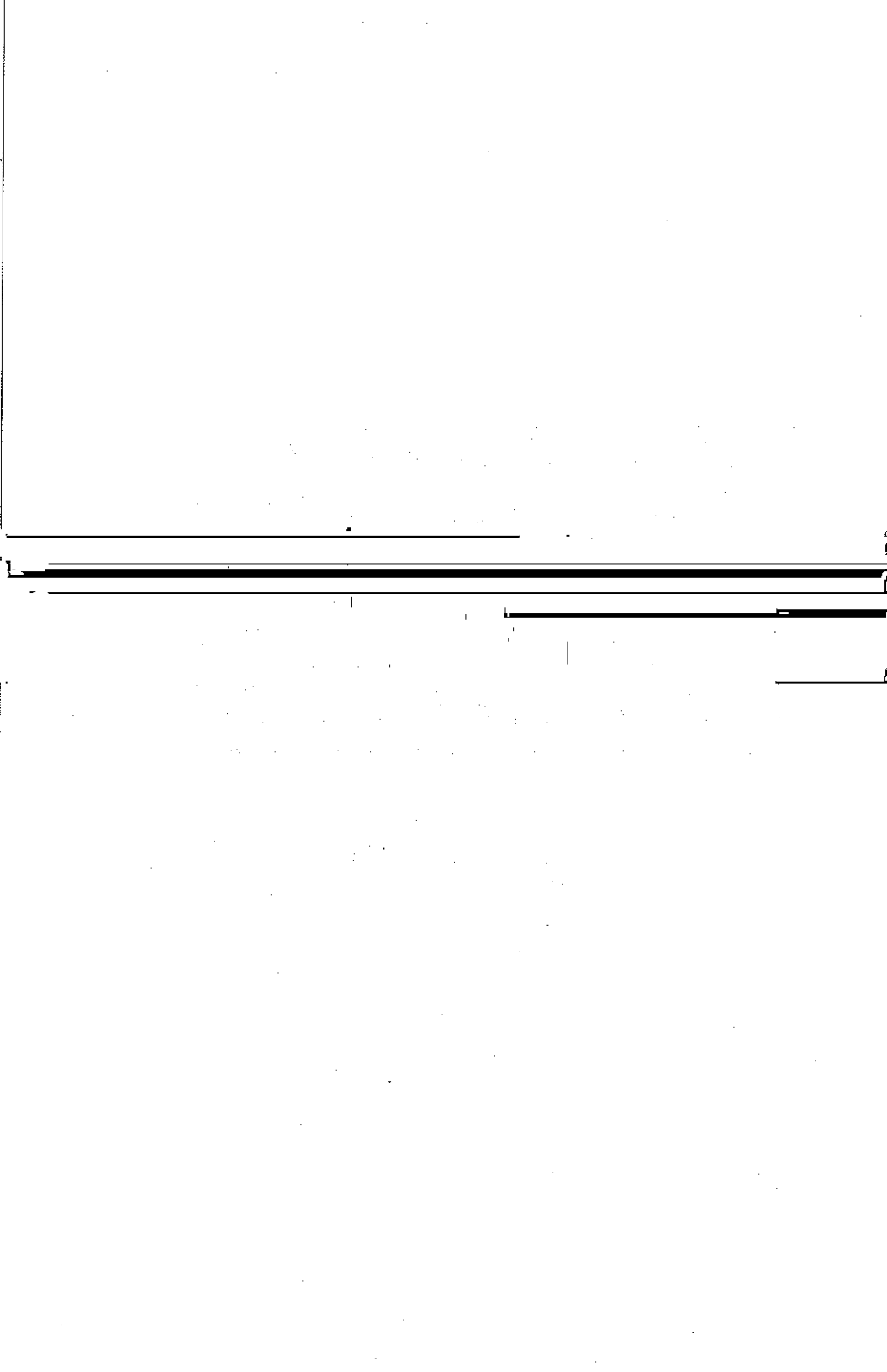


CONSTITUTIONAL
DILEMMAS
REVISITED



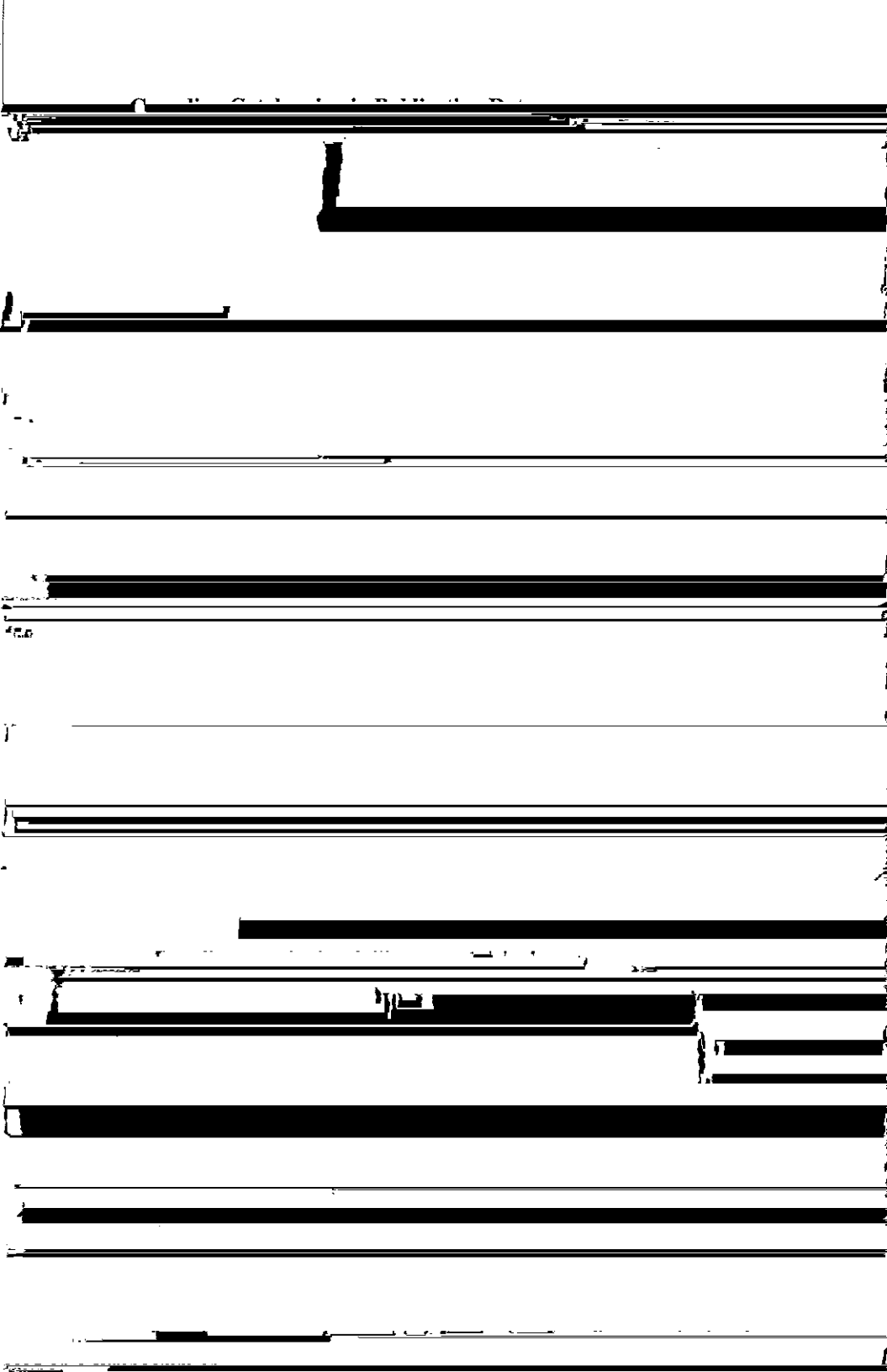
CANADIAN CONSTITUTIONAL DILEMMAS REVISITED

Denis N. Magnusson and Daniel A. Soberman Editors



INSTITUTE OF

INSTITUT DES



Contents

Preface

vii

PART FOUR: FREEDOM OF EXPRESSION

R.

Preface



[REDACTED]

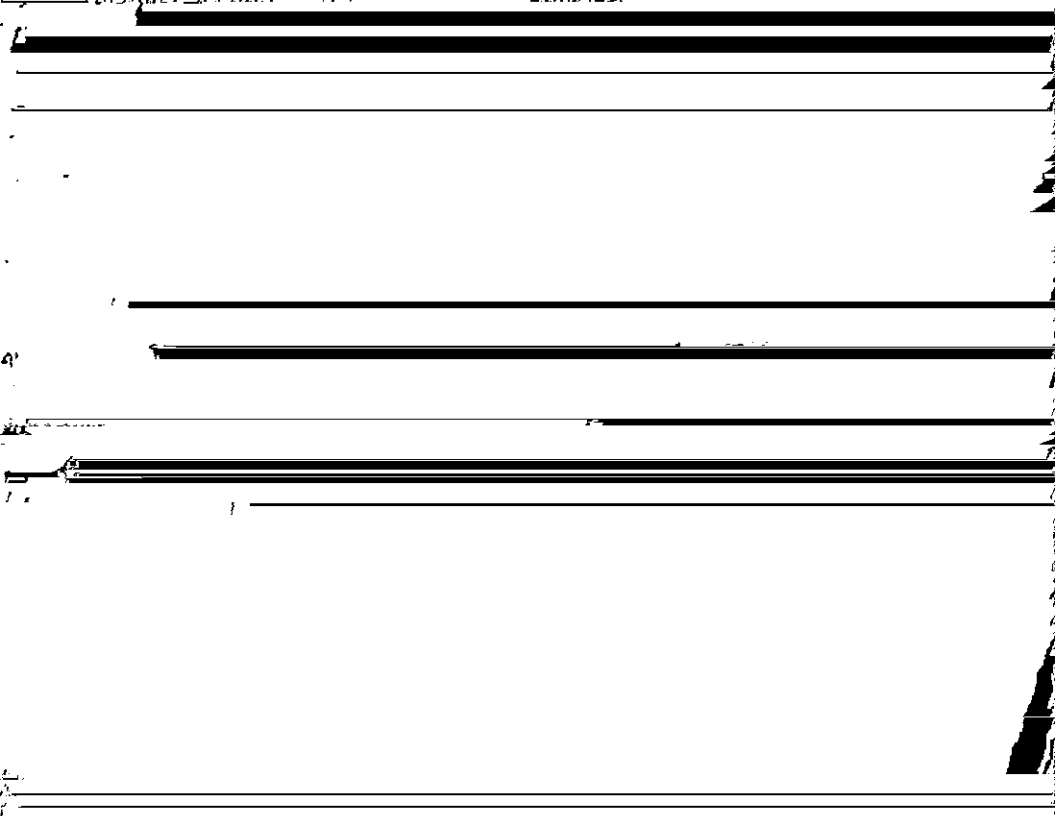
///

[REDACTED]

DEDICATION

PARTICIPANTS IN THE CONTINUING
CANADIAN CONSTITUTIONAL
DILEMMAS SYMPOSIUM OCTOBER, 1993

(In order of appearance of commentaries with institutions and appointments)



PART ONE

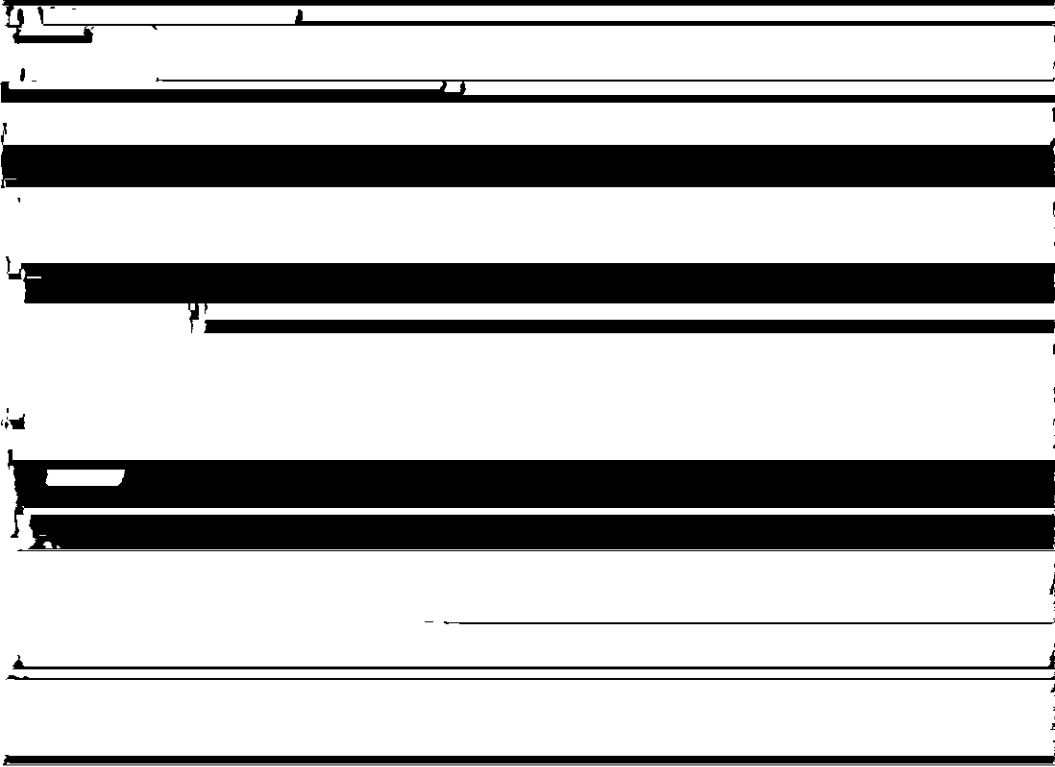
FEDERALISM

Lederman's Place in Federalism Scholarship

Patrick Monahan

I am very pleased to have been invited to participate in this symposium in honour of Bill Lederman. Although I did not know Bill well, I did have occasion to meet him in the early 1980's when I was just beginning my career as a Law teacher. I

~~to be sure, Bill was a very important figure in the history of the Court. He will remain~~



12

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1988

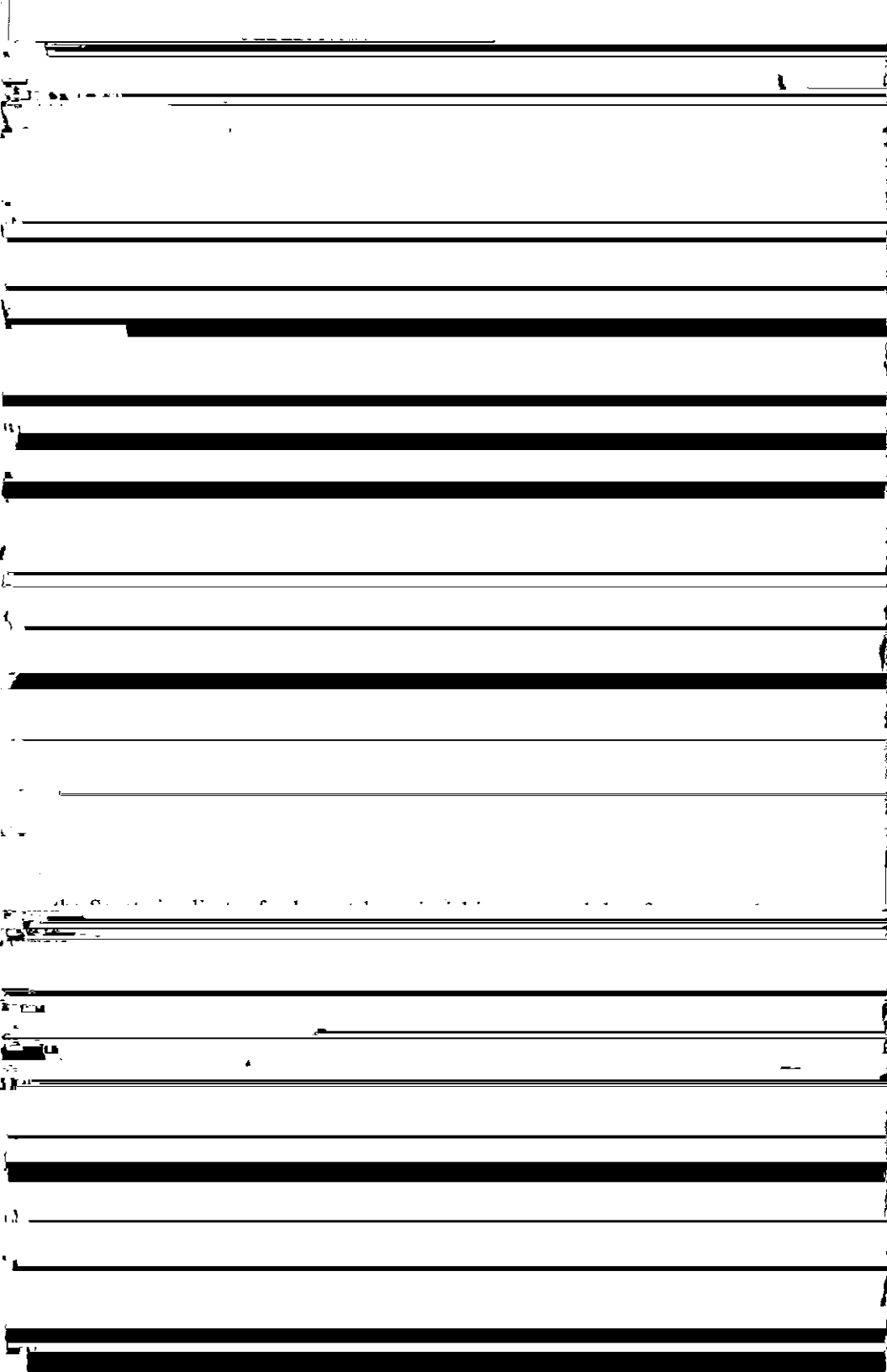
1989

1990

[REDACTED]

[REDACTED]

... *in 1977, the federal government won the case, the court had to fall*



Lederman's 1978 article was cited by the Supreme Court of Canada in the

R. v. Oakes, [1986] 1 S.C.R. 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

tion will give us a different kind of Parliament than we have ever had before. In

PART TWO

SEPARATION OF POWERS

Rethinking Section 96: From a Question of Power to a Question of Rights

Robin Elliot

Let me begin by paying tribute to Professor Lederman, in whose honour this symposium has been organized. I have a clear recollection of relying very heavily

Important as it is on occasions such as this to remember and mark Professor Lederman's contribution to our understanding of Canadian constitutional law, I

did not

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

in this area in the last decade or so; the focus here will be on doctrinal developments but reference will also be made to a constitutional amendment proposal bearing on this area. Next, I want to provide an abbreviated critique of the exist-

provincially appointed members of an administrative tribunal to adjudicate cer-

tain matters. Chief Justice Dickson, writing for the

Though legislative powers were divided between two levels of government, a uni-
form judicial system was established to deal with laws created at both levels. Each

that question. Some of the judges appear to hold the view that it is, others that it is not.⁸

That leads me into a discussion of the evolution of the *Residential Tenancies*

[The following text is almost entirely obscured by heavy black redaction bars.]

[Faint, illegible text visible through the redaction.]

.....

.....

.....

.....

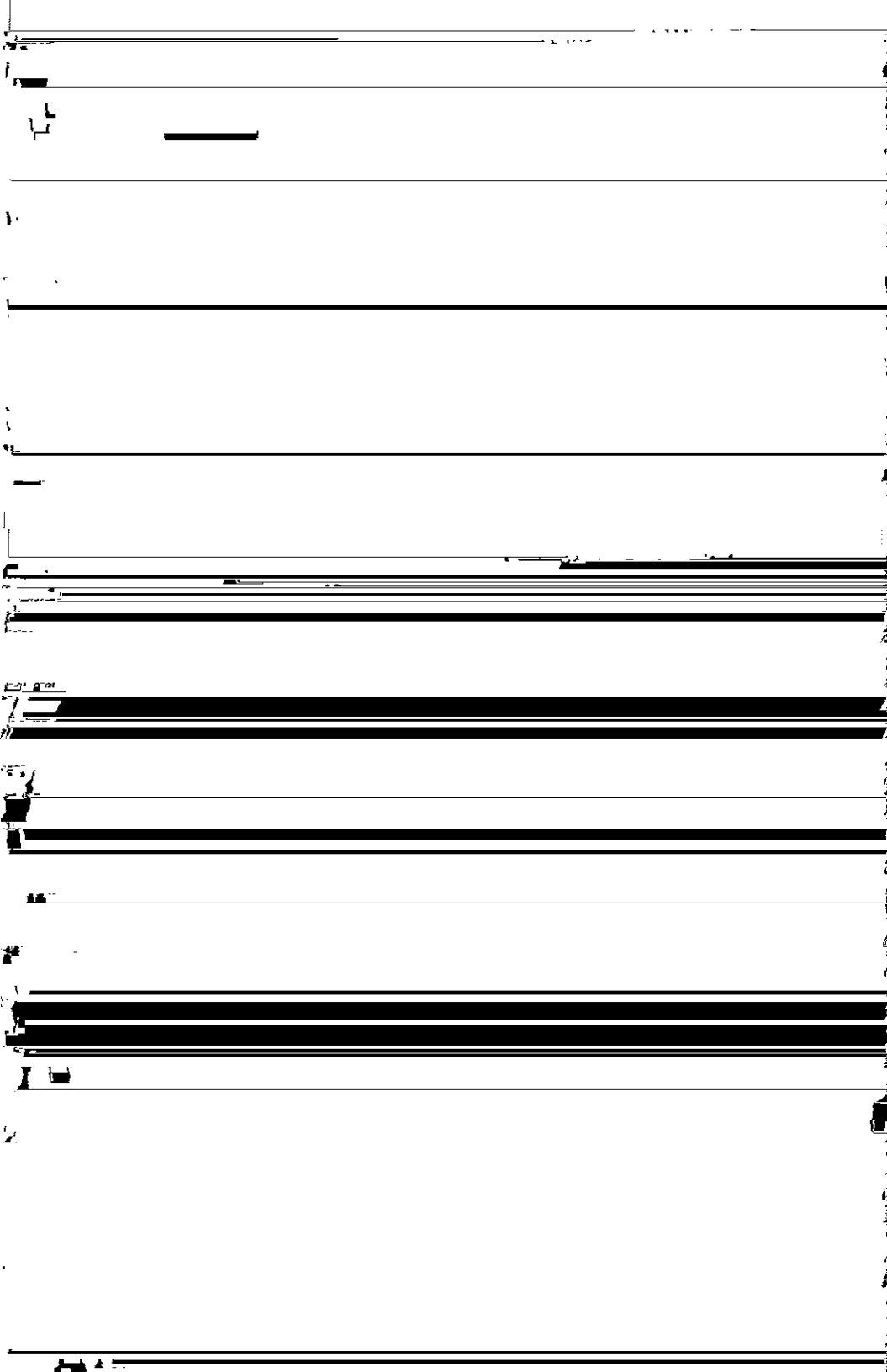
.....

.....

.....

.....

.....



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

kind for which sections 96-100 provide, and in particular, are they entitled to an adjudicator drawn from the bar and with the kind of independence for which sections 99 and 100 provide?

It should be noted, he entirely without

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Confidentiality conditions and terms of use of the information provided

[REDACTED]

[REDACTED]

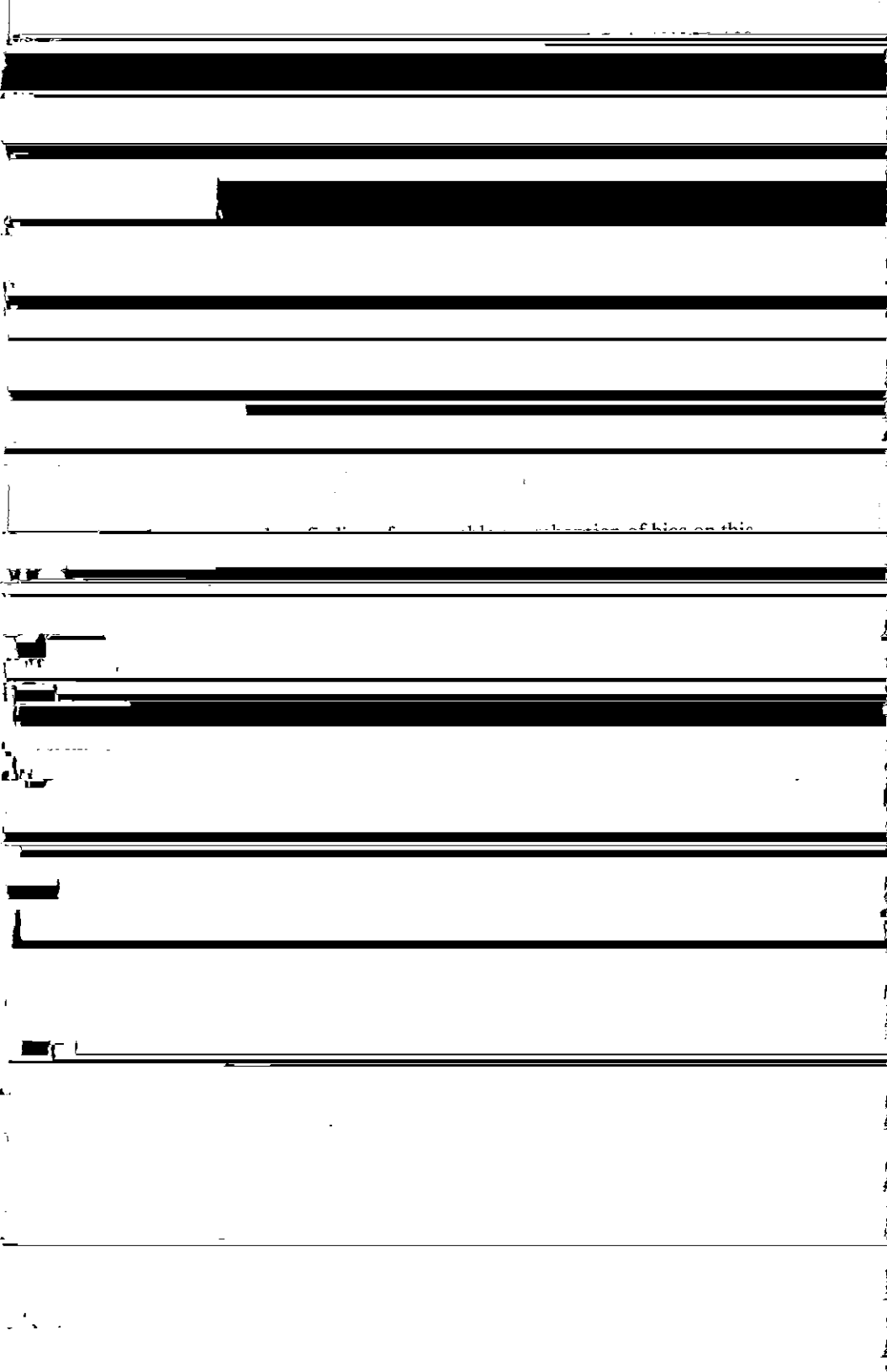
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

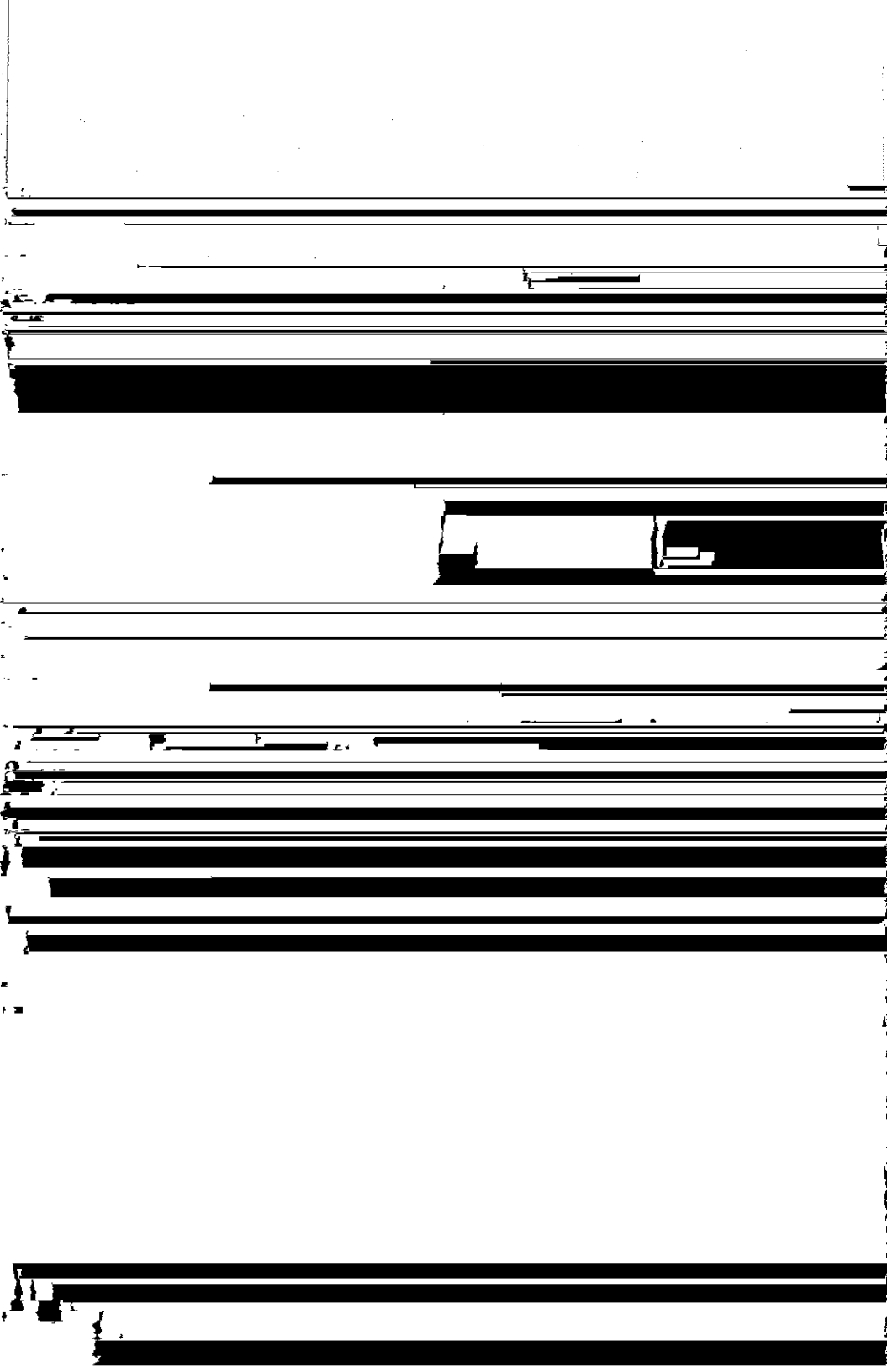


...of his on this

16. *Supra*, note 6, at 719-720.

17. [1986] 3 F.C. 486, at 493.

18. *Valente v. The Queen*, [1985] 2 S.C.R. 673.

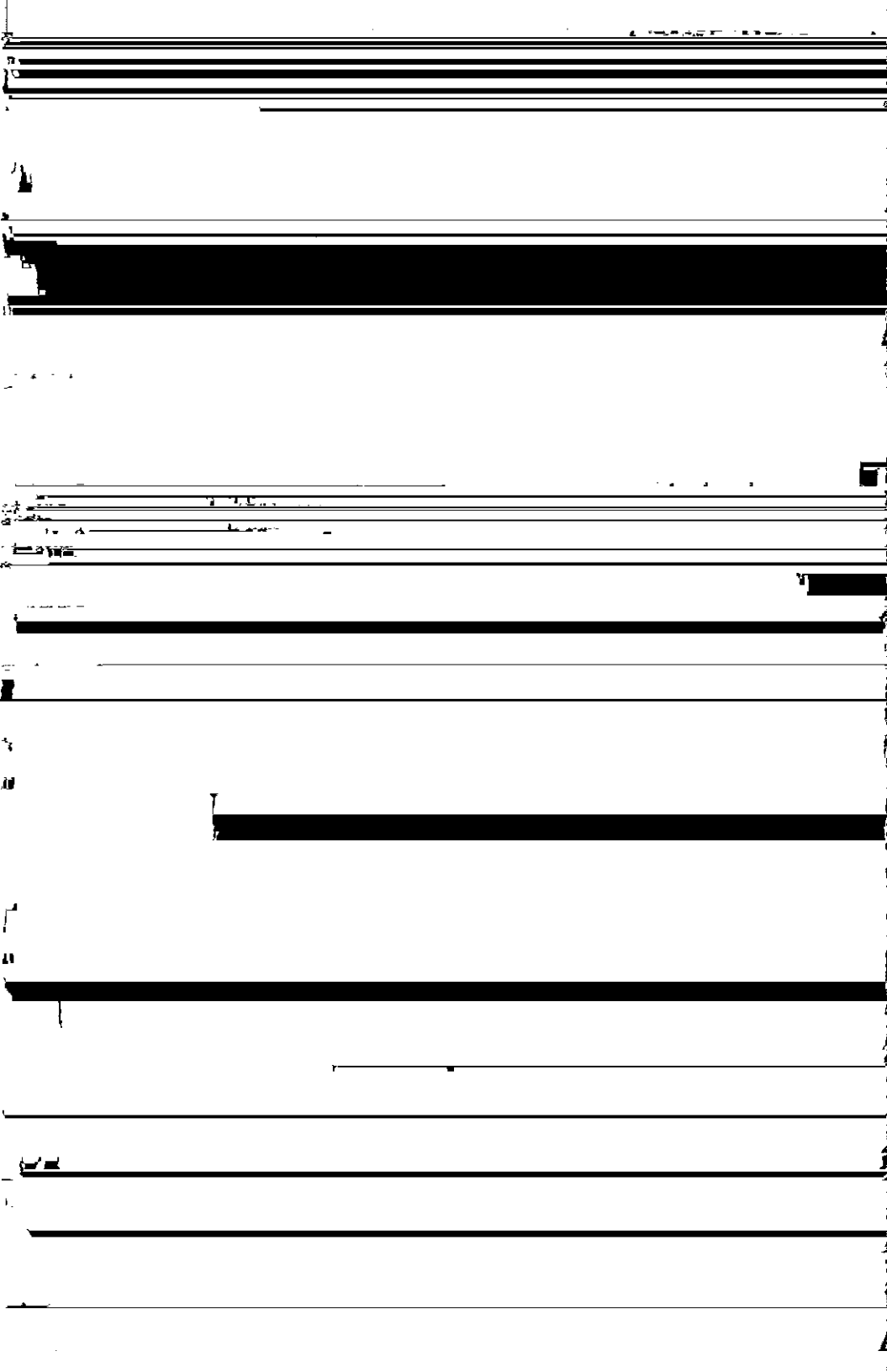


for them. I will then consider how judicial review on *Charter* grounds might operate to correct these flaws, whether at a procedural or at a broader substantive

[REDACTED]

No provision was made for a pre-termination hearing in either case. Neither woman had an opportunity to question officials, to refute allegations, or to respond to the reasons given for the termination prior to its becoming effective.





determine who, in fact, has the authority to formulate which policies, and on what

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

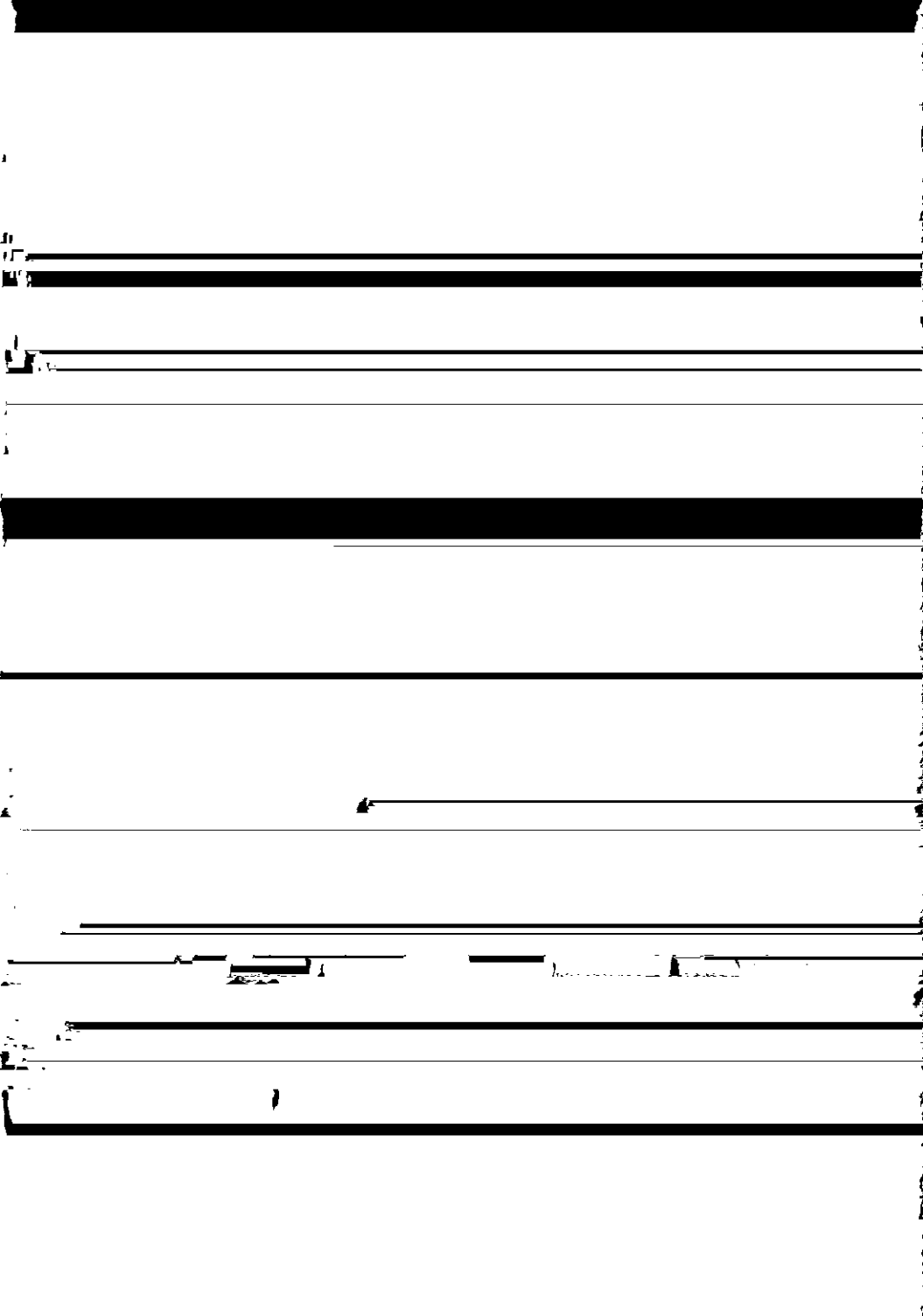
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Bygone eras. Even more significant, however, they are not well represented within



between the individual, the community and the state, long standing Canadian social welfare traditions, and Canada's extensive international commitments in the field of social and economic rights.¹⁸ In the particular case of Lorraine Conard

The fact situations in *Conrad* and *Sparks* make it clear that the section 7 over

1

2

3

4

5

[The remainder of the page is obscured by heavy black redaction bars.]

appointments system, to secure a more representative and diverse judiciary, and through continuing judicial education for those already on the bench.

14. For a discussion of this problem, see generally National Anti-Poverty Organization, *Poor People and the Federal Electoral System: Barriers to Participation* (Ottawa: National Anti-Poverty Organization, May 1990); R.J. VanLoon & M.S. Whittington.

PART THREE

[REDACTED]

[REDACTED]

[REDACTED]

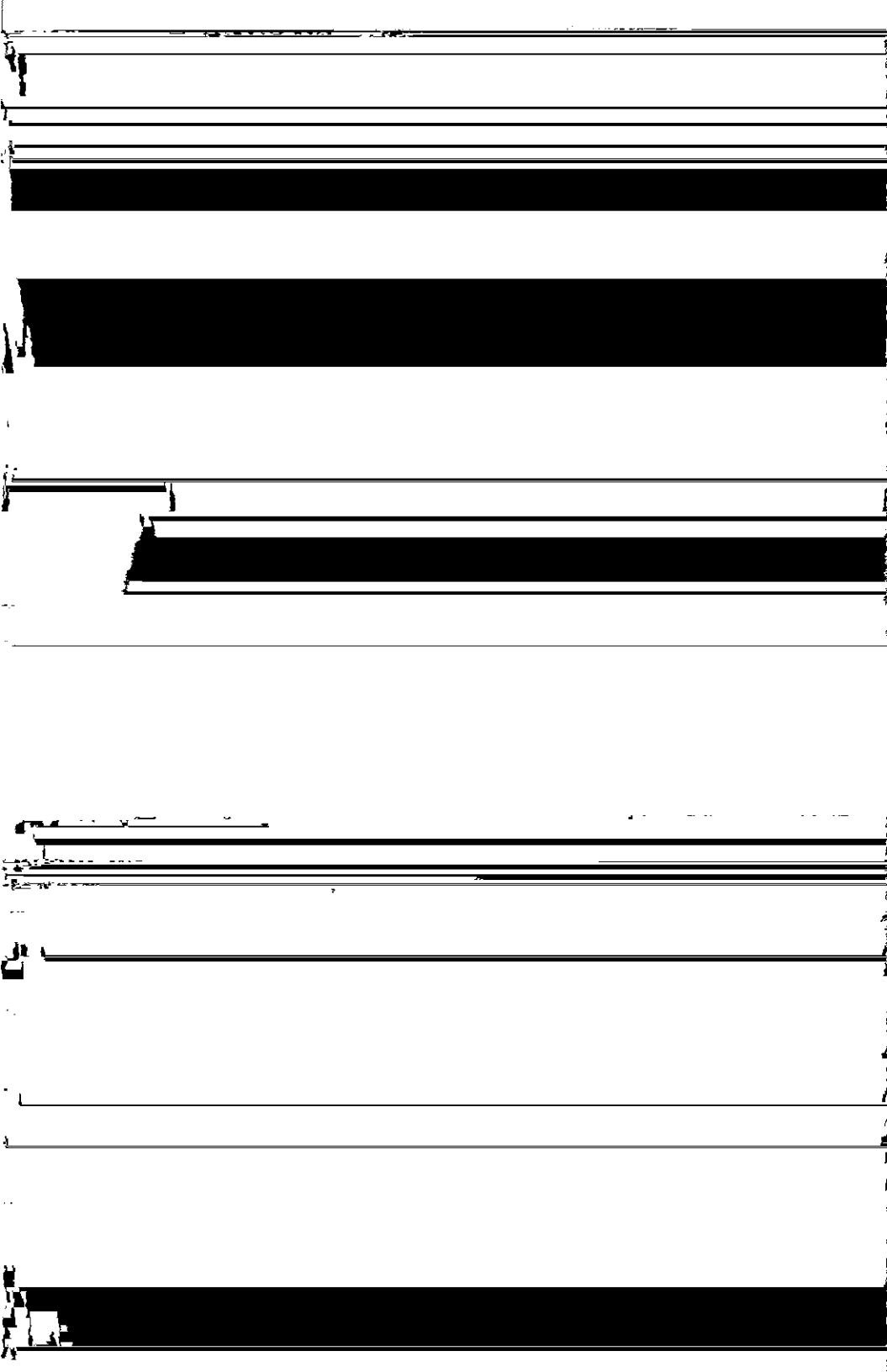
Equality in a Post Modern Time

[REDACTED]

[REDACTED]

[REDACTED]

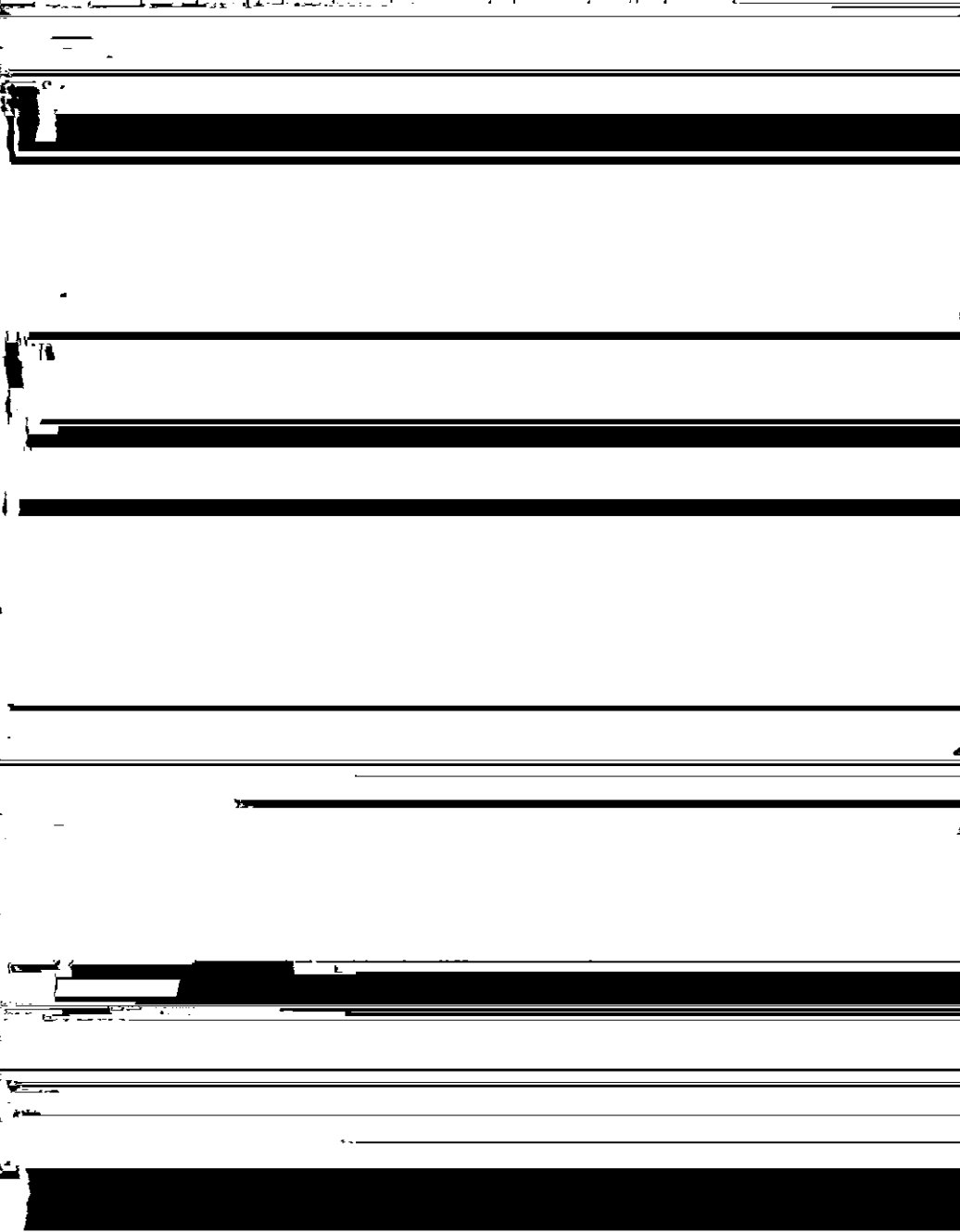
[REDACTED]



may or may not constitute discrimination that may or not be justified, the court's finding, with no real discussion on the point, that people under the age of 19 are

other non-spousal and non-sexual relationships, that is cohabiting "siblings, friends

In this regard, I was really happy to read the *Sparks*¹⁶ decision that Martha Jackman discussed. In that case an African-Canadian single mother on social assistance challenged the reduced eviction notice requirements for public housing



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[The page is heavily redacted with thick black horizontal bars, obscuring the majority of the text. Only a few fragments are visible: '...and the...' on the left margin and '...the...' on the right margin.]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

refer, without comment, to the battered *spouse* syndrome? This is formal equality

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



It is a great pleasure to be here and to take part in this Symposium. I know that Professor Lederman's primary interest was not in the field of equality rights but I did discover that he wrote a case comment on *The Queen v. Drybones*¹ in 1970, ...

to shape the ensuing discourse, LEAF and the other intervenor groups concen-

...and protection on behalf of the law. Second, if there is a denial of equality, it

[REDACTED]

[Faint, illegible text line]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

In the other dissent, Madam Justice McLachlin and Madam Justice L'Heureux-Dubé state that *Rodriguez* was not a section 15 case at all, although it is unclear exactly why not. They state:

[REDACTED]

7 See W. Black and I. Smith "The Equality Rights" in Beaudoin, G. A. Rameau, R.

(6) the applicant must be assessed dollar for dollar of the contribution.

PART FOUR

FREEDOM OF EXPRESSION

Regulating Freedom of Expression the Canadian Way

of implication of that which is made evident in *Dolbin Delivery*² and other

... 1986 ...

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

He laid the foundation largely by accepting that expression is something that could be regulated: yes, it is important; yes, it is part of the core of our democratic structure, but of course in a free and democratic society these things must be balanced, therefore, expression can be regulated for all kinds of legitimate purposes.

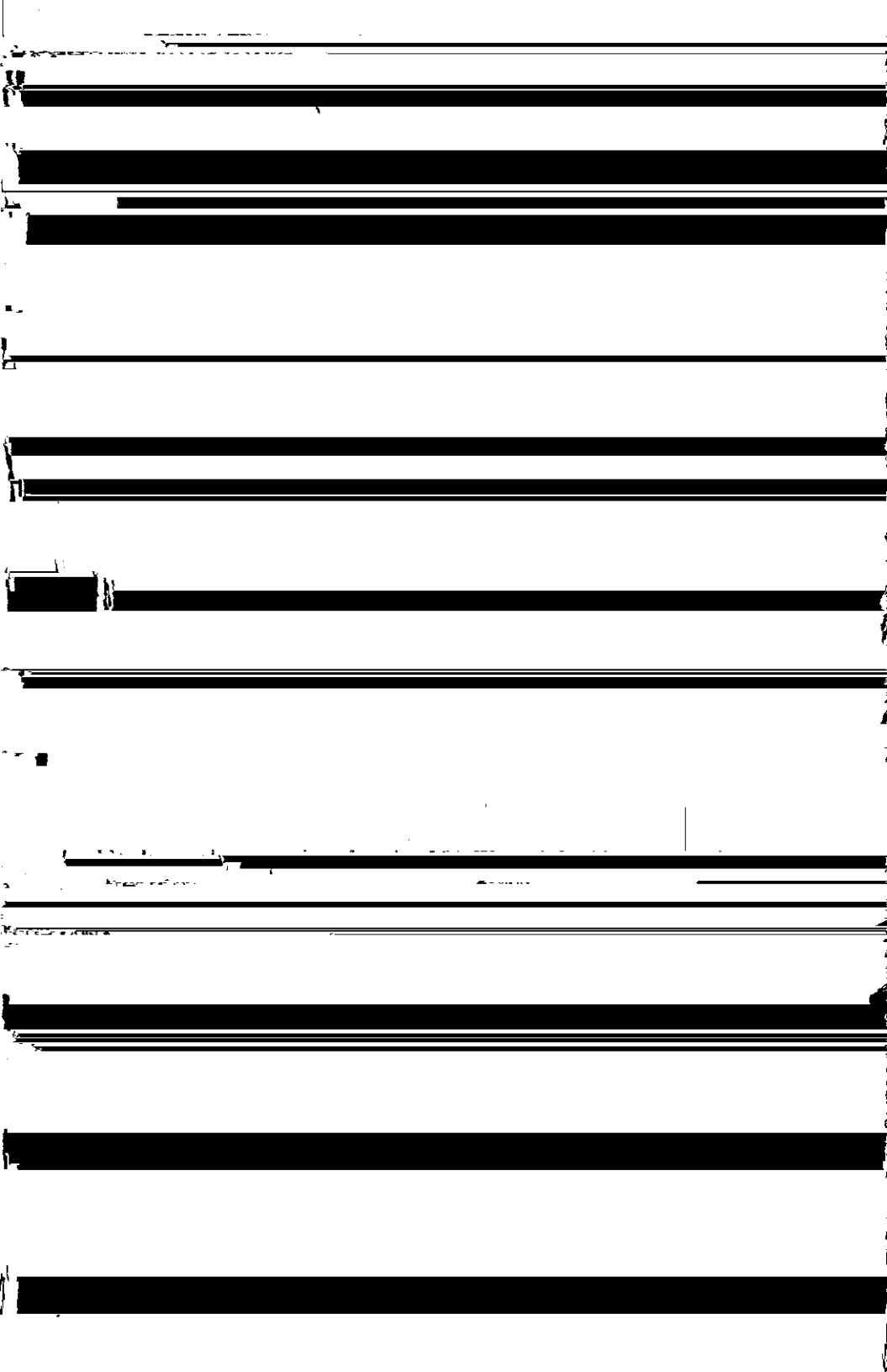
THE ANALYTICAL APPROACH OF THE SUPREME COURT

An Individualistic Focus on Rights

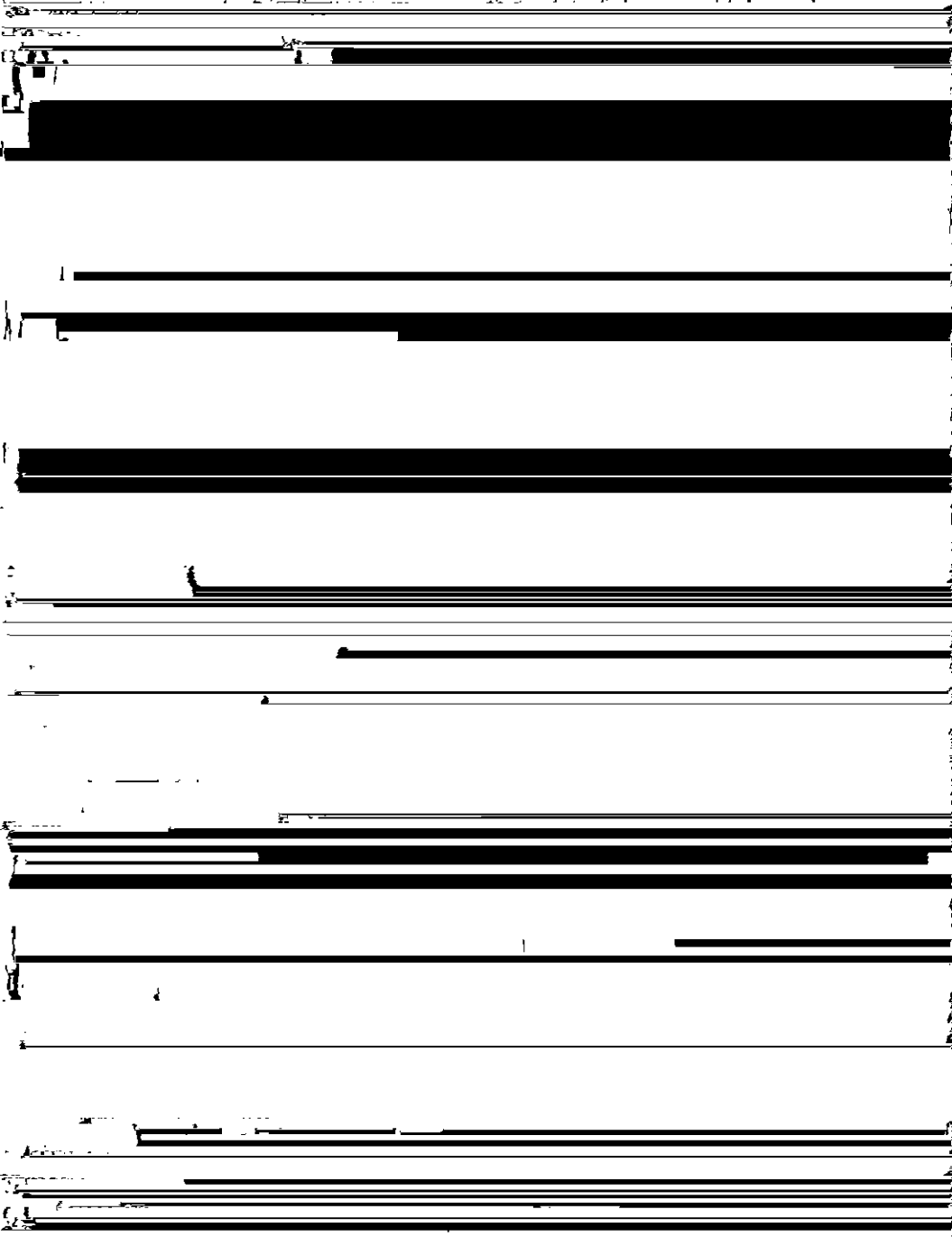
While ostensibly distancing themselves from the American tradition and adopt-

has a violent form. So they exclude non-expressive speech and violent speech, but everything else falls under s. 2(b).

The second stage after that initial exercise is to examine both the purposes and effects of the challenged legislation to see whether either violates the guarantee



or even near, the core of the guarantee of freedom of expression. " He is probably right in the traditional sense and probably Lederman would agree with him. Nevertheless, if you asked people whether sexual expression or political expression

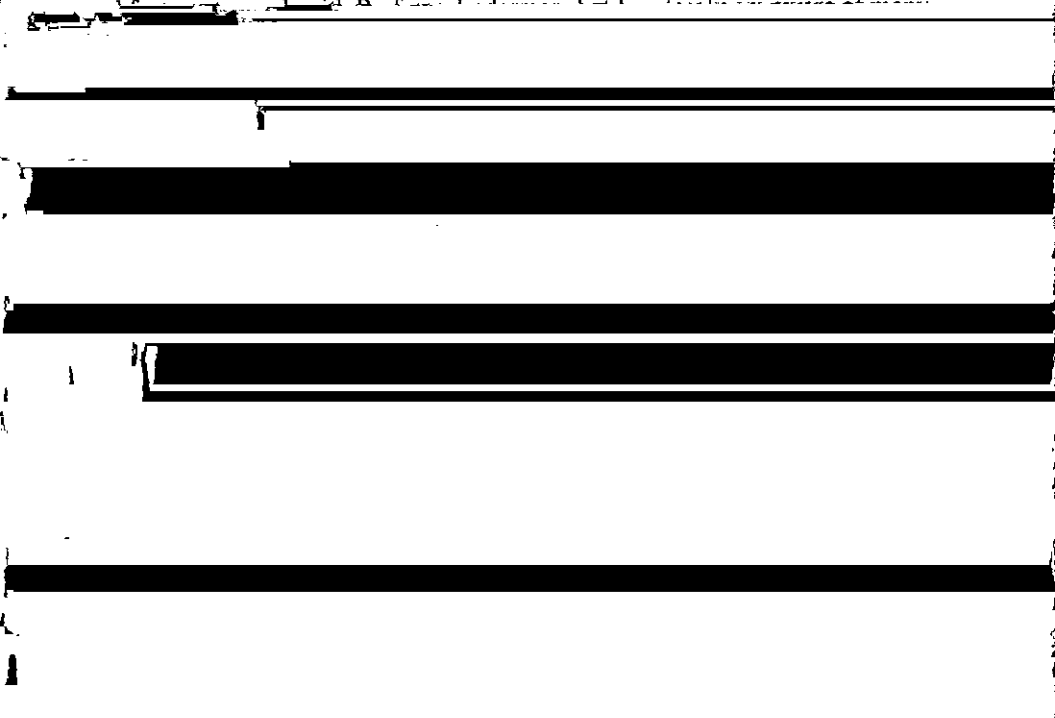


rights-based decisions. We have seen the beginnings of this in the freedom of

Freedom of Expression: Hate Propaganda, Pornography, and Section 1 of the *Charter*

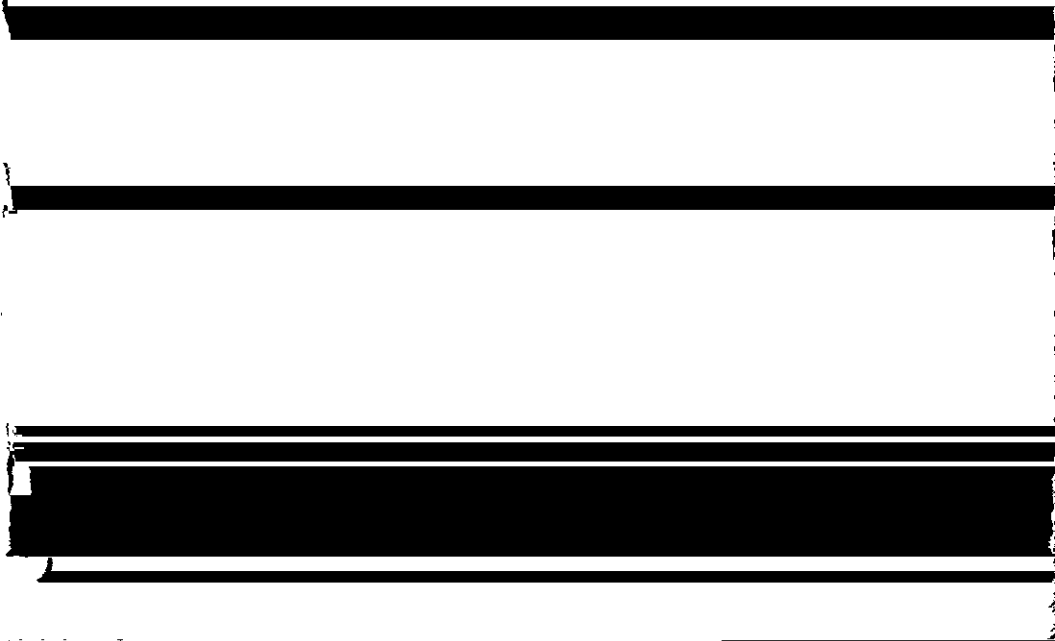
Kathleen Mahoney

I would like to thank the Queen's University Law Faculty for inviting me to attend this symposium in honour of the late Professor Lederman. I did not have the



of section 1 in the *Charter* requires the analysis to be split into two distinct stages. The first stage requires a court to determine the scope and content of the right,

[REDACTED]



[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

norms nourish constitutional principles, the constitution will evolve in a way sensitive to societal change.¹⁷ This approach is meant to avoid the creation of rigid doctrinal principles that may not serve us well in the future. To the extent that the

to be consistent with the intent of the framers and

system so obvious that it forces prejudice concerning women and disadvantaged groups out into the open and sometimes out of the law

justifying the hate propaganda laws under section 1. This decision was appealed to the Supreme Court of Canada.

_____ *Char*

1. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

dissentient schools⁴⁸, underline the strong commitment to collective rights in the *Charter* that is not evident in the American Constitution. Against this background, it is not surprising the Court found that prohibition of the public schools

extreme form of dislike, vilification, detestation and malevolence that belies rea-

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The pressing and substantial concern requirement was further bolstered by section 28. As noted above, section 28 states that, "notwithstanding anything in the

Charter, the rights and freedoms referred to in it remain subject to such laws as are enacted by the

imposing heavy taxes on pornography, or requiring special licences for its distribution sends the message that harms to women will be tolerated as long as the user pays. Government would be complicit in the pornography trade and even

Justice Souter

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Amendment which never included consideration of women in their making and

[REDACTED]

18 Rosalie Abella "The Evolutionary Nature of Equality" in *V. E. Mahoney and S. J.*

... of the University of Maryland and told the students they should

1987

1987

50. *Keegstra*, [1990] 3 SCR at 750, citing *Slaight Communications Inc. v. Davidson*, [1989] 1 SCR 1028, 1056.
51. *Keegstra*, [1991] 2 W.W.W. 1 at 56 (SCC).
52. *Ibid.*, at 62.
53. *Ibid.*, at 71.
54. Justice Wilson in *R v Turpin* [1989] 1 SCR 1296, 1333 said that s 15 is designed to

PART FIVE

CRIMINAL LAW

Post-*Charter* Omne Animal Triste?

11

12

13

the government has no constitutional right to do so. The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

The court's decision was based on the fact that the government had not established a sufficient case for the intervention of the courts.

NOTES

1. Don Stuart, *Charter Justice in Canadian Criminal Law*, Scarborough: Carswell, 1991.
2. Colin Wells, *Comparisons and Criminal Responsibility*, New York: Oxford Univer

The *Charter*: “Good” or “Bad” for
Criminal Law?

example, of a single case where there has been a successful *Charter* argument

... We have this Committee approach to ...

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

to take the fact of an abusive relationship into account when concluding on whether

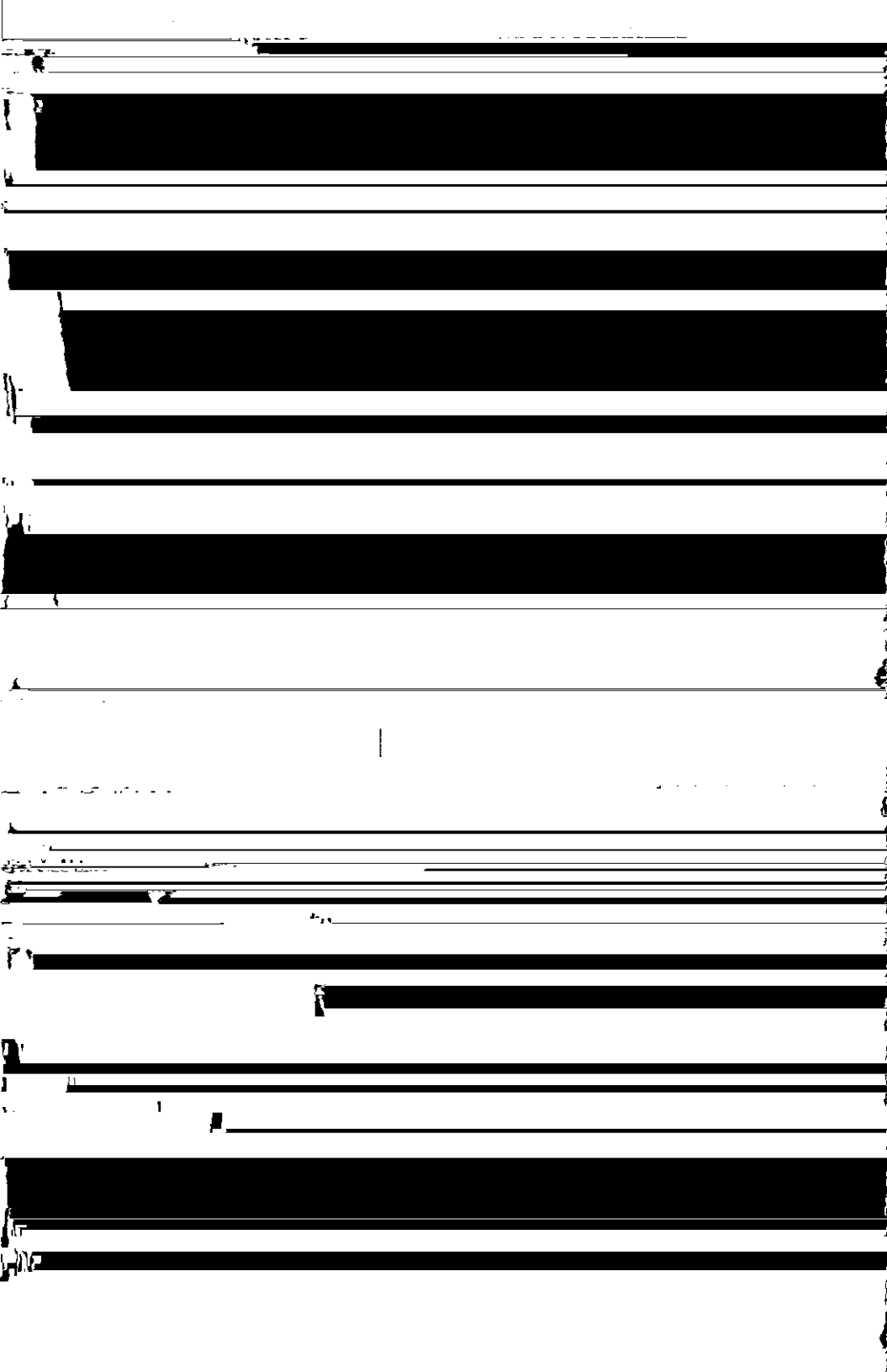
17

18

PART SIX

GROUP RIGHTS

Taking Group Rights Seriously



Group rights are relatively numerous in the Canadian constitutional order. His-

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

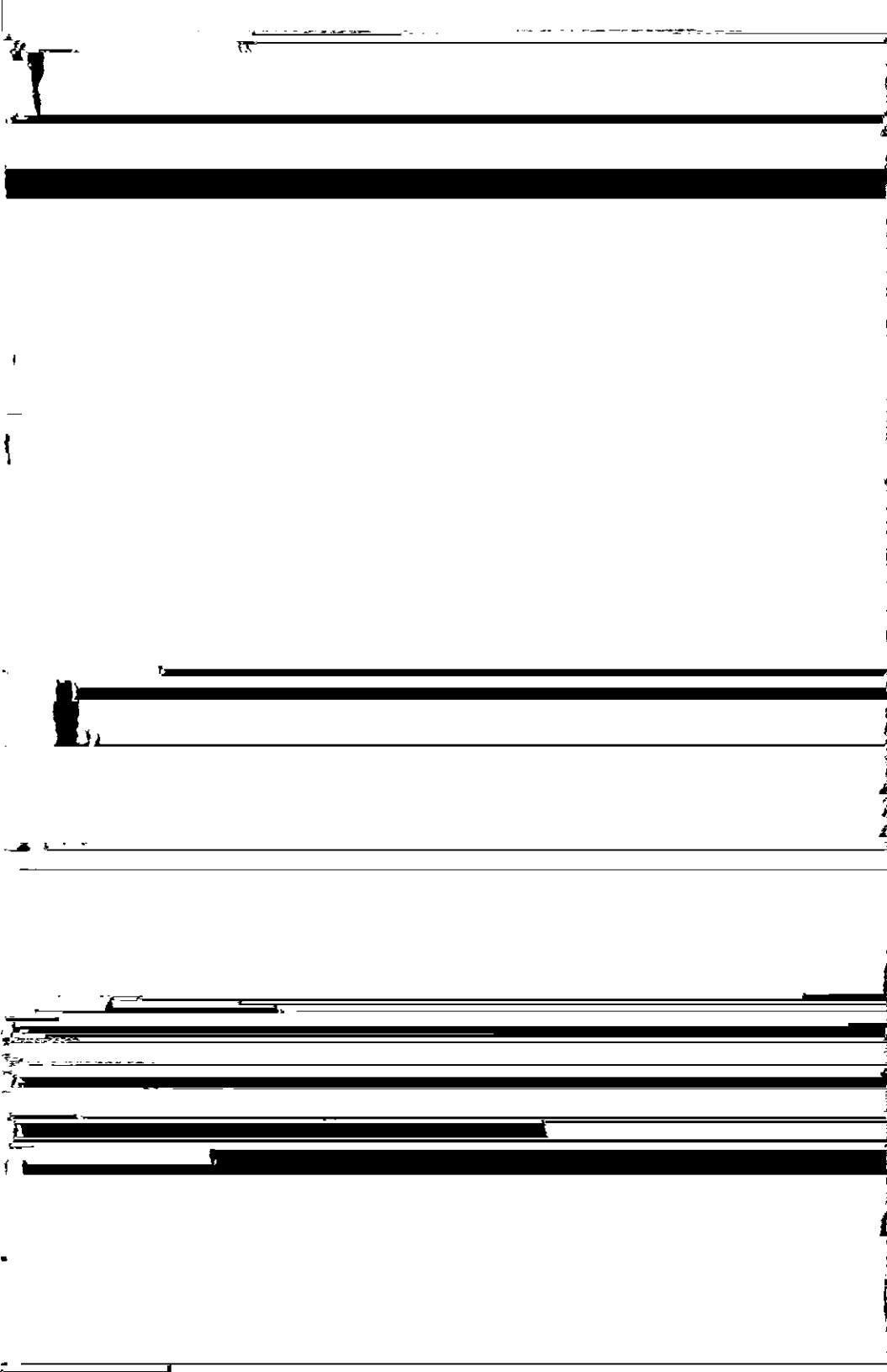
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



It is probably fairly difficult for Canadian courts to force compliance with the

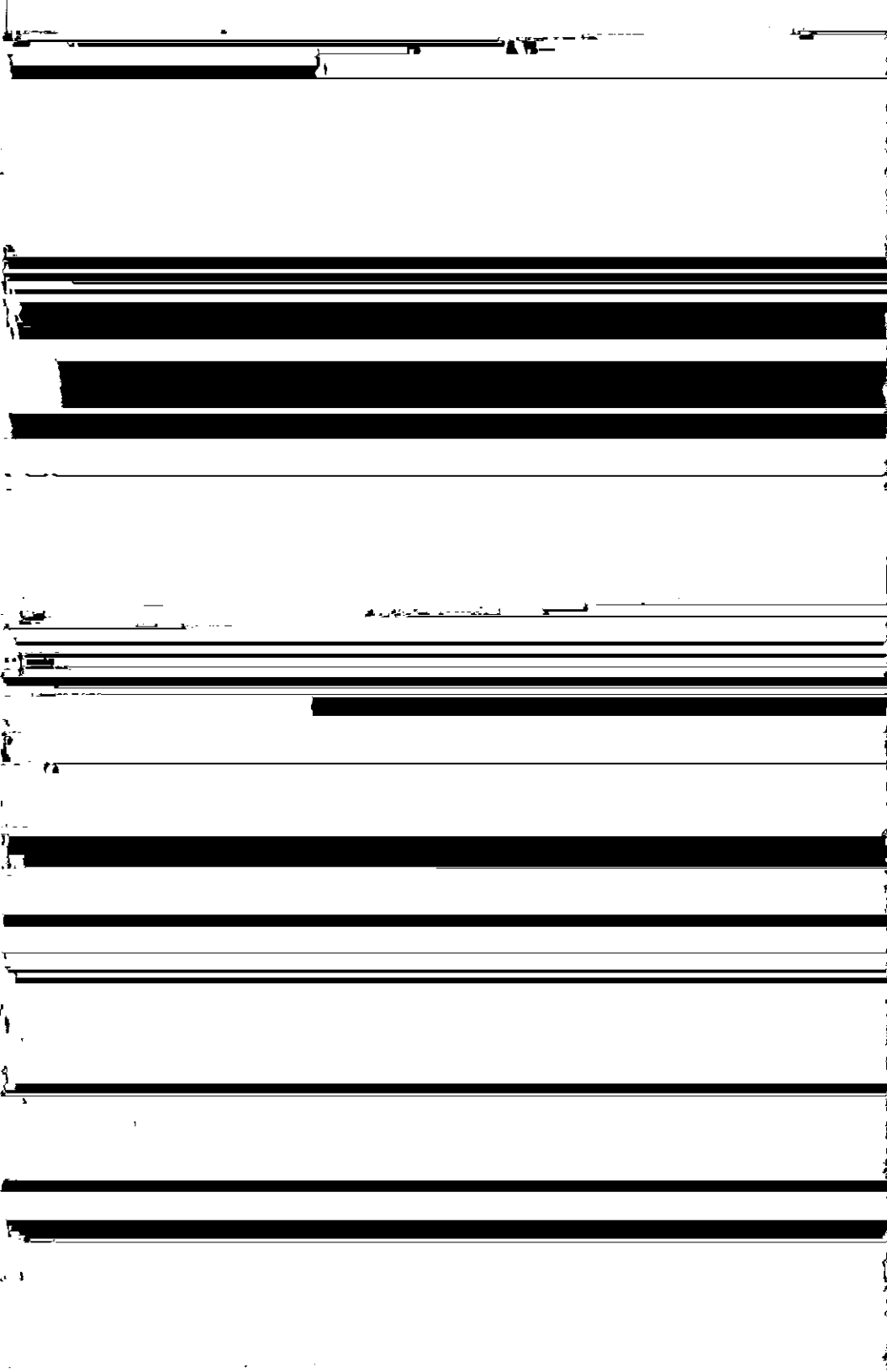
constitution in the United Kingdom and even the state with respect to

[REDACTED]

Which group in such situations has the legitimacy conferred by group rights, and how far does this legitimacy extend? There are no obvious solutions to such difficult questions as the recent discussions in Quebec around language advertising rights or aboriginal rights during the Charlottetown constitutional round show. Nevertheless, a Human Rights Committee from the United Nations recently ruled about the question of P 31-178 in October (1987) that the state has a duty to

the very reason why the group's rights were granted in the first place. In cases

CONCLUSION



Aboriginal Rights and the Constitution: A Story Within a Story?

Darlene Johnston

INTRODUCTION

I welcome this opportunity to participate in the Lederman Symposium. Although I never had the privilege of meeting Professor Lederman, I do appreciate his profound contribution to Canadian constitutional scholarship. His writings demonstrate both commitment to constitutional renewal and respect for social and historical context. These qualities are essential in understanding group rights, nar-

ticularly the rights of aboriginal peoples.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

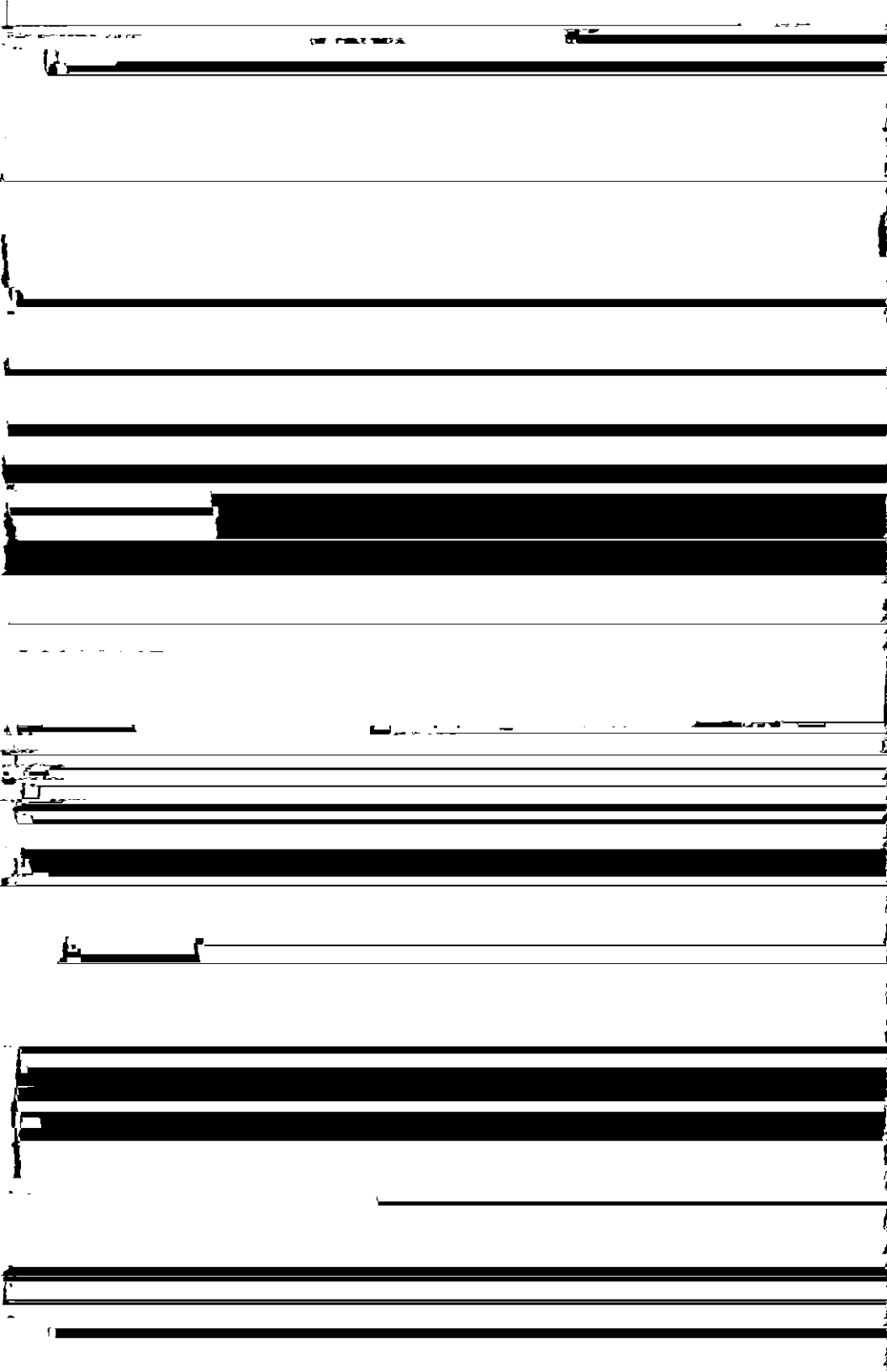
[REDACTED]

[REDACTED]

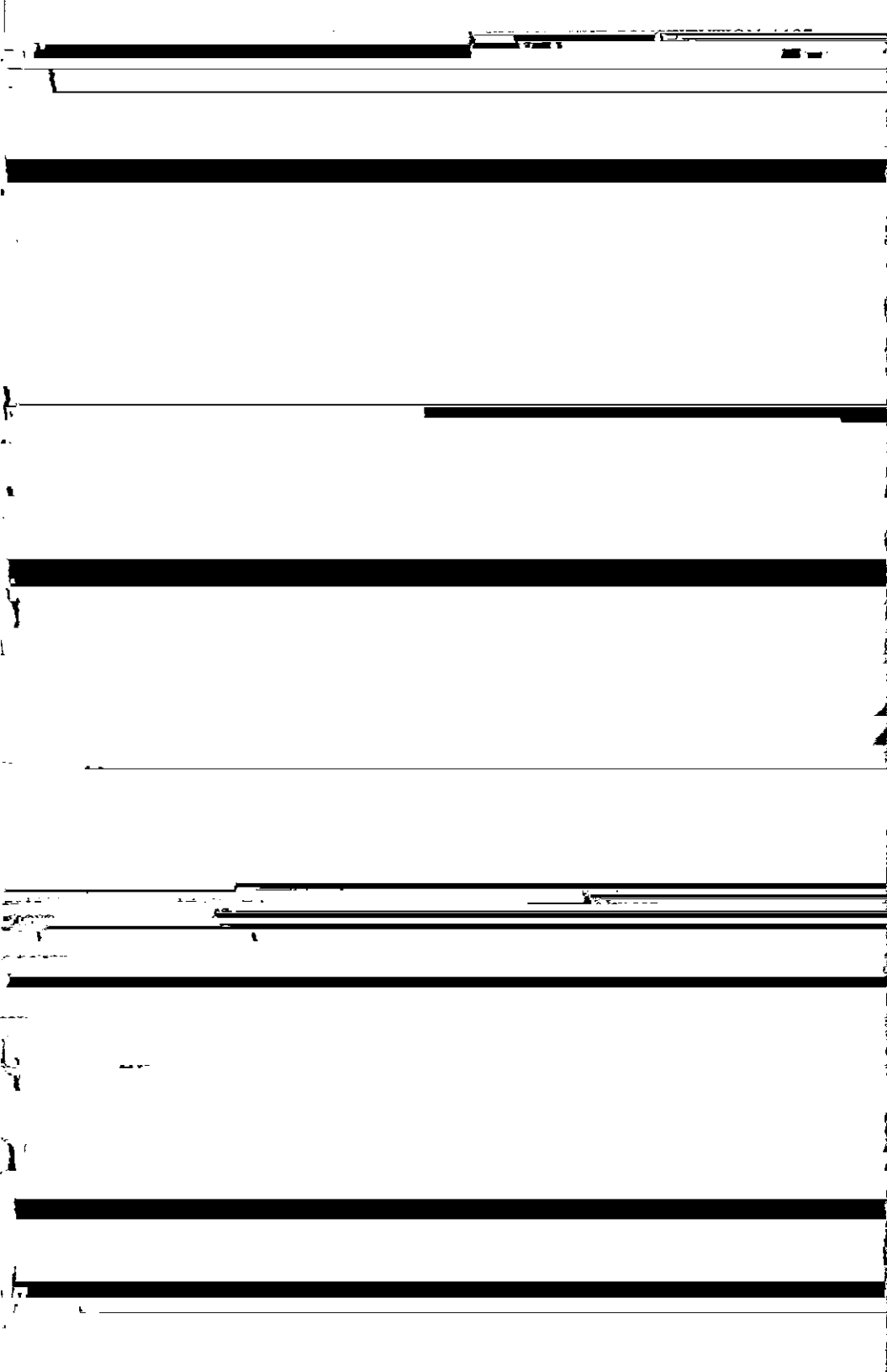
[REDACTED]

[REDACTED]

[REDACTED]



they will be equal under the law but they risk losing certain of their traditions, certain aspects of a culture and perhaps even certain of their basic rights.⁶



government propensity for interference with chemical rights by establishing a

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

consideration in determining whether the legislation or action in question can be justified."¹¹

The history of this special trust relationship is a story that the governments

... of ...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

Judge Fairgrieve was persuaded by the evidence introduced to support the

[REDACTED]

for their families. Alternatively, they could continue fishing and selling, conduct which the Ministry had made illegal by imposing a limit which took no account of the existing communal rights.

In the eyes of the fishermen, the last option was the most justifiable, believing

the negative consequences of increased unemployment and poverty on both an individual and communal level.¹⁶

... the negative consequences of increased unemployment and poverty on both an individual and communal level.¹⁶

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

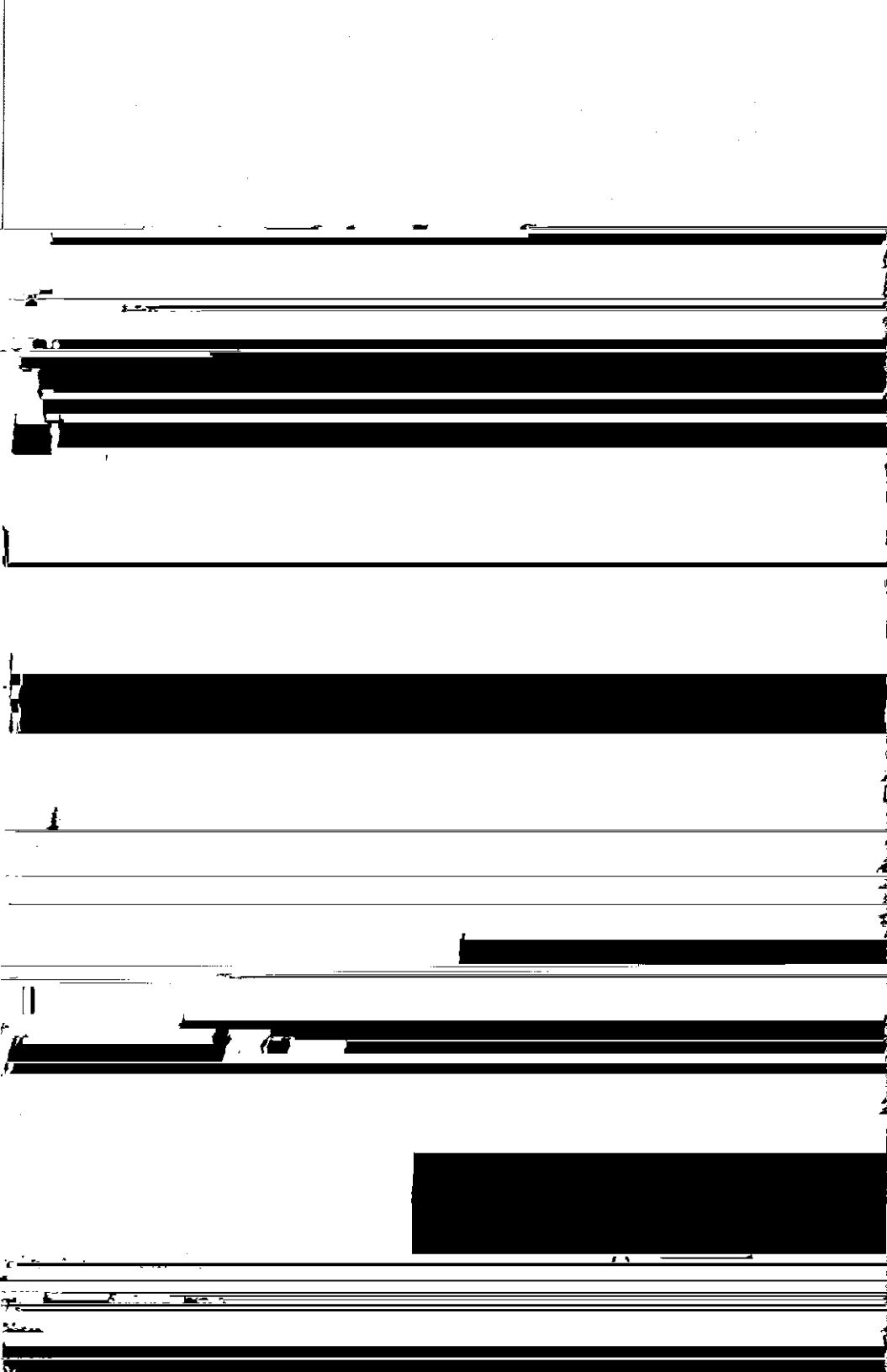
[REDACTED]

[REDACTED]

[REDACTED]

PART SEVEN

JUDICIAL INDEPENDENCE AND RESPONSIBILITY



constitutionally protected. The provision of resources by the taxpayer also has to take account of the total resource availability of the community and the other

Let me turn to the second part of my proposed paper which is some observations about trial restructuring in Canada. As Professor Ross has pointed out in a

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

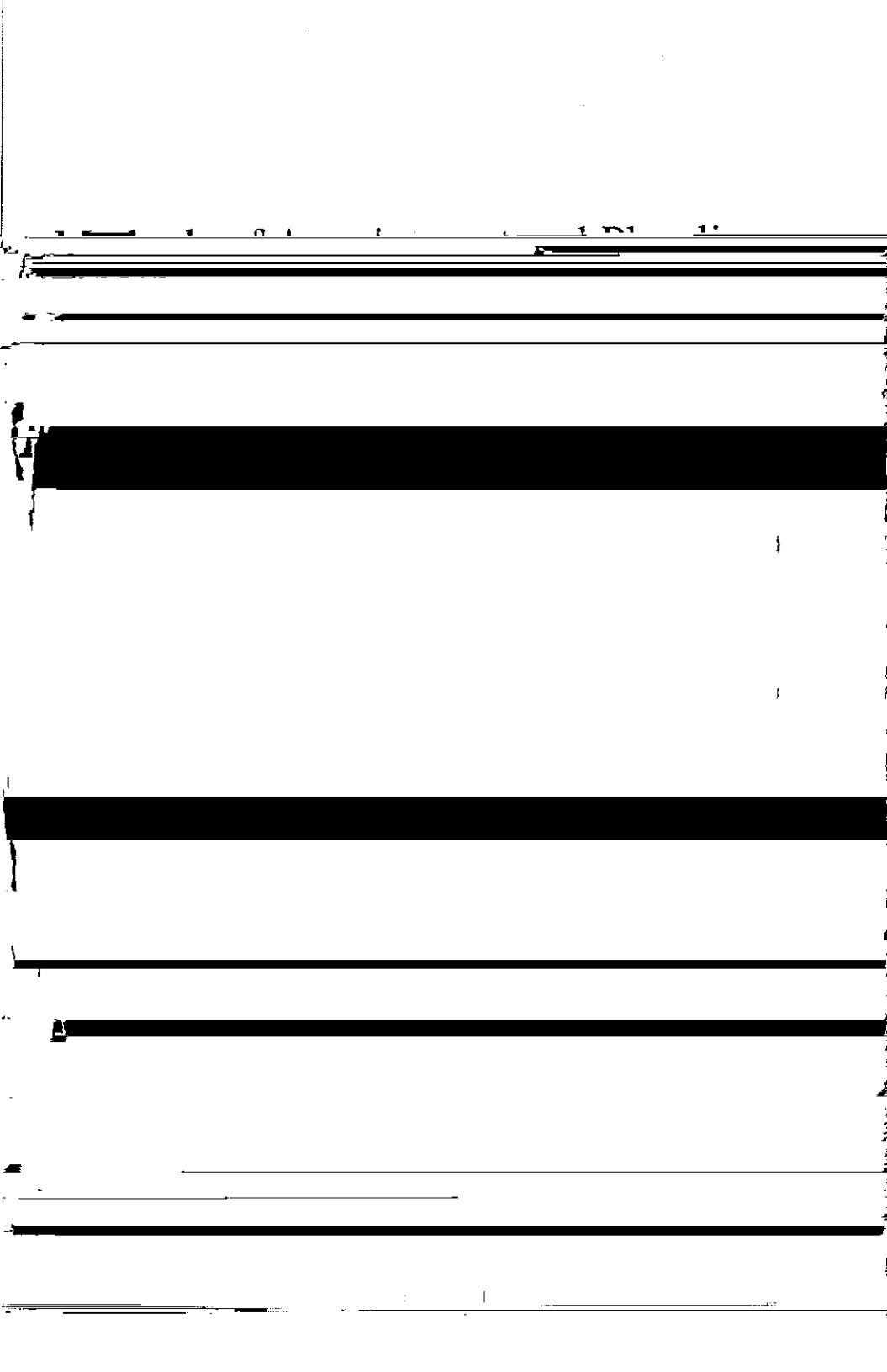
the capacity to try the most trivial small claims case, a criminal prosecution or a multi-million dollar civil suit.

Chief Justice and would not have tolerated one in a practical sense because each

... and the ... of ... was the system in large measure and

bureaucracy that would run the court system. The question became and remains, to what extent should that bureaucracy be under the control of the public service and the taxpayers, and to what extent should it be controlled by the judges? There was much debate and as usual the Minister lost again. S. 78 of the Courts of

... would have a severe defeat and really set in a rough way the relation



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

understanding of the decision-making process, and some writing skills. But what

[REDACTED]

[REDACTED]

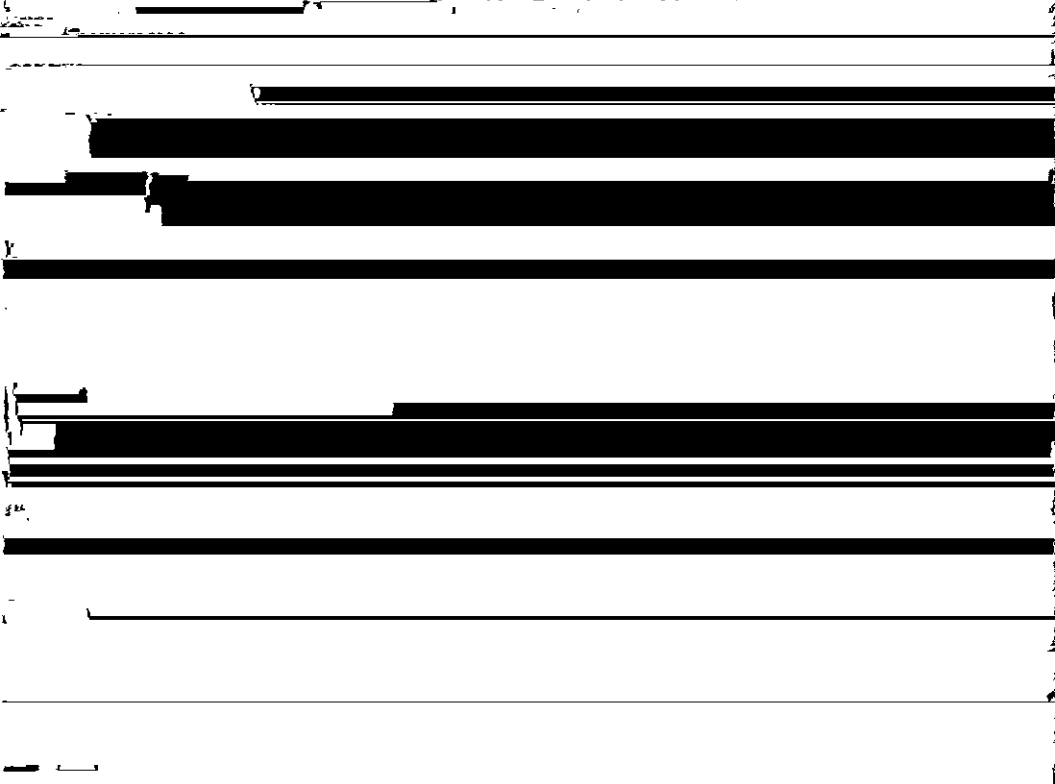
[REDACTED]

[REDACTED]

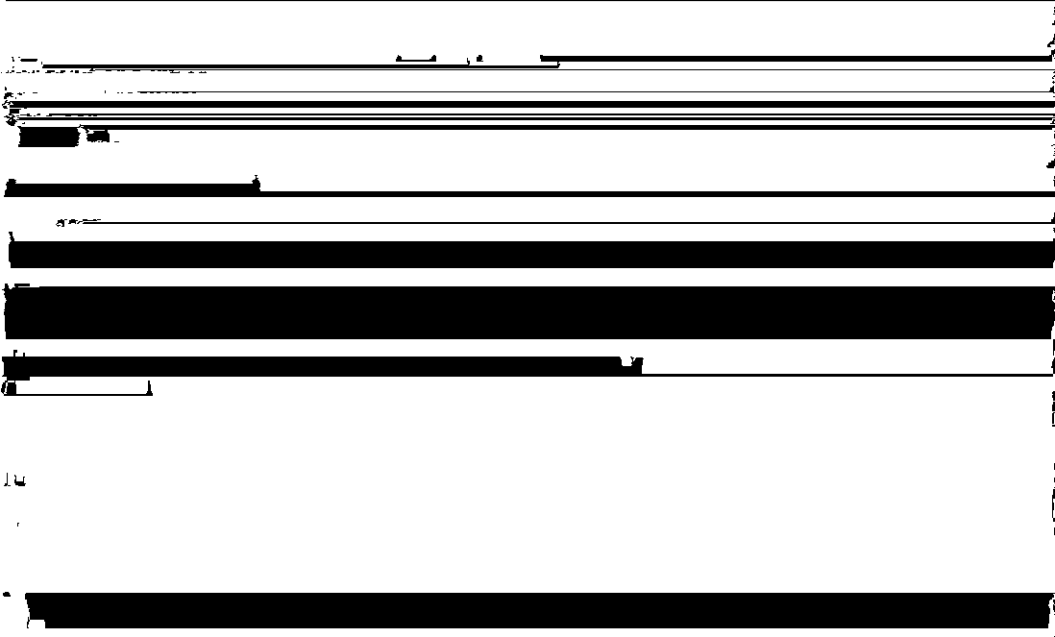
[REDACTED]

[REDACTED]

terms, and it is important to remember that this includes the distributions and divi-



The coming into force of the *Charter* strengthened this element of the argu-



requirement of independence would be unnecessary. However, judicial independence is critical to the public's perception of impartiality. Independence is the cornerstone, a necessary prerequisite for judicial impartiality.¹²

I conclude this section with two observations. First, the most important aspect of courts following the *Act of Settlement* model is that they must be presided by impartial judges. Second, the institution of the courts must be perceived to be impartial.

1. The judicial system is organized from a foundation of three main branches: executive, legislative, and judicial.

2. The executive branch is headed by the President.

3. The legislative branch is headed by Congress.

4. The judicial branch is headed by the Supreme Court.

5. The executive branch is responsible for enforcing the laws.

6. The legislative branch is responsible for making the laws.

7. The judicial branch is responsible for interpreting the laws.

8. The executive branch is responsible for the day-to-day operations of the government.

9. The legislative branch is responsible for representing the people.

10. The judicial branch is responsible for protecting the rights of citizens.

11. The executive branch is responsible for the foreign relations of the United States.

12. The legislative branch is responsible for the budget of the United States.

13. The judicial branch is responsible for the interpretation of the Constitution.

14. The executive branch is responsible for the appointment and removal of judges.

15. The legislative branch is responsible for the impeachment of judges.

16. The judicial branch is responsible for the review of executive actions.

17. The executive branch is responsible for the execution of the laws.

18. The legislative branch is responsible for the passage of laws.

19. The judicial branch is responsible for the resolution of disputes.

20. The executive branch is responsible for the maintenance of order.

21. The legislative branch is responsible for the representation of the people.

22. The judicial branch is responsible for the protection of the rights of citizens.

23. The executive branch is responsible for the day-to-day operations of the government.

24. The legislative branch is responsible for the budget of the United States.

25. The judicial branch is responsible for the interpretation of the Constitution.

26. The executive branch is responsible for the appointment and removal of judges.

27. The legislative branch is responsible for the impeachment of judges.

28. The judicial branch is responsible for the review of executive actions.

29. The executive branch is responsible for the execution of the laws.

30. The legislative branch is responsible for the passage of laws.

31. The judicial branch is responsible for the resolution of disputes.

32. The executive branch is responsible for the maintenance of order.

33. The legislative branch is responsible for the representation of the people.

34. The judicial branch is responsible for the protection of the rights of citizens.

...of the ...

AFTERWORD

George Thomson¹

... to be part of today's symposium and

way that nothing else might have. I've been told that in Bill's case it may have produced his sense of resolve, patience and endurance, his ability to make a commitment to friends and to live up to that commitment, his modesty and his gentle-

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

and the work he did to develop a constitution for the new government of Papua, New Guinea.

Williams has been a student of Canadian history and his fascination with the politics

... of the fundamental values. As might be expected, the

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Selected Works of W.R. Lederman

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

the fact that the majority of the population of the province is of French descent, and that the province has a long history of bilingualism.

The court also noted that the province has a long history of bilingualism, and that the majority of the population is of French descent. This is a factor that the court must take into account when it considers the constitutionality of the law.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.

The court also noted that the law was not discriminatory, and that it was a valid exercise of the province's power to legislate in the area of language.

The court then considered the constitutionality of the law. It found that the law was not unconstitutional, and that it was a valid exercise of the province's power to legislate in the area of language.