

#### **Recommendation 8:**

The Committee recommends that the proposals for political renewal in regard to the recognition of areas of provincial jurisdiction, and in regard to streamlining government, include specific and unambiguous statements so as to ensure that these proposals are compatible with a strong federal commitment and capacity in regard to environment and sustainable development, and with the exercise of appropriate federal jurisdiction in all the areas identified in the Government's proposals.

#### **Recommendation 9:**

The Committee recommends that proposals on administrative and legislative delegation related to the environment require provisions in the enabling agreements to ensure:

- regular and public reporting to the legislature of the delegating authority by the jurisdiction to which the powers are delegated;
- revocation of the delegated powers if, in the opinion of the legislature of the delegating jurisdiction, the powers are not being effectively exercised by the jurisdiction to which powers have been delegated;
- full public information, and opportunity for individuals and groups to comment and make representations on the implementation of the administrative or legislative provisions at any time.

3.5 The Committee believes that, from an environmental standpoint, it may be desirable to reconsider the proposal that the federal government relinquish its power, under Section 92(10)(c), to assume federal authority by declaring works to be "for the general advantage of Canada." This "declaratory power" has not been used for several decades, and it is clear from *Shaping Canada's Future Together* that its continued existence is seen by the federal government as a potential irritant in federal-provincial relations. This may be so, but unlike other general powers, such as "peace, order and good government", it is not a legislative power but one that could enable the federal government to act quickly in an emergency. In the context of cooperation and partnerships that we see developing in the environmental field, it may be that the declaratory power would enable a rapid response to an unexpected environmental crisis, in which the federal government's use of the power would be encouraged and endorsed by other levels of government.

#### **Recommendation 10:**

The Committee recommends that the significance of the "declaratory power" be clarified with respect to the ability of the federal government to maintain and enhance environmental quality and to promote sustainable development, prior to any changes to Section 92(10)(c) of the Constitution.

3.6 As discussed below, there was less uncertainty, and clear opposition, to both restrictions on the use for environmental purposes of the federal residual power ("peace, order and good government") and to the proposal to entrench property rights in the Constitution.