

CBA suggested that there is often a “dialogue” between the courts and the legislatures on such matters, so that legislatures can amend the law if they do not agree with the courts’ interpretations.⁴⁶

3.32 All the witnesses who raised the subject of entrenching environmental rights in the Charter were convinced that the arguments for such rights became even more compelling in the face of a decision to entrench property rights. This reflects the apprehension that courts called on to apply the property rights provision would otherwise have to interpret it in a context that gave insufficient guidance as to its intended effect on existing environmental protection legislation. A right to environmental quality could assist the courts by indicating where the balance is to be struck between private property rights and legislative efforts to protect the environment.

3.33 *Beyond considerations of constitutional reform and the division of powers.* Although the Committee was left in no doubt, during its study, of the vital environmental significance of federal leadership, intergovernmental cooperation, environmental rights and other similar features needed in the working of the Canadian constitution, it also recognizes that much of the task of protecting and improving the Canadian environment, and adopting sustainable development patterns, is undertaken by individual Canadians, the private sector, and in the marketplace. Industry witnesses such as Mr. McCready (TransAlta) urged on governments the need to establish realistic costs and prices, so that environmental resources could be valued more highly than is normal at present. Harmonizing the labyrinth of regulations does more than ease the task of business and industry; it increases the likelihood that the regulations will be obeyed and enforced. And as the witness from The Environmental Monitor pointed out, individual Canadians are not merely concerned about the environment; they see themselves as primarily responsible for acting on that concern. The recommendations that we have made in this report are of more than intrinsic importance; they are designed to assist the governmental framework of Canada in its enabling role, facilitating environmental action that goes far beyond the capacity of the governments themselves.

⁴⁶ Issue 16, pp. 28-29.