and the 1992 report of the federally and provincially mandated Royal Commission on the Future of the Toronto Waterfront,⁸² which had also highlighted the importance of the Oak Ridges Moraine to the region's ecology. The moraine was ultimately declared an area of provincial interest, and in 1994 a series of reports on a strategy for the moraine was completed by the Ministries of Natural Resources, Environment, and Municipal Affairs and Housing.⁸³ A task force on the GTA was established in the government's final months in office, although its mandate was focused mostly on regional governance and taxation rather than regional planning *per se*.

The government also decided, in February 1993, despite a decision early in its mandate to terminate provincial funding for the Red Hill Creek Expressway in Hamilton on the grounds that it would destroy the last remaining intact watershed entering Hamilton Harbour, to accelerate the

construction of Highway 407, just north of Metropolitan Toronto, albeit as a self-financing toll road. The project, commenced in 1987, had originally been expected to be completed by 2020. Driven by concerns over the impact of traffic congestion on just-in-time delivery systems in the automobile parts and assembly sectors, and the potential for a major construction project to counter the effects of the recession, the government sought to complete the initial sixty-nine-kilometre section of the highway by 1997. Although some argued that tolls would deter usage and reduce pollution, others within the province's environmental community noted the obvious contradiction between the policy directions on transportation and land-use planning emerging from the Sewell Commission and the construction of a highway that seemed likely to encourage and facilitate automobile-dependent urban sprawl in Durham, York, and Peel Regions. These concerns were reinforced by March 1995 decisions to hasten planning and construction of the highway sixty-two kilometres east to Highway 35/115 and twenty-two kilometres westward to the Queen Elizabeth Way in Burlington.⁸⁴

The Deteriorating Fiscal Context

The process of dealing with the unfinished business of the first half of the government's term, and the outcomes of processes set in motion under the Peterson government, were unfolding in the context of increasing budgetary restraint, beginning in 1992-93 and intensifying in 1993-94. The government's May 1993 budget marked an overall shift in the government's focus toward deficit reduction. In introducing the budget, Finance Minister Floyd Laughren noted that the province was on a path to a \$17 billion deficit and that the government's interest costs were already more than its education expenditures.⁸⁵ An expenditure-control plan was released the month before the budget was tabled, outlining reductions in provincial government spending of \$4 billion. The government proposed a social contract to reduce costs while avoiding the loss of an estimated twenty to forty thousand jobs in the broader public sector; under the contract, workers would accept lower pay in exchange for job security.⁸⁶

The new focus translated into reductions in the Ministry of the Environment's 1992-93 budget of \$82.9 million, \$79.9 million in 1993-94, and an additional \$47.9 million in 1994-95. As is evident in Figure 2.1, these were the most substantial reductions in the agency's budget since its formation, although this was relative to the all-time-high budget of \$774 million in 1991-92.⁸⁷ The budget cuts largely affected grants and financial assistance to municipalities and external research and non-governmental organizations and did not result in significant reductions in ministry staff.⁸⁸

The 1993 budget also introduced a major structural change to the Ministry of the Environment. The ministry's sewer and water operations, a legacy of the Ontario Water Resources Commission, which had provided these systems

to smaller municipalities and operated them, were transferred to a separate agency, the Ontario Clean Water Agency. Responsibility for providing capital grants and financial assistance to municipalities for sewer and water services was also transferred to the agency via the Capital Investment Plan Act that formed part of the 1993 budget implementation legislation.

The rationale for the shift was twofold. First, the arrangement resolved a long-standing apparent conflict with respect to the ministry's role in enforcing environmental standards at facilities that its own staff operated.⁸⁹ Second, the creation of the agency moved capital debts related to sewer and water operations off the government's books and onto those of the agency.⁹⁰ At the same time, the agency would report to the minister of environment and energy operating under a memorandum of understanding with the minister, who was also to be consulted by cabinet in appointing the agency's chair and board of directors. These arrangements were intended to avoid the criticism that had arisen under then treasurer Robert Nixon's 1990 proposal to create just such an entity that it would significantly weaken the institutional status of the Ministry of the Environment.

The Report of the Fair Tax Commission

The government's Fair Tax Commission, established in March 1991, delivered its final report at the end of 1993 into this environment of shifting priorities. The commission, in addition to its overall recommendations for the reform of the taxation system, stated that the province should increase its reliance on tax-related economic instruments for pollution control. Specifically, the commission recommended the introduction of fees on discharges of priority toxic pollutants into the environment; a carbon tax on all fossil fuels consumed in the residential, industrial, commercial, and transportation sectors; and a tax on the use of ozone-depleting substances. The revision of vehicle registration fees to reflect road use and impacts, including mileage and weight, was proposed as well. User fees, reflecting the full costs of providing services, were recommended for sewer and water services and for solid waste collection and disposal. Extensive recommendations were also made for resource taxation, particularly in the forestry and mining sectors, although these proposals were focused on increasing the province's financial return from resource exploitation rather than changing resource development patterns and practices.⁹¹

The commission's recommendations regarding the forest sector were the only part of the report actually implemented, with major changes to the province's system of charges for harvesting Crown forests being introduced in 1994. The softwood lumber dispute with the United States was again a significant factor in the introduction of the new regime. As a result, by the 1995-96 fiscal year, payments to the province for access to Crown forests

began to exceed the province's expenditures on forest management. Under the pre-1994 system, provincial spending on forest management had typically exceeded forestry revenues by a factor of two or three.⁹²

In the context of growing criticism of the government's tax increases to combat the deficit,⁹³ none of the Fair Tax Commission's recommendations for environmental taxation was implemented. The Ministry of Treasury and Economics attempted to implement green tax measures in the first two NDP budgets; both efforts proved controversial. The gas guzzler tax, contained in the May 1991 budget, was suggested by Friends of the Earth and Pollution Probe as a way to discourage the growing trend toward sports utility vehicles and other low-fuel-efficiency cars and trucks. The tax was strongly opposed by the Canadian Auto Workers' Union and the auto industry. A flat tax of \$75 per vehicle and a "sipper rebate" for smaller, more efficient cars was eventually adopted.⁹⁴ Equally controversial was the beer can tax announced as part of the 1992 budget.⁹⁵ The tax was immediately attacked by American beer companies, Alcan, branch-plant canning operations in Ontario, and unions involved with these operations.⁹⁶ The outcomes of these two experiences with environmental taxation convinced officials in the treasury that "green" taxes were a difficult sell, especially during a recession.

In fact, for all of the Ontario round table and Fair Tax Commission's recommendations regarding the integration of economic and environmental strategies, and the introduction of environmental taxes and other economic instruments to facilitate structural economic change in the direction of sustainable development, the government's only real response in terms of these sorts of deeper shifts was a green industry strategy announced in the April 1992 Speech from the Throne. The strategy was intended to promote the development of the environmental services industry in Ontario and provide modest financial support to facilities seeking to change their industrial processes to reduce waste and pollution, and increase their energy and materials efficiency.⁹⁷ The green industry strategy formed one of twenty multi-stakeholder sector development strategies that flowed from the July 1992 Industrial Policy Framework, supported by a \$150 million sectoral partnership fund.

A subsequent *Ontario beyond Tomorrow* project of the Premier's Council on Economic Renewal and the Ontario round table was intended as a follow-up to the round table's original 1992 synthesis report. The *Ontario beyond Tomorrow* study, published in 1995, highlighted the importance of the integration of environmental, social, and economic considerations in decision making. At the same time, reflecting the lack of progress in translating these concepts into action, the report provided little more than broad statements of principle. The study identified a series of targets, including reduced unemployment, an improved state for the province's children, increased adult

literacy, increased family income, income equality, reduced crime rates, and improved air quality, but offered little in terms of practical policy measures to achieve these goals.⁹⁸

Despite the government's substantial record of achievements, including the completion of the MISA program, the adoption of the Environmental Bill of Rights (EBR) and planning reform legislation, and a strategy on waste management that was generally supported in principle by the province's major environmental organizations, in contrast to its behaviour in 1990, the province's environmental movement effectively chose to sit out the 1995 election. The environmental organizations' behaviour, like that of many of the other progressive social movements that had been active in the 1990 election, reflected several factors. There was frustration over the failure to follow through on the more structural reforms recommended by the round table and Fair Tax Commission, as well as concerns over the government's increasing emphasis on voluntary action by industry to achieve environmental goals, as reflected in the provisions of the 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem and the overall lack of new initiatives after Wildman's appointment as environment minister in February 1993. Finally, there was a sense that the government was doomed electorally and that the expenditure of political capital and effort in its defence would be pointless. The government's own decision not to put forward a platform for a second mandate as it entered the election that it called for June 1995 reinforced that view.

Conclusions

The Rae government's environmental record was defined by two distinct periods, coinciding with the tenures of the government's two environment ministers, Ruth Grier and Bud Wildman. Reflecting the combination of the government's initial activist orientation and the high levels of public concern for environmental issues, in addition to carrying over several initiatives from the Peterson era – particularly the completion of the industrial direct-discharge aspect of the MISA program, the work of the Ontario Round Table on Environment and Economy, and the emphasis on environmental law enforcement – Grier's term was marked by a host of new undertakings. These included initiatives related to municipal waste management, the development of an environmental bill of rights, and the establishment of the Commission on Planning and Development Reform.

Wildman's arrival in the portfolio in February 1993 formed part of a wider shift in focus within the government from its initial activist directions to dealing with a growing budget deficit. The change in direction, in combination with a dramatic decline in the public salience of environmental issues in light of the province's economic situation, brought the introduction of

new initiatives to a virtual halt. However, substantial effort was put into completing projects set in motion during the Grier period. By the end of the government's term, the Environmental Bill of Rights had been enacted, along with major revisions to the land-use planning system, and discharge regulations had been put in place for all nine of the industrial sectors covered by the MISA program. Although the NDP backed away from its original proposals to require zero discharge of absorbable organic halides, the MISA pulp and paper regulations, in combination with federal regulations adopted in 1991 under the Fisheries Act and the Canadian Environmental Protection Act, would contribute to what would be one of the great success stories in Canadian environmental policy, leading to major reductions in discharges of both conventional and toxic pollutants from the sector.⁹⁹ The Office of the Environmental Commissioner, created through the EBR, would have a significant impact on the direction of environmental policy over the following decade, and the environmental registry created through the new law would alter the dynamics of public participation in environmental policy making in important ways. The government also dealt with the outcomes of the three major environmental assessments set in motion during the Peterson era, ultimately rejecting the OWMC's proposed hazardous waste disposal facility, adopting major new legislation related to forest management in response to the Environmental Assessment Board's decision on the class environmental assessment of timber management, while Ontario Hydro, faced with collapsing electricity demand as a result of the recession and its own internal crises, withdrew its proposed electricity demand-supply plan. Had they proceeded, the OWMC and Hydro undertakings would have cost Ontario taxpayers millions, if not billions, for projects that likely would have turned out to be white elephants.

On the whole, the extent to which the Rae government maintained a focus on completion of the initiatives it had set in motion during its first two years in office, even with the declining concern for the environment as a top-of-mind issue, the province's economic situation, and the government's own severe fiscal difficulties, is perhaps remarkable. Staffing levels and core operational capacities of the Ministry of the Environment were maintained in the face of substantial overall expenditure reductions. Some obvious gaps remained, particularly the lack of progress on the municipal and indirect-discharge aspects of MISA and the near total absence of activity on air pollution-related issues. Initial commitments around Ontario's response to the climate change issue did emerge during the NDP's term in office, but little concrete action resulted.

At the same time, in the context of the government's overall efforts to engage constructively with a largely hostile business community, the NDP relied heavily on multi-stakeholder processes for the development of the

specific details of its major environmental policy initiatives. The reliance on consensus-based stakeholder bargaining was particularly evident around the development of the EBR, the work of the Ontario Round Table on Environment and Economy, and the sector development strategies that were the centrepiece of the province's industrial strategy. Although seen by the government as essential to establishing the legitimacy of its initiatives with business interests, the approach was a source of frustration among ENGOs, as it effectively handed business interests vetoes over the specifics of the government's main environmental initiatives. The government's increasing enthusiasm for voluntary action by industry, evident in its approaches to climate change and the indirect-discharge aspects of the MISA program – as opposed to the use of more coercive approaches – was a further source of friction in the ENGO community.

The Ontario round table and Fair Tax Commission produced the first serious expressions of the implications of the Brundtland Commission's sustainable development concept for the province. Both also began to explore, for the first time in Ontario, the potential for the use of a wider range of instruments in environmental policy, particularly environmental taxes, with the implication of the need to advance deeper, long-term changes in economic activities. Unfortunately, the advice of the round table and commission was delivered as government's willingness to pursue bold new economic and environmental policies was at an end. Already under assault for the tax increases contained in its first two budgets, and with its competence in economic management constantly under challenge, the government had no tolerance for proposals for additional taxes or visionary initiatives to restructure the economy in the direction of sustainability. By the time the government was adopting its 1994 revisions to the Planning Act, references to sustainable development were being replaced with references to the promotion of "sustainable economic growth."

Brundtland-inspired language did find its way into the purposes sections of some major legislation, notably the EBR and Crown Forest Sustainability Act, but by the second half of the government's mandate, elements of the government's environment policy were being seen as serious political liabilities. The decisions to establish and maintain the IWA process to search for landfill sites in the GTA was particularly damaging. The Rae government's policy of opposition to the Adams Mine proposal was eventually vindicated by the City of Toronto's ultimate rejection of the option on the basis of concerns over long-term financial responsibility for environmental liabilities, principally groundwater contamination, related to the site and the McGuinty government's 2004 adoption of an Adams Mine Lake Act,¹⁰⁰ ruling out the use of the site for waste disposal. But the political cost to the NDP government in GTA ridings and in relations with municipal governments in the region had been enormous.

In practice, the only real manifestation of the integration of the environment into the government's overall economic policy framework was the green industry strategy developed as one of twenty sectoral strategies under the 1992 Industrial Policy Framework. Even there, the strategy was more focused on the development of export markets for environmental services firms in Ontario than greening the Ontario economy. Efforts to enhance competitiveness through improved energy efficiency, supposedly another green pillar of the government's economic strategy, became a major victim of Ontario Hydro's own internal crises.

Despite these shortfalls in implementation, the NDP had gone far further than any previous government in Ontario in its attempts to integrate environmental and economic policy. Unfortunately, all of the Rae government's efforts to redefine the boundaries of the environment-economy relationship, along with the bulk of its more concrete environmental policy achievements, were about to be swept away.

5

The Environment and the Common Sense Revolution

The 1995 election was another watershed in Ontario environmental policy. The arrival of a Progressive Conservative government led by Mike Harris was followed by a major period of retrenchment on the environment, featuring the most significant changes to legislative and institutional infrastructure for environmental and natural resource management in Ontario since its establishment in its modern form under the Robarts and Davis governments.

The Common Sense Revolution and the associated municipal and institutional restructurings that followed the June 1995 election have been described as one of the most significant transformations Ontario has ever experienced. Some have suggested that the only comparable neo-liberal policy revolution in terms of time frame, magnitude, and ideology in the industrialized world is that which took place in New Zealand in the 1980s.¹ Whether such a revolution was necessary to address the province's fiscal situation remains a matter of intense debate among its architects and their opponents.²

The 1995 Election

Liberals, now led by Lyn McLeod, held a strong lead at the beginning of the 1995 election campaign – early polls showed them at 52 percent, with the Tories at 26 percent and the NDP at 17 percent.³ Despite evidence of an economic upturn from 1992 onward, the NDP never recovered from an image of managerial incompetence that tainted its first years in office and the impact of unpopular policies, including the handling of the implementation of employment equity. At the same time, the reversals on long-standing policy commitments, such as the failure to introduce public automobile insurance and allowing casinos into the province, along with the social contract initiatives with respect to public sector workers, cost the government much of its core constituencies in the labour movement and civil society, without establishing new ones.

However, the situation at the beginning of the campaign hid potential weaknesses on the part of the Liberals, who found themselves under a “popular impression [that they] didn’t particularly stand for anything and were waiting to assume power by default as the NDP government self-destructed.”⁴ The NDP, for its part, seemed to have given up any hope of re-election, instead running a “no promises” campaign whose only goal seemed to be survival as a meaningful political force in the province.⁵

The Progressive Conservatives, who had been effectively taken over by a small group of young, committed ideologues in the early 1990s, ran an unexpectedly “brilliantly conceived and expertly conducted”⁶ campaign focused on their May 1994 manifesto entitled *Common Sense Revolution*. The Common Sense Revolution (CSR) document itself has been described as “both an election strategy and a statement of neo-conservative ideology.”⁷ The result on June 8 was a PC majority government, with eighty-two members elected on the basis of 45 percent of the popular vote, facing a Liberal opposition with thirty seats on the basis of 31 percent of the vote. The NDP retained seventeen seats with 21 percent of the vote. At the riding level, many of the seats gained by the PCs in eastern Ontario, the Hamilton-Niagara “old economy” steel triangle, Metropolitan Toronto (or the area code 416 region), and the outer (905) Greater Toronto Area were those that had put the NDP in office in 1990.⁸

Reflecting the decline in the status of the environment as a top-of-mind concern, in contrast to the 1985 and 1990 elections, environmental issues were not central to the campaign, although concerns in the 905 region over the Interim Waste Authority’s GTA landfill site search contributed to the NDP’s losses in these regions. The Progressive Conservatives’ CSR platform made no direct reference to the environment or natural resources at all. During the course of the campaign, the PCs did indicate their intention to repeal a number of the NDP’s environmental initiatives, including the ban on new municipal waste incinerators and the reforms to the land-use planning process flowing from the work of the Sewell Commission. At the same time, the party committed itself to “work with organizations and communities to improve our provincial parks system and work toward the World Wildlife Fund’s Endangered Spaces Campaign goal of completing a system of protected areas by the year 2000.”⁹

The Liberal platform did include a section on environment, although reflecting the platform’s overall “CSR-lite” character, its tone on environmental issues was decidedly contradictory. On the one hand, the platform included commitments to address industrial air pollution, establish a vehicle inspection and maintenance program, pursue an agreement on smog reduction with the United States, implement a groundwater protection strategy, and strengthen monitoring and enforcement.¹⁰ On the other hand, it attacked “environmental regulations based on questionable science” (a veiled

reference to the MISA discharge regulations on the pulp and paper sector); committed to “fix the NDP’s flawed planning legislation,” claiming that the reforms flowing from the Sewell Commission would “make planning decisions more costly and cumbersome”; and promised to “review existing regulations and to eliminate red tape and excessive costs” and to scrap the IWA and reintroduce the options of energy from waste (i.e., waste incineration) and the transportation of municipal waste from the GTA to distant locations (i.e., the Adams Mine in Kirkland Lake) for disposal.¹¹ Gone was the Peterson-era language of environment-economy integration and sustainable development.

The 1995 election would be followed by the most polarized political environment seen in the modern history of the province. The Harris government aggressively pursued an agenda of tax cuts, spending reductions, deregulation – particularly in relation to the environment and natural resource management – and restructurings in the health, education, and municipal sectors, while taking overt pride in its refusal to engage with “special” interests that might criticize or oppose its revolution.¹²

As such, the government’s policy style represented a definitive break with the accommodative balancing of interests that had defined the province’s political culture through the PC dynasty and the Peterson and Rae governments. The CSR’s departure from the norms of Ontario politics was sufficiently dramatic to prompt speculation about whether the revolution represented a permanent shift in the province’s political culture, particularly after the Harris government’s re-election in 1999.¹³

The Harris government’s revolution benefited from the long economic recovery that had begun in 1992. The recovery would continue for more than sixteen years, although behind it the underlying structural shifts from manufacturing to service- and knowledge-based sectors, and increasing concentration of population and economic activity in the urban areas, particularly the 905 regions of Halton, Peel, York, and Durham of the GTA, and Ottawa, and away from rural areas, would continue.

The CSR was overtly hard-right and neo-liberal in its orientation, paralleling in many ways the US Republican Congressional leadership’s Contract with America platform in the 1994 Congressional elections.¹⁴ The new government claimed it did not see itself as the government at all; rather, it described itself as “the people who came here to fix government.”¹⁵ The core emphasis of the Progressive Conservatives’ platform was on reducing the role of government in the economy, grounded in a 30 percent tax cut, a 20 percent cut in “non-priority” (i.e., other than health, education, and law enforcement) spending, a 15 percent cut in the size of the provincial government workforce, and moving to “eliminate all red tape and reduce the regulatory burden,” specifically through a commitment to “appoint an arms length commission on red tape to review all government regulations on

business. Any regulation that can't be justified will be eliminated in the first 12 months of a Harris government taking office."¹⁶

These steps, along with commitments to reductions in payroll taxes, Worker's Compensation Board premiums, labour law "reform," and a five-year hydro rate freeze, constituted the core of the government's economic strategy. The sectorally focused industrial strategy pursued by the NDP was to be abandoned and replaced by an economic strategy focused on tax cuts and removing regulatory "burdens" on economic activity. The discussions of the integration environmental and economic policy that had begun under Peterson and Rae disappeared from the provincial government's policy landscape.

Implementing the Revolution

The new government's September 27, 1995, Throne Speech set the tone for the dramatic changes affecting the environment and natural resources management that would flow from the CSR between 1995 and 1998. The speech highlighted the government's intention to carry through on its platform commitments to cut taxes, reduce provincial government expenditures and transfer payments, initiate a "red-tape review," and, among other things, dismantle the Bill 163 reforms to the Planning Act.¹⁷ In practice, the government's initiatives were structured around three core themes:

- regulatory "reform"
- budgetary and personnel reductions to provincial and local agencies engaged in environmental and natural resources management
- restructuring of provincial-municipal and provincial-private sector relationships in the delivery of infrastructure and the regulatory functions of the provincial government.

Each of these themes existed as a separate policy thrust from the government. Nevertheless, they were closely interrelated and at times mutually reinforcing, although not necessarily by design.

Regulatory Reform

The scope of the changes undertaken to Ontario's environment and natural resources legislation and regulations during the first three years of the CSR was enormous. With the singular exception of the Environmental Bill of Rights (EBR), every significant provincial statute dealing with the environment and natural resources management underwent major amendments between 1995 and 1998.¹⁸ The EBR, which was initially high on the list of legislative programs that could be eliminated by the new government, was preserved largely as a result of interventions by ENGOs and, particularly, industry members of the EBR task force, who along with environmental

commissioner and Ministry of the Environment staff argued that it provided an economical and efficient way to streamline public consultation, and that the political cost of the symbolism of its repeal could be very high.¹⁹

The statutory amendments followed a relatively standardized format. In general, statutory requirements and duties were removed and replaced with authorities for the lieutenant governor in council to make regulations establishing requirements for approvals and virtually any other activity that might fall under the statute; wider discretion was granted to ministers in decision making; opportunities and requirements for public participation in decision making were reduced; and provisions were made for the transfer of governmental functions, including granting of approvals and compliance inspection and enforcement activities, to non-governmental third parties.²⁰

The overall direction of the government's regulatory reform initiatives flowed from the CSR commitment to appoint an arms-length commission on red tape to review all current regulations affecting business and to eliminate any that could not be justified within twelve months of the government taking office. A Red Tape Commission consisting of backbench government MPPs was established in December 1995 to oversee and drive the regulatory reform process, with the goal of reducing compliance costs and administrative burden to businesses and institutions and thereby improving the "competitiveness" and the "business climate for existing and new businesses."²¹

The commission became deeply integrated into the cabinet decision-making process, asking ministers to appear before it to explain policy and legislative proposals before they were submitted to cabinet or its committees.²² The commission maintained a particularly close watch on the Ministry of the Environment, and on occasion attempted to involve itself in the ministry's operational activities, including at one point asking that the ministry's deputy minister halt a prosecution under the Environmental Protection Act.²³

The commission tabled its principal report in January 1997. The document described the province as having a "regulatory problem" that made Ontario less attractive to investment and deterred job creation. There was no acknowledgement of the role of government in protection of public goods or notion of the public as client. Rather, the emphasis was on the need for a cultural change within the Ontario public service in the direction of "customer" (i.e., regulated entity) service. The report argued for a regulatory impact and competitiveness test for new regulations requiring that such regulations must have a neutral or positive impact on competitiveness and incorporate cost-benefit tests.

A Less Paper/More Jobs business impact test for new and existing regulations and legislation had been adopted by cabinet in July 1996. The test required that the benefits of policies outweigh the risks and consequences

of the lack of intervention, that the costs to government and the affected parties not outweigh the benefits, and that all “realistic” alternatives to legislation and regulation by government be explored. The Red Tape Commission’s mandate was extended in June 1997, and in September of that year, the Less Paper/More Jobs Test was replaced with the Regulatory Impact and Competitiveness Test, again requiring the consideration of alternatives to government regulation, including self-management and voluntary codes, and requiring the identification of the costs and benefits of initiatives, their impact on the “administrative burden of regulation,” and their effects on Ontario’s competitiveness.²⁴

Impact on the Ministry of the Environment

Legislative and Regulatory Reform

Criteria for the Ministry of the Environment’s red-tape review were laid out in November 1995. These emphasized the removal of “barriers to growth,” the adoption of “new environmental management approaches,” and “public demands for less government.”²⁵

More specific directions for the review emerged with the introduction of Bill 57, the Environmental Approvals Improvement Act, in June 1996 and the release of a document entitled *Responsive Environmental Protection* the following month. The document set out the rationale for the regulatory review in more detail, again highlighting the removal of barriers to jobs and growth by focusing on the ministry’s “core responsibilities.” These were not defined, although there was an implication that the ministry’s role was to be narrowed to regulating major industrial sources of air and water pollution, as opposed to any wider integration of environmental or sustainable development considerations into overall government policy. Possibilities for the privatization of ministry functions, the devolution of service delivery, and “improved” customer service (where the customer was clearly defined as regulated industries rather than the public) were also highlighted. Second, the review was to “enhance competitive advantage” in response to the increasing mobility of capital and the need for efficiency and flexibility in the ministry’s approach to its mandate. Finally, the review was to encourage “innovation” in environmental protection, particularly the use of economic instruments, voluntary agreements, and environmental management systems.²⁶

Reflecting the government and minister’s views that the electorate wanted “to get government out of its face,”²⁷ *Responsive Environmental Protection* went on to propose changes to virtually every regulation administered by the ministry, with an emphasis on waste management. The latter proposals included the wholesale deregulation of the handling of “recyclable materials,”

including hazardous wastes and the management of "liquid industrial wastes." These directions perhaps confirmed the view of the exercise expressed by the president of the Ontario Waste Management Association to his members: "If you could wave a magic wand what specific regulations and/or regulatory policies would you eliminate?"²⁸

The overall thrust was to move to standardized approvals where specified activities would be deemed to be approved without ministry review, provided that they met specified criteria, and to outright exemptions from approval requirements. Responsibility for approvals related to noise, odours, and dust was to be transferred to municipalities. Other proposals contained in the document included removing the requirement from the MISA regulations that pulp and paper mills plan for zero discharge of absorbable organic halides, reducing overall monitoring and reporting requirements under the MISA program, reducing spill-reporting requirements, and reducing reporting requirements under the Countdown Acid Rain program. On the positive side, the document did propose to complete the MISA program by implementing discharge regulations on municipal sewage treatment plants.

Bill 57, which received royal assent in June 1997, amended the Environmental Protection Act and Ontario Water Resources Act to provide a legislative framework for approval exemptions and standardized approvals. Tellingly, the legislation included a Crown immunity clause preventing lawsuits against the provincial government for any harm arising out of a regulation that exempted a person from a requirement to obtain an approval, licence, or permit under the two acts,²⁹ effectively admitting to the likelihood that individuals would be harmed as a result of standardized approvals and approval exemptions.³⁰ More generally, the legislation provided general authority to the lieutenant governor in council to make regulations regarding virtually any matter under the Environmental Protection Act and Ontario Water Resources Act,³¹ permitting the effective repeal and replacement of provisions of the legislation with whatever cabinet chose to put in place. Other provisions of the bill permitted the delegation of approvals under the Environmental Protection Act to municipalities and dissolved the Environmental Compensation Corporation, created under the 1979 "spills bill," and the Ontario Waste Management Corporation.

In the meantime, the government had adopted major amendments to the Environmental Assessment Act. Bill 76, the Environmental Assessment and Consultation Improvement Act,³² had been introduced in parallel with Bill 57 in June 1996 and was enacted in November of that year. At its core, Bill 76 removed the statutory requirements that environmental assessments include the examination of the need for projects and the availability of alternatives to them. Instead, the legislation provided the minister of the environment with discretionary authority to approve terms of reference

defining the scope of project assessments on a case-by-case basis.³³ The Intervenor Funding Project Act, enacted in 1989, had established a mechanism for the funding of public interest intervenors at environmental assessment hearings and Joint Board hearings under the Consolidated Hearings Act. The legislation, which was strongly disliked by project proponents, was permitted to expire in April 1996.

The *Responsive Environmental Protection* document promoted a storm of protest from the province's environmental movement, which began to be reflected by the legislative opposition and in media coverage.³⁴ In the face of this criticism, the Ministry of the Environment released a second regulatory "reform" document, entitled *Better, Stronger, Clearer (Environmental Regulations for Ontario)* in November 1997. The *Better, Stronger, Clearer* document backed away from a number of the key proposals contained in *Responsive Environmental Protection*, especially those regarding air pollution. However, many of the original proposals, including those on waste management and the MISA program, were retained.³⁵ The first proposals for standardized approvals and approval exemptions appeared on the Environmental Bill of Rights Registry early in 1998. The first approval exemptions came into force in September of that year, exempting a wide range of non-point sources of air pollution from approval requirements.³⁶

The ministry's proposals for waste management, reflecting the directions laid out in *Responsive Environmental Protection* and *Better, Stronger, Clearer*, were released a third time, in the form of a draft regulation in June 1998.³⁷

Land-Use Planning

Although the Ministry of the Environment was one of the most prominent targets of the CSR regulatory review, major changes were also made to legislation affecting land-use planning and natural resources management. Consistent with the party's statements during the 1995 election campaign and the government's September 1995 Throne Speech, legislation was adopted to repeal many of the reforms to the Planning Act adopted in 1994 in response to the recommendations of the Commission on Planning and Development Reform. Bill 20, the Land Use Planning and Protection Act, enacted in March 1996, removed the requirement, added through the NDP's Bill 163, that planning decisions be consistent with the provincial policy statements made under the act.³⁸ At the same time, the new legislation restricted the participation of "public bodies" in planning decisions except where invited by the Ministry of Municipal Affairs and Housing.³⁹ The effect was to constrain the ability of agencies such as the Ministries of the Environment, Natural Resources, and Agriculture, Food and Rural Affairs and conservation authorities to provide separate input into planning decisions. The notion was that the Ministry of Municipal Affairs and Housing

would provide one-window service to developers. Other provisions provided development proponents with automatic rights of appeal to the Ontario Municipal Board where municipal councils failed to deal with applications within set time frames.⁴⁰

At the same time as the adoption of Bill 20, the comprehensive set of provincial policy statements that had come into effect in March 1995 was consolidated into a single document. More importantly, the provisions of the policy statements that were intended to discourage new low-density developments in un-urbanized areas, through the protection of ecologically significant areas and prime agricultural lands, and through requirements for the establishment of infrastructure prior to development, were significantly weakened. The Conservation Policy Statement, which promoted water and energy efficiency, waste reduction and recycling, and the use of public transit, along with references to biodiversity conservation, was entirely deleted from the revised 1996 policy statement. The protections for wetlands, ravine, river and stream corridors, shorelines, and natural corridors were weakened or removed as well.⁴¹

Natural Resources Management

The government's omnibus Bill 26, the Savings and Restructuring Act 1996, was introduced on November 29, 1995, and enacted January 29, 1996,⁴² following extensive procedural battles in the legislature. The bill amended forty-seven existing statutes, including important natural resources management legislation. The controversy around the three-hundred-page omnibus bill resulted in a month of province-wide hearings by the legislative committee considering the bill.⁴³

Amendments to the Public Lands Act and Lakes and Rivers Improvements Act replaced the statutory requirements for approvals for all activities on public lands and "improvements" to lakes and rivers with provisions allowing the lieutenant governor in council to make regulations establishing when approvals would be required. The regulations subsequently adopted in November 1996 required no approvals for a wide range of activities that could have significant environmental effects, including mineral exploration activities and "small-scale" shoreline developments and modifications.⁴⁴ Similar amendments were made through Bill 26 to the Forest Fires Prevention Act regarding permit requirements under that statute, and the regulations adopted under that statute similarly eliminated permit requirements for a wide range of activities involving burning and the accumulation of slash and flammable debris.⁴⁵

Bill 26 also amended the Mining Act to weaken its provisions related to the closure of mines and remediation of abandoned mines, including requirements for Ministry of Northern Development and Mines approval of

mine closure plans and for the posting of realizable financial securities to finance mine closure and remediation in the event of bankruptcy.⁴⁶ The provisions had been introduced into the act by the Peterson government in 1989 and proclaimed in force under the NDP in the aftermath of the 1990 Matachewan mine tailings dam failure.⁴⁷

Separate amendments to the Aggregate Resources and Petroleum Resources Acts adopted in May 1996 established self-monitoring regimes where site inspections, monitoring, and reporting on compliance with licence conditions, along with the management of site rehabilitation funds, would be conducted by the relevant industries rather than by Ministry of Natural Resources staff.⁴⁸ The Farming and Food Production Protection Act, enacted May 1998, expanded the original 1988 “right to farm” legislation adopted under the Peterson government to include restrictions on municipal bylaws affecting “normal farm practices.”

Budget and Personnel Reductions

The second major thrust of the CSR was the implementation of major cuts to the capital and operating budgets of provincial agencies, with environment and natural resources agencies suffering the largest reductions.⁴⁹ There were many reasons for this focus. In part, the government’s commitments not to cut funding for health care and education drove its budgetary focus in the direction of provincial agencies with substantial operational budgets. At the same time, as would become apparent during the Walkerton Inquiry, the government apparently saw the functions of these agencies, especially their regulatory activities, as not being particularly important.⁵⁰ In practice, the announcements of reductions occurred in four major rounds: July 1995, October 1995, November 1995, and April 1996. The first visible victims were advisory bodies, including the Environmental Assessment Advisory Committee, first established by Premier Davis in 1983; the MISA Advisory Committee; the Advisory Committee on Environmental Standards; and the Ontario Round Table on Environment and Economy, all eliminated in September 1995. The Interim Waste Authority, whose waste disposal site search was the target of intense community and municipal anger in the 905 region, and the Ontario Waste Management Corporation were dispensed with at the same time.

As shown in Figure 2.1, relative to the NDP’s final 1994-95 budget, by 1997-98 the Ministry of the Environment’s operating budget had been reduced by 50 percent (from \$286 million to \$142 million).⁵¹ These reductions were on top of the cuts that had been implemented from the 1992-93 budget onward by the NDP, with the result of an estimated loss of 68 percent relative to the all-time high of \$510 million in 1991-92. The ministry’s capital budget fell by nearly 95 percent against the 1994-95 baseline. The reduction

largely reflected the phase-out of assistance to municipalities for sewer and water infrastructure.⁵² The Ministry of Natural Resources, for its part, saw a 15 percent reduction in its operating budget.⁵³

Personnel reductions flowing from the budgetary reductions occurred in two major rounds, the first in May 1996 and the second in January 1997. By the end of March 1998, the Ministry of the Environment's total staff had been reduced by 32 percent (from 2,208 to 1,494) relative to its situation as of March 31, 1995.⁵⁴ The Ministry of Natural Resources saw equally dramatic reductions, with its complement declining by 30 percent (from 6,639 to 4,643) from March 31, 1995, in relation to the same date in 1998.⁵⁵

Restructuring of Roles and Responsibilities

The third core theme of the CSR was a series of restructuring of roles and responsibilities among the provincial government, municipalities, and private sector actors, driven in large part by the budgetary reductions occurring at the provincial level.

The Provincial-Municipal Relationship

The key changes to the provincial-municipal relationship were announced over the course of a so-called megaweek in January 1997. The core of the restructuring was the elimination of provincial funding for "hard" municipally delivered services. The withdrawal of provincial funding from public transit constituted the largest single element of the initiative, with municipalities losing what had been commitments of \$718 million in the 1996-97 fiscal year alone.⁵⁶ The lone survivor of the NDP's ambitious transit plans was the Sheppard subway line in North York, which had the aggressive support of the city's mayor, Mel Lastman. Other services for which provincial funding was to be removed included sewer and water infrastructure, roads and some highways, long-term health care facilities, public health units, and subsidized housing. Education funding was to be removed from municipal property taxes, and municipalities were to assume 50 percent of the cost of funding social assistance.⁵⁷

In addition to withdrawing financial support for capital improvements and operating costs for municipal sewer and water facilities, the province introduced legislation (adopted in May 1997) to facilitate the transfer of sewage and water treatment plants owned and operated by the Ontario Clean Water Agency, amounting to about a quarter of the facilities in the province, to municipal ownership.⁵⁸ The legislation also transferred responsibility for the approval and regulation of most septic systems, long associated with serious environmental and health problems in the province, such as eutrophication of lakes and waterways and bacterial contamination of surface and groundwater, from the Ministry of the Environment to municipalities

or the Ministry of Municipal Affairs and Housing in areas without municipal organization.⁵⁹

Earlier announcements in the fall of 1995 associated with reductions in the Ministry of the Environment's budget had included the withdrawal of funding to municipalities for municipal waste recycling, household hazardous waste collection programs, and rural and urban beach cleanup. Another casualty of the budgetary process in the Ministry of the Environment (encouraged by private-sector labs that wanted to provide the service) was its previously free drinking water-quality testing services for municipalities, abruptly terminated with the closure of the ministry's regional laboratories, on eight weeks' notice, in September 1996.

As well as these explicit announcements, the effective transfer of responsibility for dealing with non-point sources of pollution and "nuisance" emissions (e.g., noise, odour, dust) to municipalities was a central feature of the environment ministry's regulatory reform initiatives, although municipalities were never provided with clear legislative authority to deal with these issues.

Regulatory Partnerships and New Public Management

In addition to the shifts in the provincial-municipal relationship, the combination of budgetary pressures and a policy-level enthusiasm for new approaches to the delivery of government services led to a series of major shifts in the relationships between industry and the provincial agencies that regulated the environmental, natural resources management, and public safety dimensions of its activities. The province's approach to the restructuring of these relationships was strongly influenced by the model for public administration known as "new public management" that had attracted the interest of governments in the United Kingdom, Australia, New Zealand, the United States and, in Canada, the Klein government in Alberta.⁶⁰

These new approaches emphasized the role of government in policy making or broad direction setting ("steering"), whereas the actual implementation of those policy choices ("rowing") could be made the responsibility of organizations somewhere outside the governmental core, or even outside non-governmental and private sector actors. In theory, these models were to provide better public services at lower cost, while at the same time maintaining democratic control and accountability over the content of public policy.

In Ontario, the model took various forms. In the case of the consumer and public safety functions of the Ministry of Consumer and Commercial Relations, dealing with everything from the safe handling of gasoline to the administration of the Upholstered and Stuffed Articles Act, the entire safety and standards division of the ministry, responsible for standards

development, inspections, and enforcement activities was converted into a not-for-profit corporation, the Technical Standards and Safety Authority (TSSA). The TSSA's board of directors was dominated by representatives of the industries it was to regulate.⁶¹

The Ministry of Natural Resources embraced the new public management model with particular enthusiasm, moving all of the natural resource industries whose activities it regulated, including forestry, mineral aggregates and petroleum resources, commercial fisheries, fur, and baitfish, into various forms of partnerships and self-regulation models. Under these models, the individual companies within the sector, or sectoral associations, assumed responsibility for such activities as compliance inspection and data and information gathering and management. In the case of the forestry sector, for example, between 1996 and 1998, two-thirds of the Ministry of Natural Resources' forestry field inspection staff were laid off, replaced with a system under which company employees conducted compliance inspections of their employers' operations and reported any observed violations to the ministry.⁶² Similarly, in the case of mineral aggregates, responsibility for compliance inspection and reporting, operational accountability and management of rehabilitation funds, and policy-related research was transferred to the industry.⁶³

Restructuring in the Electricity Sector

The electricity sector rapidly emerged as a third major focus for the government's restructuring efforts. The CSR platform itself had said little about electricity issues other than to promise a five-year freeze on hydro rates.⁶⁴ In practice, the government embarked on what would be the most extensive restructuring of the electricity sector in Ontario since the creation of the Ontario Hydro-Electric Power Commission in 1906. Strongly influenced by developments in the United Kingdom and at the state and federal levels in the United States,⁶⁵ the government moved to abandon Ontario Hydro's near monopoly on electricity system planning and control of major generating assets and to embrace a market model for the system. Under such models, the long-standing regulated utility structure for electricity systems, in which systems were dominated by large companies that controlled most generating assets and where rates were set by regulatory bodies based on fixed rates of economic return for utilities and their requirements for the financing and operating of large generating assets, was abandoned. Instead, electricity grids were to be treated as common carriers into which anyone could sell electricity, typically through an ongoing bid system where a market operator would call for bids on electricity supply to meet demand and then buy the required supply on the basis of the last bids offered. Crucially, the role of utilities in long-term planning for electricity supply would be removed. Rather, investors would make decisions about where and when electricity-generating facilities

should be built, on the basis of their assessment of the potential market. In theory, the discipline of rational markets would avoid the kind of massive overconstruction of generating assets that had led Ontario Hydro and many US utilities into financial crisis.⁶⁶

William Farlinger, the former chief executive officer of Ernst and Young, who had strong personal ties to the new premier and who had prepared a strongly market-oriented report on the restructuring of Ontario Hydro for then Hydro chair Maurice Strong, was himself appointed as chair of Ontario Hydro in November 1995.⁶⁷ Donald S. Macdonald, a former federal minister of finance, was appointed as chair of an advisory committee on competition in Ontario's electricity system shortly afterward. The committee's report, published in June 1996, recommended the elimination of Ontario Hydro's monopoly on generation and the introduction of a competitive electricity market. The report also recommended the privatization of much of Ontario Hydro's thermal (i.e., coal and oil) and hydroelectric assets, and the consolidation of municipal electric utilities.⁶⁸

The government responded to the committee's report in November 1997 with a White Paper on electricity policy entitled *Direction for Change: Charting a Course for Competitive Electricity and Jobs in Ontario* proposing the creation of competitive wholesale and retail electricity markets by 2000. The White Paper in turn provided the foundation for the Energy Competition Act enacted in October 1998.

The Energy Competition Act divided Ontario Hydro into five separate entities: Ontario Power Generation, which would own the utility's generating assets; Ontario Services Corporation (later renamed Hydro One), to operate the transmission infrastructure; the Independent Market Operator, to operate and administer the wholesale electricity market; Ontario Hydro Financial Corporation, which assumed responsibility for \$22 billion of Ontario Hydro's \$38 billion debt that was "stranded" as a result of the utility's breakup; and an Electrical Safety Authority, modelled on the earlier TSSA, which was to assume Ontario Hydro's regulatory functions with respect to electrical safety. The legislation also expanded the mandate of the Ontario Energy Board to include the licensing of all market participants, the regulation of all monopoly participants, and the protection of the interests of consumers.

Impacts of the CSR on the Environment and Natural Resources Management

The impacts of the CSR reforms on the capacities of provincial agencies to carry out their mandates related to the environment and natural resources management were identified early on within the government. Cabinet submissions associated with reductions from both operational agencies and the Management Board Secretariat highlighted the risks of reduced capacity to ensure compliance, resulting in increased risks to the environment and

human health.⁶⁹ The budgetary and personnel losses were significant drivers of the regulatory reform and partnership initiatives within both the Ministries of Environment and Natural Resources and the reduction and termination of financial support to outside agencies, particularly conservation authorities and municipalities.

Among the most immediate evidence of the loss of capacity was a dramatic decrease in the fines obtained from the pursuit of environmental prosecutions by the Ministry of the Environment, shown in Table 3.1, which plunged from \$3,065,504 in 1995 to \$863,840 in 1998.⁷⁰ The decline was attributed to a combination of factors, including the loss of staff at the ministry's Investigations and Enforcement Branch, and of science support for prosecutions because of staff reductions.⁷¹ In addition to the reduction in capacity to pursue prosecutions, the number of ministry-initiated inspections fell by more than one-third between 1996 and 2000.⁷² Internal Ministry of the Environment policies adopted from August 1997 onward directed operational staff not to respond to public complaints regarding a wide range of environmental problems – from activities related to agriculture and pesticides to drinking water quality and septic systems – or to refer such complaints to other agencies and municipalities.⁷³

The Ministry of Natural Resources, for its part, when faced in February 1998 with a successful legal challenge, led by the Sierra Legal Defence Fund, of its failure to implement terms and conditions of the 1994 decision of the Environmental Assessment Board regarding the Class Environmental Assessment for Timber Management on Crown Lands, argued that the reductions to its budget had made implementation of the decision impossible.⁷⁴ In its decision, the court had described the nature and quality of the ministry's non-compliance with the Class Environmental Assessment decision as "extreme."⁷⁵

Provincial agencies, particularly the Ministry of Environment and Ministry of Natural Resources, along with the Ontario Ministry of Agriculture, Food and Rural Affairs, and the Ministry of Health effectively abandoned their commitments under the 1994 Canada-Ontario Agreement on the Great Lakes Basin Ecosystem, intended to facilitate implementation of the Canada-US Great Lakes Water Quality Agreement. Coordinators for many of the provincially led remedial action plans for Areas of Concern identified under the international agreement were laid off in January 1997, while the Ministry of Natural Resources disbanded its Great Lakes Branch and withdrew from a 1989 agreement with the federal government to enforce the section 35(2) habitat protection provisions of the federal Fisheries Act. A one-time \$5 million initiative to create the Great Lakes Renewal Foundation was announced in the 1998 budget, although, beyond this, responsibility for financing and carrying out implementation of the remedial action plans was effectively left to the federal government and local governments.⁷⁶

The amendments to the Environmental Assessment Act adopted in 1996 had a major impact on the conduct of environmental assessments in the province. Assessments began to be scoped narrowly, and public hearings by the Environmental Assessment Board – a regular feature of the environmental assessment of major projects prior to the adoption of the 1996 amendments – became rare events. The last such hearing occurred in 1998 on the Adams Mine waste disposal proposal. The reduced scope and depth of scrutiny was further reinforced by the government's decision not to renew the Intervenor Funding Project Act after its expiry in April 1996.⁷⁷

Responses to the Revolution

The environmental dimensions of the CSR prompted responses from various sources both inside and outside Ontario.

The Federal Government

The federal government found itself focused on its own “revolutions” and crises through the early stages of the CSR in Ontario. The February 1996 federal Program Review budget included a 30 percent reduction in Environment Canada's operating budget. Among other things, the Program Review exercise had a cascading impact on Great Lakes programs, with the result that only the first year of the 1995 Great Lakes Action Plan announced to fulfill the federal commitments under the 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem was actually funded.⁷⁸ The withdrawal of federal funding was one of the justifications offered by the province for its withdrawal of funding for Great Lakes programs.

At the same time, the federal government strengthened the internal barriers to regulatory initiatives under its own Regulatory Policy. Moreover, shaken by results of the 1995 Quebec referendum, the federal government embarked on an ambitious program of non-constitutional reform of federal-provincial relations. An environmental “harmonization” accord, largely delegating responsibility for environmental assessments other than on federal lands to the provinces and the development of national environmental standards to the Canadian Council of Ministers of the Environment, signed in 1998, was the initial flagship vehicle for the federal effort.⁷⁹

These developments rendered major federal initiatives in Ontario to counteract the environmental effects of the revolution virtually impossible. Federal environment minister Sergio Marchi did openly criticize the province's behaviour in August 1996,⁸⁰ although given that the state of affairs at the federal level was hardly much better, no substantive action followed with respect to Ontario.

Environment Canada's Ontario Region undertook a number of small-scale and short-term patch jobs to sustain Remedial Action Plan initiatives in the Areas of Concern identified in the 1987 amendments to the Canada-US

Great Lakes Water Quality Agreement.⁸¹ More broadly, the Department of Fisheries and Oceans took steps to re-establish its field capacity in Ontario to administer and enforce the habitat protection provisions of the federal Fisheries Act after the Ministry of Natural Resources' unilateral withdrawal from the 1989 agreement with the federal department regarding this function.⁸² However, these measures represented the extent of the federal government's direct responses to Ontario's revolution.

The Legislative Opposition in Ontario

Following the 1995 election, Marilyn Churley, the former minister of consumer and commercial relations, was appointed NDP environment critic. Churley was an aggressive and high-profile critic of the environmental dimensions of the revolution from the outset.

The response from the Liberal opposition was initially slower, as, among other things, it required a reversal of the CSR-lite tone of their 1995 election platform.⁸³ Recognition of the potential of the environment as a wedge issue on which government was vulnerable came later. Liberal environment critic Dominic Agostino, in particular, emerged as a very effective critic after the July 1997 Plastimet fire in Hamilton.

Institutional Responses

An important dimension of the responses to the CSR came from institutions that had been established or had their environmental mandates enhanced in previous rounds of high levels of public interest in the environment. Among the most notable contributors in this regard were the International Joint Commission, which had been provided with a mandate to provide biennial reports on Canada and the United States' progress on the restoration and protection of the Great Lakes under the Great Lakes Water Quality Agreement of 1972, and the newly established Office of the Environmental Commissioner of Ontario, created through the province's 1993 Environmental Bill of Rights.

The International Joint Commission on the Great Lakes

The International Joint Commission expressed serious concerns over the impact of budgetary reductions and other initiatives in Ontario related to the Great Lakes programs and their implications for Ontario's ability to fulfill its obligations under the 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem in its 1996 eighth and 1998 ninth biennial reports under the Canada-US Great Lakes Water Quality Agreement.⁸⁴ The commission noted that Ontario's actions were taking place in the context of overall reductions at federal levels in Canada and the United States, particularly as a result of the 1996 Canadian federal Program Review budget and

the Contract with America initiatives flowing from the Republican successes in the 1994 US mid-term elections, and that, as a result, “the ability of governments at all levels to deliver, however, is being stressed, and programs to restore and protect the Great Lakes have drastically slowed or halted.”⁸⁵

Environmental Commissioner of Ontario

The environmental commissioner of Ontario issued four annual reports and two special reports over the course of the first mandate of the Harris government. The commissioner emerged as the most consistent institutional critic of the environmental dimensions of the CSR. The commissioner’s reports reflected several common themes regarding the government’s adherence to the requirements of the Environmental Bill of Rights (EBR). These themes included:

- Failures of ministries to post environmentally significant decisions on the environmental registry, as required under the EBR.
- Failures of ministries to provide adequate time, information, and opportunity for comment on the proposed decisions that were posted.
- Failures of ministries to assess and report on the potential environmental effects of proposed initiatives or their consistency with ministry Statements of Environmental Values, as required by the EBR.

The tabling of the reports was accompanied by increasingly stark statements from the commissioner, Eva Ligeti, about the government’s adherence to the requirements of the EBR and its overall environmental performance:

[The] ministries demonstrated an alarming lack of environmental vision in 1996 ...

I am concerned that these changes undermine the principles of accountability and public consultation established by the EBR ...

I saw very little commitment to environmental monitoring and reporting.
– April 22, 1997 (tabling the *1996 Annual Report*)⁸⁶

I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment.
– April 29, 1998 (tabling the *1997 Annual Report*)⁸⁷

The Government of Ontario needs to shift its focus from providing regulatory relief to industry to protecting the environment and human health.
(*1997 Annual Report*)⁸⁸

The Government of Ontario has redefined its role in relation to environmental protection, [resulting in] the decline of Ontario's capacity to protect the environment

...

evidence of deterioration of the province's environmental protection standards is widespread. (*1998 Annual Report*)⁸⁹

Provincial Auditor

The Ministry of the Environment's performance was prominently featured in the provincial auditor's 1996, 1997, and 1998 annual reports as part of the office's regular audit activities. The 1996 report highlighted gaps in the province's hazardous waste and well information systems, outdated standards for hazardous air pollutants, and failures to monitor groundwater quality; the 1997 report, weaknesses in the province's municipal waste recycling programs and the failure to monitor compliance with environmental assessment decision terms and conditions; and the 1998 report noted the continuing lack of progress on revising the province's standards for hazardous air pollutants.⁹⁰

Municipalities and Restructuring

The government was pointed in its rejection of municipal objections to the involuntary amalgamations that it imposed on many municipalities, most prominently creating a new City of Toronto out of the six low-tier and one upper-tier municipal governments forming Metropolitan Toronto in January 1998. The "who does what" proposals initially announced during the megaweek of January 1997 also met with considerable municipal resistance. Here, given that the objections extended across the province, the Harris government showed more flexibility. In response to municipal concerns over the downloading of responsibility for operating and maintaining provincially owned sewer and water treatment facilities, for example, a one-time \$200 million water protection fund was provided through the May 1997 provincial budget.

The Ontario ENGO Community

The response of the ENGOs to the arrival of the CSR was remarkably mixed, particularly in light of the strength of the criticisms levelled by the institutional actors involved, particularly the Environmental Commissioner of Ontario, at the government's environmental performance.

Some organizations engaged in relatively open and active opposition to the province's direction. The Canadian Institute for Environmental Law and Policy, Canadian Environmental Law Association, and Sierra Legal Defence Fund were especially prominent in this regard, commenting in the media

and through more formal mechanisms such as the EBR registry process and hearings before legislative committees on CSR-inspired legislation. The Ontario Environmental Protection Working Group emerged as a vehicle for more media-oriented public criticism, producing two major reports on the government's performance. These reports garnered considerable media attention and did much to cement the government's poor reputation on environmental matters by the spring of 1997.⁹¹

The Canadian Institute for Environmental Law and Policy, for its part, published a series of detailed annual reports on the impact of the CSR on the environment and natural resources management in Ontario. The Sierra Legal Defence Fund, which had established a office in Toronto in the early 1990s,⁹² published a series of policy studies, particularly on forest management, and engaged in successful litigation on behalf of several other organizations, most notably regarding the Ministry of Natural Resources' failure to implement the terms and conditions of the Environmental Assessment Board's approval of the Class Environmental Assessment for Timber Management on Crown Lands.

Other organizations, notably Pollution Probe, were decidedly lower key in their response to the CSR, and in fact made considerable efforts to engage with the provincial government at a political level through quiet diplomacy. Others still, as will be seen, came to regard the revolution as an opportunity to advance particular interests and agendas, especially as the criticism of the government's overall environmental record from various institutional and non-governmental sources intensified in the run-up to the 1999 provincial election.

External Events and Criticism

One of the features of the second half of the first Harris government was the emergence of a series of reports from independent institutional actors, in addition to the International Joint Commission and the Environmental Commissioner of Ontario, that significantly damaged the government's reputation on environmental matters. The first *Taking Stock* report from the North American Commission for Environmental Cooperation, the trinational body established under the 1994 North American Free Trade Agreement in response to concerns over the potential environmental effects of the agreement, was published in July 1997. The report combined data from Canada's National Pollutant Release Inventory and the US Toxics Release Inventory to rank individual facilities and subnational jurisdictions in terms of their releases into the environment and transfers to disposal of pollutants. The 1997 report, based on 1994 data, ranked Ontario as the third-largest source of releases and transfers of pollutants in Canada and the United States, exceeded only by Texas and Louisiana.⁹³ The Liberal and New Democratic environment critics were quick to pounce on the province's bronze-medal



Figure 5.1 Political cartoon, “Emitus Toomuchus Pollutus,” published in response to Ontario’s third-place ranking as a source of releases and transfers of pollutants in Canada and the United States, in the first North American Commission for Environmental Cooperation *Taking Stock* report.
Source: Patrick Corrigan, *Toronto Star*, July 30, 1997.

status in the “pollution Olympics” as evidence of the environmental consequences of the revolution. More broadly, the report prompted widespread media criticism of the environmental performance of the federal and Ontario governments.⁹⁴

Waste Management

A report of the Office of the Fire Marshal in the aftermath of a major July 1997 fire at a plastics recycling facility in downtown Hamilton raised serious questions about the adequacy of the province’s existing regulatory framework for waste recycling and handling facilities.⁹⁵ The report had obvious implications for the government’s proposals for an aggressive deregulation of the

sector and led to suggestions that if the province proceeded with its November 1997 *Better, Stronger, Clearer* proposal, "more Plastimets would lie ahead."⁹⁶ A February 1998 study by the Canadian Institute for Environmental Law and Policy noted a rapid acceleration of imports of hazardous wastes for disposal into Ontario from the United States from the mid-1990s onward.⁹⁷ Imports increased from 52,510 tonnes in 1991 to 325,000 tonnes in 1999, with a rapid acceleration occurring after 1993. The rise occurred in the context of the adoption of more stringent hazardous waste disposal standards in the United States, leading to the suggestion that the province was emerging as a pollution haven.⁹⁸

Ontario Hydro

Ontario Hydro emerged as another source of questions about the government's handling of environmental issues. First, in May 1997, it was revealed that the utility's Pickering Nuclear Generating Station had released over 1,000 tonnes of copper and zinc into Lake Ontario. The discharges arose from the scouring of brass condenser tubes in the plant's heat exchanger systems. Subsequent investigations revealed that Ontario Hydro staff had been aware of the problem since at least 1981 and that similar problems existed at five other facilities. The discharges had not been reported to the Ministry of the Environment until May 1996, although the problem was well known to nuclear regulators in North America and Europe.⁹⁹ An investigation was conducted in response to a series of requests for investigations filed by a coalition of environmental groups and the Town of Pickering under the Environmental Bill of Rights, but the ministry decided not to lay charges against Ontario Hydro.¹⁰⁰

Even more serious problems emerged at Ontario Hydro a few months later. In July 1997, an external review raised major concerns regarding the maintenance and safety of Ontario's nuclear power plants.¹⁰¹ In response, Ontario Hydro adopted a Nuclear Asset Optimization Plan (NAOP). Under the plan, seven of the utility's twenty power reactors were taken out of service for repair and overhaul.¹⁰² Investments of between \$5 billion and \$8 billion over four years in the refurbishment of the laid-up reactors were announced.¹⁰³

As part of the NAOP, Ontario Hydro indicated its intention to rely on its coal-fired generating facilities (Lakeview [Mississauga], Nanticoke, Lambton, Thunder Bay, and Atikokan) to replace the power supplies lost as a result of the taking out of service of the seven nuclear units. This led to major increases in emissions of smog and acid rain precursors, heavy metals, and greenhouse gases from these facilities. As shown in Table 5.1, between 1995 and 2001, their greenhouse gas emissions increased by a factor of 2.3, and emissions of the smog and acid rain precursors sulphur dioxide and nitrogen oxide had doubled and increased by a factor of 1.7 respectively.¹⁰⁴

Table 5.1

Data compiled by the Ontario Clean Air Alliance showing electricity generation and emissions of Ontario Power Generation's coal plants, 1995-2001.

	Electricity generation [Gwh]	Greenhouse gasses [tonnes]	Sulphur dioxide [tonnes]	Nitrogen oxides (NO) [tonnes]
1995	16,699	15,400,000	74,100	28,200
1996	18,915	17,900,000	84,500	35,100
1997	24,523	22,430,000	123,150	42,770
1998	33,275	29,800,000	140,810	54,320
1999	34,068	30,530,000	140,580	49,240
2000	41,446	37,640,000	163,510	49,450
2001	37,185	35,090,000	147,090	42,170

1 Gwh = 1,000,000 kilowatt-hours

Source: J. Gibbons and R.M. Singh, *Countdown Coal: How Ontario Can Improve Air Quality by Phasing Out Coal-Fired Electricity Generation* (Toronto: Ontario Clean Air Alliance, February 2003), Appendix C, 19. Original table and its sources can be found at <http://www.cleanairalliance.org/>.

Emergence of the Smog Issue

The large increases in emissions associated with the NAOP occurred as the issue of the health impacts of the smog episodes happening with increasing regularity in southern Ontario became a major public concern. The situation led to a series of high-profile interventions by health professionals. A major report released by the Ontario Medical Association in May 1998 characterized the smog situation as posing a "serious health risk to the people of Ontario."¹⁰⁵ The report, which represented the first major action by the association on an environmental issue since the late 1960s,¹⁰⁶ was critical of the likely impacts of the NAOP on air quality and more generally of the province's performance on air-quality issues. On the basis of the emergence of a better scientific understanding of the health effects of air pollutants, the report recommended that the province take action, given the introduction of an electricity market in Ontario, to ensure major reductions in emissions of sulphur dioxide and nitrogen oxide, particularly from the electricity sector; adopt emission standards similar to those in force in California for light- and heavy-duty vehicles; ensure reductions in emissions from off-road engines; require reductions in sulphur levels in gasoline and diesel fuel sold in Ontario; and develop a public transit strategy for the Greater Toronto Area.¹⁰⁷ Subsequent reports by local medical officers of health further emphasized the health impacts of poor air quality in the province.¹⁰⁸

The emergence of the smog issue began to draw federal attention to the situation in Ontario. Regulations were adopted under the Canadian Environmental Protection Act in June 1999 requiring a 90 percent reduction

in sulphur levels in gasoline by 2005. The Ontario government had objected to the new rules because of concerns over their impact on the province's petroleum refiners.¹⁰⁹

The federal government also initiated discussions with the US federal government to develop an ozone annex to the 1991 Canada-US Air Quality Agreement. The agreement was eventually signed in October 2000. Its provisions included a cap on nitrogen oxide emissions from coal-fired power stations in central and southern Ontario, opening the possibility of direct federal regulation of these facilities if the province did not take steps to reduce their emissions on its own.¹¹⁰

In addition to the environmental and health merits of these initiatives, the Liberal federal government clearly saw potential political advantage in the vulnerability of the Harris government on the air-quality issue. The initiatives offered the federal Liberals an opportunity to help their provincial counterparts in the run-up to the 1999 provincial election by highlighting the failures of the Progressive Conservative provincial government on the smog issue. The moves also positioned the federal Liberals to effectively run against the provincial Progressive Conservative government in Ontario on environmental issues in the lead-up to the 2000 federal election.

The combination of the emergence of the smog issue and implementation of the NAOP led to the establishment of what would become one of the province's most effective and influential ENGOs – the Ontario Clean Air Alliance. The alliance was founded in 1997 as a project of the Canadian Institute for Environmental Law and Policy.¹¹¹ The alliance initially focused on the establishment of emission caps for greenhouse gases, nitrogen oxides, and sulphur dioxide for the electricity sector in the context of concerns about the potential growth of these emissions associated with the introduction of competitive electricity markets in Ontario.¹¹² The alliance rapidly assembled a remarkably diverse constituency of supporters, including municipalities, private sector companies, unions, health professions and associations, and other environmental organizations.

The Governmental Response

Despite its apparent lack of interest in environmental issues, the government recognized its potential vulnerability in the area relatively early in its mandate. The government's first minister of environment and energy, rookie MPP Brenda Elliott, was replaced by Norm Sterling in August 1996. Sterling, who had been first elected to the legislature in 1977, had served during the Harris government's first year in office as minister of consumer and commercial relations. The appointment of a veteran member of the government caucus reflected the need to be able to respond more effectively both in the legislature and the media to the level of attention being paid to the government's environmental performance. The government's increasing concern

about its vulnerability on the environment was reflected in the premier's remark on Sterling's appointment: "We want to send an important message to Ontarians that protecting the environment for future generations ranks equally with us as the fiscal situation for future generations."¹¹³

However, the appointment did not bring about an immediate improvement in relations between the government and its environmental critics. In a letter in response to a March 1997 request from the Ontario Environmental Protection Working Group that the Ministry of the Environment commit itself to delivering regular state-of-the-environment reports so that the government's claims that its actions were not having a negative effect on the environment could be validated, the minister stated that such a report would be a "waste of taxpayers' money."¹¹⁴

The growing public concern over air-quality issues in southern Ontario, particularly with the interventions by the Ontario Medical Association and other health professionals, could not be dismissed as easily. From the fall of 1996 onward, air quality was consistently identified by the minister and the premier as the government's leading environmental priority.¹¹⁵

A preliminary discussion paper on a smog plan had been released in June 1996, stating that the province was committed to the goals of a 45 percent reduction in emissions of nitrogen oxides and volatile organic compounds (VOCs), the principle smog precursors.¹¹⁶ Operationalizing these directions proved difficult. An Ontario Smog Plan was released in January 1998, reaffirming the 45 percent reduction target for nitrogen oxides and VOCs by 2015 but was widely criticized as inadequate. In her April 1998 report, the environmental commissioner noted that the plan identified only how half of the proposed emission reductions were to be achieved, lacked clear funding priorities, contained no provisions for updating existing approvals, and had no plan to improve public transit, and that its effects were likely to be undermined by other government initiatives, like highway expansions.¹¹⁷ The commissioner noted that

in fact, MoE's [the Ministry of the Environment's] own emission projections, which factor in future economic growth, show that even if all existing and proposed pollution control activities are carried out over the next 18 years, Ontario's overall air quality is likely to be somewhat worse in 2015 than it is today.¹¹⁸

Environmental and public health organizations, for their part, criticized the plan for its slow time lines, reliance on voluntary action by industry, and lack of monitoring and reporting mechanisms.¹¹⁹

Progress on other aspects of the province's efforts to improve air quality was painfully slow. A program to revise the Ministry of Environment and Energy's standards for air, water, and soil contaminants was announced in

October 1996.¹²⁰ Hazardous air pollutants were identified as a priority dimension of this effort, as had been noted by the provincial auditor in his 1996 report, and the province's current standards were widely recognized as being out of date and inadequate.¹²¹ Yet, by the end of the government's first term, revised standards had been adopted for only nine pollutants, and in most cases the improvements over existing standards were marginal. Some of the most dramatic changes proposed, largely related to heavy metals, were dropped altogether.¹²² There were a few other minor signs of progress: revised summer gasoline volatility limits were adopted in February 1997; an interim Acceptable Ambient Air Quality Criteria for PM₁₀ was adopted in November 1997; and an interim ban on the approval of new waste oil-burning space heaters adopted in March 1998.

A Drive Clean vehicle inspection and maintenance program, under which vehicle licence renewals would be conditional on the applicant's vehicle passing an emissions test to ensure that its pollution-control equipment was working properly, was first announced in August 1997 and subsequently emerged as the government's flagship air-quality initiative in the run-up to the 1999 provincial election. The program was to begin by the summer of 1998. In practice, it did not become operational until April 1, 1999; was initially limited to the Greater Toronto Area and the Hamilton-Wentworth Region; and did not apply to heavy trucks and buses. The program's design and likely effectiveness was subject to considerable criticism, particularly from the environmental commissioner.¹²³

Throughout his term as minister, Sterling found himself in the unpleasant position of being the public and legislative face and defender of his government's environmental performance, while facing considerable internal resistance, particularly from the Red Tape Commission, to his efforts to advance new standards and requirements related to air quality. At the same time, as he made clear in his testimony to the Walkerton Inquiry, Sterling did resist the commission's attempts to move the ministry's overall regulatory review forward, even in areas where events had made it painfully obvious that many of the original *Responsive Environmental Protection* proposals were profoundly ill-advised.¹²⁴ On occasion, the minister managed to fight off demands for additional cuts to the ministry's budget as well.¹²⁵ At the same time, Sterling suffered major defeats in other areas, especially the loss of responsibility for the Niagara Escarpment Commission to the Ministry of Natural Resources in March 1997, and at one point was publicly criticized by the premier for the lack of progress on the Drive Clean program.¹²⁶

Despite his efforts to make some progress on air-quality issues and his apparent willingness to defend his ministry's interests within the government, Sterling was never able to establish, either directly or even tacitly, an effective working relationship with the bulk of the province's organized environmental community. Rather than adopting the approach of previous

ministers, Sterling saw criticism of the government's environmental efforts from environmental organizations and other sources as an annoyance and ENGOs as enemies, publicly labelling them "professional malcontents"¹²⁷ and "liars."¹²⁸ This contrasted sharply with the approach of his Liberal, NDP, and even PC predecessors, who had on occasion regarded criticisms of the province's environmental performance as opportunities to exploit the resulting need to respond with new policy proposals.

The Run-up to the 1999 Election

Despite overall efforts to soften its image from mid-1998 onward, the government found itself consistently trailing the Liberals in public opinion polls. In the spring of 1999, the government's overall environmental reputation had been severely damaged by combined efforts of ENGOs and most importantly the health professions; the conclusions contained in regular reports of institutional actors like the provincial auditor, the Environmental Commissioner of Ontario, and the International Joint Commission; events like the Plastimet fire; environmental issues at Ontario Hydro; the province's emerging reputation as a pollution haven, flowing from dramatic increases in imports of hazardous waste and rankings in the North American Commission for Environmental Cooperation's *Taking Stock* reports; and the sustained opposition party focus on the government's environmental record. Pre-election polling indicated that the Progressive Conservatives were expected to do the worst job among the three major parties of protecting the environment.¹²⁹

Detailed public opinion polling had shown little public enthusiasm for weakening environmental laws and regulations, even at the height of the revolution in early 1996 but, instead, strong support for making laws and regulations stricter.¹³⁰ As shown in Figure 1.3, polling results indicated the beginnings of a re-emergence of public concern for the environment from the nadir of 1997, with a strong emphasis on air-quality issues,¹³¹ suggesting the possibility that the issue could be a liability for the government, which was expected to call an election for the fourth anniversary of its June 1995 election.

The launch of the Drive Clean program provided high-profile if controversial evidence of the government's willingness to respond to public concern over environmental issues. However, the government's biggest pre-election boost to its environmental reputation would come from somewhere else – surprisingly, the ENGO community itself.

Lands for Life

On March 29, 1999, the government announced its response to the recommendations of the Lands for Life regional round table reports under the banner of "Ontario's Living Legacy." The Lands for Life process had been

established in April 1997 to determine the future uses of public lands in central and northern Ontario, an area encompassing 47 percent of the province's land area. The government stated its intention to protect 12 percent of the lands in the planning area from development, a significant increase over existing levels and the October 1998 recommendations of the round tables.¹³² The announcement was hailed as a significant victory for the conservation-oriented ENGOs, particularly WWF-Canada, the Wildlands League, and the Federation of Ontario Naturalists, which had participated in the process under the umbrella of the Partnership for Public Lands. Regarding the outcome as the completion of the WWF-Canada's Endangered Spaces campaign in Ontario, the organization's president, Monte Hummel, stated that "this is truly a historic day in this province. This province has made an unprecedented contribution to conservation on a global scale."¹³³ In completing – in the WWF-Canada's view – the Endangered Spaces initiative, the government fulfilled the one environmental commitment contained in the original CSR platform.

Although the outcome represented significant gains in the extent of protected areas in Ontario, perhaps far beyond what might have been achieved had the Partnership for Public Lands not chosen to legitimate the process through its participation, it was not without flaws. There were numerous concessions to the forestry and mining industries, including a statement, apparently without the concurrence of the Ministry of Natural Resources, by the Ministry of Northern Development and Mines that existing mineral tenure in new parks and protected areas would be maintained, prospecting and exploration permitted in these areas, and land "borrowed" from parks for mining purposes if significant mineral deposits were found.¹³⁴ There were also commitments to no long-term reductions in wood supply or increases in costs, and that any further expansions of parks and protected areas would be by "mutual agreement" of the Partnership for Public Lands and the forestry and mining industries.¹³⁵ By July 1999, WWF-Canada president Hummel would find himself denying accusations in the media that he had been "played for a sucker" on the mining issue.¹³⁶

The Lands for Life announcements exposed profound divisions within the province's ENGO community, particularly between organizations involved in biodiversity and wilderness conservation issues, such as those forming the Partnership for Public Lands, and those traditionally more involved in pollution and environmental protection issues, and broader governance questions, typified by the Canadian Environmental Law Association (CELA) and the Canadian Institute for Environmental Law and Policy (CIELAP), which had been at the forefront of the condemnation of the CSR's impacts. The latter types of organizations levelled considerable criticism at the details of the Living Legacy initiative.¹³⁷ However, the larger issue was the damage done to the efforts of those organizations that had

been openly critical of the environmental dimensions of the revolution to ensure that the government's environmental record was a major issue in the upcoming election.

Subsequent media commentary and reports described the Living Legacy announcement as "a major political coup for the government, giving it the ability to argue in the coming election that it has made a significant step in protecting wildlife and the environment."¹³⁸ In fact, despite considerable efforts at grassroots organizing among environmental organizations, and the development of a detailed and well-integrated package of policy proposals,¹³⁹ the environment was virtually invisible in the 1999 election. Rather, the Living Legacy announcement meant that "a significant campaign problem for Harris – his government's appalling record on the environment – promptly vanished."¹⁴⁰

Conclusions

If the quiet revolution of the Peterson minority government demonstrated the potential results for environmental policy of a combination of an activist government and high public salience of environmental issues, the Common Sense Revolution that followed the 1995 election illustrated the consequences of a combination of a neo-liberal-oriented government and low public salience of environmental concerns. The revolution set in motion the most significant changes to Ontario's legislative and institutional framework for the management of natural resources and the environment since the time of its basic formation during the PC dynasty of Frost, Robarts, and Davis. The period was marked by a total abandonment of the considerations of the sustainable development concept for the province set in motion by Peterson and Rae. In fact, the Ontario Round Table on Environment and Economy was one of the first victims of the new government's budgetary axe. The new government regarded protection of the environment as a low priority, where significant budget cuts could be made without serious risks or, in the context of the low public salience of environmental issues, political consequences. More broadly, environmental considerations were almost completely overlooked in the government's restructuring of the electricity sector, the land-use planning process, and the provincial-municipal relationship, until events, largely following the 1999 election, compelled their consideration. The efforts of the Peterson and Rae governments to grapple with the structural changes affecting the province's economy were similarly abandoned and replaced with a simplified economic strategy of tax cuts and deregulation.

In contrast to the Peterson and Rae periods, which had witnessed a substantial growth in the Ministry of the Environment's power and influence within the provincial government, the ministry's shrinking budget under Harris was matched with a radical narrowing of its mandate and activities.

The ministry's cross-sectoral influence, exercised through the environmental assessment and land-use planning processes, was almost completely curtailed. Instead, the agency's focus was narrowed to industrial-point source pollution. There were more or less explicit decisions to abandon oversight of non-point sources of air and water pollution, despite their contributions to the province's growing smog problem and potential threats to drinking water supplies respectively.

Although first the NDP and eventually the Liberals emerged as strong critics of the revolution's environmental directions, the reaction from parts of the province's ENGO community was surprisingly mixed. Some organizations, particularly CELA, CIELAP, and the Sierra Legal Defence Fund, were at the forefront of the revolution's critics, but others were more equivocal. In this context, the extent to which concern for the environment had been institutionalized outside the executive branch of the provincial government during the first two modern waves of public concern for the environment became an important factor. The newly established Office of the Environmental Commissioner, along with the provincial auditor and even international bodies like the International Joint Commission and the Commission for Environmental Cooperation, would emerge as important automatic stabilizers, consistently drawing media and public attention to the province's environmental performance despite low public salience of the issue.

The increasingly strong interventions in environmental issues by the health professions, led by the Ontario Medical Association, further complicated the scene, playing a major role in the emergence of air quality as the leading environmental concern in the province, and in compelling the government to provide some sort of response to the issue. The newly established notice and comment requirements of the Environmental Bill of Rights, the one significant piece of environmental legislation to survive the revolution without major amendment, also emerged as critically important. The legislation required a degree of transparency in the government's actions that would not have otherwise been provided.

The ENGO community and institutional actors would do substantial damage to the government's reputation on environmental matters, ultimately preventing adoption of most of the regulatory "reforms" proposed in *Responsive Environmental Protection* and its successor documents with respect to the environment ministry's air, water quality, and waste management mandates. At the same time, the government demonstrated considerable political skill in managing its critics, particularly through the Lands for Life initiative just prior to the 1999 election and the manoeuvrings to accommodate municipalities over the "who does what" exercise.

In practice, many of the policy outcomes that the revolution produced in the environment and natural resources areas seemed to focus at least as much on responding to traditional economic interests, particularly in the

resource and land-development sectors, as on ideology. The resulting key beneficiaries, low-technology industries with very limited export potential – aggregates, waste management, and rural land developers – seemed at odds with the notion of a “leading edge, high-tech, value-adding economy” that had been the goal of the Davis, Peterson, and Rae governments.¹⁴¹

In political terms, although the Harris government would be re-elected in 1999, the government’s inability to transition from the revolutionary mode that defined its first two years in office to one of more normal administration would ultimately prove fatal. Once the initial phase of the revolution was over, the government found itself with no defined agenda of its own, and increasingly overtaken by external events and the consequences of its revolutionary activities.

6

From Walkerton to McGuinty

Although it would begin looking like a continuation of a somewhat moderated version of the Common Sense Revolution as laid out in the Progressive Conservatives' 1999 *Blueprint* election platform, the period following the government's re-election would turn out to be a crucially important transitional period in Ontario politics in general and environmental politics and policy in particular.

The revolution would be brought to an abrupt halt by the twin events first of the May 2000 Walkerton drinking water-contamination disaster and then of the unexpected resignation of Mike Harris as premier in October 2001. A government that thought it had disengaged itself from a host of issues would find itself instead compelled to undertake major initiatives it had never contemplated, in areas ranging from drinking water safety to land-use planning to the management of the electricity sector. In doing so, the Progressive Conservatives laid the groundwork for the more deliberately active agenda of the Liberal government led by Dalton McGuinty that would succeed them in 2003.

These events unfolded in the context of the continued long boom that followed the recession of the early 1990s. The good economic times helped the government's political fortunes in the 1999 election. The province experienced an economic slowdown in 2001 and unemployment increased slightly, with the automobile and telecommunications-equipment manufacturing sectors being specifically affected. The decline was largely a function of global economic conditions, especially falling demand in Asia and the effects of the 9/11 terrorist attacks in the United States. The province's economy began to recover from 2002 onward.¹

The period was also marked by the re-emergence of public concern for the environment. Even before the Walkerton disaster, the environment had begun to move up among the public policy issues of concern to Ontario residents. There was strong interest around air-quality issues, driven not

only by the rising number of smog days during the summer but also by the high-profile engagement of the Ontario Medical Association.²

Throughout its second mandate, the Progressive Conservative government seemed increasingly confused over its own role. Compelled by a combination of practical and political imperatives to re-engage actively on a range of files, a party that did not think it was a government had to be one. The resulting governance mode would be fundamentally reactive, as opposed to reflecting any real sense of the appropriate role of the provincial government.

The Environment and the 1999 Election

The Progressive Conservatives' *Blueprint* platform for the 1999 election essentially continued with a slightly moderated version of the themes of the CSR. *Blueprint* emphasized that "tax cuts create jobs" and promised further income and property tax cuts.³ A 20 percent increase in health-care funding, improvements in the funding and quality of education, and a SuperBuild public infrastructure funding initiative were all highlighted. Unlike its 1995 predecessor, *Blueprint* did include a section on the environment, although this focused on what had been done during the government's first term, particularly the Lands for Life initiative, as opposed to any future plans.

The Liberals, repositioning themselves from their CSR-lite tone of 1995, attempted to combine fiscal conservatism with an outright assault on the education, health care, and environmental dimensions of the CSR. The Liberal platform included extensive environmental provisions, including commitments to convert the province's coal-fired electricity plants to natural gas, reduce sulphur levels in gasoline, and update the province's industrial air pollution standards.⁴ In addition, the Liberals proposed a Safe Drinking Water Act and improved water-quality testing, and opposed the privatization of the Ontario Clean Water Agency and municipal sewage treatment plants and water works. A hazardous and toxic waste act was proposed to "stop Ontario [from] being a dumping ground" for toxic waste, along with public "right to know" legislation, a public inquiry into the 1997 Plastimet fire, and a restoration of state-of-the-environment reporting, first started by the NDP in 1992.

The NDP emphasized traditional themes of health care and reduced college and university tuition, as well as undoing key elements of the revolution, particularly with respect to rent control and labour relations.⁵ On the environment, the New Democrats proposed to hire five hundred new environmental inspectors and to implement the Ontario Clean Air Alliance's recommendations regarding coal-fired electricity.⁶

Despite the opposition's efforts to convince Ontarians that the "Harris agenda is not working for them" and the Progressive Conservatives' consistent trailing of the Liberals in pre-election polling, the government was re-elected on June 3, 1999.⁷ In fact, the Progressive Conservatives emerged with

a slightly increased share of the popular vote relative to 1995,⁸ obtaining the first back-to-back majority governments in Ontario since the time of John Robarts. The outcome was widely interpreted as the product of the combination of a strong campaign by the PCs and their ability to hold onto their core constituencies within an electorate deeply, if evenly, divided over the CSR. The government was seen to have delivered on what it had said it would do, while benefiting from the ongoing splitting of the opposition vote between the Liberals and NDP.⁹ The continued good economic times, and the fact that the full impact on public services of the budget cuts and downloading that had defined the revolution were yet to become fully apparent in areas like health care and education, helped the government as well. The attenuation of the impact of the government's environmental record by the Lands for Life parks announcements just prior to the election did no harm either.

The Liberals, while falling short of the numbers needed to displace the Tories even as a minority government with NDP support, were the primary beneficiaries of strategic voting by opponents of the revolution. The Liberals improved their share of the popular vote by nearly 10 percent, to 40 percent. The NDP, for its part, found itself the primary victim of these strategies, suffering its worst election performance since the 1950s, gaining less than 13 percent of the popular vote and only nine members elected.¹⁰

Early Signs of Trouble

Following the election, the government seemed set to continue on its pre-election path in terms of the environment. Further cuts to the budgets of the Ministries of the Environment and Natural Resources were proposed over the summer of 1999.¹¹ The government pointedly failed to renew the appointment of Eva Ligeti, the province's first environmental commissioner under the Environmental Bill of Rights, at the end of her statutory term in August 1999. The commissioner had emerged as one of the most consistent and effective critics of the environmental dimensions of the CSR. Ligeti would eventually be replaced by Gord Miller. In addition to his work as a Ministry of the Environment official in northeastern Ontario, Miller had been the PC candidate in the Cochrane South riding in the 1995 election, leading NDP environment critic Marilyn Churley and former Liberal environment minister Jim Bradley to argue in the legislature that the government had appointed a "lapdog" rather than a watchdog.¹² Despite this difficult beginning, in practice, with the support of a very capable staff, Miller would come to be generally regarded as an effective critic of governmental performance on the environment and would be appointed to a second term in 2005.¹³

Although his appointment was initially met with concern as being one of the government's strongest neo-conservative ideologues,¹⁴ Tony Clement, who became environment minister after the election, would make some

surprisingly constructive moves on the environment file. Unfortunately, Clement would find himself replaced in less than a year by the very junior Dan Newman, who immediately found himself referred to in the press as “Dan who?”¹⁵

Even early in the government’s second term there were developments that suggested that the Progressive Conservatives might have to deal with more on the environmental front than further budget cuts and carrying through with its incomplete regulatory reform initiatives. The government had already come under major criticism for proposing major deregulatory initiatives in the area of waste management, particularly hazardous waste management, at a time when waste imports from the United States were rising dramatically.¹⁶

In September 1999, a Ministry of the Environment investigation concluded that Philip Environmental Services Inc., one of the major proponents of the government’s deregulatory initiatives on waste management, had been mixing hazardous wastes imported from Michigan with Portland cement and then disposing of the materials at its Taro landfill site in Stoney Creek. The facility had been approved in 1996 to receive only non-hazardous industrial wastes. Although the mixture passed the provincial leachate toxicity test and could legally be disposed of as non-hazardous waste, the situation was widely seen to highlight gaps in the province’s regulatory framework for such wastes.¹⁷

In response, Clement announced a Six-Point Action Plan to address some of the more obvious weaknesses in the regulatory framework, specifically the need to harmonize waste definitions with those used in the United States, including defining materials derived from hazardous wastes as still hazardous. The initiatives effectively abandoned the directions with respect to hazardous wastes outlined in the environment ministry’s 1996 *Responsive Environmental Protection* and 1998 *Better, Stronger, Clearer* documents, although that decision would not be formalized until August 2002.¹⁸ At the same time, the new requirements, which came into force in March 2001,¹⁹ were criticized for failing to bring the province’s requirements regarding the disposal of hazardous wastes, as opposed to merely its definitions of such wastes, into line with the disposal standards in place in the United States. The lack of equivalent disposal standards had been identified as a key driver of the dramatic increase in waste imports from the United States that the province had experienced from 1993 onward.²⁰

Walkerton

Whatever plans the government might have had for the environment in its second mandate, they would be altered beyond recognition by the events that unfolded in the small town of Walkerton, Ontario, in May 2000. That month, the town’s drinking water was contaminated by *Escherichia coli* o157:

H7 bacteria, a strain of *E. coli*. Seven people would die and nearly half of the town's population of 4,800 would become seriously ill as a result of drinking the water that came out of their household taps.

Potential connections between the disaster and the environmental dimensions of the CSR began to be made by the legislative opposition, media, and ENGOs very early on.²¹ A remarkably ill-timed announcement by the government that it was making its Red Tape Commission a permanent element of its decision-making processes a few days after the initial *E. coli* outbreak in Walkerton reinforced the questions about potential connections between the disaster, budgetary reductions at the Ministry of the Environment (the regulator of drinking water safety in Ontario), and the government's regulatory reform initiatives.²² The government initially resisted calls for a public inquiry into the disaster but, under intense media and opposition pressure as the tragedy unfolded, eventually agreed to one with a broad mandate.²³

On June 13, 2000, the attorney general signed the order-in-council appointing Justice Dennis O'Connor as head of a commission, mandated to inquire into:

- (a) the circumstances which caused hundreds of people in the Walkerton area to become ill and several of them to die in May and June 2000, at or around the time as *Escherichia coli* bacteria were found to be present in the town's water supply;
- (b) the cause of these events including the effect, if any, of government policies, procedures and practices; and
- (c) any other relevant matter that the commission considers necessary to ensure the safety of Ontario's drinking water.

In order to make such findings and recommendations as the commission considers advisable to ensure the safety of the water supply system in Ontario.²⁴

It is far from clear that the government fully understood the significance of what it was agreeing to in establishing an inquiry with such a broad mandate. As would later become apparent in the testimony of ministers and even the premier before the inquiry, the government genuinely seemed to regard itself as not culpable in any way for the events in Walkerton. Both before the establishment of the inquiry and throughout its conduct, the province argued that events in Walkerton were a result of incompetence on the part of the local public utilities commission staff, not failures on the part of provincial regulators or decision makers or a consequence of decisions made under the auspices of the CSR.

The inquiry process was broadly divided into two parts. Part One investigated the events of May 2000 and their causes; Part Two focused on the

development of recommendations for a long-term strategy to protect the safety of drinking water in Ontario. The resulting process has come to be regarded as a model for community reconciliation, investigations of public policy failures, and public policy development.²⁵

The inquiry hearings were the subject of intense media attention as first the victims, then Walkerton Public Utilities Commission staff and local officials, and finally provincial officials and ministers testified over the spring and summer of 2001. Revelations at the inquiry became the subject of daily attacks on the government from both opposition parties during question period,²⁶ and excerpts of cross-examinations of senior officials and former ministers by counsel representing the principal victims group were played on radio newscasts and reprinted on the pages of major newspapers.²⁷

As the inquiry unfolded, it became apparent that the Ministers of the Environment, cabinet, and government caucus had been repeatedly warned by ministry and central agency staff about risks associated with the Ministry of the Environment “business plan” implementing the cuts to the ministry’s budget being made by the government under the auspices of the revolution. Documents presented to a joint meeting of the Policy and Priorities Board and Management Board of Cabinet noted how “risk to human health and environment may increase” and that the ministry’s “ability to monitor and assess environmental change will diminish.” Similarly, documents presented to the government caucus indicated “increased risk to human health and the environment as a result of decreased compliance and enforcement.”²⁸

In their testimony, neither the premier nor his environment ministers were able to identify a document that explained how the increased risks were going to be addressed. In contrast to these failures in risk-management planning, the evidence presented to the inquiry made it clear the government had taken communications planning very seriously. Documents presented to the joint meeting of the Policy and Priorities Board and Management Board of Cabinet explained, “We face a major communications challenge [where] strong environmental protection is not seen to be consistent with spending cuts.” The only condition set out in the eventual cabinet minutes approving the environment ministry plan required that “the Ministry further develop the communication strategy for its business plan in consultation with Cabinet Office and the Premier’s Office. No announcements are to be made without the approval of Cabinet Office communications.”²⁹

Moreover, it emerged that the chief medical officer of health for Ontario – prompted by concerns from within the Ministry of Health about local public health officials not being informed about adverse drinking water test results as a result of the government’s decision to privatize drinking water testing for municipal water systems – requested that the minister of health write to the minister of the environment asking that notification requirements be put in place to support laboratory privatization. The eventual letter

“requested an amendment to the Ontario Water Resources Act, or assurances from the Ministry of the Environment, that adverse drinking water test results from municipal water systems would be immediately brought to the attention of the local Medical Officer of Health.”³⁰ When asked about warnings in 1997 about the need for a notification regulation to support the decision to privatize the environment ministry’s laboratories, Minister Sterling said that “the whole issue was not high on the list of the MOE’s [Ministry of the Environment’s] priorities and that he had not read the Ontario Drinking Water Objectives by that point in time.”³¹

The inquiry reached its climax with Premier Harris’s testimony on June 29, 2001 – the first time a premier had been called before a public inquiry since George Drew’s testimony to the LeBel Royal Commission on his use of the Ontario Provincial Police in 1945.³² In announcing his decision to require the premier to testify, Justice O’Connor noted that key decisions related to budgetary reductions and regulatory reform in 1996 and 1997 had “been made at the very highest levels of government, by the cabinet, and apparently originated within central agencies and the Premier’s office.” As leader of the government and chair of cabinet, the premier was “the person in the best position to answer questions” about these decisions.³³

In his testimony, Harris was unrepentant, stating with respect to the cuts to the environment ministry’s budget that “I can’t recall at any time being told there would be any increase in risk.” Harris stated that “I’m accountable to all the people of Ontario” but that “at no time was any action taken by our government that I believe either jeopardized the health and safety of the people of this province or of Walkerton.”³⁴

Although saying that he regretted the events at Walkerton, the premier refused to state that he had any regrets about the decisions his government made prior to the tragedy, despite being repeatedly pressed to do so by counsel representing the main group of Walkerton victims.³⁵ During their testimony, it became apparent that decision makers at the political level genuinely did not seem to have believed that making cuts to the environment ministry budget would entail serious risks.

Justice O’Connor delivered the report for Part One of his inquiry on January 18, 2002. O’Connor found that manure spread on a nearby farm supplied the *E. coli* o157: H7 and *Campylobacter jejuni* that entered the town’s water through Well 5 on or about May 12, 2000, after very heavy rainfall, and that the disaster could have been prevented through the deployment of continuous chlorine residual and turbidity monitors at that site. Justice O’Connor found that provincial and local government failures caused the deaths and illnesses at Walkerton, and that the deaths and illnesses “could have been prevented.”³⁶

O’Connor found that, locally, operators at the Walkerton Public Utilities Commission (PUC) were insufficiently skilled to recognize either that Well 5

was vulnerable to surface contamination or the need for continuous monitors; proper daily chlorine residual measuring during the time that contaminants were entering the water supply would have substantially reduced the extent of the outbreak. He also found that PUC operators routinely employed several practices they knew to be unacceptable, such as using insufficient amounts of chlorine in the system, neglecting to monitor chlorine residuals daily, entering false chlorine residual values in the daily records, and misstating the locations at which water samples were taken. Further, PUC commissioners, although unaware of the inappropriate practices by its operators, responded improperly to a Ministry of the Environment inspection in 1998 that had found numerous operating problems and raised concerns about water quality in Walkerton; and on May 19, 2000, the PUC general manager concealed from the Bruce-Grey-Owen Sound Health Unit test results from water samples taken four days earlier that revealed the presence of contaminants in the water system, and the fact that Well 7 had operated without a chlorinator earlier in the month.³⁷

Nevertheless, O'Connor concluded that "it is simply wrong to say, as the government argued at the inquiry, that Stan Koebel or the Walkerton PUC were solely responsible for the outbreak or that they were the only ones that could have prevented it."³⁸ Rather, O'Connor found that at the provincial level, deficiencies in the environment ministry's approvals and inspections program bore some responsibility for the absence of continuous monitoring equipment; the same program should have discovered and corrected the Walkerton PUC's inappropriate treatment and monitoring practices; the government's cost-saving measure of privatizing its laboratory testing services was poorly implemented, specifically by not requiring private laboratories to notify the Ministry of the Environment and medical officers of health about adverse drinking water test results; and provincial budget reductions decreased the likelihood of the Ministry of the Environment being able to identify the need for continuous monitoring at Well 5 or the Walkerton PUC's faulty practices.³⁹

O'Connor found that the way in which the decision to privatize drinking water testing was implemented was deficient in that the associated risks to public health were not properly analyzed or managed, repeated warnings about the risks were not acted upon, and the standards that applied to private laboratories were not properly updated. In part, this may have occurred because of the speed with which the decision to discontinue laboratory testing was implemented, which in turn stemmed from the rapid pace at which cabinet required the budget reductions from the Ministry of the Environment.⁴⁰

The inquiry found that cabinet approved the ministry's plan without either requiring the development of a risk assessment and management strategy or making the approval contingent upon the Ministry of the

Environment's ability to manage the identified risks. O'Connor reported that "no member of Cabinet or other public servants directed that a risk assessment and management plan be conducted to determine the extent of those risks, whether the risks should be assumed, and if assumed whether they could be managed," and that, in any event, "no such analysis seems to have been undertaken."⁴¹

O'Connor found that government's dread of red tape as promoted by its Red Tape Commission was pervasive and played an important role in the Walkerton tragedy. Specifically, the chilling effect of the campaign against red tape prevented the enactment of a notification regulation requiring the private laboratories now responsible for conducting tests of drinking water quality to inform local medical officers of health and the Ministry of the Environment about adverse drinking water test results.

Any new regulation would have had to overcome the cost-benefit analysis imposed by the Red Tape Commission, which discouraged regulations that imposed reporting requirements because such requirements are "complicated and create unnecessary paperwork." To impose such a legal requirement on private laboratories might have been considered a barrier to jobs and economic growth. Moreover, because a new regulation would have to be administered and enforced, it would also increase the cost of government – another effect that would have been unpopular in the prevailing government environment.⁴²

Part One of the report concluded with twenty-eight recommendations for immediate action regarding the status and roles of medical officers of health, the operation and regulation of drinking water systems, and responses to future instances of drinking water contamination.

Impact and Responses

Recognizing the significance of the report for his government's legacy, the premier travelled to Walkerton for its release. Once there, he offered an apology to the people of Walkerton:

I would like to say to the people of Walkerton and on behalf of the provincial government and the people of Ontario that I am truly sorry for the pain and suffering you have experienced.⁴³

The premier also committed to the implementation of all of the inquiry's recommendations.⁴⁴ However, he brushed aside suggestions that decisions made by his government had played a role in the disaster, stating that

certainly I, as the head of government and the cabinet, made no reductions in expenditures that we believed would affect the health and safety of any citizen in Ontario.⁴⁵

The premier's apology and denials notwithstanding, the overall impact on the government's image was devastating. There was widespread commentary in the media to the effect that the government had been callous and uncaring with respect to the risks associated with the CSR, an image reinforced by the premier's testimony before the inquiry.⁴⁶ Public opinion polling over the course of the disaster and inquiry found a distinct shift in blame from local officials in Walkerton to the provincial government.⁴⁷ Damage done to the premier's image by the disaster and his responses to it played no small role in his decision to resign in October 2001.

The government's initial response in the immediate aftermath of the Walkerton disaster was to hire a former Ontario government deputy minister, Val Gibbons, to undertake a review of the long-term role and structure of the Ministry of the Environment.⁴⁸ The report, delivered in February 2001, largely proposed to apply the new public management principles that had led to the creation of the Technical Standards and Safety Authority (TSSA) in 1996 to the ministry, emphasizing the need for partnerships with regulated industries.⁴⁹ The government pressed these directions strongly during the second part of the inquiry, which examined potential measures to prevent future public health disasters involving the province's drinking water supply. Several of the Gibbons report's key directions, particularly those involving the devolution of regulatory functions to regulated industries, were explicitly rejected by the inquiry in its Part Two report.⁵⁰

Moreover, anticipating the scale of the potential problems it was facing on the drinking water file even before the inquiry's hearings began, the rather hapless Dan Newman was replaced by the far more senior and capable Elizabeth Witmer in February 2001. Witmer had served as minister of health during the government's first term and had sent a formal letter to then environment minister Sterling expressing concerns over the impact of the privatization of drinking water testing services on the reporting of adverse drinking water test results to local medical officers of health.

Justice O'Connor delivered the report for Part Two of the inquiry in May 2002. In addition to its rejection of the new public management governance model suggested by government in favour of the reform of existing institutional arrangements for drinking water safety, the report emphasized a multi-barrier approach to drinking water protection from "source to tap."⁵¹ This involved not only the strengthening of the management of local drinking water systems and the regulatory oversight of these systems by the province but also the protection of drinking water at source from such threats as malfunctioning septic systems, the disposal of biosolids and septage, and agricultural runoff. Source water protection was to occur through the development and implementation of watershed-based source water protection plans.⁵² The inquiry recommended that the Ministry of the Environment

be the lead agency for the new “source to tap” protection regime, and that new drinking water protection and watershed management branches be established within the ministry to carry out these functions.⁵³

The government’s initial response to Part Two’s report was somewhat equivocal. Environment minister Chris Stockwell, who had taken over the portfolio from Elizabeth Witmer the previous month as a result of the cabinet shuffle following the arrival of Ernie Eves as Premier Harris’s successor, suggested a need for further consultations on the recommendations.⁵⁴ The government subsequently committed to the implementation of all of the inquiry’s recommendations.⁵⁵

Even before the Walkerton disaster, the provincial government had initiated a review on the effects of intensive agricultural operations on water quality in the province.⁵⁶ Ontario’s environmental commissioner, for his part, had delivered a special report to the legislature on the subject in July 2000, based in part on material that was already being prepared for his 1999-2000 annual report.⁵⁷ The government introduced a Nutrient Management Act in June 2001. The legislation was ultimately enacted the following June and presented as part of the government’s response to the inquiry’s recommendations.⁵⁸ The act was subject to considerable criticism by ENGOs engaged in drinking water protection issues and by the inquiry itself in its Part Two report.⁵⁹

The lack of focus on microbiological contaminants, the failure of the proposed nutrient management planning process to be undertaken by agricultural operations to take into consideration watershed-specific information, and the legislation’s provisions overriding municipal bylaws attempting to control the impacts of agricultural uses of nutrients were all the subject of criticism. The administration of the legislation by the Ministry of Agriculture, Food and Rural Affairs, an agency seen to be more sympathetic to agricultural than environmental or public health interests than the Ministry of the Environment, was another source of concern. In some quarters, the legislation was regarded as a pre-emptive effort by the Ministry of Agriculture, Food and Rural Affairs and agricultural interests to head off the possibility of a more stringent regulatory regime regarding agricultural contaminants administered by the Ministry of the Environment flowing from the inquiry’s source water protection recommendations.

In the immediate aftermath of the Walkerton disaster, the government had adopted a new regulation under the Ontario Water Resources Act regarding drinking water systems.⁶⁰ The August 2000 regulation required that owners of water treatment and distribution systems ensure minimum levels of treatment, carry out water sampling and analysis in accordance with the regulations, provide public access to the results of drinking water-quality tests, provide quarterly reports on drinking water test results to the Ministry

of the Environment, and have engineering reviews of their systems at least every three years. In addition, the new regulation required that any violations of drinking water-quality standards be reported to the local medical officer of health and the Ministry of the Environment. Laboratories conducting testing were made subject to the same requirement.

A more substantial response to the inquiry's recommendations followed in the fall of 2002 with the introduction of a proposed Safe Drinking Water Act. The legislation, ultimately adopted in December 2002:⁶¹

- Authorized the Ministry of the Environment to set drinking water-quality standards, quality management standards, and other regulatory standards.
- Established the position of a chief drinking water inspector within the Ministry of the Environment (section 7).
- Established an advisory council on drinking water quality and testing standards (section 4).
- Required the minister of the environment to provide annual reports on drinking water quality (section 3).
- Imposed various operational duties on drinking water suppliers in relation to the testing, reporting, treatment, and distribution of drinking water, including the establishment of a standard of care for drinking water system owners (section 19).
- Required training and certification of drinking water system operators.
- Established a system of permits, licences, and approvals for drinking water systems and laboratories performing drinking water testing.
- Provided a range of inspection and enforcement powers and penalties for non-compliance.⁶²

According to the Ministry of the Environment, the legislation, along with accompanying changes to the ministry's administrative systems, regulations, and guidelines, implemented fifty of the ninety-three recommendations contained in the inquiry's Part Two report, and fourteen of the recommendations contained in the Part One report.⁶³ Perhaps reflecting the concerns of the government's principally rural constituency, the legislation lacked any reference to source water protection. The omission was the target of considerable criticism from environmental and public health interests, including the Ontario Medical Association.⁶⁴ The establishment of an Advisory Committee on Source Water Protection Planning was announced in November 2002, but no further action would be taken on the issue by the Eves government.

Although the government did not respond directly to the source water protection issue, the disaster did contribute to putting the health of the Great Lakes back on the government's agenda. In June 2001, the Great Lakes governors and the premiers of Ontario and Quebec signed the Great Lakes

Charter Annex.⁶⁵ The charter annex was an amendment to the Great Lakes Charter of 1985, whose original intent was to prevent diversions of water resources from the basin. The annex established a more binding set of rules among the Great Lakes provinces and states and articulated principles and procedures for reviewing proposed withdrawals from the basin.⁶⁶ A renewed Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem was signed in March 2002, two years after the expiry of the previous agreement.⁶⁷

A second piece of drinking water legislation was adopted in December 2002 – the Sustainable Water and Sewage Systems Act. The legislation, which had first been introduced as Bill 155, An Act Respecting the Cost of Water and Waste Water Services, in December 2001, required municipalities to recover the full costs of providing water and sewer services from consumers. The initial legislation took a very narrow perspective on the definition of costs, focusing on the direct operating and maintenance costs for water systems, and was widely perceived as being more about facilitating the privatization of sewer and water infrastructure and ensuring its financial sustainability.⁶⁸ Then, in the face of strong pressure from ENGOs and public health and municipal interests, the government agreed to amend the legislation at the committee stage to permit municipalities to recover the costs of implementing source water protection measures, as well as the costs of the operation and maintenance of water and sewage systems.⁶⁹ However, the legislation itself would never be proclaimed in force.⁷⁰

The inquiry had estimated that the improvements to drinking water systems required to implement its recommendations would have one-time costs of between \$99 and \$280 million and ongoing annual costs of between \$17 and \$49 million per year.⁷¹ The question of funding, along with the imposition of a duty of care on municipal councillors through the Safe Drinking Water Act, resulted in considerable municipal opposition, particularly among smaller rural municipalities, to implementation of the recommendations. Although some funding would be provided to rural municipalities through the Ontario SuperBuild Corporation's Ontario Small Town and Rural (OSTAR) Infrastructure program,⁷² implementation of key provisions and regulations under the Safe Drinking Water Act was delayed as a result.⁷³

On the whole, however, the Walkerton disaster, and the resulting inquiry and report, marked the end of the line for the government's regulatory reform initiatives at the Ministry of the Environment and the beginnings of a recovery in the ministry's budget from 2001 onward. The disaster compelled the government to move into an activist mode in an area where it had clearly intended to minimize its role even further.⁷⁴ The political damage done by the government's resulting image of recklessness, administrative incompetence, and unwillingness to accept responsibility for the consequences of its actions – along with the moral authority of the inquiry's recommendations

and strong engagement not just of environmental interests but also the public health constituency, led by the Ontario Medical Association – left the government with no choice but to act in response to O'Connor's recommendations. At the same time, the delayed implementation of key provisions of the Safe Drinking Water Act and reluctance to act on source water protection demonstrated a continued sensitivity to the government's traditional rural municipal, agricultural, and resource extraction constituencies.

Electricity

While drinking water was an unexpected area of trouble, the government began to face major problems in another area where it had made very aggressive moves during its first term. Under the 1998 Energy Competition Act, Ontario Hydro had been broken up into a number of entities. These included three separate companies owned by the province: Ontario Power Generation (OPG), which assumed Ontario Hydro's existing generating assets; Hydro One, responsible for transmission infrastructure; and the Ontario Hydro Financial Corporation, which assumed \$22 billion of Ontario Hydro's accumulated debt.⁷⁵ A fourth entity, the Electrical Safety Authority, was created to assume the utility's electrical safety inspection functions.⁷⁶

The second key theme of the 1998 legislation was the introduction of competitive retail and wholesale electricity markets in Ontario, conferring new powers on the Ontario Energy Board to regulate the market and creating the Independent Market Operator to operate the technical aspects of the new markets. Under the wholesale market model, the private sector was to plan and develop electricity supply in response to the province's needs, under a regulatory regime administered by the Ontario Energy Board.⁷⁷ To ensure a competitive market, OPG was required to reduce its share of the province's electricity supply from over 85 percent to 35 percent by 2010.⁷⁸ At the retail level, consumers were to be charged the true marginal price of their electricity supply as established through the wholesale market. Consumers would also have the option of entering into fixed price contracts with independent electricity retailers rather than accepting the market price provided by their local distribution utility.

The government's initial plan at the time of adoption of the Energy Competition Act was for markets to open within two years.⁷⁹ In practice, the process of introducing markets proved much more complex than suggested by the elegant theories that had underlain the Macdonald and market design committee reports (discussed in Chapter 5). The ensuing policy and political debates would turn on two key issues: the disposition of Ontario's successor companies and their assets, and fate of the province's five coal-fired electricity plants, whose emissions were now the target of an increasingly high-profile campaign by the Ontario Clean Air Alliance.

Markets and Privatization

The 1996 Macdonald Committee's Framework for Competition report had recommended the sale of Ontario Hydro's hydroelectric and fossil plants as part of the process of introducing competitive electricity markets.⁸⁰ The 1998 Energy Competition Act, for its part, had required the corporatization of local electricity distribution utilities, a move widely seen as a prelude to privatization.⁸¹ The requirements that OPG reduce its overall share of the electricity supply market provided further incentives for the privatization of Ontario Hydro's former assets.

The government's moves toward privatization were fraught with controversy. The lease of the Bruce nuclear facility to British Energy in May 2001 was widely criticized as a sweetheart deal for the lessee, with the operator being responsible only for the facility's operating costs. The stranded debt associated with the facility had already been transferred to the Ontario Electricity Financial Corporation; the high-risk and high-cost responsibilities for waste management and decommissioning were retained by OPG.⁸² The provincial auditor subsequently concluded that the arrangement had resulted in \$214 million in lost revenue for OPG.⁸³ British Energy itself would go bankrupt, and the lease would be transferred in February 2003 to a consortium of Cameco, a Saskatchewan-based uranium mining company (31.6 percent); TransCanada Pipelines (31.6 percent); the Ontario Municipal Employees Retirement System (31.6 percent); the Power Workers' Union (4 percent); and the Society of Energy Professionals (1.2 percent). Four Hydro facilities on the Mississagi River were eventually sold in 2002, prompting complaints about "firesale prices."⁸⁴

The debate over the fate of Ontario Hydro's assets went into overdrive with the government's December 2001 announcement of its intention to sell Hydro One, the provincially owned operator of the province's electricity grid. Although Premier Harris's motives for the proposed sale were never clear, it was strongly supported by the financial services sector (anticipating the fees associated with the initial purchase offer); Hydro One's own board, now chaired by Sir Graham Day, a leading figure in the privatization of the British electricity system; and the company's senior management.⁸⁵

The proposal ran into immediate opposition from various sources. Large industrial electricity consumers began to express concerns over the implications for electricity costs.⁸⁶ A major challenge also began to emerge from the newly formed Ontario Electricity Coalition, an alliance of environmental organizations and the labour movement (except the Power Workers' Union, which supported privatization). Increasing consumer awareness of the impact of electricity privatization in California added to the mix. Both opposition parties would oppose the privatization of Hydro One, although the Liberals' ambiguity on the overall direction of electricity policy would prompt NDP

leader Howard Hampton to launch a “publicpower” campaign firmly opposed to markets and privatization as a means of differentiating his party from that of the Liberals. Even Progressive Conservative Party leadership candidate (and minister of the environment) Elizabeth Witmer expressed concern over the proposal in a February 2002 leadership debate.⁸⁷

The final blow to the Hydro One proposal was dealt by the Ontario Superior Court on April 19, 2002. In response to a challenge to the authority of the government to carry out the sale of Hydro One under the 1998 Electricity Act by the Ontario Electricity Coalition members, the Communications, Energy and Paperworkers Union, and the Canadian Union of Public Employees, Justice Arthur Gans concluded that “the legislature, in its wisdom, did not intend to embark on a privatization program at this stage of the reorganization and corporatization of Ontario Hydro.” Therefore, the legislature had not provided cabinet with the authority to proceed with the privatization of Hydro One.⁸⁸ Premier Eves, who had succeeded Harris a month earlier, faced with the growing controversies over the electricity file, including the Enron debacle in the United States, decided not to attempt to proceed with the sale through the introduction of new legislation. Rather, in June 2002, he dismissed the Hydro One board, noting that “I’m not here to please some banker in New York.”⁸⁹

Markets and Coal

The fate of OPG’s coal-fired plants proved yet another complication for the government’s plans for the electricity sector. OPG, for its part, wanted to sell the plants as going concerns to maximize revenue and pay down debt while meeting the requirements of the 1998 market mitigation agreement. That plan too would be confounded by a host of factors.

As part of the 1997 Nuclear Asset Optimization Plan (NAOP), Ontario Hydro had relied on its coal-fired generating facilities to replace the power supplies lost when seven nuclear reactors were taken out of service. As evident in Figure 5.1, the result had been major increases in emissions of smog and acid rain precursors, heavy metals, and greenhouse gases from the coal-fired facilities.

Public opinion polling had indicated even before the Walkerton disaster the beginnings of a rise in public concern for the environment in Ontario, with air-quality issues at the forefront of concern. The role of the coal-fired plants in exacerbating health impacts of smog in southern Ontario were being highlighted not only by the Ontario Clean Air Alliance’s aggressive public campaign for emission limits on the plants but also by the Ontario Medical Association and municipal public health departments.⁹⁰

Pressures were also coming from the federal level. The federal government concluded an ozone annex to the 1991 Canada-US Air Quality Agreement in December 2000. The annex included commitments from both the

Canadian and US federal governments to reduce emissions of nitrogen oxides from the electricity sector in the states and provinces covered by the annex.⁹¹ The Canadian government added particulate matter less than ten microns in diameter (PM₁₀) to the list of toxic substances under the Canadian Environmental Protection Act (CEPA) in May 2001. Emissions of substances listed as toxic under CEPA can be subject to direct regulation by the federal government, raising the prospect of federal action to ensure compliance with the annex if the province did not act. The possibility of federal action was further enhanced with the July 2002 addition of sulphur dioxide and nitrogen oxides, volatile organic compounds, nitric oxide, and ozone and gaseous ammonia – all smog components or precursors – to the CEPA list of toxic substances.⁹² The possibility of unilateral federal action on the coal-fired plants was stronger than would normally be the case given the presence of a senior and very capable federal minister in David Anderson, and the potential electoral advantage for the federal Liberal government in being seen to counter the provincial PC's poor environmental record, particularly on the high-profile air-quality issue.

In January 2000, the provincial government announced its intention to impose new sulphur dioxide and nitrogen oxide emission caps on OPG's coal- and oil-fired plants as of January 2001 as part of its "strategic attack" on air pollution. The government introduced plans to pursue an emission trading system for contaminants that result in smog, acid rain, and other air pollution problems at the same time.⁹³ The announcement was immediately criticized for its failure to address pollutants from the electricity sector other than sulphur and nitrogen oxides, and for flaws in the proposed emission trading system, which would allow OPG to exceed its emission limits by purchasing emission credits from Canadian or US companies in Ontario's airshed.⁹⁴

The government's first major concession to Ontario Clean Air Alliance's aggressive campaign, helped in part by the anticipation of reports from the Ontario Medical Association and the City of Toronto's medical officer of health highlighting the role of the coal-fired plants in southern Ontario's air-quality problems,⁹⁵ came on May 17, 2000, when the government announced an "environmental" moratorium on the sale of OPG's coal-fired plants.⁹⁶ Proposed electricity sector emission regulations were eventually announced on March 26, 2001, along with a discussion paper on emissions trading for the electricity sector.⁹⁷ This coincided with an announcement by Environment Minister Elizabeth Witmer of a phase-out of the Lakeview coal-fired plant on the Mississauga lakeshore, with any replacement facility being required to meet the same emission standards as "efficient natural gas technology."⁹⁸ That requirement was incorporated into regulation in October 2001.⁹⁹ The government subsequently refused to approve the sales of the Thunder Bay and Atikokan plants for "environmental reasons" and made

any future sales conditional on the conversion of the coal-fired plants to natural gas.¹⁰⁰

The October 2001 regulations also introduced emission caps for the electricity sector and an emission trading system.¹⁰¹ The government's approach was subject to widespread criticism from environmental and public health organizations. The critiques focused on the inadequacy of the caps relative to the Ontario Medical Association recommendations and Canada's obligations under the December 2000 Canada-US Ozone Annex and the failure to deal with pollutants other than sulphur and nitrogen oxides.¹⁰² The emission trading scheme was the target of particular criticism. Both Environment Canada and the US Environmental Protection Agency took the unusual step of filing formal comments on the province's March 2001 proposals on the Environmental Bill of Rights Registry, raising objections to aspects of the proposed systems. These features, which were left intact in regulation ultimately adopted by the province, included allowing trading with uncapped sectors, with the result that overall pollution levels could rise. The creation of emission credits on an intensity basis (i.e., emissions per unit of production, not net reductions in total emissions), which could allow emissions to rise with production, was also a source of criticism. In response to these concerns, the Ontario government argued that, given OPG's domination of the electricity market, it was necessary to allow trading beyond the electricity sector to create a viable market. The government also announced its intention to cap other sectors' sulphur and nitrogen oxide emissions in the future.¹⁰³

In April 2000, the provincial government had adopted a regulation requiring all electricity-generating plants to report annually on their emissions of sulphur and nitrogen oxides, and a range of hazardous air pollutants and greenhouse gases.¹⁰⁴ In May 2001, the reporting requirements were extended to other major industrial facilities and, in January 2002, to a range of smaller sources.¹⁰⁵ In addition to its inclusion of greenhouse gas emissions, the Ontario reporting requirements covered a wider range of hazardous air pollutants and facilities than the federally operated National Pollutant Release Inventory (NPRI). The province's development of a separate registry was driven by several factors, anticipation of the introduction of competitive electricity markets being one. Ontario's dissatisfaction with the federal NPRI, and its consistently high rankings among US states and Canadian provinces with the greatest releases and transfers of pollutants in the North American Commission for Environmental Cooperation's annual *Taking Stock* reports, based on the NPRI and US Toxics Release Inventory data, were others.¹⁰⁶

Pressure for more dramatic action on the coal plants continued to build. After hearing from a succession of witnesses highlighting the health impacts of the plants, the legislature's Select Committee on Alternative Fuel Sources, established in June 2001, recommended in its final report the following year

the closure of the Thunder Bay and Atikokan plants by June 2005 and the remaining coal-fired plants by 2015.¹⁰⁷

The Electricity Market Opens (and Closes)

Competitive wholesale and retail electricity markets were opened May 1, 2002, nearly two years later than the government's original plan. The introduction of electricity markets had required extensive preparations on the part of the Independent Market Operator, Ontario Energy Board, and local distribution utilities.¹⁰⁸ Nonetheless, outgoing Premier Harris provided a reassurance that "nothing is going to go wrong."¹⁰⁹

Complications began to arise almost immediately. The summer of 2002 was the hottest in fifty years, with the result that electricity demand, driven by air-conditioning loads, reached record highs. Supply was limited by a lack of rain for hydro power, the failure to bring any of the nuclear facilities laid-up through the NAOP back into service, and unforeseen problems at coal-fired plants.¹¹⁰ The retail and wholesale markets reacted to this situation precisely as they had been designed. The result was "the economist's classic case of high demand and limited supply pushing prices through the roof."¹¹¹

The public, which had been repeatedly assured by Premier Harris and Minister of Energy, Science and Technology Jim Wilson that markets would help to keep electricity prices low,¹¹² reacted with predictable outrage. In response to the sudden increases in electricity prices, the provincial government terminated the competitive retail electricity market in November 2002. At that time, the government adopted a fixed electricity price of 4.3 cents per kilowatt hour, retroactive to May 1, 2002, and stated that this price would stay in place for the next six years. Rebates of \$75 to electricity consumers for the cost of electricity while the competitive market was in place were also announced, at a total cost of \$335 million. Rates for electricity distribution and transmission were also frozen.¹¹³

Picking up on themes raised in the June 2002 report of the Select Committee on Alternative Fuel Sources,¹¹⁴ the announcement of the termination of the competitive retail market was accompanied by a sudden interest in renewable energy and energy efficiency, options previously ignored in the government's deliberations over market design.¹¹⁵ The government announced:

- A commitment that the government reduce its electricity consumption by 10 percent and source 20 percent of its own energy needs from renewable sources.
- The provision of tax incentives for the purchase of energy efficiency equipment by industry and sales tax rebates for consumers for the purchase of high-efficiency appliances.

- A ten-year corporate income tax holiday for new suppliers of electricity from clean, alternative, or renewable sources.¹¹⁶

The government would later announce a plan to introduce a requirement that the amount of electricity provided in Ontario from renewable sources (defined as hydro, wind, and biomass) would, starting in 2006, increase by 1 percent per year over eight years, to total 3,000 megawatts by 2014.¹¹⁷ However, no legislation nor regulations to actually implement the renewable energy standard were announced or implemented before the 2003 provincial election.

In the meantime, serious concerns began to emerge about the province's long-term electricity supply. The Independent Market Operator's Market Surveillance Panel noted in October 2002 that "there is a serious shortage of generation capacity to meet Ontario's growing demand for electricity" and that the system was having great difficulty in meeting summer peak demand.¹¹⁸ The situation was compounded by the effect of the government's abrupt change in direction with respect to markets and its underlying implication of policy instability on new private investment generation – which ceased. There were significant cutbacks to new investment in transmission and distribution due to the rate freeze on those aspects of the system as well.¹¹⁹ In response to these developments and the resulting concerns from major industrial power consumers about their future power supplies, the government appointed an Electricity Conservation and Supply Task Force in June 2003 to develop an action plan for attracting new generation, promoting conservation, and enhancing the reliability of the transmission grid. The task force, whose membership included the key institutional actors in the electricity system and major industrial electricity consumers, along with representatives from the Canadian Energy Efficiency Alliance and the Power Workers' Union, would not report until the following year.¹²⁰

The system continued to be plagued by difficulties. OPG encountered serious problems in the implementation of the NAOP, with the first of the four laid-up Pickering A units coming back into service only in September 2003. The cost of this return to service was \$1.25 billion. The original budget for the return to service of all four units had been \$780 million, with the first unit expected to return to service in June 2000.¹²¹ Two of the four Bruce units would be brought back in service – the first in October 2003, the second in January 2004.¹²² Both of the Bruce reactors came in significantly over budget and behind schedule as well.¹²³

Another challenge surfaced on August 14, 2003, when eastern North America suffered a massive electricity blackout, in which 263 power plants with a generating capacity of 60,000 megawatts were put out of service.¹²⁴ Although the blackout did not originate in Ontario, its effects on the politics of the electricity system were profound. The restoration of power in Ontario

was delayed, in some cases by more than a week, by difficulties in bringing parts of the province's fleet of nuclear reactors back into service, some of which had been shut down using emergency systems.¹²⁵ The blackout was widely seen to have highlighted the inability of the electricity transmission system to cope with the stresses placed on it by the introduction of competitive electricity markets in North America.¹²⁶ In Ontario, the blackout and delayed restoration of power reinforced the government's image of having mishandled the electricity question from the outset.

The electricity file provided a succession of misfortunes for the Harris and Eves governments that perhaps did as much as the Walkerton disaster to undermine their reputations for administrative competence. By the fall of 2003, virtually every significant constituency involved with the electricity system had grievances with the government's performance: industrial and residential consumers over costs, reliability, and future supply; organized labour (except the Power Workers' Union) about privatization; the financial services sector over the abandonment of Hydro One privatization; and environmental and public health interests over the handling of the coal issue.

At the same time, the work of the Select Committee on Alternative Fuel Sources and the creation of the Electricity Conservation and Supply Task Force had laid the foundations for the debates on the direction of the province's electricity system following the 2003 election. The select committee had given new legitimacy to soft energy path options focused on energy efficiency and low-impact renewable energy sources, concepts that had disappeared from electricity policy discussions since the time of Ontario Hydro's demand-supply plan more than a decade earlier.¹²⁷ Questions began to emerge again not only about the role of coal in the system but also about the system's heavy reliance on nuclear energy.¹²⁸

Sprawl, SuperBuild, and Smart Growth

One of the central features of the Common Sense Revolution had been an attempt by the provincial government to withdraw from an active role in land-use planning in southern Ontario, and from the financing infrastructure, particularly public transit, related to urban development. As with so many other areas in which the province sought to reduce its role, this approach would prove neither practically nor politically viable.

The government found itself drawn back into the land-use planning and infrastructure funding business by a combination of factors. Municipal and business concerns over increasing traffic congestion and the lack of integration of transit services had led the government to establish the Greater Toronto Services Board in January 1999 to review and promote the integration of transit systems in the GTA.¹²⁹ The board would conduct a number of studies on transit integration in the region, but had no direct authority over transit planning or expenditures. As a result, its impact on transit

integration was limited before its disbandment by the province in January 2001. No regional transportation services coordinating body was established to replace the board.¹³⁰

The establishment of the Ontario SuperBuild Corporation at the end of 1999 marked a major re-entry by the province into infrastructure funding. The corporation was intended to consolidate the province's capital investments in physical infrastructure (e.g., highways, hospitals, colleges and universities, and municipal works) under direction of the Cabinet Committee on Privatization and SuperBuild. There was no explicit policy direction other than a recognition of the need for the province to fund infrastructure to facilitate economic growth and meet demand for services, although health care and funding sewer and water infrastructure in small towns and rural communities were identified as priorities. The SuperBuild initiative placed a strong emphasis on public-private partnerships, with the hope of leveraging \$10 billion in provincial investments, into an additional \$10 billion in private capital investments.¹³¹

With respect to land use, the fate of the Oak Ridges Moraine, a major ecological and hydrogeological feature running 160 kilometres from the Niagara Escarpment in the west to Northumberland County in the east would emerge as a flashpoint around which the province was compelled to re-engage on land-use planning. The moraine provides habitat for a wide range of plant and animal species, supports the headwaters of virtually all of the major rivers in the region, and holds significant groundwater resources as well.¹³² The moraine's importance to the ecological health and integrity of the region was highlighted in the 1991 report of Royal Commission on the Future of the Toronto Waterfront. The Rae government, for its part, had established an Oak Ridges Moraine Technical Working Committee, which had produced a strategy for the moraine in December 1994.¹³³

Although concerns about the impact on urban development of the government's scrapping of the land-use planning reforms adopted by the Rae government in response to the report of the Commission on Planning and Development Reform were raised as early as 1996,¹³⁴ the Harris government was again initially blindsided by the emergence of widespread grassroots public protests over urban development on the moraine. In February 2000, sixteen hundred people turned out for a public meeting to oppose a seventeen-thousand-home development proposal in Richmond Hill that threatened to sever the moraine at Yonge Street. The public response compelled the town council to back down on the proposal.¹³⁵

By the beginning of 2001, Premier Harris started to publicly acknowledge the problems flowing from the sprawling urban development patterns that dominated the Greater Toronto Region, and the potential for a "smart growth" strategy to address these concerns.¹³⁶ The smart growth concept

had emerged in the United States in the mid-1990s as an alternative to the sprawling low-density development that had come to define the urban periphery throughout North America. Smart growth, as articulated by its originators, emphasizes the accommodation of population and economic growth through the intensification of existing urban areas rather than the outward expansion of urban areas; the mixing of land uses to facilitate the development of “complete” communities where employment, education, recreation, and shopping opportunities would be within walking distance of where people live; and the urban forms that facilitate and encourage the use of transportation alternatives to the automobile.¹³⁷ In addition to its potential advantages in terms of environmental sustainability and economic efficiency, some leading figures in the smart growth movement began to make connections between denser mixed-use urban forms and the emergence of a creative class central to the success of the knowledge- and service-based sectors that were beginning to dominate North American economies,¹³⁸ including Ontario’s.

The province launched a formal smart growth initiative in April 2001, although its awareness of these subtleties was an open question. The focal point of the process was the establishment of five multi-stakeholder regional smart growth panels. The central regional panel included the GTA and the Niagara Region.¹³⁹ The government’s initiative was driven by several factors: business interests concerned about the increasing economic costs of traffic congestion associated with the region’s sprawling urban development patterns and competitiveness implications of a declining quality of life in the region;¹⁴⁰ municipal concerns regarding the long-term costs of maintaining the infrastructure associated with sprawling development;¹⁴¹ and environmental and community concerns regarding the loss of prime farmland,¹⁴² green space, environmentally sensitive areas, and threats to surface and groundwater quality and supplies.¹⁴³ The work of the newly formed Neptis Foundation played an important role in bringing together an understanding of the consequences of business-as-usual urban development in the region.¹⁴⁴ These issues were particularly prevalent at the urban periphery – the so-called 905 region municipalities surrounding the City of Toronto that were the focal points of sprawl and whose swing toward the Progressive Conservatives had been central to the government’s majorities in 1995 and 1999.¹⁴⁵

In the meantime, Ontario Nature (formerly the Federation of Ontario Naturalists) and the Save the Oak Ridges Moraine Coalition had launched an aggressive campaign to protect the moraine from development.¹⁴⁶ The government, shaken by the emerging testimony at the Walkerton Inquiry and the potential electoral threat in a region essential to retaining its majority in the legislature, introduced and adopted an Oak Ridges Moraine Protection Act in May 2001. The legislation placed a six-month moratorium

on planning instruments and stayed development applications before the Ontario Municipal Board involving lands on the moraine, allowing for an intensive period of public consultations. This was followed in December 2001 with an Oak Ridges Moraine Conservation Act. The legislation provided for the establishment by regulation of an Oak Ridges Moraine Conservation Plan, with which all decisions made under the Planning Act and Condominium Act would have to conform. The plan would also prevail in the event of conflicts with municipal official plans.¹⁴⁷ The plan itself, finalized in April 2002, divided the moraine into Natural Core Areas (38 percent of the plan area), Natural Linkage Areas (24 percent of the plan area), Countryside Areas (30 percent of the plan area), and Settlement Areas (8 percent of the plan area), permitting progressively more intensive land uses. Reflecting the continued influence of the aggregate industry, new aggregate extraction operations were permitted in all but the Natural Core Areas.¹⁴⁸

The plan, which constituted the most significant intervention by the province in land-use planning in southern Ontario since the creation of the Niagara Escarpment Plan, represented a major reversal by the government, which had effectively sought to get out of land-use planning in southern Ontario. At the same time, the government rejected the possibility of any more general policies to protect prime agricultural lands from urban growth in the region.¹⁴⁹ In fact, the plan was subject to considerable criticism for transferring urban development onto other ecologically sensitive areas, rather than reducing urban expansion as a whole.¹⁵⁰

The central region smart growth panel tabled an interim report in August 2002 and discussion paper in February 2003.¹⁵¹ In its reports, the panel recognized the linkages between land use and transportation and between transportation and air quality, the advantages of more compact development patterns, and the importance of inter-regional transit systems and nodes. In addition, the panel stated that transit should be the first priority for all transportation investment in urban centres and nodes, and regional economic centres and corridors, and emphasized the protection of agricultural lands, forests, water resources, and natural heritage features. The panel also highlighted the importance of investments in highways and protection of access to aggregate resources.¹⁵²

By the time the panel began to report, the province had already partially reversed its 1997 decision to cease funding transit, announcing in September 2001 a new capital funding commitment for public transit of \$300 million per year for ten years.¹⁵³ A five-year review of the Provincial Policy Statement (PPS) under the Planning Act was initiated in July 2001, but in the process of the review, many stakeholders highlighted the lack of connection between the PPS review process and the province's smart growth initiatives.¹⁵⁴ No modifications to the PPS would be seen before the 2003 election.

What did emerge as the centrepiece of the government's smart growth initiative reflected a very odd understanding of the smart growth concept.¹⁵⁵ From 1999 onward, the Ontario SuperBuild Corporation launched a major program of investments in expansions of the provincial highway network concentrated in the GTA and surrounding regions. At approximately \$1 billion per year, the program constituted the largest single type of investment made by the corporation.¹⁵⁶ In the province's 2002 budget, for example, investments in highways constituted 77.5 percent of SuperBuild's transportation expenditures, and 37 percent of SuperBuild's total expenditures of \$2.713 billion. In contrast, only 15 percent of SuperBuild's transportation expenditures, and 7 percent of its total expenditures, were on transit.¹⁵⁷

At the centre of the strategy were a series of proposed outward extensions of the highway network, shown in Figure 6.1: the eastward extension of Highway 407 to Highway 35/115; the extension of Highway 404 around the east and south sides of Lake Simcoe; the northward and eastward extension of Highway 427 to Barrie; construction of a new mid-peninsula highway from Burlington to Niagara Falls; and the creation of a new east-west GTA transportation corridor north of the Oak Ridges Moraine.¹⁵⁸

The projects constituted the most ambitious program of highway expansion in the province in more than thirty years. Many local and provincial organizations, working through the newly formed Ontario Smart Growth Network, pointed out that it would be difficult to imagine a strategy more at odds with the smart growth concept, with its emphasis on compact, mixed-used development designed to reduce automobile dependence. Rather, the strategy was seen as likely to facilitate low-density, automobile- and road-dependent development patterns at the urban periphery of the GTA for the foreseeable future.¹⁵⁹

Municipal Waste Management

Municipal waste management proved another field from which the province found it could not escape, despite its best efforts during the first Harris government. Regulations adopted in 1994 required all municipalities with a population of five thousand or more to provide recycling and composting programs. As a result, by the late 1990s, almost all Ontario households were provided with access to waste diversion services. Under the auspices of the revolution, the province abandoned virtually all of its municipal solid waste diversion programs and proposed to repeal waste diversion regulations related to the commercial and industrial sector.

Continuing municipal concerns about the costs of blue box recycling programs and the inconsistent financial contributions by companies responsible for the packaging and other materials collected through them prompted the province to initiate in 1998 consultations on the funding of diversion

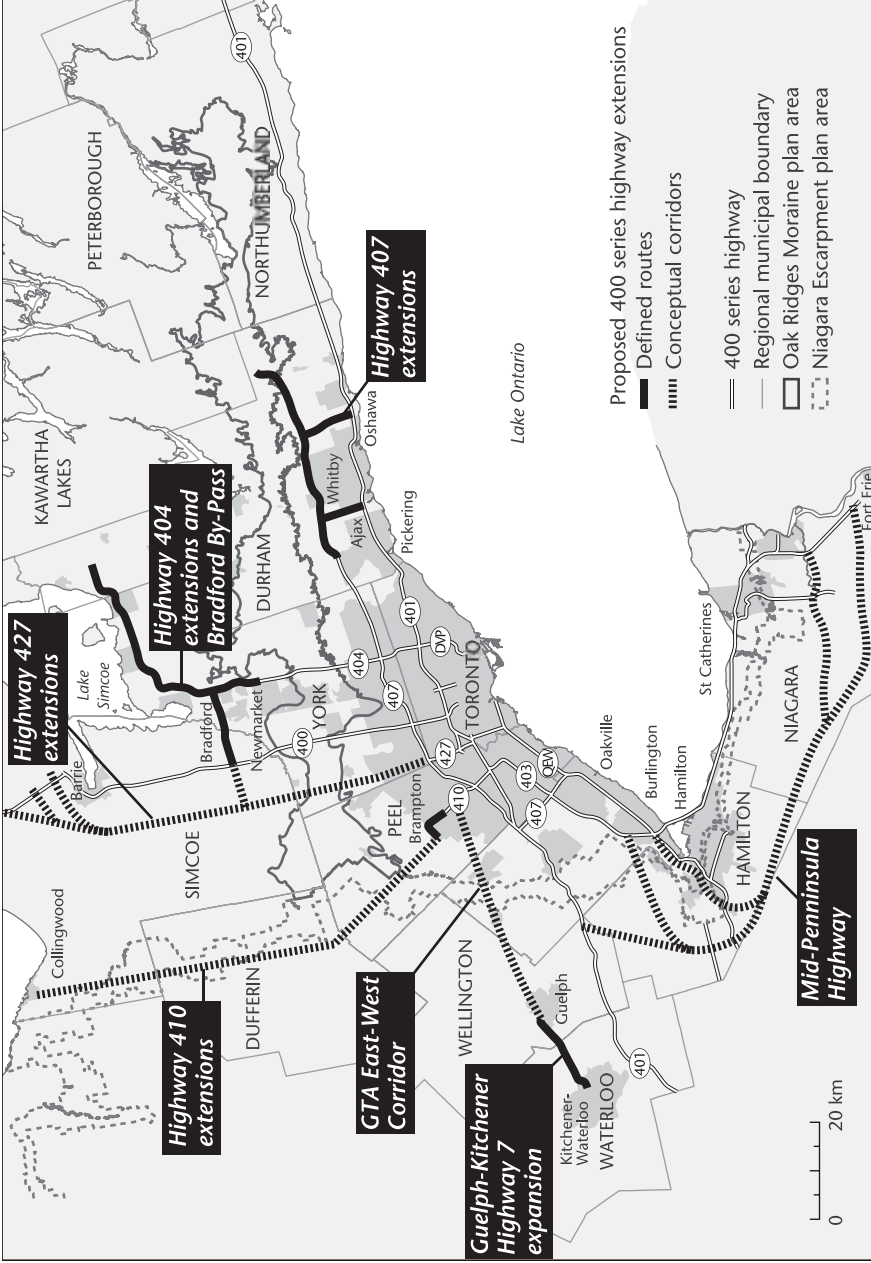


Figure 6.1 Proposed 400 series highway extensions, Toronto Region, 2003
 Source: Pembina Institute and Neptis Foundation.

programs. The financial issues would again quickly come to a head. A number of industry associations, the Association of Municipalities of Ontario, and the Recycling Council of Ontario signed a memorandum of understanding with the Ministry of the Environment to establish an interim waste diversion organization to fund municipal recycling programs until a sustainable funding regime could be established.¹⁶⁰ The potential political backlash that could flow from the collapse of popular curbside recycling programs compelled provincial involvement. Industrial actors, for their part, feared that such an outcome could lead to the imposition of more stringent restrictions on packaging use or even the reintroduction of deposit-return systems.¹⁶¹

The interim organization laid the groundwork for the Waste Diversion Act enacted in June 2002.¹⁶² The act provided for the creation of Waste Diversion Ontario (WDO), a non-governmental corporation, with a board of directors comprised of industry, municipal, and non-governmental representatives. The act gave WDO the mandate to develop, implement, and operate waste diversion programs for waste materials designated by the environment minister. Programs were to be developed by WDO in accordance with a minister's request and, once submitted, had to be approved by the minister before they could be implemented.

The minister of the environment issued a letter to WDO in September 2002, requiring WDO to develop a waste diversion program for blue box waste (e.g., glass, metal, paper, plastic, and textiles), in cooperation with an industry funding organization. Stewards (brand owners or first importers of products that are the source of blue box wastes) were required under the act to pay fees established by the industry funding organization. A proposed program was submitted for the minister's approval in March 2003. The program was intended to provide 50 percent of the net costs of municipalities for blue box programs but was not approved until December 2003, after arrival of the new Liberal government.¹⁶³ WDO was also directed by the minister to establish diversion programs for used tires and waste motor oil.

Along with providing evidence of the apparently inescapable nature of municipal waste issues for the province, the WDO initiative highlighted the government's continuing enthusiasm for new public management models for the delivery of public services, evident in the creation of the Technical Standards and Safety Authority and the Electrical Safety Authority in its first term. Concerns regarding accountability, transparency, and access to information due to the non-governmental status of the WDO¹⁶⁴ and the dominance of WDO's board of directors by industry interests that flowed from the model¹⁶⁵ were raised by the Environmental Commissioner of Ontario and non-governmental organizations. It was also pointed out that the WDO system limited industry contributions to 50 percent of waste diversion program costs, reducing the incentives for waste reduction or packaging redesign to facilitate recycling or reuse by stewards.¹⁶⁶

Environmental Assessment

Even if the Ministry of the Environment found itself thrust into a far more active mode than the Harris government had ever imagined when it was re-elected in June 1999, the ministry would never regain the stature within the provincial government that it had enjoyed during the Peterson and Rae administrations. Nowhere was this made more clear than in the Eves government's last major environmental decision prior to the 2003 election.

The Class Environmental Assessment for Timber Management on Crown Lands in Ontario, completed by the Environmental Assessment Board in 1994, had constituted the most extensive public review of forest management practices in the province's history. In its decision, the board had imposed 115 terms and conditions on its approval of the Ministry of Natural Resources' forest management activities. These terms and conditions addressed issues such as the development and approval of timber management plans, public participation in the forest management planning process, the size of clear-cuts, the protection of non-timber values,¹⁶⁷ and requiring annual and five-year reports on timber management and the state of the province's forests. Together with the provisions of the 1994 Crown Forest Sustainability Act, the terms and conditions of the timber management environmental assessment had set the rules for forest management in Ontario. The environmental assessment decision resulted in extensive changes in forest management planning and practices in the province, including improved oversight of forestry operations and increased consideration of biological diversity and other ecological factors in decision making.¹⁶⁸

The approval under the timber management environmental assessment was scheduled to expire in May 2003. The Ministry of Natural Resources proposed that the environmental assessment approval be modified to remove most of the specific requirements contained in the Environmental Assessment Board's 1994 decision and to replace them with requirements to be determined by the ministry in the future. The ministry also proposed that the renewal of the environmental assessment be evergreen, removing the possibility of a further comprehensive review in the future. On July 4, 2003, the minister of the environment, Jim Wilson, appointed only a few weeks earlier, agreed to these proposals. The decision represented the final stage in the retreat from any pretence of a cross-sectoral policy role for the Ministry of the Environment within the government that had begun in June 1995. The initiation of the environmental assessment by the Peterson government, after years of delay under Davis, and its completion and implementation under the NDP had in many ways represented the apex of the ministry's influence. The Ministry of the Environment's near total surrender to the Ministry of Natural Resources reflected how far the former's stature had fallen.

Political Dynamics

Relationships among the Government, Opposition, and ENGOS

The Harris government had taken considerable pride in its exclusion of “special” interests during the initial post-1995 stages of its revolution. The shift into a more active mode on the part of the government required increased engagement between environmental organizations and the government. The government also had to contend with the enhanced credibility afforded its non-governmental critics by the Walkerton disaster and inquiry, events in the electricity sector and on the Oak Ridges Moraine, and their alliances with public health interests. Although tacit working relationships began to be established in some areas, the situation was complicated by the high turnover among ministers of the environment, with the government going through five ministers in slightly more than four years (Tony Clement, June 1999-March 2000; Dan Newman, March 2000-February 2001; Elizabeth Witmer, February 2001-April 2002; Chris Stockwell, April 2002-June 2003; and Jim Wilson, June 2003-October 2003). Even though Clement and Witmer quickly acquired reputations as capable and well-respected ministers, among many ENGOS there was an underlying awareness of the reluctant character of government’s new-found environmental activism.

As a result, the relationships forged between opposition parties and the ENGO community under the CSR carried over strongly into the PC government’s second mandate. As under late stages of the Davis government in the early 1980s, much of the post-2003 environmental policy agenda would be laid down through interactions between the province’s ENGO community and the opposition parties. The themes of major land-use planning reforms in southern Ontario, the phase-out of coal-fired electricity, implementation of source water protection measures, and strengthened controls on hazardous waste imports and disposal would figure prominently in the Liberals’ 2003 election platform.¹⁶⁹

The Harris to Eves Transition

Premier Harris’s unexpected resignation, announced on October 16, 2001, was seen as motivated by a combination of personal factors, the impact of the Walkerton disaster and inquiry on the premier and his government’s image, growing questions about the premier’s role in the death of unarmed Native protestor Dudley George at Ipperwash Provincial Park in September 1995, the 2001 economic slowdown, and Harris’s declining personal popularity in the polls.¹⁷⁰ Harris himself conveyed a sense that with the revolution completed, he had achieved what he had sought to achieve and was uninterested in operating in a less revolutionary and more normal governance mode.¹⁷¹

The public also seemed tired of the conflict and chaos associated with the revolution not only in the environmental field but also in the areas of health care and education.¹⁷² Harris's resignation and the subsequent leadership race spawned an intense debate within the Ontario PC Party over its future direction. Jim Flaherty, who had succeeded Ernie Eves as finance minister when Eves left government in 2001, embodied the camp that argued for a continuation of the revolution. Eves, who chose to come out of political retirement to enter the race, appealed to those who argued that the time of the CSR was past and that a less ideological and more moderate and centrist figure than Harris was needed to lead the party into the next election.¹⁷³

Although Eves emerged as the winner at the party's March 2002 leadership convention, the divisions within the party and government continued as Eves struggled to establish his own political space and image. Eves arrived in office with little more than a year before the election expected in 2003. A great deal of his government's time and effort was spent responding to the fires lit by the revolution rather than setting its own agenda. A firm break with the Harris legacy and the CSR might have enhanced Eves's chances for success in the upcoming election. Instead, Eves found himself going into the 2003 election with a platform that reflected the divisions within his party and the continuing strength of those who wanted to continue on a hard neo-liberal revolutionary path.¹⁷⁴

Conclusions

For a government that started out committed to reducing the role of government, the Progressive Conservatives found themselves in a remarkably active mode during their second mandate. The period was marked by the adoption of the Safe Drinking Water Act and regulations, the Waste Diversion Act, and the Oak Ridges Moraine Conservation Act and plan; a smart growth initiative; new hazardous waste standards; air pollution initiatives in the electricity sector; emission-reporting regulations for industry; and commitments on energy efficiency and renewable energy.

Yet, in all of these areas, the government's actions were driven by a need to respond to external events and pressures rather than initiatives from within the government itself. The combination of the Progressive Conservatives' neo-liberal orientation and rising public salience of environmental issues produced a governance model that was fundamentally reactive. On issue after issue, the government was dragged back into questions from which it had thought it had withdrawn during the revolution. In many of these cases, government found itself dealing with consequences of decisions made during the CSR. Walkerton was the most prominent example of such an outcome, but the other files followed the same pattern of having to address the consequences of hasty, poorly thought through decisions, based on overly simplistic notions of the province's existing roles and how they

could be reduced or eliminated. The situation flowed in part from the government's early perception of the environment as an unimportant issue where, as became apparent in the testimony of Premier Harris and his ministers before the Walkerton Inquiry, the province could dramatically reduce its role without serious consequences. The perception of unimportance also helps explain the pattern of the second Harris and then Eves governments constantly finding themselves blindsided by environmental issues, from hazardous waste management to the protection of the Oak Ridges Moraine.

Within this reactive model, the government's thinking in terms of economic or environmental strategy never evolved very far beyond the CSR model of tax cuts and deregulation, except for the additional packaging of major infrastructure investments under the umbrella of the Ontario SuperBuild Corporation. The government's continued enthusiasm for new public management governance models remained at the centre of its initial responses to the Walkerton disaster and with respect to municipal waste management.

The government found itself lost for direction on the electricity file once the market model collapsed in the fall of 2002. The smart growth initiative set in motion in the early part of 2001 suggested some recognition of the need for a more nuanced approach around urban development and its relationship to environmental quality and economic development, but neither the governments of Harris nor Eves seemed able to grasp the underlying concepts sufficiently well to understand and act on their implications for their policies related to land use, infrastructure, or economic strategy.

In the end, the Progressive Conservatives never recovered from the damage done to their image by the Walkerton disaster. The government, and Premier Harris especially, emerged from the inquiry appearing uncaring, callous, and incompetent. In combination with the perceived mishandling of the electricity file, the government failed Sid Noel's core test for Ontario governments of administrative competence, a conclusion that would determine the outcome of the October 2003 election.

7

The Dynasty Redux?

The arrival of a new Liberal government led by Dalton McGuinty in October 2003 marked a distinct shift in the direction of Ontario politics. The Liberals' campaign strategy emphasized the themes of civility, moderation, and competence, which had traditionally been seen to lie at the core of the success of the long PC dynasty of Frost, Robarts, and Davis. The new government arrived in office in part on the basis of a platform that proposed a major re-engagement by the province on environmental issues, although it would demonstrate a remarkable skill for appearing more activist than might really be the case. In fact, at times, the McGuinty government's approach, reflecting the combination of its essentially managerial and facilitative orientation and the high public salience of environmental issues, would be marked by profound contradictions.

The McGuinty government's arrival coincided with the appearance of a third modern wave of concern for the environment, which, as shown in Figure 1.3, would accelerate dramatically through 2004 and 2005, peaking in early 2007. Air quality remained the leading environmental concern among Ontarians, with climate change emerging as a close second. Water and municipal waste issues followed; energy, industrial-pollution, and wilderness issues trailed far behind.¹ One of the key features of the new wave of public concern was the shift in its demographics to a much younger and geographically distributed cohort from the distinctly urban (416), high education, high income, fifty-five-plus profile of environmentalism in Ontario of the early part of the decade.² At the same time, the environmental constituency in Ontario continued to be dominated by individuals born in North America or Europe,³ a potential source of long-term weakness in an increasingly culturally diverse province.

The McGuinty government would benefit from moderately favourable economic conditions through the first part of its mandate, allowing for the elimination of the deficit and the posting of a moderate surplus by 2006,

despite significant increases in expenditures.⁴ However, there would be increasing concern over the impact of the dramatic rise in world oil prices that took place from the time of the September 11, 2001, terrorist attacks onward. Most importantly from Ontario's perspective was the effect of this rise on the value of the Canadian dollar, which rose as fossil fuel exports from western Canada grew, to the disadvantage of the province's manufacturing sector,⁵ which was itself increasingly reliant on automobile parts and assembly.⁶ Weakening US economic performance, compounded by the growing subprime mortgage crisis, added to the emerging challenges toward the end of the government's first mandate.⁷ The forest industry in northern Ontario would be particularly hard hit by the combination of the strong Canadian dollar, US softwood lumber duties, increasing supplies of low-cost fibre from abroad, and weakening US demand for newsprint and office paper, resulting in a series of mill closures and major job losses.⁸

The McGuinty government's overall approach would be very strongly influenced by British prime minister Tony Blair's "new labour" model in the United Kingdom.⁹ At times, the resemblance to the Blair government's handling of certain issues, such as nuclear energy, would be uncanny. The new government clearly envisioned a role of the state in a modern, industrial/post-industrial economy like Ontario's as something well beyond the CSR's *de minimus* model of tax cuts, deregulation, and infrastructure spending.

The McGuinty government's overall economic strategy emphasized physical infrastructure, particularly transit and highways; education; support for research and development; and the commercialization of research, the latter emphasized through the creation of a Ministry of Research and Innovation, with the premier as minister. There was also recognition of the increasing importance of the services sector in providing employment, with emphasis on the financial services, information and communications technology, and entertainment and creative sectors.¹⁰ Nevertheless, traditional sectors – automotive manufacturing, forestry, mining, and agriculture – continued to be major pillars of the government's economic strategy.¹¹

The Red Tape Commission and its Less Paper/More Jobs Test – as well as the Regulatory Impact and Competitiveness Test of the CSR – would be eliminated, and the recovery of the environment ministry's budget, set in motion under the Progressive Conservatives after the Walkerton disaster, would continue, although, as shown in Figure 2.1, by the end of the government's first mandate it would still fall well short of the 1992-93 peak under the NDP even in current dollar terms.¹²

In other areas, the break with the Harris and Eves governments would be less distinct. Like the British Blair government, the new government would show a remarkable continued enthusiasm for the new public management model of public administration. The delegated administrative authorities

created under the auspices of the CSR, such as the Technical Standards and Safety Authority, the Electrical Safety Authority, Waste Diversion Ontario, and the self-regulation and self-inspection models established in the natural resource sector would all be left in place. There would be quiet continued enthusiasm for the key directions of the post-Walkerton Gibbons report on the Ministry of the Environment as well.¹³

Similarly, the Harris government's revisions to the environmental assessment process would be largely left untouched. Assessments would continue to be subject to narrow terms of reference, there would be no resumption of the practice of environmental assessments hearings on major projects before the Environmental Review Tribunal (formerly the Environmental Assessment Board), and rejections of environmental assessments by the minister remained rare.¹⁴ Moreover, there would be some spectacular exemptions from the process altogether, particularly with respect to electricity-related plans and projects.¹⁵

The Environment and the 2003 Election

In contrast to 1999, the Walkerton disaster, the Progressive Conservatives' struggles with the introduction of competitive electricity markets, the Ontario Clean Air Alliance's campaign on the fate of the coal-fired electricity plants, and growing concern over urban sprawl in the 905 region combined to ensure that the environment figured prominently in the 2003 provincial election.

Three of the eighteen policy papers forming the Progressive Conservatives' Road Ahead platform addressed environmental issues, providing far more extensive expressions of the party's thinking on environmental protection, energy, land use, and transportation than seen in 1995 and 1999. At the same time, the wider divisions within the party over its future direction that surfaced during the Eves/Flaherty leadership contest resulted in some serious contradictions. On the one hand, the *Safeguarding the Natural Environment* paper committed to implementing all 121 recommendations made by the Walkerton Inquiry, including source water protection legislation; "meeting all of Ontario's obligations under the Kyoto Protocol," and closing all of Ontario's coal-fired power plants by 2015. On the other hand, the PCs committed to proceeding with the standardized approval system first proposed at the height of the CSR in the 1996 *Responsive Environmental Protection* document.¹⁶

The *Smart Growth in Ontario* paper, although committing to protecting green spaces and prime agricultural land and to creating a single coordinated approach to transportation and transit across the region, proposed to "tackle Ontario's most pressing highway needs RIGHT NOW by building, widening and extending key highways across the province" (emphasis in original). The *Reliable, Affordable, Sustainable Energy* paper committed to a freeze on

electricity rates at 4.3 cents per kilowatt hour until “at least 2006”; pursuing new hydroelectric, natural gas-fired, and nuclear-generation projects, while cutting “red tape” for energy-facility approvals; and recommitted to targets for government purchases of renewable energy and energy conservation. However, it provided no indication of the government’s longer-term strategy for the electricity system. Notwithstanding its greener touches, on the whole, the Eves platform was seen as a return to core CSR themes, with proposals for allowing homeowners to deduct their mortgages payments from their provincial income taxes, bans on teachers’ strikes and school-board lockouts, crackdowns on illegal immigrants and refugee claimants, and the hiring of more police.¹⁷

The NDP’s platform was grounded in unequivocal opposition to the market and privatization-oriented themes of the CSR.¹⁸ Reflecting party leader Howard Hampton’s personal interest in the electricity file, energy issues were central to the platform.¹⁹ The party’s *Publicpower* platform paper called for an immediate end to hydro privatization and deregulation, the creation of a new agency (Efficiency Ontario) to lead and coordinate energy conservation and efficiency initiatives, renewable energy targets (10 percent by 2010 and 20 percent by 2020), the creation of a new public utilities commission, a moratorium on new nuclear plants, and the closure or conversion of the province’s coal-fired electricity plants by 2007. Other dimensions of the platform, reflecting key themes in the ENGO critiques of the Harris and Eves governments, included source water protection legislation; aggressive waste recycling and composting programs; legislation to fight urban sprawl and protect valuable agricultural lands, wetlands, woodlots, and other important natural features; reforming the Ontario Municipal Board (OMB); implementing new standards for the treatment, storage, and disposal of toxic waste; restoring the Environmental Assessment Act and intervenor funding, and expanding the application of the Environmental Bill of Rights.

The Liberals identified the environment as a potential wedge issue for them against the Progressive Conservatives early in the development of their platform. In contrast to the deep trouble the PCs found themselves in on environmental issues, the Peterson government was largely seen to have left a positive legacy. After some hesitation in the early stages of the CSR, the Liberals developed a solid record of opposition to the PCs’ handling of the environment file. In pre-election polling, the environment, along with education, social policy, and health care, was identified as an area where the Liberals had the strongest lead over the PCs, with 31 percent of respondents expressing confidence in the Liberals’ ability to handle environmental issues, versus 18 percent for the government. The NDP scored highest overall on environment, at 33 percent. The PCs still held strong leads on cutting taxes and reducing the deficit but were losing ground on job creation and economic growth.²⁰

The resulting Liberal platform shared a few themes with the Progressive Conservatives – more police on the streets and no tax increase – but on the whole placed a strong emphasis on areas of weakness for the PC, such as health care, education, cultural diversity, and the need for a more nuanced and sophisticated approach to economic strategy, based on strategic “clusters,” as opposed to the PC focus on tax cuts and deregulation.²¹ There was also a focus on Aboriginal issues, including a commitment to an inquiry into the 1995 death of Aboriginal protestor Dudley George at Ipperwash Provincial Park.²²

The principal environmental dimensions of the liberal platform were embodied in a policy paper on “strong communities.”²³ The Liberals’ extensive and detailed platform shared a certain amount of environmental policy space with the NDP, but whereas New Democrats emphasized the electricity file, the Liberals, conscious of the role of the 905 region around the City of Toronto in determining the outcomes of the previous three elections, emphasized themes around managing urban growth. The Liberals committed to:²⁴

- The allocation of two cents per litre of the provincial gasoline tax revenues to municipalities for public transit.
- The establishment of clear planning rules to ensure that the OMB follows provincial policy and the reform of the OMB process, including giving municipalities more time to consider development applications and to prevent developers from forcing unwanted municipal expansion.
- The development of a long-term plan for managing growth responsibly in the Golden Horseshoe, taking into account expected population growth and infrastructure needs, and without developing areas that provide food, water, and recreation.
- The establishment of a 600,000-acre greenbelt in the Golden Horseshoe from Niagara Falls to Lake Scugog, under the authority of a Greenbelt Commission.
- The provision of infrastructure funding to priority growth areas, such as city centres and urban nodes, not to greenfields development, stating that “we will stop subsidizing sprawl.”
- The creation of a Greater Toronto Transportation Authority to identify and meet transportation needs on a region-wide basis.

On electricity, the Liberals committed to shut down Ontario’s coal-fired power plants by 2007 and replace them with cleaner sources of energy, introduce targets for new clean and renewable energy sources (5 percent of electricity supply by 2007 and 10 percent by 2010) and conservation (5 percent by 2007),²⁵ and to stabilize the electricity market. However, the specifics were limited to references to investments in new power supplies,

encouraging conservation, and providing a steady supply of clean, affordable electricity.²⁶ There were commitments to implement every recommendation of the Walkerton Inquiry, including those related to source water protection. Finally, there were promises to prosecute and fine polluters, make the province's hazardous waste disposal rules the toughest in North America, and to pursue a 60 percent municipal waste diversion rate by 2007.²⁷ The platform was noticeably thin on biodiversity, resource management, and land-use issues outside southern Ontario, reflecting some of the ill-feeling between the Liberals and the Partnership for Public Lands organizations over the 1999 Lands for Life initiative, for whom these were important issues.

The Progressive Conservatives consistently trailed the Liberals by 10 to 15 percent in polls leading up to the October 2003 election.²⁸ An expected election call in May 2003 was cancelled in light of the outbreak of severe acute respiratory syndrome (SARS), which killed forty-four people in Ontario, as well as the Tories' own poor electoral prospects.²⁹ The government quickly lost more ground as its campaign took negative and bizarre turns, including the circulation of a press release calling Liberal leader Dalton McGuinty "an evil reptilian kitten eater from another planet."³⁰ McGuinty himself held to the positive tone of the Liberal platform, while the Progressive Conservative attack campaign backfired, providing other Liberals and the NDP with opportunities to remind the media and voters of the negative dimensions of the Harris and Eves legacy – Walkerton and the electricity file chief among them.³¹ In the words of one Tory insider, "So many chickens came to roost, it's like a remake of *The Birds*."³²

The result on October 2 was a Liberal majority of seventy-four seats, based on 47 percent of the popular vote. The Progressive Conservatives received 35 percent of the popular vote and were reduced to twenty-four seats, concentrated in their central Ontario heartland. The likelihood of a PC defeat reduced the appeal of strategic voting in the direction of the Liberals among progressive voters, with the result that the NDP increased its share of the popular vote by 2 percent relative to 1999, to 15 percent. Unfortunately for the party, even with the increase in its popular vote, it won only seven seats,³³ and lost party status in the legislature as a result.³⁴ The Liberals, with their strong emphasis on issues related to urban growth and cultural diversity, made particularly important gains in the 905 region.³⁵ The Green Party, led by long-time leader Frank de Jong, which had hovered in the 5 percent range in pre-election polling,³⁶ received 3 percent of the popular vote, a 2 percent increase over its 1999 performance and by far its most impressive showing in an Ontario election.

The Liberals' first-term environmental agenda would be dominated by three issues flowing from their platform: land-use and infrastructure planning, particularly in the region now being labelled the "Greater Golden Horseshoe" (from Orillia in the north to Fort Erie in the south and from

Kitchener-Waterloo in the west to Peterborough in the east); electricity; and source water protection. A fourth, climate change, would emerge in the later stages of the government's mandate. Leona Dombrowsky, a second-term MPP from rural eastern Ontario, was sworn in on October 23 as the McGuinty government's first environment minister. As it turned out, much of the key activity would happen in other ministries held by senior members of the Liberal caucus, most notably municipal affairs and housing, led by John Gerretsen; energy, carried by Dwight Duncan; the new Ministry of Public Infrastructure Renewal, headed by David Caplan, and the office of the premier itself.

Land Use and Infrastructure

The management of urban growth in southern Ontario was the centrepiece of the Liberals' environmental platform. The government's handling of the issue got off to a rough start, with the government having to back down on a campaign commitment to stop the construction of 6,600 homes on the Oak Ridges Moraine.³⁷ Conscious of the role of the platform's commitments to deal with urban sprawl and traffic congestion in the Liberals' electoral success in the 905 region, the government recovered quickly and set in motion what would be the most ambitious package of reforms to land-use and infrastructure planning seen in the modern history of Ontario. The reforms consisted of four elements, all flowing in one way or another from the Strong Communities platform:

- Revisions to the Planning Act and the associated Provincial Policy Statement (PPS).
- The establishment of a greenbelt within the Greater Golden Horseshoe (GGH) Region.
- The adoption of a growth plan for the region, intended to integrate land-use and infrastructure planning.
- The establishment of a Greater Toronto Transportation Authority to coordinate transportation planning in the region.

The government's first substantive move on the land-use planning front was to amend the Planning Act in November 2004 to re-establish the requirement that had existed briefly under the NDP reforms to the act flowing from the work of the Sewell Commission, namely that all planning decisions (including those made by provincial agencies, municipal councils, and the OMB) be consistent with the PPS issued under the act. The legislation also lengthened the time periods before which development proponents had an automatic right of appeal to the OMB in the absence of municipal decisions on their applications, restricted appeals of local planning decisions by proponents of urban boundary expansions, and strengthened the minister's

powers with respect to the declaration of provincial interests under the act.³⁸ A second round of amendments to the Planning Act was adopted in October 2006.³⁹ These further tightened the rules for OMB appeals and incorporated provisions intended to facilitate conservation easements and covenants.

The PPS took on a new importance given these amendments to the Planning Act. A review of the PPS had been set in motion by the Progressive Conservatives in 2001 but never completed. A revised PPS now came into force in March 2005.⁴⁰ The overall direction of the new PPS reflected the smart growth concepts that the Harris and Eves governments had embraced rhetorically, but never been able to grasp in practice. The new PPS emphasized redevelopment, intensification, and infill development on lands that were already developed over greenfields expansion; referenced transit-supportive land-use densities and mixes; and included references to source water protection. The PPS also retained requirements that municipalities ensure they have ten-year supplies of residential land available for development at all times and strengthened the priority given to mineral aggregate extraction over other land uses. The protection of prime agricultural lands from development was limited to specialty croplands.⁴¹

The second and most prominent element of the Liberals' package of land-use planning reforms was the Greater Golden Horseshoe (GGH) Greenbelt. The Greenbelt Act and Greenbelt Plan were adopted in March 2005.⁴² The plan, which incorporated and added to the lands already covered by the Niagara Escarpment and Oak Ridges Moraine Conservation Plans, protected more than 700,000 hectares of land within the GGH from urbanization. Varying degrees of non-urban uses were permitted on these "protected countryside" lands, based on designations of land within the plan as natural heritage, prime agricultural, and rural countryside lands. The Greenbelt Act required that all local and provincial planning decisions, including decisions by the OMB, conform with the Greenbelt Plan; prohibited municipalities from undertaking works that conflicted with the plan; and required municipalities to amend their official plans to conform to the plan.⁴³

The legislation provided for a ten-year review of the plan, and permitted the minister to amend the plan.⁴⁴ The plan indicated that amendments to it were expected to occur only at the ten-year review stage, and provided that amendments could not have the effect of reducing the total land area of the plan.⁴⁵ The government chose not to establish a greenbelt commission, as originally proposed in the Liberal platform. Experience with the Niagara Escarpment Plan and Niagara Escarpment Commission suggested that such a commission could become a mechanism for incremental weakening of the plan.⁴⁶ A Greenbelt Advisory Council and foundation were established, the latter with a \$25 million endowment.⁴⁷

The greenbelt initiative was not without controversy. The greenbelt was generally well received by those concerned about urban sprawl, both for

protecting ecologically significant and prime agricultural lands and for its potential role as an urban containment boundary,⁴⁸ a view encouraged by the government.⁴⁹ The development industry and some municipalities strongly opposed the greenbelt, suggesting that it would restrict the land supply and drive up housing prices.⁵⁰ Some farmers and smaller landowners whose lands were included in the greenbelt objected to the lost speculative value of their land, as they could no longer sell it for urban development.⁵¹ The Progressive Conservative legislative opposition picked up on these themes and added accusations, never fully substantiated, that the greenbelt's boundaries had been drafted to exclude major landholdings of developers with close ties to the Liberal Party.⁵² The plan's provisions regarding aggregate extraction, on the other hand, were so permissive that NDP environment critic Marilyn Churley quipped in the legislature that the greenbelt should be labelled the "gravel belt" or the "park for pits."⁵³

With the greenbelt establishing where urbanization would not take place in the GGH (at least over the ten-year life of the initial plan), a growth plan entitled *Places to Grow* was to determine where and how urban growth *would* occur. The plan was developed by the newly established Ministry of Public Infrastructure Renewal, created through a merger of the Ontario SuperBuild Corporation and Smart Growth Secretariat that had been set up as part of the Harris government's smart growth initiative. The intention was to better integrate the province's infrastructure investments with its land-use plans. Legislation for the establishment of regional growth plans was adopted in parallel to the Greenbelt Act. The legislation permitted the minister of public infrastructure renewal to develop plans for designated regions of the province and required that any local or provincial planning decisions conform to the plan.⁵⁴

The final growth plan for the GGH was adopted on June 16, 2006.⁵⁵ The early stages of the plan's development were marked by some important gains in terms of better aligning the Ministry of Transportation's highway plans with the plan's vision of focusing future growth in existing and emerging urban centres, and emphasizing public transit as the primary means of moving people. Several highway extensions in the northern GGH that had been central to the Harris government's smart growth vision for the region, including the extension of Highway 427 toward Barrie, the Bradford Bypass connecting Highways 404 and 400, and the full extension of Highway 404 along the south shore of Lake Simcoe, were abandoned. The plan did, however, retain the eastward extension of Highway 407, the mid-peninsula highway (now renamed the Niagara-to-GTA Corridor), a GTA east-west corridor, and shorter but significant northward extensions of Highways 427 and 404.⁵⁶

With respect to land use, the plan set minimum population and density targets for both designated urban growth centres and future greenfield

development sites, required that municipalities accommodate 40 percent of projected future population and employment growth within existing urban areas, and promoted the development of “complete” communities.⁵⁷ Underlying these elements were requirements that GGH municipalities plan to accommodate population and employment growth targets established through the plan.⁵⁸ Like the revised PPS, despite the province’s ongoing decline in high-intensity industrial activities requiring separation from other land uses and the growth in office-based knowledge- and service-based sectors for which such separations are unnecessary and even undesirable,⁵⁹ the growth plan incorporated restrictive policies on the conversion of “employment” lands to other uses.⁶⁰

The final elements of the government’s strategy related to public transit. The 2004 budget included a commitment of one cent per litre of the provincial gasoline tax for public transit beginning in October 2004, rising to one and a half cents per litre in October 2005 and to two cents per litre in October 2006,⁶¹ re-establishing ongoing provincial support for public transit operations, which had been withdrawn under the CSR “who does what” exercise. Legislation creating a Greater Toronto Transportation Authority, later renamed Metrolinx, was enacted in June 2006. The legislation required that the authority develop a regional transportation plan that conformed with provincial plans issued under the Places to Grow Act (e.g., the GGH Growth Plan); that took into consideration all modes of transportation, including highways, railways, local transit systems, the GO Transit system, cycling, and walking; and that the plan “work towards reducing transportation-related emissions of smog precursors and greenhouse gases in the regional transportation area.”⁶² In the run-up to the 2007 election, the premier announced his government’s intention to invest \$11 billion (\$17.6 billion including federal contributions, which were not committed at the time of the announcement) in fifty-two transit projects in the GGH, even though the regional plan was yet to be completed.⁶³

The 2005-06 reforms were undeniably impressive in terms of their scope and in bringing greater order to municipal land-use planning processes in the GGH Region. However, their actual impact on the future shape of urban development in the region remains an open question. As shown in Figure 7.1, none of the new plans involved any changes to the zoning of the seventy-eight thousand hectares of undeveloped land identified by the Neptis Foundation as already zoned for urbanization by GGH municipalities, and that left a further sixty-eight thousand hectares available for future development between the greenbelt’s inner boundary and the existing designated settlement area boundaries,⁶⁴ amounting in total to a forty- to fifty-year supply of land even at pre-reform (i.e., sprawling) densities.⁶⁵ The premier himself emphasized that the province’s plans would leave substantial room for growth.⁶⁶ Nor did the Greenbelt Plan address lands beyond the greenbelt

THE URBAN FRINGE IN THE GTA AND HAMILTON

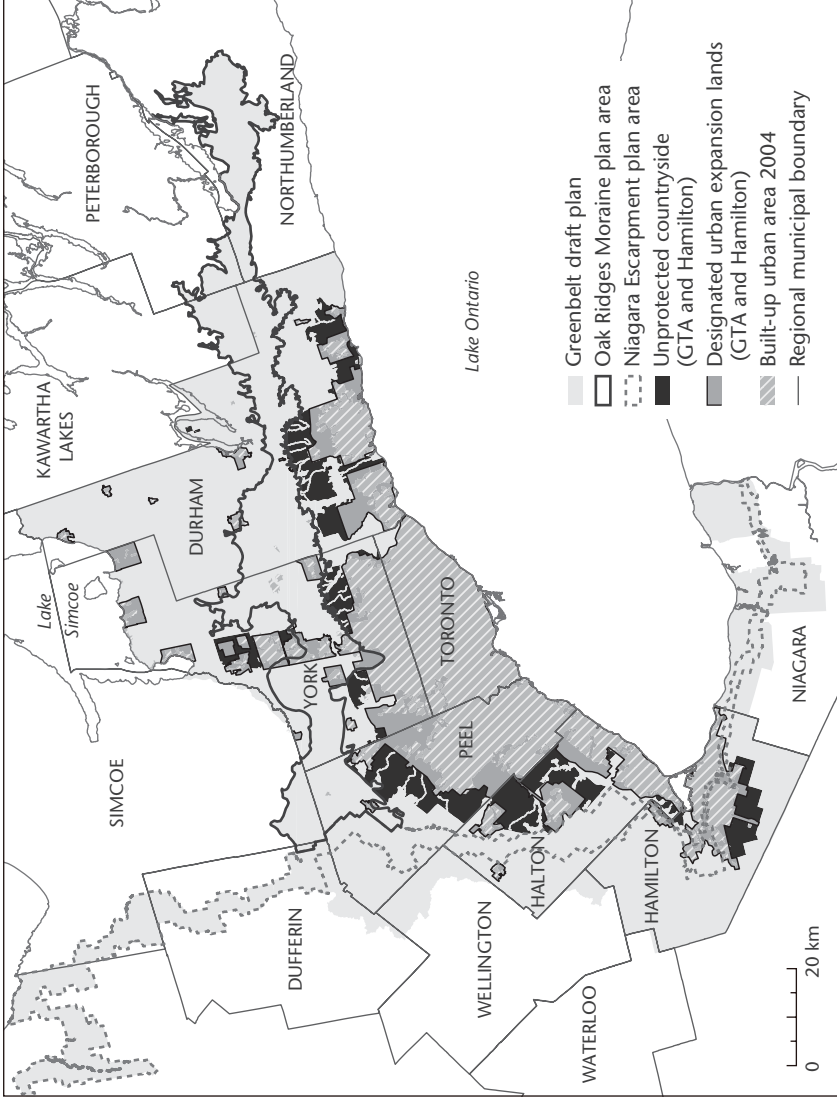
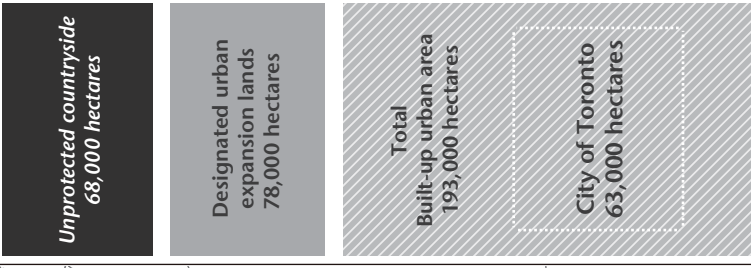


Figure 7.1 Unprotected countryside and designated urban expansion lands in the GTA and Hamilton, 2005
Source: Neptis Foundation.

but within the GGH commutershed, such as southern Simcoe County, that were subject to “leapfrog” development pressures even before the establishment of the greenbelt.⁶⁷

Moreover, the 2005-06 reforms strengthened the drivers of the urbanization of rural land in some important ways. The growth plan requires municipalities to make land and infrastructure available to meet its provincially established population and employment targets. The population and employment targets themselves were, unlike the other elements of the plan, subject to very limited public consultation and were treated as independent variables, with no consideration of the physical or fiscal capacity of individual municipalities to accommodate the projected growth. An attempt by the province’s environmental commissioner to raise the question of the environmental sustainability of the projected growth in his November 2005 annual report promoted accusations of racism from the media, given that immigration was now the key driver of population growth in the region.⁶⁸ Some have gone so far as to argue that the reforms, especially those regarding the greenbelt, provided “green” cover for the continuation of business-as-usual development in the region.⁶⁹

In many ways, the government’s handling of growth management in the GGH would provide an archetype for its approach to other complex environmental files. The overall outcome balanced demonstrable wins for both sides – the greenbelt and transit investments for environmental interests; the binding growth targets, continuation of highway projects, and strengthened policies on aggregates for growth-oriented municipalities and the development industry – while providing an outward appearance of being a more aggressive effort to curb urban sprawl than it might actually be.

Electricity

Although a major response to issues around urban growth and development in the GGH was central to the Liberal platform, the party had been less clear on its plans for the electricity sector beyond a commitment to a phase-out of coal-fired electricity by 2007. The Liberals would find themselves having to deal with the same fallout from the market experiment that bedevilled the Eves government and, with no firm concept of the way forward of their own, would find their policies emerging iteratively as they responded to a succession of new crises.

The most immediate problem was the rising costs associated with the electricity rate freeze adopted by the Progressive Conservatives in November 2002. Confronted with revenues falling hundreds of millions of dollars short of wholesale electricity costs,⁷⁰ in November 2003 the Liberals announced the abandonment of the fixed electricity price of 4.3 cents per kilowatt hour (kWh) as of April 1, 2004, increasing it to 4.7 cents per kWh for the first 750 kWh consumed and 5.5 cents per kWh for consumption beyond that level.⁷¹

The system's deeper structural problems flowing from a decade of uncertainty were highlighted a few months later when the Electricity Conservation and Supply Task Force, established in June 2003, delivered its final report. The task force concluded that the province faced a "looming supply shortfall," with two-thirds of existing generating capacity (principally nuclear and coal) reaching the end of its operational life by 2020, and observing that "the market approach adopted in the late 1990s needs substantial enhancement if it is to deliver the new generation and conservation Ontario needs, within the timeframes we need them."⁷²

Driven by a combination of concern over new supply and the price instability associated with the electricity market, the task force effectively recommended the abandonment of the market model adopted through the 1998 Electricity Act. The task force proposed that, instead, the Independent Market Operator develop a long-term integrated system plan to guide development of the supply-and-demand resources needed to meet the province's electricity needs, with the government providing guidance to the operator on the composition of supply and demand in the Ontario electricity system. The task force also recommended the establishment of a conservation champion and coordinator to "serve as a focal point for a conservation culture in Ontario."⁷³

The task force considered a range of supply and conservation options,⁷⁴ although in the case of the potential contributions of conservation and renewable energy (principally wind and hydro), there was virtually no new Ontario-specific analysis available since the time of the 1989 Ontario Hydro demand-supply plan. The task force concluded that new gas-fired plants for peaking and intermediate capacity, the expansion of renewable power where economic, and new base-load nuclear and hydro capacity additions, combined with aggressive measures to conserve energy, were all likely to be part of a future competitive energy supply for Ontario.⁷⁵

The first new substantial analysis of the current conservation and cogeneration potential in Ontario was provided by the Pembina Institute in April 2004. *Power for the Future* suggested a much higher potential for technically achievable and cost-effective conservation than that found by the task force, in the range of 12,000 megawatts by 2025. The findings raised the possibility of more substantial movement in the direction of a distributed soft energy path system than that proposed by the task force, while phasing out coal and retiring, without replacement, the province's nuclear facilities as they reached the end of their expected operating lives.⁷⁶ The study received substantial favourable media coverage throughout the province,⁷⁷ and, along with a study on renewable energy potential published by the David Suzuki Foundation,⁷⁸ grounded the counterpoint to the conventional supply-oriented advice emerging from the established institutional actors in the province's electricity system.

The government's response to the task force report came in the form of the Electricity Restructuring Act,⁷⁹ introduced in June 2004 and adopted the following December. In announcing his intention to proceed with new legislation, Energy Minister Dwight Duncan declared that there would be "no more extremes. No more reversals. No more indecision. No more malaise."⁸⁰ The legislation confirmed the step away from the market model toward what the government was now describing as a hybrid system of markets and planning,⁸¹ symbolized by the redubbing of the Independent Market Operator as the Independent Electricity System Operator. The legislation created a new entity, the Ontario Power Authority (OPA), and provided it with a mandate to develop a twenty-year Integrated Power System Plan (IPSP) for the province's electricity system and to enter into contracts for procuring supply or conservation services. The legislation provided for the issuance of directives to the OPA by the minister of energy with respect to the content of the IPSP.⁸²

The Ontario Energy Board was mandated to review the IPSP "to ensure it complies with any directions issued by the minister and is economically prudent and cost effective" and to either approve the plan or return it to the OPA with comments for reconsideration and resubmission.⁸³ The option of approval subject to conditions imposed by the Ontario Energy Board was ruled out. The minister was also provided with the capacity to issue directives to the OPA as interim measures until the IPSP was approved. Finally, in response to the task force's conservation recommendations, the legislation created a conservation bureau within the OPA, to be led by a chief energy conservation officer, mandated to provide annual reports on the province's progress in meeting its conservation goals.⁸⁴

Reflecting the lack of analytical capacity within the Ministry of Energy itself, on May 2, 2005, Duncan wrote to the OPA requesting advice on an appropriate mix of supply options for Ontario's future electricity system over the next twenty years. In the face of a steady stream of high-profile media reports of breakdowns and delays in repairs of the province's existing nuclear facilities,⁸⁵ Duncan announced that it was time for an "open and public debate" on the future of nuclear power in a speech delivered to the Canadian Club the same day.

The advice was delivered in December 2005. The OPA recommended that the system continue to be dominated by nuclear power, which would provide 50 percent of the province's generating capacity through a combination of refurbishments of existing plants and new build. Coal would be phased out between 2005 and 2015, replaced with natural gas-fired generation and new renewables (in practice, a combination of new and refurbished hydro and wind). The authority concluded that conservation could make only a modest (5 percent) contribution to meeting the province's future electricity needs, although it noted that this was "not the target of the OPA's Chief Energy

Conservation Officer,"⁸⁶ who had proposed a 5 percent reduction in peak demand and a 10 percent reduction in total consumption by 2007.⁸⁷

The *Supply Mix Advice and Recommendations* report prompted a storm of protest from environmental organizations following the electricity file, led by Greenpeace Canada, the Pembina Institute, the Ontario Clean Air Alliance, and WWF-Canada. The report's environmental critics argued that the power authority had overestimated future demand; underestimated the potential contributions from conservation, low-impact renewables, and cogeneration; overestimated the risks and costs associated with natural gas-fired generation; and underestimated the costs and risks associated with nuclear power. The OPA's critics also argued that it had provided a fundamentally flawed analysis of the environmental performance of supply options by downplaying or ignoring the impacts of uranium mining and milling, and super-weighting greenhouse gas emission impacts over all other environmental and health impacts and risks.⁸⁸ Hundreds turned out for consultation meetings hosted by the OPA in the early part of 2006. Of the 2,016 public comments received by the Ministry of Energy in response to the Environmental Bill of Rights posting of the advice, over 90 percent expressed concern over the OPA's direction, primarily because of its nuclear component.⁸⁹

The government seemed to face a potential political crisis over the OPA's nuclear-centred recommendations.⁹⁰ The situation prompted an intense debate within the government, complicated by the consideration that in October 2005 Dwight Duncan had found himself taking over the finance portfolio when Finance Minister Greg Sorbara had to resign when he was named in an RCMP search warrant.⁹¹ Duncan's parliamentary assistant, Donna Cansfield, became minister of energy. Cansfield, who had been leading the government's Conservation Action Team, not surprisingly took a more positive view of the potential contributions of conservation and renewable energy than the OPA's leadership, which was dominated by former Ontario Hydro staff, whom she privately labelled the "dougs" (dumb old utility guys).⁹² Cansfield would oversee the adoption of the Energy Conservation Responsibility Act, intended to strengthen the province's authority to promote energy conservation, including provisions related to the installation of "smart" electricity meters, energy conservation planning in the public sector, and permitting the province to override municipal bylaws banning such things as the use of outdoor clotheslines for drying laundry.⁹³ The new legislation notwithstanding, Ontario Clean Air Alliance pointed out that as of February 2006, the government's spending on new supply was outstripping its conservation investments by a factor of seventy-three to one (\$12 billion versus \$163 million), and that spending on conventional (nuclear and natural gas) supply was exceeding investments in renewables by a factor of more than two to one.⁹⁴

More broadly, the combination of the need to respond to the criticism of the OPA's recommendations; lobbying by the Ontario Sustainable Energy Association (OSEA), representing small renewable energy developers; the change in leadership at the Ministry of Energy; and personal interventions with the premier by environmental icon David Suzuki, led to the announcement of the Renewable Energy Standard Offer Program (RESOP) by the premier in March 2006.⁹⁵ The program, adopted over the objections of the OPA and other members of the institutional alphabet soup of Ontario's electricity system, provided a fixed-price feed-in tariff to small (less than 10 megawatts) renewable energy projects.⁹⁶

Sorbara was ultimately cleared of any wrongdoing and returned as minister of finance in May 2006,⁹⁷ and Duncan returned to the energy portfolio; Cansfield found herself recast in the role of minister of transportation. Cansfield's reassignment was attributed by many observers to her battles with the "dougs" over the future direction of the province's electricity system.⁹⁸ That view was reinforced by the consideration that Duncan's return was quickly followed by the issuance of a Supply Mix Directive to the OPA regarding the IPSP that it was to develop. Conceding some ground to the OPA's critics, the June 13, 2006, directive more than tripled the targets for conservation and demand management recommended by the OPA, to a 6,300-megawatt reduction in peak demand by 2025, but on the whole, the directive followed the structure of the power authority's December 2005 advice.

Nuclear power was to remain the foundation of the system, with a nominal cap of 14,000 megawatts of capacity (substantially more capacity than actually in service at the time), accompanied by a doubling of renewable capacity to 15,700 megawatts, and supplemented by "high efficiency and high value" uses of natural gas. Moreover, the directive signalled a backing away from the government's commitment to phase out coal-fired electricity in 2007, simply requiring that the plan provide for the replacement of coal-fired generation "in the earliest practical time frame that ensures adequate generating capacity and electricity system reliability in Ontario."⁹⁹ A second directive to OPG instructed it to begin the federal approvals process for construction of a new build nuclear facility at an existing nuclear plant site.

The directive was accompanied by two regulations, which were central to considerations of the environment and sustainability in the development and approval of the plan. Breaking with the precedent of the Peterson government's handling of the Ontario Hydro's 1989 demand-supply plan, which was subject to review under Ontario's Environmental Assessment Act, Ontario Regulation 276/06 had the effect of exempting the IPSP from review under that act. Instead, the IPSP regulation directed the OPA to "ensure that safety, environmental protection and environmental sustainability are considered

in developing the plan."¹⁰⁰ The government justified the exemption by arguing that it was better to "assess the environmental issues associated with specific sites and facilities and not broad government policy."¹⁰¹ Moreover, it would rely on the federal environmental assessment process for the review of individual nuclear projects.¹⁰² The outcome seriously weakened the credibility of Environment Minister Laurel Broten, who was attacked by the NDP and ENGOs for her failure to prevent the exemption of the IPSP from the Environmental Assessment Act.

The directive, with its focus on nuclear energy (the increased conservation targets, even with a July 2006 sweetener of a directive to the OPA making \$400 million available to local distribution companies for energy conservation initiatives,¹⁰³ were regarded as little more than window dressing covering the directive's hard energy path orientation); abandonment of the 2007 coal phase-out; and exemption from the Environmental Assessment Act seemed to represent a major defeat for the province's environmental movement, which reacted with predictable anger.¹⁰⁴ The environmental commissioner was highly critical of the exemption from the Environmental Assessment Act as well.¹⁰⁵ The provincial auditor general added more fuel to the fire in a special report tabled in April 2007, concluding that the government had significantly understated the real costs of an October 2005 contract with Bruce Power to refurbish the four reactors at the Bruce A nuclear facility.¹⁰⁶ The authority, for its part, armed with a directive it interpreted as not requiring consideration of the kinds of alternative conservation- and renewable energy-oriented scenarios developed by the Pembina Institute and its partners under the banner of "Renewable is doable,"¹⁰⁷ proceeded with the development of the IPSP.

The plan, proposing \$60 billion in investments in energy supply and conservation (including \$27 billion on nuclear energy), was filed with the Ontario Energy Board on August 29, 2007,¹⁰⁸ just prior to the start of the 2007 election campaign. A regulation requiring the cessation of the use of coal at the province's four remaining coal-fired power plants by 2014 was adopted at the same time.¹⁰⁹ From the government's perspective, the electoral advantage of apparent closure on the electricity file, supported by the RESOP and renewed commitment to a coal phase-out, which helped divide some of the environmental opposition to the plan, was seen to override the political risk of parts of the ENGO community actively campaigning against the IPSP.¹¹⁰ These considerations were reinforced by the apparent inability of the ENGO community to turn the initial public anger so evident at the consultation meetings on the supply mix advice into an effective grassroots movement against the direction of the IPSP.

The first McGuinty government's handling of the electricity file was driven by the perceived crisis over short- and long-term supply and a fear of the political consequences of blackouts and brownouts. The policy discourse

became one of a technological reductionism, reflected in the technologically prescriptive Supply Mix Directive, focused on the immediate economic and environmental merits of the competing supply technologies, as opposed to their potential contributions to wider overall system goals, such as economic, environmental, and social sustainability; flexibility; resilience; or adaptive capacity.¹¹¹ These objectives themselves were becoming increasingly contested as the historical consensus on the pursuit of cheap and abundant power was complicated by the reality that new power supplies were likely to be far more expensive than in the past, the need to address environmental (e.g., climate change) and health (e.g., air quality) considerations, and economic development ambitions.

The government thought that the IPSP had provided closure on the question of the direction of the province's electricity system, and that the RESOP and other initiatives on conservation and renewables had sufficiently divided the environmental opposition to reduce the political impact of the IPSP's critics. In practice, the absence of any effort at meaningful discussion, much less consensus, on the revised goals of the system would leave the file as unstable as ever, although this would not become fully apparent until after the 2007 election.

Source Water Protection

One of the core elements of the 2007 Liberal platform had been the commitment to follow through on the Walkerton Inquiry's recommendations regarding source water protection. The Harris and Eves governments, sensitive to their rural base in southern and central Ontario, had moved slowly on the issue.

The development of a strategy to deal with source water protection proved far more complex than the relatively straightforward updating of the rules and procedures for operating drinking water systems that had been undertaken by the Progressive Conservatives under their Safe Drinking Water Act. Source water protection had the potential to require changes in practices of a wide range of potentially powerful interests, including agricultural operations and resource extraction industries. It also had the potential to run afoul of a growing constituency of individual rural landowners increasingly resentful of what they perceived as government interference with their uses of their land,¹¹² loosely organized under the banner of the Ontario Landowners Association and primarily based in strongly PC ridings in eastern Ontario.¹¹³ If led by the Ministry of the Environment, source water protection carried with it the additional implication of horizontal capacity on the part of the ministry, similar to what it once had exercised under the Environmental Assessment Act, to influence decisions being made by other agencies of the provincial government, for which the affected interests were important clientele.

Source water protection legislation – the Clean Water Act – was ultimately introduced in December 2005 and adopted the following October. The foundation of the legislation was the development of source water protection plans for source water protection areas to be designated under the act. Planning decisions by municipalities, provincial agencies, and the Ontario Municipal Board were required to conform with the “significant threat” policies and designated Great Lakes policies set out in the source water protection plans. Other planning decisions were “to have regard” for source water protection plans. Municipalities were prohibited from undertaking any public works that conflicted with “significant threat” and Great Lakes policies and were required to bring their official plans into conformity with such policies. The plans themselves were to be developed by local source water planning committees.¹¹⁴

The development of the legislation took place over an extended period and, notwithstanding the enormous efforts put in by some environmental and public health organizations, particularly the Canadian Environmental Law Association,¹¹⁵ the process provided the affected economic interests ample opportunity to limit the potential scope of its impact. Responsibility for enforcement of conformity with the source protection plans, for example, was not to rest with the Ministry of the Environment, but rather shared with other ministries. Where municipalities failed to bring their plans into conformity, the minister of the environment was to work *in conjunction with* the minister of municipal affairs and housing, to make orders to bring the official plans in question into conformity. Similarly, although provincial decisions to issue prescribed instruments (e.g., approvals under the Aggregate Resources Act, Mining Act, and Crown Forest Sustainability Act) that were to be identified through regulations in the future were also required to conform with “significant threat” and Great Lakes policies, where non-conformity was identified by minister of the environment, he or she could only *request* that the agency responsible for issuing the instrument address the non-conformity.¹¹⁶ The management of biosolids (e.g., sewage sludge), a potentially significant threat to source waters, was largely removed from the purview of the Clean Water Act and placed under the Nutrient Management Act, administered by the Ministry of Agriculture, Food and Rural Affairs.¹¹⁷

The process for developing the source protection plans under the legislation is itself highly complex and potentially very time consuming,¹¹⁸ and places considerable process and analytical burdens on the local planning committees.¹¹⁹ The committees themselves have the potential to include strong representation from interests whose activities may threaten source waters, having one-third representation from municipal interests; one-third agricultural, commercial, and industrial interests; and one-third environmental and health interests and the general public.¹²⁰

Although the Environmental Commissioner of Ontario estimated that \$120 million was committed to municipalities and conservation authorities for source water protection capacity building between 2004 and 2008, no commitments were made for ongoing operational funding to develop and implement source protection plans.¹²¹ The commissioner also noted the lack of protection under the legislation for source waters feeding private wells and the uncertain situation of watersheds outside the jurisdiction of conservation authorities.¹²² The process of actually developing source protection plans remained, at the beginning of 2011, in a very early stage, and the actual impact on source water protection of the entire exercise remains, at best, an unknown.

Waste/Industrial Pollution

Beyond the commitments to a coal phase-out by 2007 and the adoption of disposal standards for hazardous wastes, the 2003 Liberal platform had said relatively little about the types of industrial pollution that in the past had dominated the environmental dimension of Ontario election campaigns.

Hazardous Waste Land Disposal Restrictions

Although the coal phase-out commitment became mired in the complexities of the electricity file, the platform commitment regarding hazardous waste disposal standards moved forward relatively smoothly. The Harris government had aligned Ontario's definitions of wastes with those employed in the United States in its second mandate but had declined to move on the standards regarding actual disposal. This was despite the considerable evidence that the virtual non-existence of such standards in Ontario was a major driver of US hazardous waste imports to the province.¹²³ In August 2005, the province adopted the key elements of the Land Disposal Restrictions program of the US Environmental Protection Agency, requiring pre-treatment of all wastes before land disposal to reduce their toxicity and minimize the possibility of hazardous contaminants entering soil or groundwater.¹²⁴

Bill 133 and Environmental Penalties

The second dimension of the government's initiatives on industrial pollution flowed not from the 2003 platform but rather in response to a series of high-profile spills along the St. Clair River's Chemical Valley in 2003 and 2004. The spills prompted the government to establish an advisory panel called the Industrial Pollution Action Team (IPAT), co-chaired by Lambton-area Liberal MPP Maria Van Brommel and former MISA advisory committee chair and now University of Guelph professor Isobel Heathcote.

The IPAT report concluded that "Ontario's environmental management framework is largely reactive, not preventive" and that the ministry's existing standards for air and water pollution were outdated. The team noted major

gaps in the ministry's information management, monitoring, and analysis systems and the need for improvements in planning for spill prevention and response. Among the report's key suggestions were recommendations for a ticketing system for minor offences, while retaining prosecutions for major ones, and for revisions to the approvals system to eliminate detailed engineering review by the ministry.¹²⁵ The latter recommendations were subject to considerable criticism from environmental organizations, which took the view that the team had fundamentally misunderstood the functions of the approvals process.¹²⁶

Although the theme of approvals reform, which carried echoes of the 1996 CSR proposals for standardized approvals, would return with a vengeance as part of the second McGuinty government's Open for Business initiative,¹²⁷ the government's immediate response was to act on the recommendation to ticket minor offences. In October 2004, the premier proposed new legislation based on the principle "you spill, you pay."¹²⁸ The legislation, adopted in June 2005 as the Environmental Enforcement Statute Law Amendment Act¹²⁹ amended the Environmental Protection Act and Ontario Water Resources Act to permit officials to directly impose "environmental penalties" of up to \$100,000 per day for certain contraventions of those acts, rather than having to undertake prosecutions. The legislation also lowered the threshold for certain offences under the acts (from "likely" to cause adverse effect to "may" cause such effects). The legislation was strongly opposed by the mining, forestry, and petrochemical industries to the point of almost being derailed,¹³⁰ but it was generally supported by environmental organizations, subject to the condition that environmental penalties not replace prosecutions for major offences.¹³¹

The government's other moves on industrial pollution were less ambitious. Although important updates were made to the models used by the Ministry of the Environment for approvals of sources of air pollution,¹³² the ministry retained the archaic point-of-impingement approach to applying air pollution standards and failed to deal effectively with cumulative effects of multiple sources in a given location.¹³³ These problems had been identified more than two decades earlier during the last Davis government, and again under the 1987 Clean Air Program proposed by then environment minister Jim Bradley. Moreover, the province terminated the industrial-emission reporting program set up in 2001, which had included a range of pollutants beyond those covered in the federally operated National Pollutant Release Inventory, including greenhouse gases (GHGs), in 2006.¹³⁴

Climate Change

There was no mention of climate change in the Liberals' 2003 platform. The province did sign a bilateral agreement with the federal government, now led by Paul Martin, in 2004, providing financial support for the phase-out

of coal-fired electricity.¹³⁵ The province's interest in the climate change file would intensify considerably with the arrival of the Conservative minority federal government led by Stephen Harper in January 2006. The new federal government, with its political base in western Canada, had a strong desire to back away from the previous Liberal governments' commitments under the Kyoto Protocol to reduce Canada's GHG emissions by 6 percent relative to 1990 by the first (2008-12) commitment period under the protocol.¹³⁶ Ontario announced its own Go Green climate change plan in June 2007.¹³⁷ The plan committed to reducing the province's GHG emissions to 6 percent below 1990 levels by 2014, 15 percent by 2020, and 80 percent by 2050. The centrepiece of the plan was the existing commitment to phase out coal-fired electricity generation, supplemented by major investments in public transit and a cap-and-trade system for other large industrial sources. The plan itself acknowledged that these measures alone would not be sufficient to fully meet its targets.¹³⁸

Ontario also placed itself in the forefront of provincial efforts to work out a common approach to climate change through a succession of Council of the Federation meetings and a January 2008 Premiers' Forum on Climate Change. The primary result of these efforts, however, was to make the extent of the split between Alberta on one side and Quebec, Ontario, Manitoba, and British Columbia on the other more apparent.¹³⁹ At one point, Alberta premier Stelmach publicly declared "mission accomplished" after derailing an Ontario-led effort to establish a national cap-and-trade system among the provinces.¹⁴⁰

In the meantime, Ontario had continued its approach of trying to build alliances with other jurisdictions around climate change. The province announced its decision to join British Columbia, Manitoba, and Quebec as a partner in the Western Climate Initiative (WCI). The WCI, which emerged in February 2007, was initially a partnership between the states of California, Arizona, New Mexico, Oregon, and Washington, focused on the development of common GHG emission reduction targets (a 15 percent reduction relative to 2005 levels by 2020) and the creation of a regional cap-and-trade system for GHGs.¹⁴¹ Ontario had announced its intent to join a second regional initiative, the Regional Greenhouse Gas Initiative, among north-eastern states in March 2007.¹⁴²

The province's participation in these initiatives was driven by a number of factors. There was seen to be a need to create markets large enough for cap-and-trade systems to be viable. An even larger consideration in light of the new Canadian federal government's stance was that the climate change legislation that was beginning to emerge in the US Congress, like the McCain-Lieberman Climate Stewardship and Innovation Act, included trade-related measures against exports from jurisdictions with less stringent climate change policies than those adopted in the United States.

The province was also concerned over the potential distributional impacts of the Harper government's approach to the climate change issue, which was seen to favour the western oil and gas industry at the expense of manufacturing in eastern Canada.¹⁴³ In this context, both Ontario and Quebec saw potential advantages in locking into the WCI system, the most evolved initiative in the United States, which was likely to have a strong influence on the overall North American GHG emission regime. In addition, with a provincial election looming in the fall of 2007, there was potential advantage in running against the federal Conservatives' weak record on climate change in a period of high public concern for the environment in general and for climate change in particular.¹⁴⁴

The potential for the premier to share some of the limelight with California governor Arnold Schwarzenegger (a.k.a. "the Governor"), widely identified as the leader of the WCI and other state-level climate change initiatives in the United States, during a high-profile visit to Queen's Park in May 2007 provided an additional incentive for participation.¹⁴⁵ That said, sensitive to the interests of the automobile manufacturing sector, and pressure from the increasingly Liberal-friendly Canadian Auto Workers' Union,¹⁴⁶ which had abandoned its earlier proposal that Ontario work with California and other leading US states to create and seize a leading-edge market for high-fuel-efficiency vehicles,¹⁴⁷ the province pointedly failed to support California's initiative for tailpipe emission standards for GHGs. The California initiative effectively amounted to higher fuel-economy requirements than those in place at the national level in Canada and the United States. Ontario would eventually negotiate a waiver from supporting the initiative, normally a condition of WCI membership.¹⁴⁸

Linkages between Economic and Environmental Policy

Despite the strong focus on environmental issues in the Liberals' 2003 platform, and wide range of initiatives launched in the aftermath of the 2003 election, the possibility of positive linkages between economic and environmental policy would not really begin to emerge until the 2007 budget. In addition to referencing the government's existing initiatives on renewable energy and energy conservation, land use, transit, waste diversion, and water and waste water treatment, the budget provided for new investments in biomaterials and low-carbon energy technology research.¹⁴⁹ But although this support ranged in the millions, the assistance to traditional sectors, particularly automotive manufacturing and forestry, ran into the billions, and the budget set a new record of \$1.7 billion for expenditures on the provincial highway system.¹⁵⁰ Even with respect to renewable energy, where by 2007 there were commitments exceeding \$3.7 billion,¹⁵¹ there was no strategy for the development of value-added design and manufacturing

dimensions of the sector in Ontario. More broadly, there were never any formal structures or initiatives to consider the relationships between economic development and environmental sustainability as there had been under Peterson and Rae. A major review of the province's future economic prospects commissioned in 2008 by the province from the University of Toronto's Martin Prosperity Institute was notable for almost completely ignoring the environmental dimensions of the question.¹⁵²

Political Dynamics

The 2003 election outcome carried with it a fundamental shift in relations between the province's ENGOs and the government relative to the aftermath of the 1995 election. As had been the case in 1985 and 1990, several former ENGO staff would find themselves recruited into the minister of the environment's office and others appointed to the Environmental Review Tribunal.¹⁵³ Relations between ENGOs and the government became so close that the unwillingness of some organizations to take a stronger critical line with the government when this seemed warranted in policy terms became a source of considerable frustration on the part of the NDP, where Peter Tabuns, the former executive director of Greenpeace Canada had replaced Marilyn Churley as environment critic.¹⁵⁴ With the exception of the small cohort organizations concerned about the centrality of nuclear energy to the government's electricity plans, the most consistent and substantial criticism of the government's environmental performance was coming from institutional actors, notably the Environmental Commissioner of Ontario.¹⁵⁵

The behaviour of parts of the ENGO community in this regard was based on an understanding between the government and some organizations that their public support for the government's key initiatives – and muted criticism of their weaknesses and failures – would aid the government in carrying through on policy proposals of importance to those organizations. At the other end of the spectrum, the government engaged in some remarkably aggressive tactics, including efforts to place pressure on organizational senior management and even boards of directors, in attempting to silence some of its most effective environmental critics on the electricity file. The situation was further complicated by the emerging role of the Ontario Trillium Foundation, a beneficiary of the Ontario Lottery and Gaming Corporation's revenues, as a major new funding source for the province's ENGOs. Given the foundation's ties to the provincial government, the developing funding relationships carried with them incentives to focus on outcome-specific projects and limit direct criticism of the government's performance.

The Progressive Conservatives' initial response to the election outcome was to attempt to continue the post-CSR moderation of their image. In September 2004, John Tory, Bill Davis's former chief of staff, defeated right-wing

candidates Jim Flaherty and Frank Klees, to take over the party's leadership. However, the divisions within the party over its direction continued, particularly between the rural central Ontario base of the surviving caucus and Tory's more moderate instincts. Moreover, the legacy of the CSR and that party's strong opposition to the greenbelt initiative and early coal phase-out meant that the common ground between the Tories and the environmental movement remained very limited.

The Ontario Green Party, for its part, had polled as high as 6 percent leading into the 2003 election but received only 2.8 percent of the popular vote. The outcome was a major improvement over its utterly marginal (less than 1 percent) performances in previous elections, but it was hardly enough to attract significant attention. Yet, from October 2004 onward, the party began to consistently poll between 7 and 8 percent in terms of voting intentions and reached as high as 12 percent in the run-up to the 2007 election, by far the most impressive showing for a fourth party in Ontario in the postwar era.¹⁵⁶

The Greens' sudden emergence as a potentially significant political force in Ontario politics was propelled by several factors. The rise of the Greens in Ontario coincided with the overall growth of public concern for the environment that would peak in the early part of 2007 and, like the demographics of overall concern for the environment in Ontario, support for the Greens became distinctly younger and more regionally balanced relative to the party's traditional rural base.¹⁵⁷ The party was still led by Frank de Jong, who had held the post since 1993, but the provincial party's fortunes were undoubtedly helped by the high-profile arrival of former Sierra Club Canada executive director Elizabeth May as national party leader in August 2006.

The initial interpretation of the emergence of the Greens, who had few formal connections to the province's organized environmental movement, was based largely on the party's earlier efforts to align its platform with the neo-liberal tone of the 1990s.¹⁵⁸ This view suggested that the party was a protest parking spot for unhappy conservative voters in rural ridings.¹⁵⁹ However, detailed data on Green supporters that became available through exit polling during the 2007 election refute that argument. Forty-five percent of Green voters identified the environment as the issue that determined their vote, the highest correlation seen between an issue and voting choice among all the parties.¹⁶⁰ Moreover, Green voters overwhelmingly identified the New Democrats (37 percent) and Liberals (34 percent) as their second choices among the parties. Only 9 percent identified the Progressive Conservatives as their second choice.¹⁶¹ These conclusions are consistent with studies of the party's recent support at the federal level, which suggest that the largest cohort of Green voters are former Liberal supporters and that the Liberals, NDP, and Greens (and Bloc Québécois) are in competition for the post-materialist segment of the electorate.¹⁶²

The 2007 Election

The run-up to the 2007 provincial election saw, at times, the Liberals and Progressive Conservatives virtually tied in pre-election polling, with the Liberals showing a slight but consistent lead,¹⁶³ and there were projections of a minority government.¹⁶⁴ Notwithstanding their relatively active agenda, the Liberals were seen to have never fully recovered from their first year in office, when they were accused of having broken key campaign promises, specifically the commitment not to raise taxes, through the introduction of the Employer Health Tax.¹⁶⁵ The increases in electricity rates and failing to fully halt development on the Oak Ridges Moraine also figured in the list.¹⁶⁶ The Liberals again perceived the environment as a potential wedge issue against the Progressive Conservatives, especially in light of the federal Conservatives' poor environmental record. The Liberals were also conscious of their own potential to bleed environmentally concerned voters to the NDP and Greens.¹⁶⁷

The ENGO community, for its part, launched what was probably its best-organized intervention in a provincial election campaign seen to date. Thirteen major organizations (labelled the "thirteen villains of doom" by a senior Progressive Conservative),¹⁶⁸ led by Environmental Defence and the Pembina Institute, organized a series of pre-election meetings with the premier and the PC, NDP, and Green leaders around a six-point (boreal forest conservation/protection, sustainable energy, greenbelt expansion and urban sprawl, Great Lakes protection and implementation of the Walkerton Inquiry recommendations, toxic substances reduction legislation, and municipal waste diversion) platform.

On the whole, the effort was judged highly effective by political observers, establishing the organizations as potentially significant players in an election in which the environment was expected to be a key issue, and generating substantial media coverage of environmental issues in the campaign.¹⁶⁹ The Liberals, conscious of their relative weakness on biodiversity and resource management issues in northern Ontario, passed a revised Endangered Species Act just before the legislature rose for the summer of 2007.¹⁷⁰ The Liberal platform that followed committed to carrying-through on existing plans for climate change, including a coal phase-out by 2014, and a rather feeble promise to "consider" applications by municipalities to expand the GGH greenbelt. The platform added commitments to implement a long-term plan to protect the boreal forest in Ontario's far north, adopt a ban on the cosmetic use of pesticides across the province, and introduce a "tough new law that requires companies that emit toxic pollution to reduce their emissions over time."¹⁷¹

The Progressive Conservatives were a major target of the "villains of doom" initiative. The effort was both for defensive reasons in the event of a PC victory and also in the hope of strengthening their viability as a meaningful

option to the Liberals,¹⁷² who were fond of reminding their environmental critics that “if you don’t like what we are doing, consider what the alternative is.” Although reflecting the traditional PC themes of making communities safer, eliminating the Employer Health Tax, and a red-tape reduction regulatory review (subject to a post-Walkerton qualification that “regulations that protect the public health and safety and that are working fairly will always be preserved and enhanced”), the PC platform as a whole reflected a victory for John Tory’s more centrist orientation, placing a strong emphasis on health care and education (including what would be an electorally fatal proposal to extend public funding to faith-based schools).¹⁷³

The “villains’” efforts, along with the Progressive Conservatives’ own desire to limit their vulnerability to the Liberals’ wedge strategy on the environment among moderate voters, were reflected in a substantial section on environmental and energy issues that opened with the words, “The world’s climate is changing and Ontario must change its environmental policies to meet public and scientific concerns.”¹⁷⁴ The PCs committed to somewhat more modest GHG emission reduction targets than the Liberals (10 percent relative to 1990 by 2010, and 60 percent by 2050) but did commit to preserving the greenbelt “with its current boundaries,” “fully implementing all of the recommendations of the O’Connor Commission” and expansions of public transit services. The platform included substantial proposals on energy efficiency, including the provision of tax incentives and the use of stricter regulatory standards, as well as proposals to expand the roles of renewables and cogeneration. At the same time, Progressive Conservatives proposed to fast track the construction of new nuclear power plants and, in their most significant departure from the Liberals, to install new air pollution-control technology on the province’s coal-fired plants rather than phase them out.¹⁷⁵

The NDP, in part reflecting the dynamics of the climate change issue, made meeting Kyoto commitments and fighting climate change the centrepiece of its environmental platform, including a coal phase-out by 2014, aggressive energy efficiency and conservation programs, GHG cap-and-trade legislation, transit investments, and a moratorium on development north of the fifty-first parallel.¹⁷⁶ Even so, the party faced accusations that it was sending different messages to northern and southern Ontario with respect to the closure of the Atikokan coal-fired power plant and the implementation of the new Endangered Species Act in relation to the forest industry.¹⁷⁷

The Greens presented what was generally regarded as a well-integrated and articulated platform,¹⁷⁸ certainly much more imaginative and interesting than what the ENGOs had produced through the “villains of doom” exercise. The pro-market tone of earlier campaigns was decidedly moderated, although there were some notable concessions to small businesses and rural interests, especially regarding the Greenbelt.¹⁷⁹

The 2007 platforms were seen to suggest a convergence on the environment, with differences of degree rather than fundamental direction, an outcome regarded as evidence of the success of the “villains’” efforts.¹⁸⁰ All of the platforms contained elements dealing with climate change, implementing the Walkerton recommendations, improving public transit, and taking action on toxic substances. To the extent that there were fundamental differences among the platforms, they were around energy and waste management, with the Liberals and PCs supporting nuclear energy and waste incineration (under the guise of “new technologies”) and the NDP and Greens strongly opposed.

Notwithstanding this impressive lead-up, supported by pre-election polling that suggested the environment was tied with health care as the leading issue going into the election, the environment would actually play a relatively small role in the October 2007 election.¹⁸¹ Instead, the PC campaign would effectively self-destruct over the proposal to extend public funding to religious schools.¹⁸² The election saw the lowest voter turnout, at 52.3 percent,¹⁸³ in the province’s history. The Liberals retained their majority with 42 percent of the popular vote. The Progressive Conservatives won 32 percent of the popular vote, though party leader Tory himself lost in his effort to win a Toronto riding. The NDP improved its performance marginally to 17 percent. By far the biggest surprise came from the Greens. Unlike in previous elections, the party’s pre-election support held, delivering 354,897 votes or 8 percent of the popular vote.¹⁸⁴ Unfortunately for the party, the relatively even geographic distribution of its vote meant that this did not translate into any seats. It did, however, produce seventeen third-place (twelve in the GGH, three in the Ottawa region, and two in Simcoe County) and one second-place (Bruce-Grey-Owen Sound) finishes in individual ridings, largely displacing New Democrats from the third-place position. A referendum on shifting the province’s electoral system to a mixed-member proportional representation system, which would have greatly improved the Greens’ chances of gaining seats in the legislature in the future, was defeated by a margin of almost two to one among the votes cast.¹⁸⁵

The Second McGuinty Government

The government seemed set to continue on its managerial path after its 2007 election victory. However, economic circumstances would intervene in the form of the fall 2008 global financial crisis, triggering a further crisis in the North American automobile manufacturing industry, so central to what remained of the province’s manufacturing sector. The province’s economy lost nearly 250,000 jobs between the fall of 2008 and spring of 2009.¹⁸⁶ The downturn so severely affected the province’s finances that it qualified, for the first time in its history, for equalization payments from the federal

government, a situation normally associated with have-not provinces.¹⁸⁷ Ontario's 2010 budget included a deficit projection of \$19.17 billion.¹⁸⁸

The government's response was decidedly two-directional. On the one hand, picking up on signals from the incoming Obama administration in the United States,¹⁸⁹ the province made strong moves on linking its economic recovery strategy to environmental sustainability, in the forms of the 2009 Green Energy and Green Economy Act and the 2010 Water Opportunities and Water Conservation Act.¹⁹⁰ The Green Energy and Green Economy Act provided, among other things, the authority for a feed-in tariff mechanism similar to those employed in Germany, Spain, and Denmark, for low-impact renewable energy sources, carrying with it the implication of a larger future role for such energy sources than anticipated in the OPA's August 2007 IPSP.

The government also carried through on its campaign promises for a general ban on cosmetic uses of pesticides and toxic substances reduction legislation.¹⁹¹ Both initiatives were subject to significant limitations. The toxics legislation failed to require the implementation of toxics use reduction plans developed by subject facilities,¹⁹² and its implementation would be subsequently delayed until at least December 2012.¹⁹³ The provincial pesticide ban, for its part, prevented individual municipalities from adopting more stringent restrictions than those put in place at the provincial level.¹⁹⁴

At the same time, the government launched an Open for Business/Modern Government initiative, led by the Ministry of Economic Development and Trade.¹⁹⁵ The initiative included an Ontario Regulatory Policy that came into force April 1, 2010, reintroducing the cost-benefit tests of the Harris-era Regulatory Impact and Competitiveness Test, along with a review of all legislation, regulations, and policy documents for opportunities to "update, simplify, consolidate or revoke."¹⁹⁶ Under the initiative, representatives of "key business stakeholders" were asked to identify five priorities that would strengthen their sectors' success. Ministries were given two months to address these priorities or explain why they could not be addressed and deliver alternate solutions.¹⁹⁷ As if to drive home the parallels with the regulatory reform and red-tape review dimensions of the Common Sense Revolution, the Ministry of the Environment proposed the reform of its approvals process along the lines of the standardized approval model that was the foundation of the June 1996 *Responsive Environmental Protection* proposals.¹⁹⁸

The premier embraced a report from the University of Toronto's Martin Prosperity Institute recommending that the province's future economic strategy focus on creative and knowledge-based sectors rather than on manufacturing and resource extraction.¹⁹⁹ Yet, the province's northern Ontario growth plan and 2010 budget pronounced mineral development in the heart of the fragile boreal region as the foundation of the north's economic future,²⁰⁰ a remarkable jump back toward a resource-commodity, export-based

economic strategy. The commodity focus was further reinforced by the stripping of responsibility for forest management from the Ministry of Natural Resources and assigning it to a new Ministry of Northern Development, Mines and Forestry, focused on economic development in the north. Support for traditional sectors continued to dominate in other ways. The province contributed some \$4.3 billion to the bailout of General Motors and Chrysler through fall of 2008 and spring of 2009,²⁰¹ and more than \$1 billion in support to the forest industry between 2005 and 2010.²⁰²

Even with respect to the Green Energy and Green Economy Act, there was confusion over the government's actual intended direction. In September 2008, the Ontario Energy Board's formal hearings on the IPSP were suspended after a few weeks of deliberations when the newly appointed minister of energy and infrastructure, George Smitherman, ordered the OPA to rework the IPSP to incorporate more renewable energy sources and conservation but also reiterated the province's commitment to a nuclear-capacity goal of 14,000 megawatts and the continuation of its new build nuclear procurement process.²⁰³ The adoption of the Green Energy and Green Economy Act further delayed the revision of the IPSP.²⁰⁴

In June 2009, Smitherman announced the suspension of the province's new build nuclear procurement process, citing the unexpectedly high cost estimates contained in all of the competing bids. The bids had been developed on the basis that cost overruns would have to be internalized by proponents rather than externalized through the electricity rate base or direct subsidy from the provincial government.²⁰⁵ The decision seemed to confirm a shift in direction toward a greener vision for the electricity system, but Smitherman himself resigned to run (unsuccessfully) for mayor of the City of Toronto in November 2009. His departure and replacement by Brad Duguid was followed in February 2010 by announcements that the government was going to proceed with a "life extension" of the Pickering B facility and a full refurbishment of the Darlington facility, suggesting that nuclear would continue to play a dominant role in the province's electricity system.²⁰⁶ The situation has been further complicated by the adoption, in response to the emergence of some surprisingly well-organized local opposition to renewable energy projects, of restrictive rules on the location of such projects.²⁰⁷ The limitations of the impact of the Green Energy and Green Economy Act were highlighted again by the government's November 2010 Long-Term Energy Strategy.²⁰⁸ The strategy confirmed a continued commitment to nuclear energy providing 50 percent of the province's future energy requirements. This was despite the outcome of the initial bidding process and serious questions about the capacity of either of the bidders that participated in the process – Atomic Energy of Canada and Areva of France²⁰⁹ – to present viable new bids in the foreseeable future.

The government faced a series of other challenges, including an unpopular decision, not mentioned in its 2007 Liberal platform, to integrate the Provincial Sales Tax with the federal Goods and Services Tax (GST) into the Harmonized Sales Tax (HST), grounded on the wider tax base of the GST, beginning July 1, 2010. After the premier mused publicly about the need for change in their offices,²¹⁰ both Environmental Commissioner Gord Miller and Ombudsman André Marin were appointed for new terms amid accusations that the government was trying to silence two legislative officers who were viewed by many as effective critics.²¹¹ In the face of media and public confusion over the expansion of an eco-fee charged by some retailers to support municipal household hazardous waste management programs under the auspices of the Waste Diversion Act, the government abruptly terminated the program.²¹² In February 2011, a moratorium on offshore wind developments, which had been specifically targeted for support under the Green Energy and Green Economy Act's feed-in-tariff mechanism, was adopted in response to strong local protests, adding to the confusion on the electricity file.²¹³ Cumulatively, these events were seen to threaten the government's reputation for administrative competence, a potentially fatal outcome for provincial governments in Ontario.

Conclusions

The arrival of the McGuinty government marked what might be seen as a return of normalcy to Ontario politics, at least as it was defined during the long Progressive Conservative dynasty of Frost, Robarts, and Davis. The themes of moderation and civility that were the hallmarks of the McGuinty government played a major role in the Liberals' electoral successes in 2003 and 2007. The result would seem to reinforce the hypothesis that CSR was an aberration, not a permanent realignment in the political culture of the province, as some suggested at its height in the late 1990s.²¹⁴

The challenge from the perspective of advancing environmental sustainability was that the governance mode that goes with this "normalcy" in Ontario is more managerial and facilitative than activist. A theme of balance would define the McGuinty government's approach to the major environmental issues it faced. The government arrived in office with an extensive and detailed environmental platform, but with a few exceptions, like the 2004 Adams Mine Lake Act,²¹⁵ which terminated the option of using the abandoned mine as a waste disposal site, outright wins for the environment were rare. The greenbelt initiative protected over 700,000 hectares of land in the GGH from urban development but left a large supply of lands in the region available for sprawling development, while the accompanying growth plan incorporated growth targets that effectively compel municipalities to plan for and facilitate further growth beyond their existing urban boundaries, whether physically or financially sustainable or not.

Similarly, the province launched the RESOP, then feed-in tariff programs, for renewable energy sources, as well as a host of energy conservation initiatives, but nuclear energy remained the foundation of its energy policy. Source water legislation was adopted, but the final product is likely so bound up in process and analysis that its ultimate effectiveness is questionable. The overall pattern was one of incremental (sometimes more than incremental) gains and losses that tended to cancel each other out, with the consequence that the actual shifts from status quo were less than they might initially appear.

These outcomes can be explained in part by the continued influence of well-established interests on environmental policy in Ontario. The conventional needs of traditional economic sectors, particularly automotive manufacturing, forestry, and builders, for cheap and abundant supplies of energy and land remained core drivers of land-use, electricity, and climate change policy. The option of joining with California and other US states to create a potentially powerful cutting-edge market for high-fuel-efficiency automobiles, as at one time proposed by the Canadian Auto Workers' Union itself, was explicitly rejected. The highly restrictive policies in the 2005 PPS and GGH growth plan on the conversion of "employment lands" to other uses reflected a view that what in many cases were now former industrial lands were simply waiting for the return of traditional manufacturing activities. The implications of the shift in the province's employment base toward knowledge- and service-based sectors and the increasingly widely recognized importance of integrating employment with other land uses in facilitating the development of these types of creative sectors seemed overlooked.²¹⁶

Liberals developed a much more sophisticated approach to economic strategy than the Harris and Eves governments, grounded in some recognition of the structural changes occurring in the province's economy away from the traditional manufacturing and resource base toward knowledge- and service-based sectors. However, unlike under the NDP, explicit linkages between the environment and economic strategy began to appear only late in the government's first mandate and would not emerge on a substantial scale until the advent of the Green Energy and Green Economy Act, well into the government's second mandate. However, even that legislation was "balanced" by a continued commitment to nuclear energy as the foundation of the province's electricity system, and an Open for Business initiative that made some of the proposals advanced by the Harris government's Red Tape Commission look decidedly moderate.

The consequence in terms of the environment was a pattern of policy activity very much defined by an issue-by-issue political management approach, as opposed to being the expression of a larger vision for where the province should be going. From a political perspective, the government's approach was highly effective, as evidenced in the outcome of the 2007

election. From the perspective of advancing sustainability, the outcomes were more questionable, and the lack of a firm vision for the province's economic and environmental future would leave the McGuinty government facing severe challenges as it approached the 2011 election.

8

Conclusions

Within the overall framework established in the introduction to this book, two variables were identified as being likely to have a significant effect on the pace and direction of the evolution of law, policy, and institutions related to the environment in Ontario. The first of these variables was the public salience of environmental issues, especially as reflected in public opinion polling. There have been three major peaks in top-of-mind public concern for the environment in the modern, post-Second World War era, running from the late 1960s to mid-1970s, the mid-1980s to the early 1990s, and from 2003 to 2008. These crests have occurred not only in Ontario but throughout the world, punctuating long periods of relatively low salience. The peaks have been driven by complex mixes of factors, from improving scientific understandings of the scale and significance of regional and global environmental problems to more local crises and disasters.

Typically, levels of public concern for the environment have been an inverse function of perceptions of economic security. Each of the three modern peaks in top-of-mind public concern for the environment shown in Figure 1.3 has been ended by an economic downturn – the oil shocks of the mid-1970s; the recession of the early 1990s, in which Ontario was particularly strongly affected; and the global financial crisis of 2008. In the most recent cycle, concern for the environment has so far shown more resilience than has been the case in past economic downturns, holding in the 8 percent range in national polls into the early part of 2011.¹ It remains to be seen if these levels of concern will be sustained in the long term, signalling a more structural shift in the patterns of public interest in environmental issues.

High levels of public concern for the environment offer political decision makers the possibility of electoral reward for action, and also increase the risk of electoral blame for inaction. Peaks in public prominence tend to be self-reinforcing, drawing increased media coverage of environmental issues. The public salience of the issue also affects the power balance among non-state

actors, with high levels of public attention giving ENGOs a political base to counter the normally dominant structural power of business interests.²

Not surprisingly, provincial governments of all stripes in Ontario have shown a pattern of relative activism on environmental issues during times of high public concern. Such behaviour is evident in the period of legislative and institutional formation of the late stages of the last Robarts government and then the first Davis government, coinciding with the first modern wave of public concern, the strengthening of the role of the Ministry of the Environment seen during the Peterson and Rae governments during the second wave, and the high-profile initiatives of the first McGuinty government on land use, source water protection, energy conservation and renewable energy, climate change, and industrial pollution during the third.

Although governments of all three major parties have shown increased activism during periods of high public salience of environmental issues, their specific responses have been strongly influenced by the second major variable identified at the outset of the book, namely governments' perceptions of their own roles and their understanding of the relationship between economic development and protection of the environment.

Activist or progressive governments, such as the first Peterson government produced by the Liberal-NDP Accord and the Rae government during the first half of its term in office, have been most inclined to respond to high levels of public attention with major new initiatives. The Liberals' MISA and Countdown Acid Rain programs, and the NDP's Waste Management Act, Environmental Bill of Rights, and land-use planning reforms all reflected this orientation, as did the enormous institutional strengthening of the Ministry of the Environment that occurred under both governments. The combination of high levels of public concern and activist governments is also likely to produce disruptions of established policy networks, as illustrated by the displacement of industrial interests by environmental organizations as the ministry's primary clientele during the activist phases of the Peterson and Rae governments. The Peterson and Rae governments were also the authors of the first serious efforts at exploring and understanding implications for the province of the reconceptualization of the relationship between economic development and environmental protection along the lines of the sustainable development concept introduced by the World Commission on Environment and Development in its 1987 report *Our Common Future* through the creation of the Ontario Round Table on Environment and Economy and work of the Fair Tax Commission respectively.

Governments that are more facilitative and managerial in their orientation have tended to emphasize balance between the environment and conventional economic development in response to high levels of interest in the environment. The initial institutional and legislative responses of the PC dynasty to the emergence of environmental issues and that of the first Davis

government very much reflected a view that environmental protection had become a necessary adjunct to the economic development function that lay at the core of the province's role. The provincial government's mission was understood in terms of managing and facilitating an underlying economic model of growth grounded in industrialization, urbanization, and resource extraction and processing. Environmental protection measures were pursued to facilitate, through the mitigation of the impacts of development, not challenge, that model.

Tensions between environmental initiatives and conventional economic models surfaced strongly during the Peterson majority government and played no small role in its difficulties over environmental issues in the 1990 election. The McGuinty government, for its part, seemed to embrace the concept of integrating economic and environmental decision making, rather than seeing the relationship as one of trade-offs. At the same time, consistent with its own managerial and facilitative style, the government would never develop or provide, beyond the level of speeches and press releases, any real intellectual foundation for its understanding of the relationship between economic development and environmental sustainability, or more broadly a vision for the long-term evolution of the province's economy, society, and environment. Instead, consistent with its managerial orientation, the first McGuinty government took an issue-by-issue approach, emphasizing "balance" among competing interests, a strategy particularly evident in the land-use planning reforms of 2005 and 2006, as opposed to the pursuit of larger and longer-term goals. The results were at times profoundly contradictory. On the electricity file, efforts to simultaneously embrace the nuclear-based hard energy path model favoured by most of the institutional actors in the electricity system and the conservation and renewable soft energy path model favoured by ENGOs, the emerging renewable energy sector, and the public led to considerable confusion over the government's actual direction.³ The government's 2007 climate change plan was very much an amalgam of existing initiatives rather than the product of an effort to reflect on the implications of impacts of climate change and of potential mitigation and adaptation strategies for the province's future.

The responses of neo-liberal governments when, like the second Harris and subsequent Eves government, confronted with high levels of public concern or media attention over environmental issues have been different. Some branches of neo-liberal ideology argue that reducing the state's role through steps such as the removal of damaging subsidies and moving to full (environmental) cost pricing can advance environmental sustainability.⁴ However, in Ontario, as was made painfully clear during the testimony of Premier Harris and his environment ministers at the Walkerton Inquiry, neo-liberal governments have simply regarded environmental protection as unimportant, even from the more basic perspectives of protecting public

health and safety, to say nothing of new global concepts of sustainable development. The approach of such governments has been grounded in the view that major cuts can be made to the budgets of environmental and natural resources agencies without serious consequence, that markets rather than governments can do a better job of solving complex problems like electricity supply, and that self-regulation can be more effective than regulation by the state. In practice, neo-liberal governments in Ontario have strongly favoured traditional economic interests, particularly the resource extraction and land-development sectors.

The CSR's neo-liberal model proved neither practically nor politically viable, as demonstrated by the repeated blindsidings of the second Harris and then Eves governments by a succession of environmental issues ranging from the Walkerton disaster to crises related to the electricity file, hazardous waste management, and urban sprawl in the 905 region. The resulting policy mode on the environment was fundamentally reactive, driven by the need to respond to the fires lit by the revolution, with occasional high-profile but one-off initiatives, exemplified by the 1999 Lands for Life announcement and 2002 Oak Ridges Moraine Conservation Plan, intended to deflect criticism of the governments' environmental performance while avoiding any deviation from their core policy directions.

The behaviour of governments during periods of low public salience of environmental issues have also varied with their own orientations. The result of a confluence of low levels of public concern and a neo-liberally oriented government was epitomized by the massive retrenchment on the environment of the Common Sense Revolution period of the first Harris government. The possibility of such outcomes had been hinted at during the brief PC government of Frank Miller and seen in a much milder form after the Davis government's return to majority status following the 1981 election.

At the other end of the spectrum, the Rae government, despite the precipitous fall in the public profile of environmental issues in the second half of its mandate – driven by the economic downturn of the early 1990s – largely carried through on the environmental policy agenda set during its first two years in office. An Environmental Bill of Rights was enacted, the direct-discharge component of the MISA program completed, comprehensive reforms to the land-use planning system flowing from the Sewell Commission adopted, and the government's opposition to the Adams Mine proposal for the disposal of GTA municipal waste maintained, the latter at considerable political cost. At the same time, the flow of new initiatives virtually ceased; any notions of carrying through on the recommendations of the Ontario Round Table on Environment and Economy and the Fair Tax Commission regarding the implementation of the sustainable development concept in the province were abandoned; and there was, in the face of major fiscal

pressures, the beginnings of a substantial retrenchment in terms of the environment ministry's budget.

In Ontario, the combination of managerially oriented governments and low public salience of environmental issues has been the dominant pattern of the postwar period. In such circumstances, the governments concerned have tended to respond to environmental issues on an as-needed basis, acting only when compelled to do so by physical or political crises. Such an approach characterized the behaviour of the PC dynasty toward the environment but could lead to moderate activism. The 1975-81 Davis minority government was surprisingly engaged on the environment despite a decline in the public salience of environmental issues – to a point where pollsters reported zero responses on the question. In that case, the government was driven by the need to respond to the combination of what was effectively a bipartisan legislative opposition on the environment in a minority government situation, an attentive media, and an increasingly capable ENGO community. Even then, the implementation of specific requirements necessitating actual changes to industrial practices and the development of infrastructure was halting and sporadic, and occurred only when it did not significantly affect economic development understood in conventional terms.

The second McGuinty government, for its part, has been profoundly contradictory in its approach to environmental issues in the context of a decline in the levels of public concern for the environmental and the economic challenges flowing from the 2008 financial crisis. On the one hand, it adopted a Green Energy and Green Economy Act, intended to build a major renewable energy industry in Ontario. On the other hand, the government maintained a commitment to nuclear energy as the centrepiece of the province's electricity system; provided billions in support to traditional sectors, particularly automobile manufacturing and forestry; presented ambitious new mining projects in the fragile boreal region as the foundation of its northern economic development strategy; and launched an Open for Business initiative that has moved in some ways beyond the regulatory reform dimensions of the CSR and seems to reflect an even emptier model of "no (business) lobbyist left behind."

The implications of the Ontario environmental policy experience with respect to the interplay of the variables of the public salience of environmental issues and governments' own conception of their roles in terms of the direction of environmental policy are summarized in Figure 8.1. The public salience of environmental issues, which has been largely bipolar in character, is illustrated on the vertical axis; governments' ideational orientations, on a spectrum from activist/progressive to neo-liberal, are portrayed on the horizontal axis. The figure outlines the different types of policy outcomes that are likely to be produced by different combinations of the

Figure 8.1

Environmental policy matrix: Government orientation and public salience of environmental issues – Ontario

<p>HIGH</p> <p>Public salience of environmental issues</p> <p>LOW</p>	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • High policy activity. • Exploration of environment-economy relationship. • Disruption of traditionally dominant policy relationships. <p><i>Examples</i></p> <ul style="list-style-type: none"> • Peterson (accord period) • Rae (Part I) 	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • Bipolar – high-profile environmental initiatives matched with major countervailing moves in conventional directions. • Policy driven by political management as opposed to reflection on conventional economic model. <p><i>Examples</i></p> <ul style="list-style-type: none"> • Peterson (majority) • McGuinty 	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • Reactive. • High profile but one-off initiatives. • Maintenance of core policy path. <p><i>Examples</i></p> <ul style="list-style-type: none"> • Harris post-Walkerton • Eves
	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • Follow-through on existing initiatives. • Few new initiatives. <p><i>Examples</i></p> <ul style="list-style-type: none"> • Rae (Part II) 	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • Incremental responses to crises (physical or political). • Mitigation of impacts of conventional economic development models. <p><i>Examples</i></p> <ul style="list-style-type: none"> • The “dynasty” • Davis (1975-84) 	<p><i>Policy outputs</i></p> <ul style="list-style-type: none"> • Retrenchment. • Environment unimportant. • Reinforcement of traditionally dominant policy relationships. <p><i>Examples</i></p> <ul style="list-style-type: none"> • Miller • The Common Sense Revolution
<p>Government orientation</p>			
ACTIVIST/PROGRESSIVE		MANAGERIAL/FACILITATIVE	NEO-LIBERAL

public salience of environmental issues and governmental orientation. High public salience in combination with an activist conception of the role of government, for example, is likely to produce very high levels of policy activity, including challenges to dominant ideas and policy networks. The combination of these factors provides individual policy champions or entrepreneurs (e.g., Bradley and Grier) with the policy windows needed to move major initiatives forward. At the other end of the spectrum, low public salience in combination with a neo-liberal government will likely result in retrenchment and the reinforcement of prevailing power relationships. As shown in Figure 8.1, examples of the range of potential combinations can be found in the Ontario environmental policy experience of the past six decades. The overall implication is that neither variable predominates. Rather, it is the interaction between the two that is determinative.

Although the interplay between public salience and governmental orientation has defined the direction of governmental policy responses, it is not determinative of the specific issues that arise on the policy agenda. Policy

agenda items themselves have been driven by various combinations of factors, including physical events (e.g., Walkerton) and political crises (e.g., the Oak Ridges Moraine issue), but the nature of the issues that have tended to arise has shifted over time as the structure of the province's economy has changed. Classical industrial-pollution issues dominated up to the 1980s, and major problems related to industrial pollution continue to exist, for example in Sarnia's Chemical Valley, where Aboriginal people living nearby find the "sex ratio" (number of boy babies born relative to the number of girls) of their community declining dramatically. Chronic exposure to toxic chemical pollution is widely speculated to be the cause.⁵ However, since the early 1990s, the decline in manufacturing activities and shifts toward a service economy centred in the Greater Golden Horseshoe and Ottawa Regions have highlighted the problems related to urban growth and development. The succession of crises in the electricity sector have flowed in large part from the shattering of the assumptions about continuous growth in demand that grounded planning for decades by the structural changes in the province's economy since the mid-1970s.

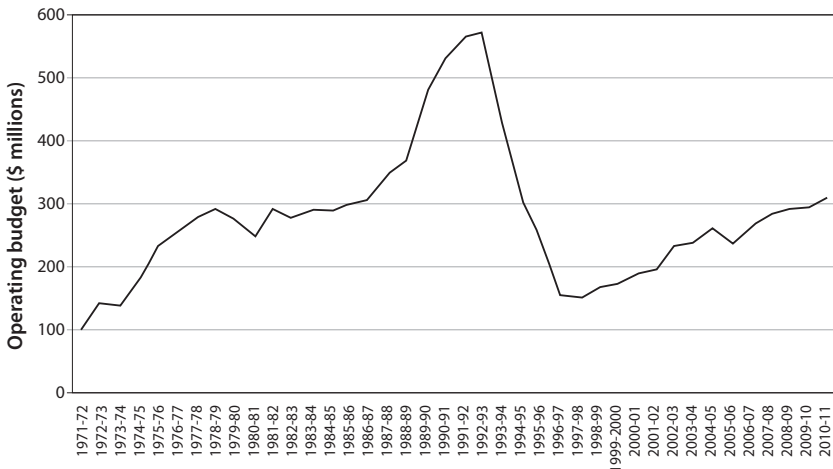
With respect to other variables within the institutional-ideological framework of this book, institutional considerations, specifically the high degree of autonomy enjoyed by provincial governments in Canada on environmental matters – a product of the combination of their very strong jurisdictional position and the high levels of executive independence present in their cabinet-parliamentary systems of government – provide a fundamental backdrop to the entire narrative.

Federal influences have been seen in the province's approach to the environment from time to time. The federal government's science and funding functions around the Great Lakes Water Quality Agreement encouraged and facilitated provincial involvement in the restoration of the Great Lakes in the 1970s and 1980s. More recently, the Harper government's approach to the climate change file has been a major factor in the province's engagement on the issue over the past few years. However, beyond these instances, the federal government emerges as a remarkably marginal driver of the province's behaviour.

Initiatives in the United States and more recently Europe have from time to time provided the inspiration for specific programs and influenced the details of program design, such as the introduction of the BATEA (best available technology economically achievable) concept in the MISA program, extended producer responsibility for packaging and products, and feed-in tariffs for renewable energy generators. However, they have not been in any sense the core drivers of policy action on the part of the province. The long-term implications of the more recent subnational collaborations that have begun to emerge among provinces and states around climate change, like the Western Climate Initiative, are only beginning to be understood but, if

Figure 8.2

Ministry of the Environment operating budget, 1971-2011 (real, inflation-adjusted \$, reference year 2000)



Source: 1971-98, A. Kranjc, "Whither Ontario's Environment: Neo-Conservatism and the Decline of the Ministry of the Environment," *Canadian Public Policy* 26 1 (March 2000): Table 1; 1998-2010; Ontario Ministry of Finance, Ontario budgets, 1998-2010; GDP deflator, <http://www.tradingeconomics.com/canada/inflation-gdp-deflator-annual-percent-wb-data.html>.

they endure, may open new avenues for cross-border influence on the province's policies.

Institutionally, the Ministry of the Environment's authority within the provincial government peaked during the Peterson and Rae governments, led by strong and relatively long-tenured ministers Bradley, Grier, and Wildman. The ministry's senior status and capacity to affect the agendas and initiatives of other agencies were major casualties of the Harris revolution and have never been recovered. As shown in Figure 8.2, in real (inflation adjusted) terms, the ministry's operating budget has only recently regained the levels of 1986-87. Although moving away from the pattern of high ministerial turnover seen during the Davis, Harris, and Eves governments, with its inherent problems of instability and implications of status as a secondary ministry, during the first McGuinty government the ministry would be led by relatively junior ministers.⁶

The situation reflected the extent to which the decisions that would shape the province's future were being made within other ministries, particularly energy, public infrastructure renewal, and municipal affairs and housing, and within the Office of the Premier itself. This might be interpreted as signalling a recognition of the cross-cutting nature of environmental issues.

Unfortunately, in practice, although some of these agencies have developed pockets of environmental expertise, environmental sustainability is not at the centre of their mandates and institutional cultures, and the lack of a senior minister in the environment portfolio would at times (such as in the decision to exempt the OPA's IPSP from the Environmental Assessment Act) be telling. Even the more senior John Gerretsen, who became minister of the environment after the 2007 election, and who as minister of municipal affairs and housing had led the creation of the Greenbelt Plan and major revisions to the Planning Act, was as minister of the environment helpless to resist the Ministry of Economic Development and Trade-led Open for Business dimensions of the government's second mandate and then removed from the portfolio over the July 2010 eco-fee controversy.⁷

Although the superministry model for advancing environmental concerns in the policy process has been abandoned, no institutional structure has emerged to replace it. The Environmental Commissioner of Ontario, provincial auditor, and other institutional actors have emerged as important automatic stabilizers in terms of accountability, policy evaluation, and the public profile of environmental issues but have neither the mandate nor capacity to lead or participate in policy development processes within the provincial government.

While Dalton McGuinty's Liberal government emerges from the story facing a lack of integrative vision of the relationship between the environment, economy, and sustainability, the province's other parties approached the 2011 election facing major challenges of their own. After a two-year period without a seat in the legislature, John Tory would join Larry Grossman and Ernie Eves as the third moderate post-Davis Progressive Conservative to resign the party's leadership. The party, under the leadership of Tim Hudak, has returned to the Common Sense Revolution's themes of tax cuts, eliminating "job-killing red tape," and shrinking government.⁸ Such a strategy would seem potentially self-limiting outside the party's core base of support, but may yet find wider traction in the face of public anger over the introduction of the Harmonized Sales Tax, rising electricity bills, and questions about the competence of the McGuinty government. The unexpected November 2010 election of right-wing populist Rob Ford as mayor of the City of Toronto reinforces this possibility, as does the success of the federal Conservatives in Ontario in the May 2011 federal election.⁹

The NDP, for its part, has found itself struggling with an image as protector of the status quo – of an "old" resource and industrial economy – a problem exacerbated by splits between the party's urban progressive base in southern Ontario and resource industry labour roots in the north. Further compounding the party's challenges is the competition from the Greens for younger progressive voters.¹⁰ The Greens themselves, now led by Mike Schreiner, will need to put in another strong electoral showing to demonstrate

that their emergence is a permanent development on the Ontario political scene rather than a passing manifestation of the third wave of modern environmental concern.

The situation presents the province's now relatively mature community of ENGOs with a number of challenges. The ENGO community can point to many tactical successes on specific initiatives, in part through the construction of alliances with the health professions, municipalities, organized labour, and, more recently, the developing renewable energy industry. However, with the exception of the energy field, where the Renewable Is Doable group (principally, Greenpeace Canada and to a lesser extent the Pembina Institute) and the Ontario Clean Air Alliance have continued their structural critiques of the province's approach to electricity policy,¹¹ more and more it has been institutional actors, particularly the Environmental Commissioner of Ontario and even the provincial auditor, who have attempted to inject a sustainability dimension into public discourse.¹² These institutional actors have also become the primary critical analytical voices on provincial policy. To some degree, this is a positive development, reflecting the benefits of the institutionalization of environmental concern that was the primary legacy of the second modern wave of public interest in the environment of the late 1980s and early 1990s. At the same time, as government agencies they are subject to significant constraints both in terms of the scope of their formal mandates and, as demonstrated by the controversies over the departure of Environmental Commissioner Eva Ligeti in 1999 and near non-reappointment of Commissioner Gord Miller in 2010, political considerations as well.

The McGuinty government, perhaps learning some lessons from its Liberal and NDP predecessors, for whom meeting the expectations of their civil society constituencies was seen to result in a litany of problems,¹³ has shown remarkable deftness in its management of those dimensions of Ontario society. In the environmental case, the combination of a steady stream of congratulatory press releases in relation to a government whose overall record is decidedly mixed; the limited critical commentary on government initiatives; the number of former Liberal political staff now occupying senior positions in the province's ENGO community; and the role of provincial agencies, particularly the Trillium Foundation, in funding ENGO activity invites concerns about the extent to which the government may have received an undeserved free ride.¹⁴ The challenges now seem to go beyond those traditionally associated with institutionalization of social movements – such as a loss of capacity for spontaneity, connections to local-based grassroots activists, and a willingness to engage in radical action¹⁵ – and enter into the realm of the possibility of co-option. Such an outcome would carry with it the potential for a serious loss of influence in the event of a change

in government, as well as a broader weakening of the ENGO community's ability to carry out the agenda setting, policy development, and watchdog and accountability roles that are essential functions of civil society organizations in democratic societies.

Adding to the challenges for the ENGO community is the weak interest in environmental issues among new Canadians, who account for a large portion of the province's population growth.¹⁶ The media environment at Queen's Park has also changed profoundly. Beat reporters who covered environmental issues have long disappeared from the province's major media outlets, and the legislative press gallery has shrunk considerably over the past few years, with several veteran reporters who, although generalists, had developed a good understanding of environmental issues, having departed.¹⁷ The implications for an inherently complex policy issue like the environment, where public concern and media attention remain central drivers of policy activity, can be only negative. Although the ENGO community has made some important forays into new Internet-based media and campaigning techniques,¹⁸ the political impact of these strategies relative to sustained coverage of issues in conventional major print and electronic media remains uncertain.

At the beginning of the second decade of the new millennium, Ontario finds itself undergoing major structural changes in its economy, society, and environment. Notwithstanding the massive support provided to the automobile manufacturing sector, the 2008 economic crisis further accelerated the waning of long-established manufacturing activities in southern Ontario. In the north, employment in resource-based sectors has been in long-term decline. Weakening markets for traditional products, along with competition from lower-cost sources of fibre, have challenged the viability of elements of the forest sector. Population growth has become overwhelmingly focused in the GGH and to a lesser extent the Ottawa region. New Canadians account for a significant portion of overall population growth and are strongly concentrated in the GGH Region, yet the only regional culture that seems to be emerging is one of no common regional identity at all.¹⁹ The population of rural and northern regions has continued to fall. Environmentally, the regional impacts of global climate change and their consequences for air quality, public health, water resources, agricultural and resource-based sectors (e.g., forestry), biodiversity and natural heritage, and the provision and maintenance of physical infrastructure, are increasingly well understood.²⁰

Although ideas emerge, along with societal factors – particularly public opinion – as key determinants in the evolution of Ontario's environmental policy path, the province now finds itself in something of a vacuum of ideas on its way forward. Despite its status as a jurisdiction whose population, economy, and geographic scope are larger than most US states and EU

member countries, there has been remarkably little focused research on the implications of the structural changes facing the province and potential responses by its government. Martin and Florida's 2008 *Ontario in the Creative Age* study is notable for almost completely ignoring the environmental dimensions of the question and dealing only with its social dimensions weakly. The institutional structures that once existed to explore these types of questions, such as the Ontario Economic Council and the Ontario Round Table on Environment and Economy, are long gone. Despite the consideration that services now account for nearly 80 percent of the province's employment,²¹ the fate of conventional manufacturing activities has continued to dominate discussions of the province's economic future. As is most recently evident in the McGuinty government's Open for Business economic strategy, conventional resource extraction and manufacturing interests have shown remarkable resilience in terms of their ability to influence the province's economic and environmental policies despite their declining relative contributions to employment and economic output.

The economic transition away from traditional manufacturing and resource-based activities offers the potential for the province to avoid becoming a delayed-onset version of the rust belt phenomenon that has been the fate of many of its neighbouring Great Lakes states. Ontario has the potential to advance its environmental, economic, and social sustainability through an economy more grounded in knowledge, services, creativity, and high-skill, high-efficiency, high-value-added, high-reputational-value manufacturing. However, those sorts of outcomes cannot be achieved through the "race to the bottom" approach embedded in the province's Open for Business strategy or the halting and at times almost erratic approach to climate change policy and greening of the province's electricity system.

So far there have been only a few sectoral-level attempts at modelling potential future scenarios to explore these possibilities, and these efforts have been limited by the availability of data.²² Reflections on a wider range of long-term environmental and economic scenarios for the province and their implications for public policy, such as those that might flow from Peter Victor's *Managing without Growth* or Jeff Rubin's *Your World Is About to Get a Whole Lot Smaller*, remain completely absent.

An assumption of economic and political pre-eminence has been at the core of Ontario's political culture since confederation. The province is now struggling to cope with its loss, driven home by its new have-not status under the federal equalization program. A degree of denial over this development, and even more so over the nature and scale of the structural economic change that underlies it, continues to constrain public discourse on the future and to drive public policy and public investments toward sustaining the traditional foundations of the economy. The province is searching for

a way to regain its status, but its managerial-oriented government has seemed unable to articulate a compelling vision of the way forward. The result leaves the province vulnerable to another wrenching political shift that may leave it worse off than ever in terms of its ability to address the challenges it faces to its environmental, economic, and social sustainability.

Epilogue: The October 2011 Election and Its Implications for Ontario's Environment and Economy

The run-up to the October 2011 Ontario election was defined by a strong and long-standing lead for Tim Hudak's Progressive Conservatives. Polls over the summer of 2011 consistently gave the Progressive Conservatives margins of more than 10 percent over the Liberals, and there were projections of a strong PC majority government. The victory of right-wing populist Rob Ford in the November 2010 City of Toronto mayoralty race and the strong showing of the federal Conservatives in Ontario in the May 2011 federal election reinforced expectations of a Progressive Conservative win at the provincial level.

Election night on October 6 yielded a very different result. Dalton McGuinty's Liberals were re-elected as a minority government, with fifty-three seats, just one seat short of a majority. The Liberals received 37.6 percent of the popular vote, putting them 2 percent ahead of the PCs, who obtained 35.4 percent of the vote and thirty-seven seats. Andrea Horwath's NDP made a strong showing with nearly 23 percent of the vote, giving the party seventeen seats. Green Party support, on the other hand, collapsed badly, with the party receiving less than 3 percent of the popular vote and, at 127,000 votes, little more than a third of the total vote it had received in 2007. The Liberals and the NDP dominated in urban areas, larger towns and cities, and the north, while PC support was concentrated in rural southern and central Ontario. The election saw the lowest voter turnout in Ontario history, at 49.2 percent.

The Liberals, who ran a solid, consistent, and largely error-free campaign, benefited from a series of PC misfortunes and mistakes. The inability of Toronto mayor Ford to find the promised "gravy" of wasteful spending at City Hall, and consequent proposals for profound and deeply unpopular cuts to city services in the midst of the provincial election campaign, along with a hopelessly ill-considered proposal to abandon well-advanced plans for revitalization of the city's waterfront, did serious damage to the provincial PC effort. The situation in Toronto came to be perceived, particularly in the

city itself, as a foretaste of what a Hudak government, running on a platform very similar to Ford's approach in the November 2010 Toronto election, might look like at the provincial level. In the end, on election night the PCs failed to win a single one of the City of Toronto's twenty-two seats in the legislature.

PC leader Tim Hudak's attacks on "foreign workers," principally in response to a Liberal proposal for a modest tax credit for workers new to Canada, further undermined his party's fortunes. Hudak's statements invited suggestions of racial intolerance on the part of the PCs. The effect was to push new Canadian and moderate voters away from the Tories, particularly in the crucial 905 region surrounding the City of Toronto, with its large population of first-generation immigrants to Canada; this denied the PCs any gains in the region.

Other factors worked against the Tories as well. The outcomes of the 2010 Toronto municipal and 2011 federal elections prompted concerns over the possibility of a Conservative "trifecta" in Ontario at federal, provincial, and municipal levels. There was also disquiet, particularly in urban areas, over the enthusiastic embrace by rural branches of the Ontario PC Party of themes of the US Republican Tea Party movement.

The NDP, for its part, moved in a decidedly populist/materialist direction, proposing the removal of the HST from electricity, natural gas, and gasoline prices as the centrepiece of its campaign. The party's platform contained several important environmental elements, including opposition to new nuclear construction and refurbishment projects, a renewed focus on energy efficiency, increased transit funding, anti-SLAPP (strategic lawsuit against public participation) legislation, addressing of the impact of the government's Open for Business initiative on the Environmental Bill of Rights, continued participation in the Western Climate Initiative, and action on waste management. However, the HST proposal, commitments to limit the feed-in tariff program under the Green Energy Act to community-based projects and turn the bulk of renewable energy development over to a resurrected Ontario Hydro, and an enthusiastic embrace of resource development in the far north led to suggestions that the party was wavering in its traditional support for environmental issues. Given the apparent electoral success of the NDP's "pocketbook populist" approach and its gains in northern Ontario, the future positioning of the party on environmental matters may become increasingly contentious.

The Greens' poor showing reflected the party's struggle for space throughout the campaign. New leader Mike Schreiner put in a respectable performance, and the Greens again presented perhaps the most interesting platform of all of the major parties, including proposals for a modest carbon tax and a detailed strategy for sustainable agriculture and food. Unfortunately for the Greens, the party found itself a victim of the overall eclipsing of the

environment by economic concerns, with little more than 3 percent of voters identifying environmental and energy problems as leading issues in the campaign.

Moreover, the Greens were squeezed by the Liberals' emphasis on their Green Energy Act, especially its role in job creation and the risks of a PC government repealing the legislation. At the same time, the Greens received little benefit from the NDP's shakiness on environmental issues and were unable to exploit the Liberals' inconsistencies on the environmental front, such as their continuing commitment, notwithstanding the Green Energy Act, to an electricity system that is 50 percent nuclear (this in a post-Fukushima world). The situation was in part a result of the Green Party undermining own its appeal among voters seriously engaged in environmental issues. Such voters might have been put off by the Liberals' inconsistencies and the NDP's vacillation on the environment, but may also have found equally unappealing the elements of the Greens' platform intended to attract anti-wind, anti-greenbelt, and anti-source-water-protection voters in rural Ontario.

The Greens' failures were perhaps even more surprising given that the Liberals presented a platform that was remarkably thin on new commitments on the environment and energy fronts. A vague promise to expand the greenbelt, an option first presented in the party's 2007 platform, was the only new element. The remainder of the platform focused on past achievements and the continuation of existing initiatives such as the Green Energy Act, transit funding, and mining development in the far north. There were suggestions that local opposition to Green Energy Act-inspired wind-energy projects cost the Liberals a number of rural seats, including those of environment minister John Wilkinson and agriculture minister Leona Dombrowsky. There is little hard evidence to support that hypothesis, and it is also likely that the Liberals' strong focus on the legislation strengthened their appeal among younger voters.

The government seems likely to treat its re-election as an endorsement of its current track on the energy file. However, the divergence between those plans and the facts of the likely continuing decline in electricity demand, the uncertain availability and costs of nuclear projects, and the growing investments in green energy may hit sooner rather than later. Nuclear projects, aspects of the Green Energy Act, and energy conservation efforts all have the potential to be victims in the resulting fallout.

The province's fiscal situation means that the possibility of a serious financial retrenchment cannot be ruled out, even if the government's narrow electoral success leaves it tempted to continue with its facilitative and managerial orientation. In reality, neither approach is likely to provide an effective response to the serious environmental and economic stresses now facing Ontario. The decline of the US market for Ontario's exports, the difficulties

for export-oriented value-added economic activities posed by a rising Canadian dollar driven by resource exports from western Canada, the regional impacts of climate change, the rural-urban split evident in the outcome of the 2011 election, a federal government oriented towards the interests of western Canada, and the need to recover Toronto's role as the anchor of the Greater Golden Horseshoe and as an emerging global city all present tests that will require vision and leadership as well as managerial competence. It remains to be seen whether Premier McGuinty's renewed government will be able to meet those challenges.

Appendices

Appendix 1

Data for Figures 2.1 and 8.1: Ontario Ministry of the Environment Operating Budget, 1971-2011

Fiscal year	Nominal ¹	Fiscal year	Real ²	GDP deflator ³
1971-72	25	1971-72	102.7116	24.34
1972-73	38	1972-73	142.3221	26.70
1973-74	43	1973-74	139.7919	30.76
1974-75	61	1974-75	179.1483	34.05
1975-76	87	1975-76	233.3691	37.28
1976-77	103	1976-77	258.6640	39.82
1977-78	118	1977-78	277.9741	42.45
1978-79	136	1978-79	291.3453	46.68
1979-80	140	1979-80	272.4265	51.39
1980-81	143	1980-81	251.2298	56.92
1981-82	180	1981-82	291.4980	61.75
1982-83	180	1982-83	276.4552	65.11
1983-84	194	1983-84	288.5187	67.24
1984-85	200	1984-85	288.4754	69.33
1985-86	213	1985-86	298.1940	71.43
1986-87	229	1986-87	306.4775	74.72
1987-88	270	1987-88	345.7992	78.08
1988-89	302	1988-89	370.0074	81.62
1989-90	400	1989-90	475.0030	84.21
1990-91	459	1990-91	529.4118	86.70
1991-92	498	1991-92	566.8754	87.85
1992-93	510	1992-93	572.3263	89.11
1993-94	387	1993-94	429.3798	90.13



◀ Appendix 1

Fiscal year	Nominal ¹	Fiscal year	Real ²	GDP deflator ³
1994-95	286	1994-95	310.2962	92.17
1995-96	226	1995-96	241.2983	93.66
1996-97	146	1996-97	154.0247	94.79
1997-98	142	1997-98	150.4556	94.38
1998-99	162	1998-99	168.6973	96.03
1999-2000	174	1999-2000	174.0000	100.00
2000-01	190	2000-01	187.8956	101.12
2001-02	201	2001-02	196.6347	102.22
2002-03	250	2002-03	236.7873	105.58
2003-04	262	2003-04	240.4773	108.95
2004-05	295	2004-05	261.9661	112.61
2005-06	274	2005-06	237.4350	115.40
2006-07	314	2006-07	263.9765	118.95
2007-08	349	2007-08	282.3853	123.59
2008-09	363	2008-09	293.7131	123.59
2009-10	362.4	2009-10	293.2276	123.59
2010-11	383	2010-11	309.8956	123.59

1 Source: 1971-98, A. Kranjc, "Whither Ontario's Environment: Neo-Conservatism and the Decline of the Ministry of the Environment," *Canadian Public Policy* 26, 1 (March 2000): Table 1 – excluding sewer and water operations and Ministry of Energy component when amalgamated with Ministry of the Environment; 1998-2011, Ontario Ministry of Finance, Ontario Budgets, 1998-2010.

2 Real dollars: inflation-adjusted, reference year 2000.

3 <http://www.tradingeconomics.com/canada/inflation-gdp-deflator-annual-percent-wb-data.html>, 2007-08 inflator used for 2008-09 to 2010-11.

Appendix 2

Data for Figure 1.3

Year	Gallup National	Enviro-nics Focus Canada	Enviro-nics Focus Ontario (provincial)	McAllister Opinion Research (national)	CTV Strategic Council (national)	CTV Strategic Council (provincial)	Time Series*
1972	6.1						6.1
1973	4.7						4.7
1974	2.3						2.3
1975	1.9						1.9
1976	0.6						0.6
1977		2					2.0
1978		0					-
1979		-					-
1980		0					0.0
1981		-					-
1982		0.1					0.1
1983		-					-
1984		-					-
1985		-					-

1986		-		9.9	9.9
1987	3.5	3.0		8.6	8.7
1988	10.4	7.4		11.7	11.7
1989	16.2	17.8		25.5	24.1
1990	10.1	15.6		21.1	20.9
1991	2.3	6.9		7.5	7.4
1992		4.8		4.1	4.1
1993	1.0	3.0		1.6	1.7
1994	0.6	1.9		2.9	2.9
1995	0.6	1.7		2.9	3.1
1996	0.4	1.2		2.8	2.8
1997	0.6	1.6		2.1	2.2
1998	1.3	1.9		2.9	2.8
1999	1.5	3.3		4.1	3.8
2000	1.4	4.3		5.5	5.4
2001		3.7		4.7	4.6

▲

▼ Appendix 2

Year	Gallup National		Environics Focus Canada		Environics Focus Ontario (provincial)		McAllister Opinion Research (national)		CTV Strategic Council (national)		CTV Strategic Council (provincial)		Time Series*
2002							4						4.0
2003			3.2				6						6.0
2004			4.0				4						4.0
2005			6.2				11	9					11.0
2006			10.1				29	8					29.0
2007			19.3				23	24.5	25				23.0
2008			9.7					19	17				17.0
2009			6.1					7.5	6				6.0

Note: Some percentages are annual averages where quarterly, or more than one poll per year asked MIP question.

* Time series comprising five different polls (all responding Env except where Env not coded [1978-1986 except 1980 and 1982])

Data sources:

Canadian Gallup polls, September 1972, #355 q5a; September 1973, #361 q3a; March 1974, #364 q4; July 1975, #378 q6a; October 1975, #381 q1a; April 1976, #387 q1a. Poll questions retrieved online September 10, 2010, from the Ontario Data Documentation, Extraction Service and Infrastructure (ODESI) via Scholar's Portal.

Environics Focus Ontario opinion polls, 1986A q1, 1986B q1, 1987-1 q1, 1987-2 q1, 1987-3 q1, 1987-4 q1, 1988-1 q1, 1988-2 q1, 1988-3 q1, 1988-4 q1, 1989-1 q1, 1989-3 q1, 1989-4 q1, 1990-1 q1, 1990-2 q1, 1990-3 q1, 1990-4 q1, 1991-1 q1, 1991-2 q1, 1991-3 q1, 1991-4 q1, 1992-1 q1, 1992-2 q1, 1992-3 q1, 1992-4 q1, 1993-1 q1, 1993-2 q1, 1993-3 q1, 1993-4 q1, 1995-2 q1, 1995-3 q1, 1995-4 q1, 1996-1 q1, 1996-2 q1, 1996-3 q1, 1996-4 q1, 1997-1 q1, 1997-2 q1, 1997-3 q1, 1997-4 q1, 1998-1 q1, 1998-2 q1, 1998-3 q1, 1998-4 q1, 1999-1 q1, 1999-2 q1, 1999-3 q1, 1999-4 q1, 2000-1 q1, 2000-2 q1, 2000-3 q1, 2000-4 q1, 2001-1 q1, 2001-2 q1, 2001-3 q1, 2001-4 q1. Poll questions retrieved online September 10, 2010, from the Ontario Data Documentation, Extraction Service and Infrastructure (ODESI) via Scholar's Portal.

*Appendix 3***Ontario Ministers of the Environment, 1971-2011**

George A. Kerr (PC)	July 23, 1971, to February 2, 1972
James Auld (PC)	February 2, 1972, to February 26, 1974
William Gould Newman (PC)	February 26, 1974, to October 7, 1975
George A. Kerr (PC)	October 7, 1975, to January 21, 1978
George R. McCague (PC)	January 21, 1978, to August 18, 1978
Harry Craig Parrott (PC)	August 18, 1978, to April 10, 1981
Keith Norton (PC)	April 10, 1981, to July 6, 1983
Andy Brandt (PC)	July 6, 1983, to February 8, 1985
Morley Kells (PC)	February 8, 1985, to May 17, 1985
Susan Fish (PC)	May 17, 1985, to June 26, 1985
Jim Bradley (Liberal)	June 26, 1985, to October 1, 1990
Ruth Grier (NDP)	October 1, 1990, to February 3, 1993
Bud Wildman (NDP)	February 3, 1993, to June 26, 1995 (Minister of Environment and Energy)
Brenda Elliott (PC)	June 26, 1995, to August 16, 1996 (Minister of Environment and Energy)
Norm Sterling (PC)	August 16, 1996, to June 17, 1999 (Minister of Environment and Energy until October 10, 1997)
Tony Clement (PC)	June 17, 1999, to March 3, 2000
Dan Newman (PC)	March 3, 2000, to February 7, 2001
Elizabeth Witmer (PC)	February 8, 2001, to April 14, 2002
Chris Stockwell (PC)	April 15, 2002, to June 17, 2003
Jim Wilson (PC)	June 17, 2003, to October 22, 2003
Leona Dombrowsky (Liberal)	October 23, 2003, to June 29, 2005
Laurel Broten (Liberal)	June 29, 2005, to October 29, 2007
John Gerretsen (Liberal)	October 29, 2007, to August 18, 2010
John Wilkinson (Liberal)	August 18, 2010, to present

Notes

Preface

- 1 Quoted in P. Best, "KVP Trial History: Article 1," <http://www.friendsofthespanishriver.ca/>.

Chapter 1: Introduction

- 1 R. Dyck, "The Socio-Economic Setting of Ontario Politics," in *The Government and Politics of Ontario*, 5th ed., ed. G. White (Toronto: University of Toronto Press, 1997), 19.
- 2 *Ibid.*, 20.
- 3 M.B. Matthew, *The Growth Outlook for the Greater Golden Horseshoe* (Toronto: Hemson Consulting, January 2005).
- 4 Ontario's GDP is roughly in the same range (approximately US\$500 billion per year) as the gross state product of Illinois, New Jersey, Pennsylvania, and Ohio. California (1.4 trillion), New York (\$843 billion), Texas (\$804 billion), and Florida (\$544 billion) had the largest gross state product in 2004. Bureau of Economic Analysis, Regional Economic Accounts, Table 1, Gross State Product, <http://www.bea.gov/>. Ontario would rank fifth among US states in terms of population after California (35 million), Texas (22 million), New York (19 million), Florida (17.4 million). US Census Bureau, <http://www.census.gov>.
Ontario's annual provincial GDP at approximately US\$500 billion ranks above all EU members except Germany, the United Kingdom, France, the Netherlands, and Poland. EU GDP from United States, Central Intelligence Agency, World Factbook, Rank Order GDP (2004), <http://www.cia.gov/>.
- 5 Excluding criteria air pollutants and greenhouse gases. Analyses conducted using the *Taking Stock Query Builder*, <http://www.cec.org/takingstock/QueryBuilder>.
- 6 See the Constitution Act, 1982, particularly ss. 92, 92A, and 109. For a detailed discussion of the jurisdictional division of powers over the environment see J. Benidickson, "The Constitutional Allocation of Environmental Responsibility and Interjurisdictional Coordination," chap. 2 in *Environmental Law*, 3rd ed. (Toronto: Irwin Law, 2009), 30-52.
- 7 On the history and impact of the environmental harmonization initiative and federal provincial relations and the environment generally see M. Winfield and D. Macdonald, "The Harmonization Accord and Climate Change Policy: Two Case Studies in Federal-Provincial Environmental Policy," in *Canadian Federalism: Performance, Effectiveness and Legitimacy*, 2nd ed., ed. H. Bakvis and G. Skogstad (Toronto: Oxford University Press, 2007), 266-88; and M. Winfield, "Environmental Policy and Federalism," in *Canadian Federalism: Performance, Effectiveness and Legitimacy*, 1st ed., ed. H. Bakvis and G. Skogstad (Toronto: Oxford University Press, 2002), 124-37.
- 8 See, for example, J. Wilson, *Talk and Log: Wilderness Politics in British Columbia, 1965-96* (Vancouver: UBC Press, 1998), and B. Chashore et al., *In Search of Sustainability: British Columbia Forest Policy in the 1990s* (Vancouver: UBC Press, 2001).
- 9 For general texts see, for example, D. Macdonald, *The Politics of Pollution: Why Canadians Are Failing Their Environment* (Toronto: McClelland and Stewart, 1991); E.A. Parsons, ed.,

- Governing the Environment: Persistent Challenges, Uncertain Innovations* (Toronto: University of Toronto Press, 2001); D. Boyd, *Unnatural Law: Rethinking Canadian Environmental Law and Policy* (Vancouver: UBC Press, 2003); M. Hessing, T. Summerville, and M. Howlett, *Canadian Natural Resource and Environmental Policy: Political Economy and Public Policy*, 2nd ed. (Vancouver: UBC Press, 2005); D.L. VanNijnatten and R. Boardman, eds., *Canadian Environmental Policy: Context and Cases*, 2nd ed. (Toronto: Oxford University Press, 2002); and D.L. VanNijnatten and R. Boardman, eds., *Canadian Environmental Policy and Politics: Prospects for Leadership and Innovation*, 3rd ed. (Toronto: Oxford University Press, 2009). An exception is K. Harrison, *Passing the Buck: Federalism and Canadian Environmental Policy* (Vancouver: UBC Press, 1996).
- 10 On the evolution of the province's natural resource policies, see H.V. Nelles, *The Politics of Development: Forests, Mines and Hydro-Electric Power in Ontario, 1949-1941* (Toronto: Archon Books, 1974).
 - 11 See P. McKay, *Electric Empire: The Inside Story of Ontario Hydro* (Toronto: Between the Lines, 1983); N. Freeman, *The Politics of Power: Ontario Hydro and Its Government, 1906-1995* (Toronto: University of Toronto Press, 1996); R. Daniels, ed., *Ontario Hydro at the Millennium: Has Monopoly's Moment Passed?* (Montreal and Kingston: McGill-Queen's University Press, 1996); J. Swift and K. Stewart, *Hydro: The Decline and Fall of Ontario's Electric Empire* (Toronto: Between the Lines, 2004); Doug Reeve, Donald N. Dewees, and Bryan W. Karney, eds., *Current Affairs: Perspectives on Electricity Policy for Ontario* (Toronto: University of Toronto Press, 2010).
 - 12 Swift and Stewart's *Hydro* is an exception in this regard. The three editions of David Estrin and John Swaigen's *Environment on Trial* have provided the standard general text on environmental law and policy in Ontario, but the last edition was published in 1993 and has been increasingly overtaken by more recent developments.
 - 13 See, for example, P. Monahan, *Storming the Pink Palace – the NDP in Power: A Cautionary Tale* (Toronto: Lester Publishing, 1995); G. White, ed., *The Government and Politics of Ontario*, 5th ed. (Toronto: University of Toronto Press, 1997); Sid Noel, ed., *Revolution at Queen's Park: Essays on Governing Ontario* (Toronto: Lorimer, 1997); Randall White, *Ontario since 1985* (Toronto: eastendbooks, 1998); Courchene and Telmer, *From Heartland to North American Regional State: The Social, Fiscal and Federal Evolution of Ontario* (Toronto: University of Toronto Press, 1998). Some less academic works have made references to the role of environmental issues in the political life of the province, particularly their impact on the 1985 and 1990 elections. See, for example: R. Speirs, *Out of the Blue: The Fall of the Tory Dynasty in Ontario* (Toronto: Macmillan, 1986); G. Gagnon and D. Rath, *Not without Cause: David Peterson's Fall from Grace* (Toronto: HarperCollins, 1991); T. Walkom, *Rae Days: The Rise and Follies of the NDP* (Toronto: Key Porter, 1994); and J. Ibbitson, *Promised Land: Inside the Mike Harris Revolution* (Toronto: Prentice Hall, 1997).
 - 14 The impact of the changes in the legal interpretation of Aboriginal and treaty rights on environmental and natural resources policy making in Ontario is not examined in depth, as this has emerged as a major topic in its own right, particularly with respect to northern Ontario, and needs to be addressed in a separate volume.
 - 15 G. Bruce Doern and Glen Toner, *The Politics of Energy: The Development and Implementation of the National Energy Program* (Toronto: Methune, 1985).
 - 16 See for example, Hessing, Howlett, and Summerville, *Canadian Natural Resource and Environmental Policy*, 105-6.
 - 17 See, classically, A. Downs, "Up and Down with Ecology: The Issue Attention Cycle," *The Public Interest* 28 (Summer 1972): 38-50.
 - 18 K. Harrison, "Retreat from Regulation: Evolution of the Canadian Environmental Regulatory Regime," in *Changing the Rules: Canadian Regulatory Regimes and Institutions*, ed. G.B. Doern et al. (Toronto: University of Toronto Press, 1999), Figure 6.1, 124.
 - 19 On the Canadian media's approach to environmental issues see F.J. Fletcher and L. Stalbrand, "Mirror or Participant? The News Media and Environmental Policy," in *Canadian Environmental Policy: Ecosystems, Politics and Process*, ed. R. Boardman (Toronto: Oxford University Press, 1992), 179-202.
 - 20 On the structural power of business interests generally see D. Macdonald, *Business and Environmental Politics in Canada* (Peterborough, ON: Broadview, 2007).

- 21 See M. Winfield, "Polls, Politics and Sustainability," in *Charting Sustainable Development in Canada, 1987-2007*, ed. G. Toner and J. Meadowcroft (Montreal and Kingston: McGill-Queen's University Press, 2009), 72-94. On the concept of policy windows, see J.W. Kingdon, *Agendas, Alternatives and Public Policies* (New York: HarperCollins, 1995).
- 22 This is sometimes referred to as a pattern of "punctuated equilibri" in public policy, see F.R. Baumgartner and B.D. Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 1993).
- 23 On the approaches of Frost, Robarts, and Davis, see Randall White, *Ontario, 1610-1985: A Political and Economic History* (Toronto: Dundurn Press, 1985), chaps. 15 and 16.
- 24 Sid Noel, "The Ontario Political Culture: An Interpretation," in G. White, *Government and Politics of Ontario*, 53-54.
- 25 On neo-liberalism and the environment, see A. Kranjc, "Whither Ontario's Environment: Neo-Conservatism and the Decline of the Ministry of the Environment," *Canadian Public Policy* 26, 1 (March 2000): 111-27.
- 26 See generally Ibbitson, *Promised Land*.
- 27 On the concept of a policy paradigm see G. Skogstad, *Internationalization and Canadian Agriculture: Policy and Governing Paradigms* (Toronto: University of Toronto Press, 2008), 9-16.
- 28 On the concept of pollution prevention see Canada, Environment Canada, "Pollution Prevention," <http://www.ec.gc.ca/>.
- 29 On the hard and soft energy path concepts and their implications for Ontario, see A. Lovins, "Hard vs. Soft Energy Paths," *Alternatives* 8, 3/4 (1980): 4-9.
- 30 See D. Eberts, "Globalization and Neo-Conservatism: Implications for Resource and Environmental Management," in *Resource and Environmental Management in Canada*, ed. B. Mitchell (Toronto: Oxford University Press, 2004), 54-79.
- 31 This argument is further developed in M. Winfield, "Environmental Governance in Canada: From Regulatory Renaissance to Smart Regulation," *Journal of Environmental Law and Practice* 17: 69-83.
- 32 Intergovernmental Panel on Climate Change, *Climate Change, 2007: Synthesis Report; Summary for Policymakers* (Geneva: IPCC, 2007).
- 33 See E. Reguly and B. Laghi, "G20 Ushers in a 'New World Order,'" *Globe and Mail*, April 3, 2009.
- 34 See M. Winfield, "Greening the Economy: Economic Stimuli and the Opportunity for Restructuring for Sustainability" (Toronto: Friends of the Greenbelt Foundation, January 2009), <http://www.greenbelt.ca/>. See also *The Economist*, "Leviathan Inc.," August 7, 2010, p. 9, and "Picking Winners, Saving Losers," August 7, 2010, pp. 68-70.
- 35 See, for example, "Now What?" *The Economist*, March 27-April 2, 2010, p. 11.
- 36 On this approach to sustainability, see, for example, R.B. Gibson, "Sustainability Assessment: Basic Components of a Practical Approach," *Impact Assessment and Project Appraisal* 24, 3 (2006): 170-82.
- 37 See D.R. Cameron and G. White, *Cycling into Saigon: The Conservative Transition in Ontario* (Vancouver: UBC Press, 2000), 11.
- 38 See *ibid.*, 11-16, for an excellent summary of the 1985 to 1995 period.
- 39 See Gagnon and Rath, *Not without Cause*, 199-201, regarding the role of environmental issues in the campaign and the NDP's defeat of the Liberal government generally.
- 40 Courchene and Telmer, *From Heartland*, 132-33. See also C. Rachlis and D. Wolfe, "An Insider's View of the NDP Government: The Politics of Permanent Opposition Meet the Economics of Permanent Recession," in G. White, *Government and Politics of Ontario*, 331-64.
- 41 See generally Walkom, *Rae Days*.
- 42 See generally T. Walkom, "The Harris Government: Restoration or Revolution," in G. White, *Government and Politics of Ontario*, 402-17.
- 43 On the Walkerton tragedy see D. O'Connor, *Report of the Walkerton Inquiry: Part 1 – the Events of May 2000 and Related Issues* (Toronto: Queen's Printer for Ontario, 2002).
- 44 C. Perkel, "Liberals Maintain Lead over Tories in Latest Poll," *Canadian Press*, September 19, 2007.

- 45 Noel, "The Ontario Political Culture," in G. White, *Government and Politics of Ontario*, 53-54.
- 46 Randall White, *Ontario since 1985*, 40.
- 47 *Ibid.*, 80.
- 48 The limitations of GDP as an indicator of societal well-being and sustainability are well recognized. See classically H.E. Daly and J.B. Cobb Jr., *For the Common Good: Redirecting the Economy toward Community, the Environment, and a Sustainable Future* (Boston: Beacon Press, 1994). See also Peter A. Victor, *Managing without Growth: Slower by Design, Not Disaster* (Northampton, MA: Edward Elgar, 2009). Changes in GDP are employed here only as rough indicators of overall economic conditions. Unemployment levels are considered as well, to provide a more direct indicator of the level of economic security or distress being experienced by Ontario residents.
- 49 Ontario was seen to have forestalled a major economic restructuring at this stage by avoiding the adoption of world energy prices. Courchene and Telmer, *From Heartland*, 134.
- 50 Randall White, *Ontario since 1985*, 80.
- 51 Rachlis and Wolfe, "An Insider's View," in G. White, *Government and Politics of Ontario*, 335.
- 52 Randall White, *Ontario since 1985*, 80-81.
- 53 Ontario, Ministry of Finance, *Ontario Economic Review, 2003* (Toronto: Queen's Printer for Ontario, 2003), Annex 1, 12.
- 54 Ontario, Ministry of Finance, *2010 Ontario Budget*, chap. 2, Chart 2 and Table 1 (Toronto: Queen's Printer for Ontario), <http://www.fin.gov.on.ca/>.
- 55 Dyck, "The Socio-Economic Setting of Ontario Politics," in G. White, *Government and Politics of Ontario*, 25.
- 56 Canada, Statistics Canada, *Canadian Economic Observer: Historical Statistical Supplement, 2006/2007*, catalogue no. 11-210-XIB (Ottawa: Statistics Canada, 2007), <http://www.statcan.ca/>.
- 57 J. Grey, "We'll Think No More of Inco," *Report on Business Magazine*, March 26, 2010.
- 58 The portion of jobs in the manufacturing sector declined from 24.3 to 18.6 percent between 1977 and 1996. Randall White, *Ontario since 1985*, 85. See also R.L. Martin and R. Florida, *Ontario in the Creative Age* (Toronto: Martin Prosperity Institute, February 2009), Exhibit 4.
- 59 "Stelco Inc., Company History," <http://www.fundinguniverse.com/company-histories/Stelco-Inc-Company-History.html>.
- 60 Canada, Statistics Canada, *Canadian Economic Observer: Historical Statistical Supplement 2006/07*.
- 61 Madison Avenue Demographics Group, *Final Report Demographic and Economic Trends in the Great Lakes Basin Implications for the Federal Great Lakes Program*, prepared for Environment Canada, Ontario Region, July 1999, 15.
- 62 Randall White, *Ontario since 1985*, 85. See also Ontario, Ministry of Finance, *Ontario Economic Review, 2003*, Annex 4, Table 30, 102. There are ongoing debates regarding the quality of employment in the service sectors versus the traditional manufacturing and resource sectors. Since the early 1980s, Ontario's per capita GDP has declined relative to other large provinces and states. Task Force on Competitiveness, Productivity and Economic Progress, *Ninth Annual Report* (Toronto: Institute for Competitiveness and Prosperity, 2010), 8-10.
- 63 On the US rust belt phenomenon see S. High, *Industrial Sunset: The Making of North America's Rust Belt, 1969-1984* (Toronto: University of Toronto Press, 2003), particularly 92-124. See also, on the decline of manufacturing activities in the Great Lakes Basin, R. Doyle, "Deindustrialization: Why Manufacturing Continues to Decline," *Scientific American*, May 4, 2002, <http://www.sciam.com>.
- 64 "About Ontario: Economy and Services," <http://www.ontario.ca/>.
- 65 See R. Tomalty, D. Alexander, and M. Anielski, *Ontario Community Sustainability Report – 2007* (Drayton Valley, AB: Pembina Institute, 2007). See also Martin and Florida, *Ontario in the Creative Age*, Exhibit 15.
- 66 The work of the Ontario Round Table on the Environment and Economy was particularly noteworthy in the NDP's effort in this regard. See Ontario Round Table on the Environment and Economy, *Restructuring for Sustainability* (Toronto: Queen's Printer for Ontario, 1992). On the NDP's economic policy see Rachlis and Wolfe, "An Insider's View," in G. White, *Government and Politics of Ontario*, 331-64.

- 67 Walkom, "The Harris Government," in G. White, *Government and Politics of Ontario*, 404.

Chapter 2: The Environment and the Dynasty

- 1 On the establishment of initial environmental protection institutions and legislation in Canada see Macdonald, *Politics of Pollution*, 135-43.
- 2 For a detailed discussion of legislative and administrative arrangements regarding drinking water and sewage disposal during this period see J. Benidickson, *Water Supply and Sewage Infrastructure in Ontario, 1880-1990s: Legal and Institutional Aspects of Public Health and Environmental History* (Toronto: Walkerton Inquiry, 2002).
- 3 *Ibid.*, 3.
- 4 J. Benidickson, *The Culture of Flushing: A Social and Legal History of Sewage* (Vancouver: UBC Press, 2007), xiii.
- 5 Macdonald, *Politics of Pollution*, 86-87.
- 6 D. Estrin and J. Swaigen, *Environment on Trial: A Handbook of Ontario Environmental Law*, 2nd ed. (Toronto: Canadian Environmental Law Research Foundation, 1978), 151.
- 7 Benidickson, *Water Supply and Sewage Infrastructure*, 5.
- 8 Estrin and Swaigen, *Environment on Trial*, 2nd ed., 228-29.
- 9 Personal communication, David McRobert, former senior policy advisor and in-house counsel, Office of the Environmental Commissioner of Ontario, July 2010.
- 10 On the origins of the North American conservation movement see Macdonald, *Politics of Pollution*, 80-81.
- 11 On the emergence of forest conservation policy in Ontario see Nelles, *The Politics of Development*, 182-214. See also R.S. Lambert and P. Pross, *Renewing Nature's Wealth: A Centennial History* (Toronto: Department of Lands and Forests, 1967).
- 12 Randall White, *Ontario, 1610-1985*, 274.
- 13 *Ibid.*, 274 and 287.
- 14 Noel, "The Ontario Political Culture," in G. White, *Government and Politics of Ontario*, 55-56.
- 15 The Ontario Pulpwood Conservation Act, S.O. 1929, c. 13, for example, required for the first time the replanting of harvested forests; as noted in the text, the 1906 amendments to the Ontario Public Health Act banned the discharge of pollutants into sources of drinking water.
- 16 Regarding pollution, see Benidickson, *Water Supply and Sewage Infrastructure*, 54. Regarding sustainable resources management see, for example, the Royal Commission on Forestry (Kennedy Commission) *Report* (Toronto: King's Printer, 1947). On the impact of Depression-era policies on the Ontario Department of Lands and Forests see Lambert and Pross, *Renewing Nature's Wealth*.
- 17 Conservation Ontario, "History of Conservation Authorities," <http://www.conservation-ontario.on.ca/>.
- 18 G. Penfold, "Planning Act Reforms and Initiatives in Ontario, Canada," in *The Cornerstone of Development: Integrating Environmental, Social and Economic Policies*, ed. J. Schnurr and S. Holtz (Ottawa: International Development Research Centre, 1998), <http://www.idrc.ca/>.
- 19 Ontario, Legislative Assembly of Ontario, Select Committee on Conservation, *Report* (Toronto: Legislative Assembly of Ontario, 1950), 95, quoted in Benidickson, *Water Supply and Sewage Infrastructure*, 54.
- 20 Benidickson, *Water Supply and Sewage Infrastructure*, 54.
- 21 Quoted in P. Best, "KVP Trial History: Article 1," <http://www.friendsofthespanishriver.ca/>.
- 22 An Act Regarding the K.V.P. Company Limited, S.O. 1950, c. 33. The Supreme Court decision in question was *McKie v. K.V.P. Ltd.* (1949) S.C.R. 698.
- 23 Quoted in Benidickson, *The Culture of Flushing*, 279.
- 24 *Stephens v. Richmond Hill* (1954) 4 D.L.R. 572, and *Burgess v. Woodstock* (1955), 4 D.L.R. 615. See also Benidickson, *The Culture of Flushing*, 279-80.
- 25 Ontario Water Resources Commission Act, S.O. 1956, c. 62, s. 3.
- 26 Ontario Water Resources Commission Act, S.O. 1957, c. 88, ss. 16, 31(1), and 31(2). For a more detailed discussion of the act and its rationale see J.B. Milner, "The Ontario Water Resources Commission Act, 1956," *University of Toronto Law Journal* 12 (1957-58): 100-2.

- 27 As a temporary measure, prior to the adoption of the Water Resources Commission Acts, the Public Health Act was amended to provide “statutory authority” for the operation of plants approved by the Department of Health, permitting the facilities to continue operations.
- 28 See P. Anisman, “Water Pollution Control in Ontario,” *Ottawa Law Review* 5 (1972): 342-410. for a detailed discussion of the commission’s efforts in this regard. See also Benidickson, *Water Supply and Sewage Infrastructure*, 89.
- 29 Randall White, *Ontario, 1610-1985*, 274.
- 30 On air pollution issues in Ontario in the 1950s, see O. Tembly, “Business and Air Pollution Governance in Ontario,” paper presented at the Ontario Network for Sustainable Energy Policy workshop, Niagara-on-the-Lake, April 27, 2011, <http://www.onsep.ca>.
- 31 See, for example, R.H. Hall and D. Chant, *Ecotoxicity: Responsibilities and Opportunities*, Canadian Environmental Advisory Committee report no. 8 (Ottawa: Environment Canada, 1979). For a detailed discussion of the evolution of the efforts to restore the Great Lakes see L. Botts and P. Muldoon, *The Evolution of the Great Lakes Water Quality Agreement* (East Lansing, MI: Michigan State University Press, 2005).
- 32 On parallels between the early environmental and women’s movements in Canada see A. Paul Pross, *Group Politics and Public Policy*, 2nd ed. (Toronto: Oxford University Press, 1992), 96-97.
- 33 On the emergence of new environmental NGOs in Canada in the late 1960s and early 1970s see Macdonald, *The Politics of Pollution*, 96-99.
- 34 Air Pollution Control Act, S.O. 1967, c. 2, s. 7; Air Pollution Control Act, S.O. 1958, c. 2. Responsibility for the new act’s administration was subsequently transferred to the Department of Energy and Resources Management in 1968.
- 35 Pesticides Act, S.O. 1967, c. 74.
- 36 R. Howard and M. Perley, *Poisoned Skies: Who’ll Stop Acid Rain?* (Toronto: Stoddart, 1991), 138-39.
- 37 L.P.G. DeLestard, *A History of the Sudbury Forest District: District History Series No. 21* (Toronto: Ontario Department of Lands and Forests, 1967).
- 38 Macdonald, *Politics of Pollution*, 243, 244, 105-7. The site had actually been selected for astronaut training because of its geological features. The superstack came into operation in 1972.
- 39 Waste Management Act, S.O. 1970, c. 44, ss. 11 and (1)(n).
- 40 See Ontario, Department of Treasury, Economics and Intergovernmental Affairs, *Design for Development: A Status Report on the Toronto-Centred Region* (Toronto: Queen’s Printer for Ontario, August 1971); Richard White, *The Growth Plan for the Greater Golden Horseshoe in Historical Perspective* (Toronto: Neptis Foundation, 2007).
- 41 R. Dyck, *Provincial Politics in Canada* (Toronto: Prentice Hall, 1985), 270.
- 42 For a detailed discussion of the Dow Chemical case see Macdonald, *The Politics of Pollution*, 107; on the Spadina Expressway see Ontario, Department of Treasury, Economics and Intergovernmental Affairs, *Design for Development*.
- 43 Canada and Ontario, *Canada-Ontario Agreement on Great Lakes Water Quality* (Ottawa and Toronto, August 1971).
- 44 See Macdonald, *The Politics of Pollution*, 135-42. On the early evolution of environmental policy in Alberta see M. Winfield, *The Ultimate Horizontal Issue: Environmental Policy and Politics in Ontario and Alberta, 1971-1992* (Toronto: PhD thesis, University of Toronto, 1992), chaps. 2 and 5.
- 45 Environmental Protection Act, S.O. 1971, c. 86, s. 1(k), s. 14, Part IV, and s. 14(2).
- 46 The Progressive Conservatives won seventy-eight seats; the Liberals, twenty; and the NDP, nineteen.
- 47 Ontario, Committee on Government Productivity, *Interim Report Number III* (Toronto: Queen’s Printer for Ontario, December, 1971), 22-23, dealt specifically with resources and development, and environmental protection.
- 48 For a more detailed discussion of the nature of the overall COGP reforms see E.E. Stewart, *Cabinet Government in Ontario: A View from the Inside* (Halifax: Institute for Research on Public Policy, 1989), 1-29.

- 49 See R.V. Bartlett, "Rationality and Logic of the National Environmental Policy Act," *Environmental Professional* 8 (1986): 105-11, for a general discussion of the provisions of the act.
- 50 Estrin and Swaigen, *Environment on Trial*, 2nd ed., 43-44.
- 51 See generally G. Bruce Doern and T. Conway, *The Greening of Canada: Federal Institutions and Decisions* (Toronto: University of Toronto Press, 1994). On the early evolution of the federal environmental assessment process see S. Hazell, *Canada vs. the Environment* (Toronto: Canadian Environmental Defence Fund, 1999).
- 52 Ontario, Ministry of the Environment, *Green Paper on Environmental Assessment* (Toronto: Ministry of the Environment, 1973), 4, 5.
- 53 Environmental Assessment Act, S.O. 1975, c. 69, ss. 1(c) and (o).
- 54 Environmental Assessment Act, 1975, ss. 5(3), 7, and 12(2).
- 55 Environmental Assessment Act, 1975, s. 6.
- 56 On the development of the legislation see J.T. Horton, "The Niagara Escarpment: Planning for Multi-Purpose Development of a Recreational Resource," in R.R. Krueger and B. Mitchell, *Managing Canada's Renewable Resources* (Toronto: Methune, 1977), 149-72.
- 57 The commission was named for its chair, Dr. Omand Solandt, then chair of the Science Council of Canada. For a discussion of the commission and its work see Freeman, *The Politics of Power*, chap. 6.
- 58 The commission was empowered under order-in-council 2005B/75, dated July 17, 1975.
- 59 Section 46 provided for the act to be proclaimed in force on a date to be named by the lieutenant governor in council.
- 60 On "bipartite bargaining" see G. Hoberg, "Environmental Policy: Alternative Styles," in *Governing Canada: Institutions and Public Policy*, ed. M. Atkinson (Toronto: Harcourt Brace Javanovich, 1993), 307-42; see also see K. Webb, "Between Rocks and Hard Places: Bureaucrats, Law and Pollution Control," in *Managing Leviathan: Environmental Politics and the Administrative State*, ed. R. Paehlke and D. Torgerson (Peterborough, ON: Broadview Press, 1990), 201-28. On the concept of governing paradigms see Skogstad, *Internationalization and Canadian Agriculture*, chap. 1.
- 61 R.B. Gibson, *Control Orders and Industrial Pollution Abatement in Ontario* (Toronto: Canadian Environmental Law Research Foundation, 1983), 87-89.
- 62 *Ibid.*, 16-23, 83.
- 63 Webb, "Between Rocks and Hard Places," 202.
- 64 On the evolution of NGOs from issue-oriented to "mature," see A. Paul Pross, *Group Politics and Public Policy*, 1st ed. (Toronto: Oxford University Press, 1986), 119-27.
- 65 See <http://www.cela.ca/objectives>.
- 66 The standings in the legislature following the election were Progressive Conservatives, fifty-one; NDP, thirty-eight; and Liberals, thirty-six.
- 67 The standings in the legislature following the 1977 election were Progressive Conservatives, fifty-eight; Liberals, thirty-four; and NDP, thirty-three.
- 68 Ontario, Standing Committee on Resources Development, *Interim Report on Liquid Industrial Waste*, Sessional Paper 272 (Toronto: Legislative Assembly of Ontario, 1978); Ontario, Legislative Assembly of Ontario, Standing Committee on Resources Development, *Final Report on Acidic Precipitation, Abatement of Emissions from the International Nickel Company Operations at INCO and Pollution Control in the Pulp and Paper Industry* (Toronto: Legislative Assembly of Ontario, 1979).
- 69 For a discussion of the activities of the select committee see Freeman, *The Politics of Power*, 163-66.
- 70 Four individuals served as ministers of the environment during this period: W.G. Newman, February 1974-October 1975; G.A. Kerr, October 1975-January 1978; G. McCague, January 1978-August 1978; and H. Parrott, August 1978-April 1981. The average tenure of environment ministers between 1971 and 1985 was seventeen months. The average tenure of a "typical" minister in the Davis government in his or her portfolio between 1971 and 1985 was twenty-three months. See G. White, "Big Is Different from Little: On Taking Size Seriously in the Analysis of Canadian Governmental Institutions," *Canadian Public Administration* 33, 4: 358.

- 71 Freeman, *The Politics of Power*, 162-65.
- 72 See, for example, the comments of S. Lewis, leader of the opposition, and Dr. S. Smith, leader of the Liberal Party, in Ontario, Legislative Assembly of Ontario, *Legislative Debates* (hereafter cited as *Legislative Debates*), October 28, 1976.
- 73 Harry C. Parrott, *A Seven Point Program for the Disposal of Liquid Industrial Waste* (Toronto: Ministry of the Environment, October 1978); Bill 24 (1979) An Act to Amend the Environmental Protection Act, 1971.
- 74 Specifically hazardous waste solidification facilities proposed by Browning-Ferris Industries and Walker Brothers Ltd., designated in 1979.
- 75 Gibson, *Control Orders*, 84.
- 76 See H. Parrott, minister of the environment, *Legislative Debates*, May 1, 1980, 1307-78. The immediate impact of the new order on Inco was limited, as the company's emissions already had been reduced to twenty-five hundred tonnes per day because of a weak nickel market.
- 77 See R. Howard, "Heat's on McCague for Inco Decision," *Toronto Star*, August 5, 1978.
- 78 See S. Oziewicz, "Hydro Plans 40% Reduction in Emissions over 10 Years: Smith Skeptical of Timing," *Globe and Mail*, January 27, 1981.
- 79 Ontario Regulation 836/76. The exempted undertakings included all projects carried out by the Ministries of Revenue, Labour, Correctional Services, Colleges and Universities, Community and Social Services, Consumer and Commercial Relations, Education, Health, Housing, Agriculture and Food, and the Attorney General and Solicitor General.
- 80 Freeman, *The Politics of Power*, 164.
- 81 See Ontario Regulations 469/77 and 636/77; Ontario Regulation 293/80. On class assessments and exemptions see generally R.B. Gibson and B. Savan, *Environmental Assessment in Ontario* (Toronto: Canadian Environmental Law Research Foundation, 1984).
- 82 Penfold, "Planning Act Reforms and Initiatives," in Schnurr and Holtz, *The Cornerstone of Development*, 2.
- 83 Commission on Planning and Development Reform, *New Planning for Ontario: Final Report* (Toronto: Queen's Printer for Ontario, 1993), 24-25. The Planning Act did not contain authority for policy statements that would have to be considered by municipalities until 1983.
- 84 For a general discussion of initiatives of this nature see V. Lyon, "Minority Government in Ontario, 1975-1981: An Assessment," *Canadian Journal of Political Science* 27 (December 1984): 685-706.
- 85 Randall White, *Ontario since 1985*, 80.
- 86 Ontario, Cabinet Office, *Guidelines for Preparing Cabinet Submissions* (Toronto, 1979).
- 87 A. Porter, *Final Report of the Royal Commission on Electric Power Planning* (Toronto: Queen's Printer for Ontario, 1980); on said "indictment" see Freeman, *Politics of Power*, 165.
- 88 Freeman, *Politics of Power*, 165-66.
- 89 The standings in the legislature following the election were Progressive Conservatives, seventy; Liberals, thirty-four; NDP, twenty-one.
- 90 On the economic downturn see Randall White, *Ontario since 1985*, 80-83.
- 91 Harrison, *Passing the Buck*, 58. See also Figure 1.2, this volume.
- 92 Ontario, *Response of the Government of Ontario to the Royal Commission on Electric Power Planning* (Toronto, May 1981). The government rejected the recommendations that would have transformed the Ontario Energy Board into an energy commission with a mandate to integrate all energy policy making into an independent body.
- 93 See Randall White, *Ontario since 1985*, 85.
- 94 Freeman, *Politics of Power*, 166.
- 95 See S. Clarkson, *Canada and the Reagan Challenge* (Toronto: James Lorimer, 1985), 195-97, for a detailed description of these efforts.
- 96 See W.G. Davis, *Legislative Debates*, May 19, 1983, 871-74.
- 97 For a detailed account of the coalition's efforts in Washington see Howard and Perley, *Poisoned Skies*, chaps. 8 and 9.
- 98 See A. Brandt, Minister of the Environment, *Legislative Debates*, June 7, 1984, 2229.
- 99 Ontario Waste Management Corporation, *Annual Report, 1981-1982* (Toronto: OWMC, 1982), 8-9.

- 100 See, for example, K. Norton, *Legislative Debates*, November 23, 1981, 3772-73.
- 101 Ontario Waste Management Corporation Act, S.O. 1981, c. 21.
- 102 See Gibson, *Control Orders*, 28-30.
- 103 See, for example, Conservation Council of Ontario, *Brief to the Premier of Ontario on Exemptions from the Environmental Assessment Act* (Toronto: Conservation Council of Ontario, May 1981).
- 104 The exemption of the "class" environmental assessment for timber management on Crown lands was extended by the cabinet eight times between 1976 and 1984. See J. Dunster and R.B. Gibson, *Forestry and Assessment: Development of the Class Environmental Assessment for Timber Management in Ontario* (Toronto: Canadian Institute for Environmental Law and Policy, 1989).
- 105 Ontario, Ministry of the Environment, "Advisory Committee on Environmental Assessment: Mandate and Terms of Reference" (Toronto: Ministry of the Environment, July 1983).
- 106 A total of ninety-four undertakings had been designated for review under the act by the end of 1983. Ontario, Ministry of the Environment, *Annual Report, 1983-84* (Toronto: Queen's Printer for Ontario, 1984).
- 107 See M. Jeffery, "New Ontario Environmental Legislation," *International Business Lawyer* 10 (1982): 322, for a detailed discussion of the rationale for the legislation.
- 108 Gibson and Savan, *Environmental Assessment in Ontario*, 178.
- 109 Penfold, "Planning Act Reforms and Initiatives," in Schnurr and Holtz, *The Cornerstone of Development*, 3.
- 110 The Mineral Aggregates Resource Planning Policy Statement, 1983.
- 111 For example, in the case of water discharges, total suspended solids, and biological oxygen demand, and in the case of air pollution, particulate matter and sulphur and nitrogen oxides. On improvements to air quality see Donald N. Dewees, "The Role of Tort Law in Controlling Environmental Pollution," *Canadian Public Policy / Analyse de Politiques* 18, no. 4 (December 1992): 425-42, Tables 1 and 2.
- 112 This and the previous quotation from Speirs, *Out of the Blue*, 97.

Chapter 3: The Environment and Ontario's Quiet Revolution

- 1 World Commission on Environment and Development, *Our Common Future* (Toronto: Oxford University Press, 1987).
- 2 Rachlis and Wolfe, "An Insider's View," in G. White, *Government and Politics of Ontario*, 355.
- 3 Gagnon and Rath, *Not without Cause*, 112-23.
- 4 Courchene and Telmer, *From Heartland*, chap. 5.
- 5 *Ibid.*, 110-11.
- 6 See Speirs, *Out of the Blue*, for a detailed discussion of the 1985 election and the negotiation of the accord.
- 7 *Ibid.*, 100, 105.
- 8 *Ibid.*, 120.
- 9 The so-called spills bill was Part IX of the Environmental Protection Act.
- 10 This was released in September 1986. See J. Baskerville, *An Audit of the Management of Crown Forests of Ontario* (Toronto: Ministry of Natural Resources, 1986).
- 11 Speirs, *Out of the Blue*, 210-11.
- 12 *Ibid.*, 203.
- 13 Interview with J. Bradley, MPP, former minister of the environment, May 1991.
- 14 During the Progressive Conservative period, the average tenure of ministers of the environment had been seventeen months (see Chapter 2, note 70, of this work).
- 15 Between 1985-86 and 1988-89, the ministry's allocations for Environmental Control and Environmental Services increased from \$113 million to \$172 million. Utility Planning and Operations allocations were \$249 million for 1985-86 and \$255 million for 1988-89. See also Figure 2.1, this volume.
- 16 See generally Courchene and Telmer, *From Heartland*, chap. 5.
- 17 Ontario, Ministry of the Environment, *Municipal-Industrial Strategy for Abatement (MISA): A Policy and Program Statement of the Government of Ontario on Controlling Municipal and Industrial Discharges to Surface Waters* (Toronto: Queen's Printer for Ontario, 1986), ii.

- 18 Ibid., 29.
- 19 See Ontario, Ministry of the Environment, *Controlling Industrial Discharges to Sewers* (Toronto: Queen's Printer for Ontario, 1988).
- 20 Ontario, Ministry of the Environment, *Municipal-Industrial Strategy for Abatement*, 31-35.
- 21 See, as an example of such criticism, T. Vigod, "The Law and the Toxic Blob," *Alternatives* 13, 3 (1986): 26.
- 22 Ontario, Ministry of the Environment, *Municipal-Industrial Strategy for Abatement*, 24.
- 23 J. Benidickson, *Water Supply and Sewage Infrastructure*, 134.
- 24 See J. Bradley, minister of the environment, *Legislative Debates*, December 17, 1985, 2521-22.
- 25 I. Dick et al., "Air Quality," in *Environment on Trial*, 3rd ed., ed. D. Estrin and J. Swaigen (Toronto: Canadian Institute for Environmental Law and Policy and Emond Montgomery Publications, 1993), 474-76.
- 26 Macdonald, *Business and Environmental Politics in Canada*, 102.
- 27 See Ontario, Ministry of the Environment, *Countdown Acid Rain* (Toronto: Queen's Printer for Ontario, 1986).
- 28 Ontario Regulation 16/86.
- 29 See J. Bradley, minister of the environment, *Legislative Debates*, May 25, 1987.
- 30 This regulation had been first promulgated under the Waste Management Act in 1970. See Ontario Regulation 824/70. It had been substantially amended in 1976. See Ontario Regulation 926/76.
- 31 Regulation 309 as amended by Ontario Regulations 322/85 and 464/85.
- 32 Environmental Protection Act, Part IX. See J. Bradley, minister of the environment, *Legislative Debates*, July 5, 1985, 494-95.
- 33 Ontario Regulation 618/85. For a detailed discussion of the elements of the liability and compensation system established by the amendments and regulation see D. Estrin, *Handle with Caution* (Toronto: Carswell, 1986), 186-214.
- 34 W.M. Glenn, *Waste Management Initiatives in Ontario* (Toronto: Corpus Information Services, 1987), 1-2. Expenditures under the comprehensive funding program would grow to exceed \$31 million in the 1989-90 fiscal year.
- 35 Association of Municipalities of Ontario, *Municipal Solid Waste Management: Whose Problem Is It?* (Toronto: AMO, 1990), 35.
- 36 See Macdonald, *The Politics of Pollution*, 207-12, for a detailed discussion of these arrangements.
- 37 For a detailed discussion of the "blob" incident see Vigod, "The Law and the Toxic Blob."
- 38 Environmental Enforcement Statute Law Amendment Act, S.O. 1986, c. 68.
- 39 See, for example, S. Fish, Progressive Conservative environment critic, and R. Grier, NDP environment critic, *Legislative Debates*, December 16, 1986, 4279-80.
- 40 See J. Bradley, minister of the environment, *Legislative Debates*, July 10, 1985, 642.
- 41 R. Clark, "Private and Public Energy-from-Waste Projects to Be Designated under the Environmental Assessment Act," *EA Update* X, 1 (1987): 2. Two private energy-from-waste projects were designated in 1988. They were the Petro-Sun Resource Recovery Facility in Peel Region (approved January 1989) and the TSE Trinteck Systems Inc. project in Toronto. Two other private sector designations took place under the Liberal government. The RSE Reclamation Systems Inc.'s Acton Quarry landfill and a small hydro station on the Kaministiquia River, proposed by Kam Power Corp., were both designated in 1988.
- 42 See, for example, R. Grier, NDP environment critic, *Legislative Debates*, May 17, 1988, 3442.
- 43 C. McInnes, "53 Parks to Be Created in Ontario," *Globe and Mail*, May 18, 1988.
- 44 J. Lakey, "Province Promises to Test Soil Before Work Starts on Housing," *Toronto Star*, August 14, 1988.
- 45 For a discussion of the committee's work and recommendations see Swift and Stewart, *Hydro*, 54-55.
- 46 Freeman, *The Politics of Power*, 169.
- 47 Swift and Stewart, *Hydro*, 54-55.
- 48 NDP environment critic Ruth Grier's Environmental Bill of Rights was also reintroduced as a private member's bill. See Bill 9, An Act Regarding Environmental Rights in Ontario. The

- bill passed second reading on May 7, 1987, with support from all three parties. However, it was not returned to the House after its referral to the Standing Committee on Resources Development.
- 49 Marland represented the riding of Mississauga South; Cousens represented York North (Markham).
 - 50 Ontario, Ministry of the Environment, *The Clean Air Program: Stopping Air Pollution at Its Source* (Toronto: Queen's Printer for Ontario, 1987).
 - 51 See R.B. Gibson, *Control Orders*, 25, for a critique of this approach to standard setting.
 - 52 Ontario, Ministry of the Environment, *The Clean Air Program*, ii.
 - 53 On the Berger Inquiry's employment of intervenor funding, see R. Anand and I.G. Scott, "Financing Public Participation in Environmental Decision-Making," *Canadian Bar Review* 60 (1982): 81.
 - 54 See R. Grier, NDP environment critic, and M. Marland, Progressive Conservative environment critic, *Legislative Debates*, December 14, 1988, 6792-94.
 - 55 Environmental prosecutions in Ontario: 1985-86, 86 prosecutions, 71 convictions; 1986-87, 179 prosecutions, 138 convictions; 1988-89, 211 prosecutions, 170 convictions; and 1989-90, 265 prosecutions, 164 convictions. For fine sizes see Figure 5.1.
 - 56 Interview with J. Bradley, MPP, former minister of the environment, May 1991.
 - 57 Interviews with Ministry of the Environment staff, MISA Office – Industrial Section, June 1990.
 - 58 Interviews with Ministry of the Environment staff, Air Resources Branch, June 1990.
 - 59 Association of Municipalities of Ontario, *The Waste Management Planning and Approvals Process* (Toronto: AMO, 1989), 5.
 - 60 See, for example, Association of Municipalities of Ontario, *The Waste Abatement Strategy* (Toronto: AMO, 1989).
 - 61 On funding issues and the blue box program see M. Winfield and Z. Makuch, *Who Pays for Blue? Financing Residential Waste Diversion in Ontario* (Toronto: Canadian Institute for Environmental Law and Policy, 1993).
 - 62 Ontario, Ministry of the Environment, *Controlling Industrial Discharges to Sewers*.
 - 63 See Association of Municipalities of Ontario, *AMO Position on "Controlling Industrial Discharges to Sewers"* (Toronto: AMO, 1988).
 - 64 See, for example, D. Cousens, Progressive Conservative municipal affairs critic, *Legislative Debates*, April 28, 1988, 2915.
 - 65 This practice was described by Ministry of Municipal Affairs officials to the Conservation Council of Ontario at the council's May 1990 meeting.
 - 66 Interviews with Ministry of the Environment staff, July 1988.
 - 67 See Gagnon and Rath, *Not without Cause*, 112-23, for a discussion of polling data regarding the perception of environmental issues in Ontario.
 - 68 Interviews with Ministry of the Environment, Environmental Assessment Branch staff, June 1990.
 - 69 The Ontario Waste Management Corporation's Environmental Assessment document was accepted by the ministry in November 1988. The corporation's first environmental assessment, submitted in December 1986, had been rejected by the Ministry of the Environment as inadequate.
 - 70 Hearings regarding the timber management class assessment began in July 1988. Hearings regarding the Ontario Waste Management Corporation's undertaking began in November 1989.
 - 71 The Ministry of the Environment estimated in 1989 that approximately 300 municipalities in Ontario had less than a five-year capacity left in their landfill sites. Of these 300, 160 had just two years' capacity. Interviews with Ministry of the Environment, Waste Management Branch staff, June 1990.
 - 72 This, in combination with an increase in allocations for Environmental Services and Environmental Control to \$203 million, brought the environment ministry's total budget to \$538,605,791 for the 1989-90 fiscal year.
 - 73 Richard White, *Growth Plan for the Greater Golden Horseshoe*, 23.

- 74 C. Mylvaganam and S. Borins, *"If You Build It ...": Business, Government and Ontario's Electronic Toll Highway* (Toronto: Centre for Public Management, University of Toronto, 2004), 11.
- 75 R. Kanter, *Space for All: Options for a Greater Toronto Greenlands Strategy* (Toronto: Queen's Printer for Ontario, 1990).
- 76 D. Crombie, *Regeneration: Toronto's Waterfront and the Sustainable City; Final Report* (Toronto: Minister of Supply and Services Canada and Queen's Printer for Ontario, 1992), 8-9.
- 77 See Greater Toronto Area Regional Chairmen, *A Proposal for the Five Regional Chairmen in the Greater Toronto Area Regarding a Long-Term Plan for the Management of Solid Waste* (March 1989). The actual promulgation of the necessary order-in-council under the Environmental Assessment Act occurred in August 1989.
- 78 Macdonald, *The Politics of Pollution*, 215.
- 79 See, for example, Pollution Probe, *Response to the Regional Chairmen's Proposal* (Toronto: Pollution Probe, April 1989); Bob Rae, leader of the opposition, *Legislative Debates*, April 26, 1989, 17-19; D. Cousens, Progressive Conservative municipal affairs critic, *Legislative Debates*, June 22, 1989, 1544; A. Brandt, Progressive Conservative leader, *Legislative Debates*, December 4, 1989.
- 80 National Task Force on Environment and Economy, *Report* (Winnipeg: Canadian Council of Resource and Environment Ministers, 1987).
- 81 World Commission on Environment and Development, *Our Common Future*.
- 82 *Ibid.*, chap. 2, <http://www.un-documents.net/>.
- 83 Ontario Round Table on the Environment and Economy, *Restructuring for Sustainability*, 3.
- 84 See K. Gillespie, "Tire Fee to Fund Recycling: Ontario Developing Program to Tackle 12 Million Old Tires Thrown Away Every Year," *Toronto Star*, March 28, 2008.
- 85 Courchene and Telmer, *From Heartland*, 109.
- 86 *Ibid.*, 110-12.
- 87 The committee included the provincial treasurer and ministers of the environment, natural resources and energy, industry, trade and technology, municipal affairs and housing, transportation, labour, tourism and recreation, mines, and agriculture and food. Responsibility for the Office of the Greater Toronto Area was transferred from the Ministry of Treasury and Economics to the Ministry of Municipal Affairs and Housing as part of the same reorganization.
- 88 Interview with J. Finkelstein, policy analyst, Cabinet Committee on Economic and Environmental Policy, June 1990.
- 89 Ontario, Ministry of Treasury and Economics, *Reforming Our Land Use and Development System* (Toronto: Ministry of Treasury and Economics, 1989), 4-5.
- 90 J. Deverell, "Project X a Problem for Nixon," *Toronto Star*, October 10, 1989.
- 91 L. McLeod, minister of energy, *Legislative Debates*, November 6, 1989, 3636.
- 92 For a discussion of the development of the plan see Freeman, *The Politics of Power*, 170-71, and Swift and Stewart, *Hydro*, 66-72.
- 93 Remarks of R. Nixon, provincial treasurer, to the Conservation Council of Ontario, at the council's June 1990 meeting.
- 94 J. Ferguson, "Ontario Creates New Agency to Finance Sewage System," *Globe and Mail*, April 21, 1990.
- 95 More precisely, \$256 million of \$539 million in 1989-90.
- 96 See, for example, the comments of representatives of the Pollution Probe and the Canadian Environmental Law Association in R. Mackie, "Government Will Retain Control of Water, Sewer Ministers Says," *Globe and Mail*, May 2, 1990, and Bob Rae, leader of the opposition, *Legislative Debates*, June 20, 1990, 1878.
- 97 See generally R.L. Doering et al., *Planning for Sustainability: Towards Integrating Environmental Protection into Land-Use Planning* (Ottawa: Royal Commission on the Future of the Toronto Waterfront, 1991), 57. See also J. Ferguson and J. Nunes, "Toronto Developers Main Bankrollers of Civic Campaigns," *Globe and Mail*, August 7, 1989.
- 98 Commission on Planning and Development Reform, *New Planning for Ontario*, 71.
- 99 See Doering, et al., *Planning for Sustainability*, 58-59, and Environmental Assessment Advisory Committee, *The Adequacy of the Existing Environmental Planning and Approvals Process for the Ganaraska Watershed* (Toronto: Ministry of the Environment, November 1989).

- 100 For a detailed account of the Patricia Starr affair see Gagnon and Rath, *Not without Cause*, 61-76.
- 101 R. Mackie, "MPPs Demand York Inquiry as Eakins Put on Defensive," *Globe and Mail*, November 26, 1989.
- 102 Ontario, Ministry of Natural Resources, *Historical Overview of the Aggregates Legislation in Ontario* (Peterborough, ON: Ministry of Natural Resources, n.d.). On the development of the Aggregate Resources Act see also "Pits and Quarries," in Estrin and Swaigen, *Environment on Trial*, 3rd ed., 744-47.
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- 104 For a detailed discussion of the evolution of the mine closure and financial assurance provisions of Ontario's Mining Act see R. Nadarajah and M. Winfield, *Submission by the Canadian Environmental Law Association and Canadian Institute for Environmental Law and Policy to the Ministry of Northern Development and Mines Regarding Part VII of the Mining Act and the Mine Rehabilitation Code* (Toronto: CELA and CIELAP, October 1999).
- 105 For a detailed discussion of the fire see J.R. Mawhinney, *The Hagersville Tire Fire February 12 to 28, 1990* (Ottawa: National Research Council, Institute for Research in Construction, May 1990), <http://nparc.cisti-icist.nrc-cnrc.gc.ca/>.
- 106 Environmental Appeal Board, *Tyre King Recycling Ltd. v. Ontario (Ministry of Environment)* [1989] O.E.A.B. no. 4, April 6, 1989.
- 107 See Gagnon and Rath, *Not without Cause*, chap. 3.
- 108 See, for example, D. Israelson, "Bradley's Pro-Environment Clout on Wane in Cabinet Sources Say," *Toronto Star*, May 6, 1990.
- 109 See G. Ford, *The Consequences of Bill 220 (1990) Amendments to the Environmental Protection Act: Defining Responsible Persons and Their Liabilities under Administrative Orders* (Toronto: Canadian Institute for Environmental Law and Policy, 1992), for a detailed discussion of these amendments.
- 110 Ontario Round Table on Environment and Economy, *Challenge Paper* (Toronto: ORTEE, 1990), 6-9.
- 111 *Ibid.*, 9.
- 112 See, for example, Benidickson, *Environmental Law*, 194-95.
- 113 Canada, Environment Canada, "Acid Rain: What's Being Done, What Has Canada Done?" <http://www.ec.gc.ca/>. On the inadequacy of the reductions, see Canada, Environment Canada, *2004 Canadian Acid Deposition Science Assessment: Summary of Key Results* (Downsview, ON: Environment Canada Meteorological Service, 2004), <http://www.msc-smc.ec.gc.ca/>.

Chapter 4: Sustainable Development, Restructuring, and Recession

- 1 Courchene and Telmer, *From Heartland*, 132-33.
- 2 See *ibid.*, 5, 80-83, and Courchene and Telmer, *From Heartland*, 132-33.
- 3 Gagnon and Rath, *Not without Cause*, chap. 4.
- 4 *Ibid.*, 96.
- 5 See Cameron and White, *Cycling into Saigon*, 12-13.
- 6 Gagnon and Rath, *Not without Cause*, 210-11 and chap. 7 generally.
- 7 *Ibid.*, 111-12.
- 8 *Ibid.*, 117.
- 9 Quoted in *Ibid.*, 199.
- 10 D. McRobert et al., *Five Years of Failure: A Documentation of the Failure of the Ontario Government to Reduce Solid and Hazardous Waste Quantities* (Toronto: Pollution Probe, August 1990).
- 11 Gagnon and Rath, *Not without Cause*, 80.
- 12 *Ibid.*, 78-80.
- 13 Ontario New Democratic Party, *Greening the Party, Greening the Province* (Toronto: Ontario NDP, 1990).
- 14 From G. Ehring and W. Roberts, *Giving Away a Miracle: Lost Dreams, Broken Promises and the Ontario NDP* (Oakville, ON: Mosaic Press, 1993), 277-79.
- 15 *Ibid.*

- 16 See Walkom, *Rae Days*, chap. 3.
- 17 F. Laughren, minister of finance, April 29, 1991, Budget Speech, Ontario, *Legislative Debates*.
- 18 Ontario Regulation 760/93 and Ontario Regulation 537/93 respectively.
- 19 Ontario, Ministry of the Environment, *Candidate Substance List for Bans and Phase-Outs* (Toronto: Queen's Printer for Ontario, 1992).
- 20 Ontario Regulation 760/93, s. 37. See Walkom, *Rae Days*, 67.
- 21 Metal mining, industrial minerals, and metal casting in 1994; organic and inorganic chemicals, electric power generation, and iron and steel manufacturing in 1995.
- 22 See Industrial Pollution Action Team, *Final Discussion Document* (Toronto: Ministry of the Environment, July 2004), 25.
- 23 Ministry of the Environment and Energy, *MISA Municipal Program* (Toronto: Queen's Printer for Ontario, 1994).
- 24 Canada and Ontario, *1994 Canada-Ontario Agreement on the Great Lakes Basin Ecosystem* (Ottawa and Toronto: Governments of Canada and Ontario, 1994), art. 4.2.
- 25 On the NDP's waste diversion initiatives see M. Winfield, *Looking Back and Looking Ahead: Municipal Solid Waste Management in Ontario from the 1983 Blueprint to 50% Diversion in 2000* (Toronto: Canadian Institute for Environmental Law and Policy, 1992), 3-6.
- 26 Ontario Regulation 103/94, Ontario Regulation 104/94, and Ontario Regulation 101/94 respectively.
- 27 M. Winfield and Z. Makuch, *Who Pays for Blue? Financing Residential Waste Diversion in Ontario* (Toronto: Canadian Institute for Environmental Law and Policy, 1993), i.
- 28 Macdonald, *Business and Environmental Politics in Canada*, 110-11.
- 29 Winfield and Makuch, *Who Pays for Blue?* 11-13.
- 30 Personal communication, David McRobert, former policy analyst, Pollution Probe, July 2010. See also the discussion of the creation of the OWMC in Chapter 2.
- 31 Waste Management Act, 1992, S.O. 1992, c. 1, s. 15. The legislation limited the range of alternatives to facilities to be considered in the environmental assessment to waste reduction, reuse, and recycling options.
- 32 Waste Management Act, 1992, S.O. 1992, c. 1, s. 13. The act did allow for the location of a site in the City of Toronto but, given the lack of available sites, this was an unlikely possibility. For a detailed discussion of the issue see Walkom, *Rae Days*, 64-65.
- 33 See Estrin and Swaigen, *Environment on Trial*, 1st ed., chap. 16, and Estrin and Swaigen, *Environment on Trial*, 2nd ed., chap. 21.
- 34 On the evolution of the environmental bill of rights concept in Ontario see M. Winfield, "A Political and Legal Analysis of Ontario's Environmental Bill of Rights," *UNB Law Journal* 47 (1998): 326-65.
- 35 *Ibid.*, 332-33.
- 36 Task Force on the Ontario Environmental Bill of Rights, *Report* (Toronto: Ministry of the Environment, 1992).
- 37 Environmental Bill of Rights, 1993, S.O. 1993, c. 28, Part II.
- 38 Environmental Bill of Rights, Parts IV and V.
- 39 For a detailed discussion of these provisions see Winfield, "A Political and Legal Analysis," 352-61.
- 40 Initially, these were the Ministries of Agriculture, Food, and Rural Affairs, Consumer and Commercial Relations, Culture, Economic Development and Trade, Environment and Energy, Finance, Government Services, Health, Labour, Municipal Affairs and Housing, Natural Resources, Northern Development and Mines, and Tourism and Recreation.
- 41 Environmental Bill of Rights, s. 2.
- 42 Environmental Bill of Rights, Part III.
- 43 For a detailed discussion of the institutional design of the commissioner's office and its implications see M. Winfield, "A Political and Legal Analysis," 341-44.
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- 45 On these events see Freeman, *The Politics of Power*, 171-72.
- 46 Quoted in Ontario Power Generation Review Committee, *Transforming Ontario's Power Generation Company* (Toronto: Ministry of Energy, 2004), 13.
- 47 Ontario Hydro, *Hydro 21: Option for Ontario Hydro* (Toronto: Ontario Hydro, 1993).

- 48 Ontario, *An Industrial Policy Framework for Ontario* (Toronto: Government of Ontario, 1992), 32-33.
- 49 For a detailed discussion of these developments see Swift and Stewart, *Hydro*, chap. 5.
- 50 Ontario, *An Industrial Policy Framework*, 41.
- 51 On the NDP's economic strategy see generally Courchene and Telmer, *From Heartland*, 156-59.
- 52 Ontario, *An Industrial Policy Framework*, 32-34.
- 53 Ontario Round Table on Environment and Economy, *Restructuring for Sustainability*, Appendix 1.
- 54 *Ibid.*, vi.
- 55 *Ibid.*, viii-xiv.
- 56 *Ibid.*, xiv-xvi.
- 57 Memorandum to members of the externalities collaborative (Toronto: Ministry of Environment and Energy, April 22, 1994).
- 58 Ontario, *Legislative Debates*, June 9, 1994, 6757, 6772.
- 59 Randall White, *Ontario since 1985*, 137; Courchene and Telmer, *From Heartland*, Chart 3.2.
- 60 Randall White, *Ontario since 1985*, 140.
- 61 Walkom, *Rae Days*, 67.
- 62 *Ibid.*, 65-67.
- 63 See Ontario Regulations 189/94 (Refrigerants) and 413/94 (Halon Fire Extinguishing Equipment).
- 64 Joint Board, *Decision and Reasons for Decision: Ontario Waste Management Corporation Application* (Toronto: Joint Board, November 23, 1994), <http://www.ert.gov.on.ca/>.
- 65 Ontario, Ministry of Environment and Energy, "Bud Wildman Announced Decision on OWMC Facility: New Direction for Hazardous Waste Management in Ontario," news release, February 7, 1995.
- 66 Ontario, Environmental Assessment Board, *Decision and Reasons for Decision: Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Lands in Ontario*, EA-87-02, April 20, 1994.
- 67 Crown Forest Sustainability Act, S.O. 1994, c. 25, s. 1.
- 68 Crown Forest Sustainability Act, 1994, s. 2.
- 69 For an overview of the Crown Forest Sustainability Act and its implications see M. Winfield and H. Benevides, *Industry Self-Inspection and Compliance in the Ontario Forest Sector* (Drayton Valley, AB: Pembina Institute, 2003), 4-5.
- 70 For an overview of the dispute see British Columbia, Ministry of Forests and Range "Canada-US Lumber Trade Disputes," <http://www.for.gov.bc.ca/>.
- 71 Commission on Planning and Development Reform, *New Planning for Ontario*.
- 72 For a definition of "smart growth" see Victoria Transport Policy Institute, TDM Encyclopedia, "Smart Growth," <http://www.vtpi.org/>.
- 73 Commission on Planning and Development Reform, *New Planning for Ontario*, 8-9.
- 74 *Ibid.*, 14.
- 75 *Ibid.*, 15, 71.
- 76 *Ibid.*, 71.
- 77 *Ibid.*, chap. 8.
- 78 Planning and Municipal Statute Law Amendment Act, 1994, S.O. 1994, c. 23.
- 79 Planning and Municipal Statute Law Amendment Act, 1994, ss. 4 and 5.
- 80 Ontario, Ministry of Municipal Affairs and Housing, *Comprehensive Set of Policy Statements* (Toronto: Queen's Printer for Ontario, 1994).
- 81 See Richard White, *Growth Plan for the Greater Golden Horseshoe*, 37.
- 82 Crombie, *Regeneration*.
- 83 L. Pim and G. Beck, "Saving the Moraine," *Seasons*, Spring 2002: 36-40.
- 84 On the construction of Highway 407 see Mylvaganam and Borins, "If You Build It ..."
- 85 Randall White, *Ontario since 1985*, 140.
- 86 *Ibid.*, 140-42.
- 87 O'Connor, *Report of the Walkerton Inquiry: Part I*, 413-16. See also Figure 2.1, this volume.

- 88 O'Connor, *Walkerton Inquiry Report: Part I*, 415.
- 89 D. O'Connor, *Report of the Walkerton Inquiry: Part II – a Strategy for Safe Drinking Water* (Toronto: Queen's Printer for Ontario, May 2002), 55 and 328-30.
- 90 See Benidickson, *Water Supply and Sewage Infrastructure*, 118.
- 91 Fair Tax Commission, *Fair Taxation in a Changing World* (Toronto: University of Toronto Press, 2003), 559, chaps. 25, 26, and 23.
- 92 Winfield and Benevides, *Industry Self-Inspection and Compliance*, 6, 69.
- 93 See Courchene and Telmer, *From Heartland*, Table 6.4.
- 94 Personal communication from David McRobert, who represented Pollution Probe at the Gas Guzzler talks in May and June 1991.
- 95 David D. McRobert, "Ontario's Blue Box System: A Case Study of Government's Role in the Technological Change Process, 1970-91," in David D. McRobert, "Labour Relations, Technological Change and Sustainability: Resolving the Structural Issues," thesis, Osgoode Hall Law School, York University, October 1994, <http://www.lacieg2s.ca/>.
- 96 See David D. McRobert, "Bureaucratic Speed Bumps and Ecological Tread Marks: Environmental Policy-Making in the Ontario Government, 1988-1993," paper presented to the Faculty of Environmental Studies, York University, North York, ON, February 14, 1994.
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- 100 S.O. 2004, c. 6.

Chapter 5: The Environment and the Common Sense Revolution

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- 2 The Ontario Alternative Budget initiative, a project of the Canadian Centre for Policy Alternatives, consistently argued that the province's fiscal situation could have been addressed without a neo-liberal revolution. See, for example, H. Mackenzie, "Tories Get Priorities Wrong in Harris Budget," Canadian Centre for Policy Alternatives, May 10, 2001, <http://www.policyalternatives.ca/>.
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- 4 *Ibid.*, 14.
- 5 *Ibid.*, 15.
- 6 *Ibid.*
- 7 *Ibid.*, 82.
- 8 Randall White, *Ontario since 1985*, 256.
- 9 Project for Environmental Priorities, *Election '95 Backgrounder – Highlights of PEP Poll Results* (Toronto: Project for Environmental Priorities, May 1995).
- 10 Ontario Liberal Party, *The Ontario Liberal Plan* (Toronto: Ontario Liberal Party, 1995), 61-65.
- 11 *Ibid.*, 27, 73, 29, 65, 63.
- 12 See Editorial, "Balancing Rights," *Toronto Star*, September 30, 1995.
- 13 See, for example, Ibbitson, *The Promised Land*.
- 14 M. Winfield, *The Defeat of the Environmental Components of the "Contract with America" and Its Implications for Ontario* (Toronto: Canadian Institute for Environmental Law and Policy, February 1997).
- 15 Tom Long, chair of the 1995 and 1999 Ontario Progressive Conservative election campaigns, quoted in J. Ibbitson, "Imagine: A Student Voice in the Education System," *Globe and Mail*, September 21, 1999.
- 16 Progressive Conservative Party of Ontario, *The Common Sense Revolution* (Toronto: PC Party of Ontario, 1994), 3, 9, 3, 14.

- 17 Speech from the Throne, September 27, 1995, Ontario, *Legislative Debates*, <http://www.ontla.on.ca/>.
- 18 The amended statutes included the Environmental Protection Act, Ontario Water Resources Act, Environmental Assessment Act, Planning Act, Public Lands Act, Game and Fish Act, Forest Fires Prevention Act, Conservation Authorities Act, Lakes and Rivers Improvements Act, Mining Act, Aggregate Resources Act, and Petroleum Resources Act.
- 19 Personal communication from David McRobert, former in-house counsel and senior policy advisor, Office of the Environmental Commissioner of Ontario, August 23, 2010.
- 20 See M. Winfield and G. Jenish, *Ontario's Environment and the "Common Sense Revolution": A Four Year Report* (Toronto: Canadian Institute for Environmental Law and Policy, 1999), for detailed discussions of the changes to specific statutes.
- 21 O'Connor, *Report of the Walkerton Inquiry: Part I*, 463.
- 22 This role is described in Information and Privacy Commissioner/Ontario Order PO 1673, Appeal PA-98-213-1, Cabinet Office, April 30, 1999.
- 23 Winfield and Jenish, *Ontario's Environment*, 2-28.
- 24 O'Connor, *Report of the Walkerton Inquiry: Part I*, 464-65.
- 25 A. Wells, director, Policy Development, Ministry of the Environment and Energy, "Stakeholder Presentation on Regulatory Review," November 1, 1995, slides 2 and 3.
- 26 Ontario, Ministry of the Environment and Energy, *Responsive Environmental Protection: A Consultation Paper* (Toronto: Ministry of the Environment and Energy, 1996), 11-15.
- 27 Brenda Elliott, quoted in S. Silcoff, "Ontario Accused of Stalling on Smog," *Globe and Mail*, June 13, 1996.
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Chapter 8: Conclusions

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