

*... I reject this suggestion totally. Such a proposal is simply not practical when you examine the range and extent of issues involved—protection of oceans and wildlife, acid rain, air quality, fisheries, global warming, municipal and industrial waste management, international relations—and the list goes on.*²

2.3 This affirmation is very reassuring. However, the Committee also notes that the way in which the Government's proposals for political renewal were presented appears to have had the effect of generating widespread doubt in the environmental community about the Government's commitment to a strong federal role in environmental issues. This does not appear to be because the federal government was perceived to be unaware of environmental needs, but because the proposals contained in *Shaping Canada's Future Together* seemed to focus on the need to avoid unproductive federal-provincial dispute. This concern seems to have been reinforced by the perception, among some observers, that the federal government has in recent years avoided testing the limits of the powers that it now has on environmental matters.³

2.4 More specifically, the concern over the present proposals expressed by several witnesses seems to have arisen because several proposals for change seem either to neglect environmental considerations or even to threaten them. Witnesses expressed concern about the entrenchment of property rights, withdrawal of the federal government from some specified areas of environmental action, greater use of the power to delegate authority, elimination of the declaratory power, and other proposals. These objections are considered in more detail later in our report. Taken as a group, however, the Government's proposals appeared to several witnesses as having a potentially negative net effect on the Canadian environment. The only proposal that was clearly seen as positive by these witnesses was the inclusion of sustainable development in the "Canada clause". Even this, however, was questioned, on the grounds that its inclusion would be only symbolic, with no legal force.⁴

2.5 It now seems clear that some of these concerns (though not all of them) could have been minimized or avoided if the Government's proposals had provided more explicit recognition of environmental and sustainable needs. Witnesses such as the West Coast Environmental Law Association reported that they had been reassured by the statement of Constitutional Affairs Minister Joe Clark that environment "is a field in which existing federal jurisdictions must be respected and must be maintained."⁵ Similarly, the Committee welcomed the strong statements about the federal environmental role made by the present Minister, and by one of his predecessors, Mr. MacMillan:

² Issue 15, p. 7.

³ See, for instance, the witness from the Canadian Bar Association:
If there's one frustration that those of us interested in environmental matters suffer it is that there has been a good deal of timidity on the part of the federal government in asserting its jurisdiction in environment. We suppose this is for fear of treading on provincial toes. (Issue 16, p. 31)

⁴ Enhancing Environmental Protection in the Canadian Constitution: Comments on the Federal Government's Constitutional Proposals, Submission by the West Coast Environmental Law Association, at p. 5:
This proposal... is the first official federal recognition of the need to incorporate environmental protection in the Canadian constitution. We strongly support this initiative.
However, there are two basic problems with the federal proposal's environmental content. First, the government's environmental proposals have no legal component. They are exclusively symbolic. Second, as symbolic statements they require considerable elaboration.

⁵ *Ibid.*, at p. 20.