

Excerpts from the Standing Committee Hearings

Clifford Lincoln, October 97

Mr. Clifford Lincoln (Lac-Saint-Louis, Lib.): Mr. Chairman, first of all, I would like to preface my remarks by saying that I think there's a very important place, of course, for provincial environment ministries. I was a minister of the environment at the provincial level myself. I was president of the CCME for one year so I know that this has got to be a complementary system and it should continue that way, of course. It's a shared jurisdiction.

At the same time, what I'm worried about is what has been expressed by my colleague, Mr. Knutson. We are going into a support harmonization at a time when the federal government has cut back the ministry of the environment by 35% plus. By the time it's finished, it will be 40%. We have lost scientists. We have lost experts. We have lost staff. So, as fast as we devolve to take care of the cutbacks to the provinces, the provinces in turn, the large ones—certainly Ontario has cut back massively; Quebec is cutting back substantially; Alberta has cut back—and the smaller provinces didn't have a huge ministry apparatus to start with, some of them with very small departments.

What the federal government was ensuring was in key areas such as toxics, for instance, it was ensuring a critical mass of scientific expertise, of assessment expertise, of evaluation, and also of inspection of experts. I know that I'm not by myself in expressing strong reservations. It's very interesting to find that all environmental groups, I think almost without exception, fear this thing like the plague.

It's strange that even industry, for some reasons, are saying this is going to be too much of a devolution of federal powers.

What I can't understand is the objectives of harmonization are to enhance environmental protection and I would like to ask you, Mr. Glen, how can we enhance environmental protection when everybody cuts it back? I know it's not your fault and it's not you that causes it. How can we enhance environmental protection when our ministries are almost a see-saw of ministers and deputy ministers coming back and forth since 1993 at the federal level where it had three ministers, three deputy ministers? It's been the same in Ontario. It's been the same in Quebec. We say "accountability". Who is accountable?

During the CEPA review, we visited places. We heard in Ontario from federal officials. We heard in Quebec from federal officials that is not true that people are more accountable. The fact is when we are devolving enforcement, enforcement is not taking place.

I'll give you an example. Under the Fisheries Act I put the question several times and nobody has given me a satisfactory answer. In the case of Quebec, for instance, for various constitutional reasons they don't swear inspectors of the Fisheries Act. So, what happens is that the Fisheries Act is not being enforced.

If you look at the case of Cronos ## in Quebec we missed the deadline and the ministry of justice federally decided not to prosecute because it was falling between two stools. Nobody was moving and eventually it was too late to prosecute and I think if we look at Cronos, we're going to find there was a deficiency in prosecution there.

We talk about in the objectives predictability. How can we predict when there will be more jurisdictions. They'll have to sit around the table to decide. As one of our colleagues said today, who is responsible for benzene and who is responsible for this toxic and that toxic.

I just look at enforcement and, frankly, I'm not very comforted by the famous vision because it says in enforcement: "This subagreement does not apply to enforcement activities or any other matters governments agree to exclude as specified through implementation agreements". What does that mean?

The Chairman: ## you are looking for enforcement.

Mr. Clifford Lincoln: Yes, under Canada-wide environmental inspection subagreement, paragraph 2.2. "This sub

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through the specified three implementation agreements. What does that mean?

The Chairman: ## if you're looking for enforcement.

Mr. Clifford Lincoln: Yes, under Canada-wide environmental inspection subagreement, paragraph 2.2. The subagreement doesn't apply to enforcement activities or any other matters governments agree to exclude. "As specified three implementation agreements" what does that mean?

The focus of the subagreement, 2.3, is on areas where federal, provincial and territorial governments have the ability to take action in the same situations.

Well, what I find in actual fact, in actual practice is that it's not the draft, it's not the legalities, it's not the fact that we sat there and agreed on a beautiful document. It's the fact that when it gets transferred over, enforcement is not taking place.

And I think if you want some examples, I will give you examples. I'd like to find out, for instance, under the pulp and paper devolution of regulations how many prosecutions have taken place, how many times, for instance, where there should have been prosecutions for deliberate infringement that warnings were given because we didn't want to rock the boat. We were at a sensitive time when negotiation was between the province and the federal government.

What I would like to ask you, Mr. Glen, in simple terms is this. If this is such a wonderful thing, how come the NGOs who really are committed to the environment as volunteers, as the people in the field who have battled over the years to preserve the environmental cause in Canada, how

come they're almost holus-bolus against this thing? How come there are so many of us here on this side of the House who are so worried about it? How come we can't get an assurance that finally somebody or another will be accountable? How come the original people who appeared before us in the CEPA committee said eventually you ## the province, the province goes to their industry associations and devolves on them, as happened in Alberta, and then they're responsible for enforcement? Who is finally accountable in all this?-and I know legally you are. But how do you ensure that you've got enough inspectors, a critical mass of inspectors and scientists and enforcement people who you have kept federally so that if by any chance the enforcement doesn't take place in Alberta, or B.C., or Quebec, or wherever, that your people can just step in and do it?

Can we get your assurance that this will happen that way? Or are we going to have to each time look at the manual to see what happens?

I'm just expressing a lot of frustration and the feeling amongst a lot of us that that's not right.

The Chairman: Mr. Lincoln, you may want to leave some time for a reply.

Mr. Clifford Lincoln: Sorry.

Mr. Ian Glen: I'm trying to decide which question is the easier one to answer.

I'll address the anxiety because, yes, there is anxiety by environmental groups and we've heard it as well. We've heard it in the public consultations we've had on the documents. I've heard in advisory groups that have helped me in preparing on this. And a lot of the anxiety I would say rests not necessarily on these documents, but on the general circumstances around cuts across governments as they affect, particularly in our case, the environmental departments, but more broadly.

Within the resources bases given to myself and my colleagues across the provinces, we feel that this accord gives us a platform and a confidence ## of approach to ensure we have maximized the impact of our collective resources to preserve the best of environmental interests. And that's not political speech making; that's a public administrator saying that if there are benefits of ensuring that the accord brings some confidence of approach across jurisdictions it is against the resources we have. This does allow us to help plan more effectively, deploy our resources, know where certain resources are better located in one level of government or not.

For example, on that one there is a very strong concern that the federal government preserve as much as possible the R and D capacity through its laboratories, through its knowledge generation to be shared across provinces. There are some jurisdictions which, quite frankly, cannot do that and need that to be provided by us. There are other areas of the administration of our environmental activities where provinces are better suited and we want to take advantage of that.

In terms of maintaining the capacity to act in the absence of proper conduct, as expected, all jurisdictions will be trying to maintain their capacity within the resources bases.

Is it a worry? Of course it's a worry. And I wouldn't deny it.

maintaining the capacity to act in the absence of proper conduct is expected. All jurisdictions will be trying to maintain their capacity within the resource basis.

Is it a worry? Of course, it's a worry and I wouldn't deny it. It's a worry by environmental groups. You expressed it well. I think other members of the committee would have the worry. I have that worry, but the effort is to try to work with my colleagues and ensure we have done our utmost to preserve an overall capacity to effective administration of our laws.

There will be occasions where we will-because we will all be maintaining an inspection capacity, I would be putting inspectors in where, in normal circumstances, I would rely upon a province. If a province was not fulfilling its inspection responsibilities, the federal government would maintain the authority to go in and use its authority and inspect.

Now, perhaps a provincial perspective might be useful.