

Warning against the dangers of falling into the conceptual trap of thinking of the environment as an extraneous matter in making legislative choices or administrative decisions, the Court further stated that the environment was comprised of all that was around us and, as such, had to be a part of what actuated many decisions of any moment. It held that environmental impact assessment was, in its simplest form, a planning tool that was now generally regarded as an integral component of sound decision making and, as a planning tool, it had both an information-gathering and decision-making component that provided the decision maker with an objective basis for granting or denying approval for a proposed development.

In the Court's view, the Guidelines did not attempt to regulate the environmental effects of matters within the control of the province, but merely made environmental impact assessment an essential component of federal decision making. The Court emphasized, however, that, because of its "auxiliary" nature, environmental impact assessment could affect only matters that were truly in relation to an institution or activity that was otherwise within federal legislative jurisdiction.

For the purposes of constitutional analysis, the Court stated that the Guidelines could be broken down into two fundamental components. The first component was their substantive aspect, which called for an environmental impact review to be conducted to facilitate decision making under the federal head of power through which a proposal was regulated. This component of the Guidelines could be sustained on the basis that it was legislation in relation to the relevant subject matters listed under section 91 of the Constitution Act, 1867. The second component was procedural or organizational in nature, in that it dealt with coordinating the process of assessment, which could touch upon several areas of responsibility. Stating that this component of the Guidelines had as its object the regulation of the institutions and agencies of the federal government as to the manner in which they were to discharge their functions, the Court held that this facet was unquestionably within the jurisdiction of Parliament, either as an adjunct of the particular powers involved or, in any event, it was justified under the residuary power regarding peace, order and good government.

Underscoring that the Guidelines essentially constituted an information-gathering process in furtherance of a decision-making function within federal jurisdiction, and that the decision maker was not bound by any recommendations that might be made pursuant to the review, the Court ultimately declared that the Guidelines were *intra vires* Parliament. It held that, in pith and substance, they were nothing more than an instrument that regulated the manner in which federal institutions were to administer their functions and duties. Consequently, they were nothing more than an adjunct of the federal legislative powers affected. In any event, the Court held that they fell within the purely residuary aspect of the "Peace, Order and good Government" power under section 91 of the Constitution Act, 1867. It added that any intrusion into provincial matters was merely incidental to the pith and substance of the legislation.