

to possess an important source of authority in regard to the environment, although it has not been fully exercised, through its power to legislate in respect of trade and commerce. Other federal powers having a bearing on environmental matters include navigation and shipping; sea coast and inland fisheries; and "Indians, and Lands reserved for the Indians."

1.12 The federal government also derives environmental jurisdiction from its powers with respect to international or transboundary rivers, migratory species, relations with foreign governments, federal lands (including the Yukon and Northwest Territories), industries within the federal jurisdiction, and interprovincial and international transportation. In addition to these legislative powers, the federal government can influence the environment through the taxing power, the spending power, and the power to declare works to be "for the general advantage of Canada" (the "declaratory power").

1.13 Provincial governments derive jurisdiction in relation to the environment from their authority, under section 92 of the Constitution Act, over "property and civil rights in the province", as well as their powers in relation to the management and sale of public lands, local works and undertakings, powers of taxation, and "generally all matters of a merely local or private nature in the province." The 1982 Resource Amendment to the Constitution Act, Section 92A, granted the provinces exclusive power to legislate in relation to the development, conservation and management of their non-renewable resources. The provinces also have proprietary rights to all Crown lands within provincial boundaries, as well as property rights in virtually all on-shore resources.

1.14 The provinces have legislative responsibility for municipal governments, thereby enabling them to delegate to municipalities virtually any powers and duties assigned to them by the Constitution. Municipal governments do not have any constitutional standing, but derive their powers from the provinces. Municipal regulations, usually in the form of by-laws, often have a major effect on the environment, such as those dealing with zoning, construction, noise, water purification, sewage and garbage disposal. Like the federal government, provinces also have taxing and spending powers that are important for the environment.

1.15 Various witnesses who appeared before this Committee suggested that confusion is the most obvious result of the complex division of powers that exists, and they referred to the negative consequences of this confusion. The witness from the Mining Association of British Columbia claimed that

Resource users are confused as to which level of government has jurisdiction. Decisions are delayed through intergovernmental turf battles. Court intervention on jurisdictional issues is increasingly apparent. Crippling costs to the industry are resulting, and above all, the taxpayer is paying dearly for the overlap and inefficiencies.⁶

⁶ Issue 18, p. 8.