

## E. Overlap and Duplication?

2.31 We noted earlier (para. 2.20) that the form of concurrent jurisdiction over the environment that is now developing may provide opportunities for harmonization of legislation and regulation, and for cooperative administration of programs. To many people, however, the principle of concurrent jurisdiction, and the growing number of bodies with environmental powers, may seem a prescription for overlap, duplication, confusion and waste of resources.

2.32 The problem of overlap was described by one of our witnesses as one of the "age-old controversies about what the nature of Canadian federalism is."<sup>34</sup> Reducing overlap and duplication is the *raison d'être* of the proposals on "Streamlining Government" in *Shaping Canada's Future Together*. Many witnesses felt that the current constitutional division of powers had caused frequent overlap and duplication of regulatory powers, which generated "unnecessary and burdensome costs" to industry, could "choke off new investment, may even force mine and plant closures, destroy some communities and harm Canada's balance of payments".<sup>35</sup> It was primarily in order to find a way out of what it saw as a "regulatory labyrinth"<sup>36</sup> that the Mining Association of British Columbia recommended the segmentation of constitutional authority (see para. 2.17 above).

2.33 On the other hand, other witnesses suggested that when more than one level of government is involved in a particular environmental field, their activities may be complementary rather than overlapping. For example, the Mining Association of Canada, while welcoming efforts at harmonization and streamlining, recommended strongly that the federal government retain relevant expertise, so that federal policies would remain sensitive to the needs of the mining industry, even though the bulk of the legislation affecting the industry is provincial.<sup>37</sup> Commenting on the situation in British Columbia, the witness from the West Coast Environmental Law Association suggested that

*... although there are many areas in which both sets of [federal and provincial] environment legislators are dealing with the same fields, the amazing thing is that they are not duplicating each other's efforts, because the areas are so large and they have such small staffs that they are beavering away on their own tasks quite independent of each other.*

*A far bigger problem than duplication is the fact that they do not know what each other is doing. . . What they have to do, and what they are beginning to do, is co-ordinate their activities more, because the job is far bigger than both levels of government.*<sup>38</sup>

2.34 The Committee has no doubt that many valid examples could be found of overlap and duplication on environmental management in Canada. These seem to be particularly acute, at the present time, in regard to the requirements and mechanisms for environmental impact

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<sup>34</sup> Issue 16, p. 46.

<sup>35</sup> Issue 18, p. 9.

<sup>36</sup> Submission, p. 2.

<sup>37</sup> Environmental Issues and Constitutional Reform, Submission from the Mining Association of Canada, pp. 3-5.

<sup>38</sup> Issue 13, pp. 54-55.