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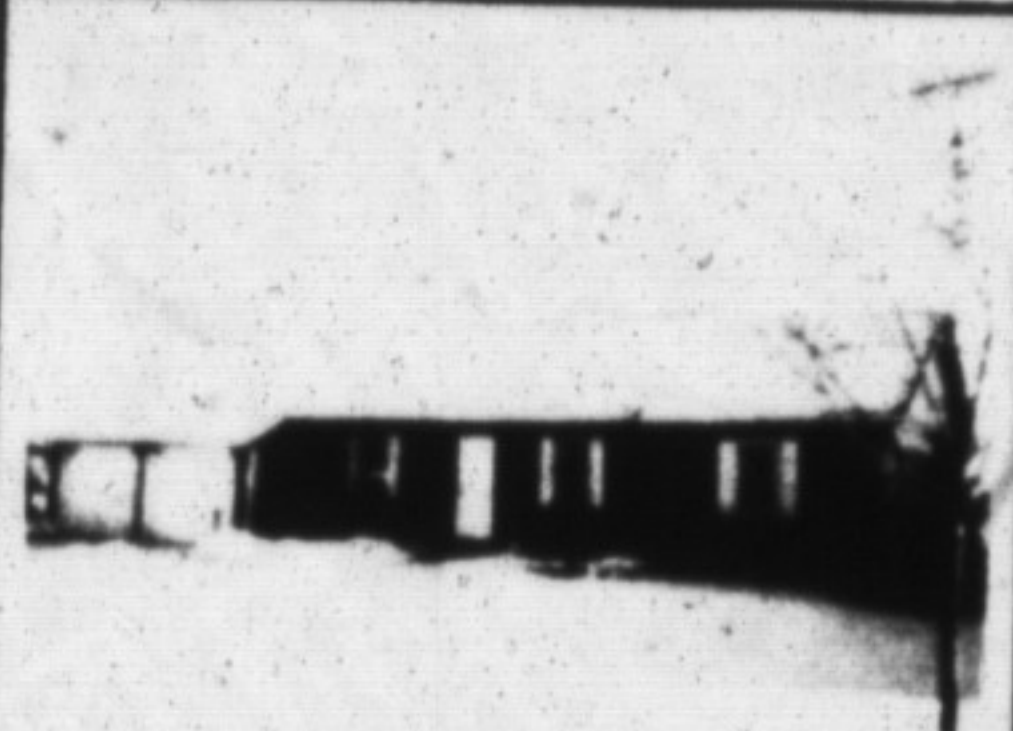
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Supreme Court told Burlington site shouldn't have been considered for dump

By **ROB KELLY**

Halton Region has struck back at critics of the consolidated hearing board decision picking Milton for the regional landfill by saying there were so many reasons not to choose the alternative site in Burlington that objections raised to the Milton site simply don't matter.

Tom Lederer, a lawyer representing Halton in this week's judicial appeal at the Supreme Court of Ontario, made the arguments Wednesday at Osgoode Hall in Toronto.

Mr. Lederer appears to be carrying the defence of the dump site choice at the appeal, just as Eleanore Cronk, a lawyer for National Sewer Pipe Investments, carried the attack on the decision Monday for those opposing the Milton choice and favouring the currently discarded Burlington option.

National Sewer Pipe owns the Burlington site and would have willingly sold the land to Halton Region for a landfill. The company also has a private landfill application in the works for the site, and is fighting to regain credibility for the Burlington option so as to ensure it can meet provincial approval standards for waste disposal.

Mr. Lederer did nothing to enhance that credibility, arguing that Burlington was a poor choice almost from the outset, based on the conclusions of joint hearing board officers James Kingham and Harry Lancaster. The two men condemned the Burlington option time and again in their 210-page decision, released in February, 1989, after 18 months of hearings.

Mr. Lederer is seen as in an awkward position because Halton Region initially endorsed both sites, indeed indicated a slight preference for Burlington. And regional officials were taken aback when the decision was released discarding Burlington's site.

However, he attempted to use the board's findings to the Region's advantage, saying that the hearing officers had drawn their own conclusions from evidence tendered and thereby demonstrated both independence and a capacity for objectively analysing testimony.

Ms Cronk had slammed the hearing officers for opting to impose their own decision criteria without telling the various lawyers and their clients battling over dump sites what those criteria were. And she accused Dr. Kingham and

would be of small consequence, if it even happened, because the groundwater is already contaminated and no one lives nearby.

Mr. Lederer countered that "it doesn't matter" what conclusions were reached concerning potential leakage at the Burlington site since it should have been abandoned as an option, in the opinion of the hearing board, long before such issues were even discussed.

Time and again he referred to the text of the 210-page decision, citing references, which are plentiful, that speak to the shortcomings of the Burlington option.

"In the board's opinion these considerations should have eliminated Site F (Burlington) at the preliminary stages. The flaw was the fact that Site F was allowed to continue through to the end."

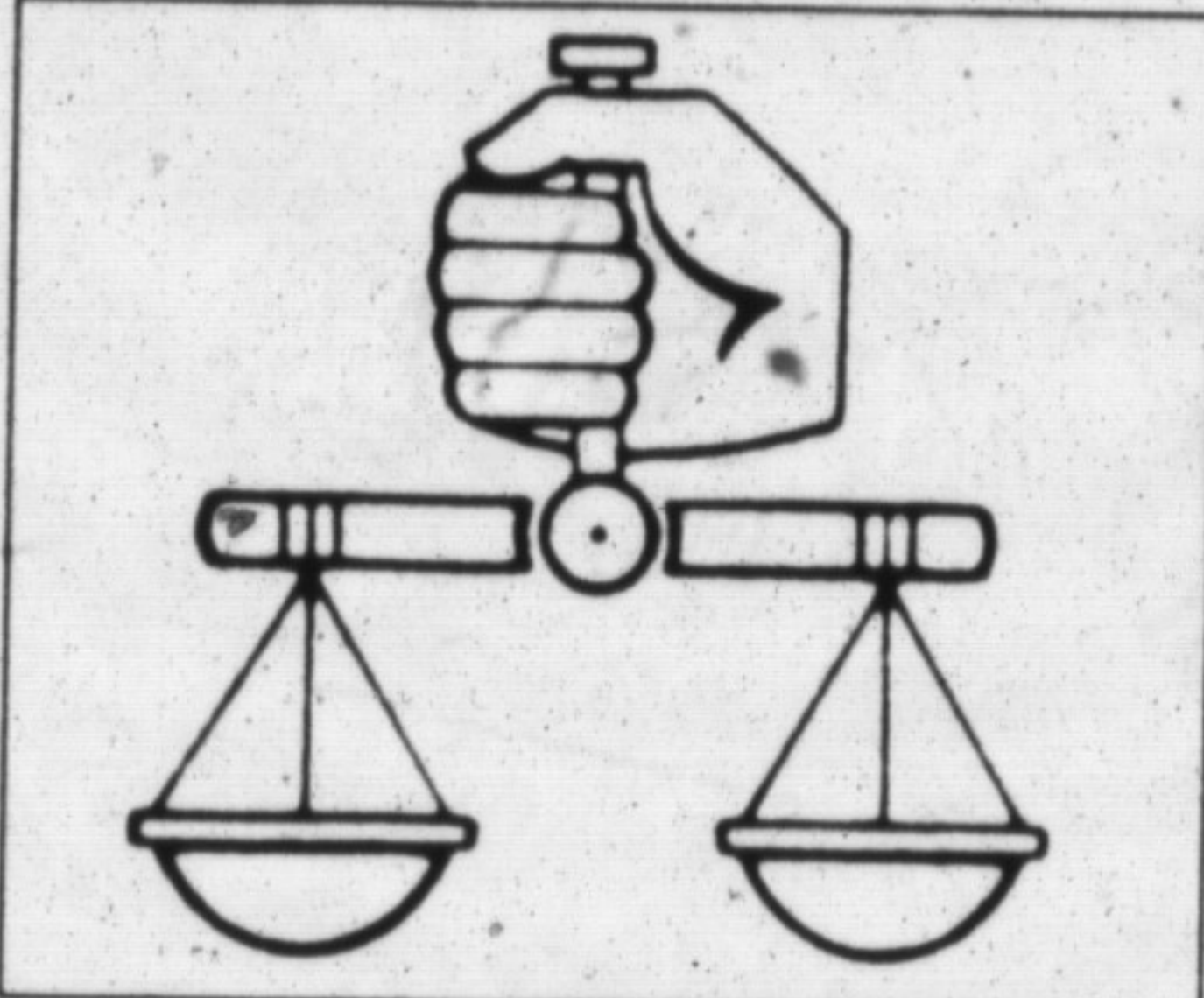
Mr. Lederer said the board "properly considered" leakage potential at the Burlington site and whether or not lining the proposed landfill to counter such leakage would be an effective safeguard.

"They made a decision that it was not worth the effort. The finding of the board is that Site D (Milton) is an approvable site. The niceties of Site F don't matter. Site D was so clearly approvable."

At the Burlington site, noise levels would have consistently exceeded provincial guidelines at a nearby public park, Mr. Lederer said, while in Milton such noise would only have been unacceptable intermittently during the actual construction of the landfill. And there is little public use of the farmland around the Milton site.

The Burlington site contains unique plants and could, according to testimony at the hearing, easily be classified as environmentally protected for that reason under provincial law, he said.

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Mr. Lancaster of selectively discarding evidence from experts, despite the fact the hearing officers did not possess the technical qualifications to responsibly make such dismissals.

The National Sewer Pipe lawyer said the Milton site appears prone to ground cracking which would permit leakage of water contaminated with garbage waste.

She contended that such leakage in Burlington

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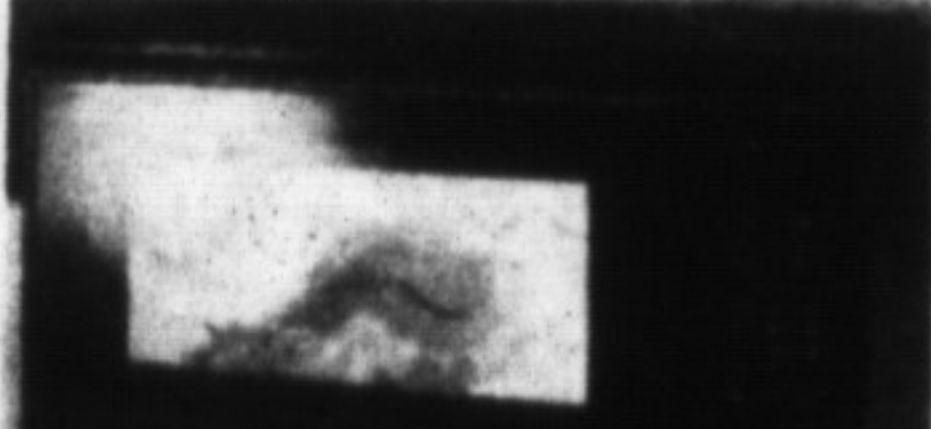
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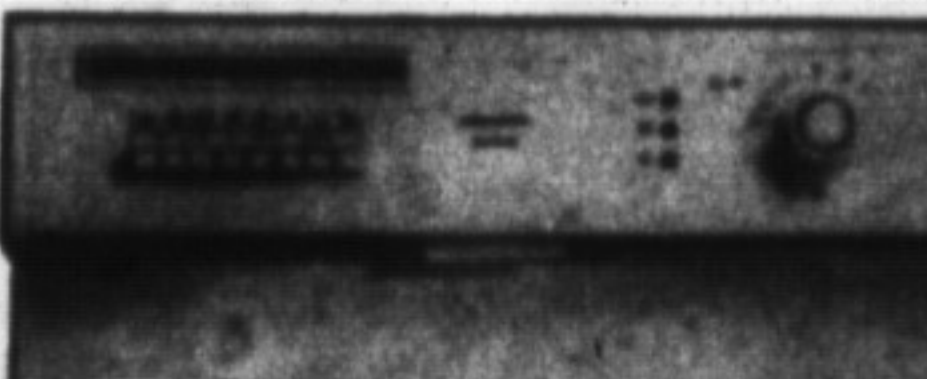
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