

Fisheries Act

● (2010)

That is the prelude to their brief, which indicates some of the concerns of those who reside in British Columbia. I will not deal with all the briefs. I am picking them at random. The government of Alberta submitted one, which says in part:

The rights of provinces to maintain those areas of jurisdiction allotted them by the British North America Act is a fundamental principle of the Canadian constitution. Alberta strongly reaffirms this principle and maintains that the provinces have the right to receive adequate consideration by the federal government where proposed legislation may create encroachment upon provincial fields of legislation. Alberta feels that the proposed Bill C-38 clearly impinges on provincial rights . . .

An example of such a mechanism is a recent agreement signed in 1975 between Canada and Alberta in which they entered into an accord for the protection and enhancement of environmental quality. Both Canada and Alberta have jurisdictional responsibility in the field of environmental quality including pollution prevention, control and abatement. The accord was a recognition of this joint responsibility. It stated that both parties would co-operate to make certain that environmental programs were planned in such a way as to ensure comprehensiveness and eliminate duplication. It was also agreed that both Canada and Alberta would adhere to certain principles and practices relating to the protection and enhancement of environmental quality, in the development and maintenance of complementary programs with each government acting within its constitutional jurisdiction. The objectives of the accord were to provide a more effective solution to pollution problems through better co-ordination of federal-provincial activities.

Sections 7, 9 and 10 of the accord are quoted in the brief, as follows:

Section 7. Canada, after consultation with the province and all other provinces, agrees to establish broad national ambient quality objectives for air and water based upon nationally agreed scientific criteria.

Section 9. Canada, after consultation with the province and all other provinces, agrees to develop national baseline effluent and emission requirements and guidelines for specific industrial groups and specific pollutants. Specific groups or classifications of industries will be agreed upon from time to time for the purpose of establishing priorities.

Section 10. Canada and the province agree to have adequate discussions on possible environmental effects of proposed major developments or redevelopment projects. Canada and the province undertake to provide each other with data and other general information as they may mutually agree to be necessary.

There is much more in the brief. On page 3 the following is found:

The proposed legislation in its present form contravenes the spirit of the accord as some of the amendments represent an intrusion into provincial jurisdiction over water resource management, natural resource development, industrial development, and local works and undertakings . . .

The Honourable Roméo LeBlanc, Minister of Fisheries and the Environment, in his address to the House of Commons during the second reading of Bill C-38, indicated concern for the protection of fish and water quality. While the federal government's concern is laudable Alberta questions the right of the government of Canada to usurp provincial powers to achieve these ends.

Although that brief contains much more, I wanted to put the particular passages I quoted on record so that hon. members might consider them in committee. I am holding in my hand another brief presented by Dr. Henry Landis, Q.C., general counsel for the Ontario ministry of the environment. This was an excellent brief presented to the committee and some of the points he made are well worth repeating. He said:

The amendments should be evaluated not by how they may be administered but rather by what they authorize. If this standard is applied, they authorize environmental control which, in significant respects, goes beyond anything contained in Ontario's legislation, duplicates important parts of it, authorizes actions which could have adverse effects on the economy of Ontario and imposes

[Mr. Crouse.]

on industries and municipalities duties and liabilities with respect to reporting and cleanup which are unreasonable . . .

The amendments may well affect the legal validity of Ontario's legislation dealing with water pollution and water quality. Because of the greatly increased scope of the amendments and the similarity between the provisions dealing with cleanup and the proposed amendments to the Environmental Protection Act for the same purpose, there is now a greater likelihood of a court coming to the conclusion that the field of water pollution and water quality has been occupied by federal legislation and as a result deciding that provincial environmental legislation such as the Ontario Water Resources Act and provisions of the Environmental Protection Act dealing with this field, is inoperative. The amendments add urgency to this recommendation.

He goes on to list a number of other objections to the proposed amendments.

Finally, I come to the brief presented by my native province, Nova Scotia, with respect to this bill and, again, I will only read into the record the pertinent parts dealing with objections to some of the proposed amendments. They say on page 1:

—some of the proposed amendments are foreign to the terms of Confederation, incompatible with fundamental tenets of natural resource management, and contradict the federal government's own policies and legislation respecting the "conservation, development and utilization", of water resources 'to ensure their optimum use for the benefit of all Canadians'.

They say, on page 2:

It is essential from our point of view that individuals, industry and municipalities be confronted with only one set of requirements, and requirements that provide for economic development consistent with a high level of environmental quality. We see no need to confuse and confound the public further by initiating a duplicating approval process with all the bureaucratic rivalry, confusion and delays that such duplication would entail.

These are matters requiring urgent consultation, since the province has found—

This is important. I continue:

—through experience, that the staff of the environmental protection service of the federal government often does not take account of the economic realities of a particular industry, or of the over-all interests of the community it supports, or the province, in its decision-making respecting pollution control.

They continue to say:

Co-operation between our two departments of the environment is imperative. It is essential that the federal agency recognize the primary role of the province and work through the province to obtain the information they require. For its part, the province is already co-operating in this regard.

In summary, the province of Nova Scotia does not believe that the Fathers of Confederation intended that the fishery power extended to the federal government should be the supreme power with respect to water resources management or to local works and undertakings. In particular, we do not believe that such pre-eminence to fisheries matters should pertain to waters internal to the province.

We believe that the needs of the people for high quality potable water, for industrial and agricultural water for water based recreation, should receive priority at least equal to that given to fisheries management by the federal government. We do not believe that the rights and needs of the people of our province for development and economic growth would be well served if made subservient to the needs of fish as determined, without consultation, by bureaucrats of the federal government.

My province entered into an accord in 1975, for the protection and enhancement of environmental quality. It was entered into on behalf of the government of Canada by the present Minister of Communications (Mrs. Sauv ) who was then minister of the environment, and on behalf of the government of Nova Scotia by Hon. Glen M. Bagnell, minister of the