

Committee recognizes that, in the environment field in particular, ecosystem and similar considerations make it almost impossible to define the limits of environmental legislation. Emission limits, or other pollution controls, for example, may have potential effects in economic terms, or may threaten the viability of single-industry communities. Provincial (and other) opposition to federal legislation with such far-reaching implications may be inevitable and understandable.

(c) Finally, concurrent powers on environmental matters may seem likely to increase overlap, duplication, and conflict, especially in regulation and enforcement. Or the opposite may happen: in a situation where both levels of government have authority to act, neither may do so, in the hope that responsibility will be assumed (and the necessary resources provided) by the other.

2.14 These are real and formidable problems. No doubt they help to explain why Canada has maintained a constitution that emphasizes the division of powers rather than concurrency. Nevertheless, in the view of the Committee, concurrency is the most meaningful approach in terms of the needs of environment and sustainable development. We share the vision expressed by the witness from the Assembly of First Nations:

Let's start to anticipate the kinds of powers and jurisdictions that might be required in order to ensure that 100 years from now, we have protected the environment and we have made sure that our relationship to each other takes place on the basis of respect. . .

We are going to have to abandon the old assumptions of constitutional discussions simply being a transfer of power between the federal or provincial jurisdictions. We should have a look at our Constitution from the point of view of dreaming what possibility does exist to produce the new relationships among us all that will produce a better country.¹⁷

2.15 We note that although the public is rightly concerned to avoid governmental overlap and duplication, it simultaneously believes that concurrent jurisdiction over the environment is vital (see para. 1.23). This was also expressed very vividly in the evidence submitted by the Canadian Manufacturers' Association (CMA), which began by stressing the serious effects of overlap and duplication:

The sharing of jurisdiction for the environment has led to increasing overlap in regulatory requirements among federal, provincial and municipal levels of government. . . From the early 1970's this overlap in jurisdictional responsibilities for the environment has created confusion, uncertainty and unnecessary expenditure of scarce resources by the manufacturing sector and irritation among and between federal, provincial and municipal levels of government. . . In particular, the duplication of federal and provincial environmental assessment and review processes has been costly in terms of time delays in obtaining approvals for development proposals, the human resources required to prepare and present the necessary documentation to meet the environmental requirements for each level of government

¹⁷ Issue 13, p. 14.