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## FOREWORD

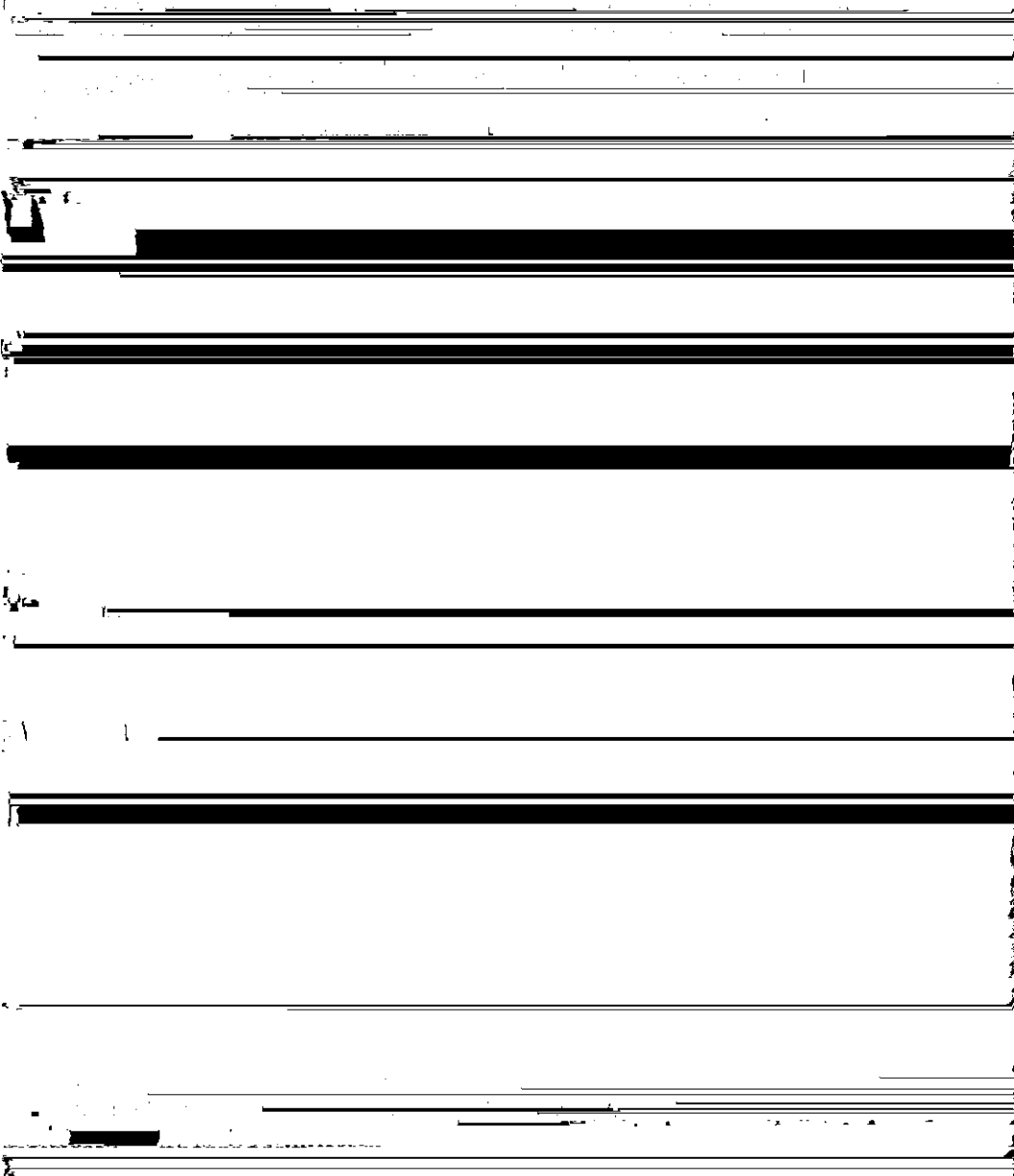
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ABSTRACT

**THE DESIGN OF FEDERALISM AND WATER RESOURCE  
MANAGEMENT IN CANADA**

by [Name obscured]

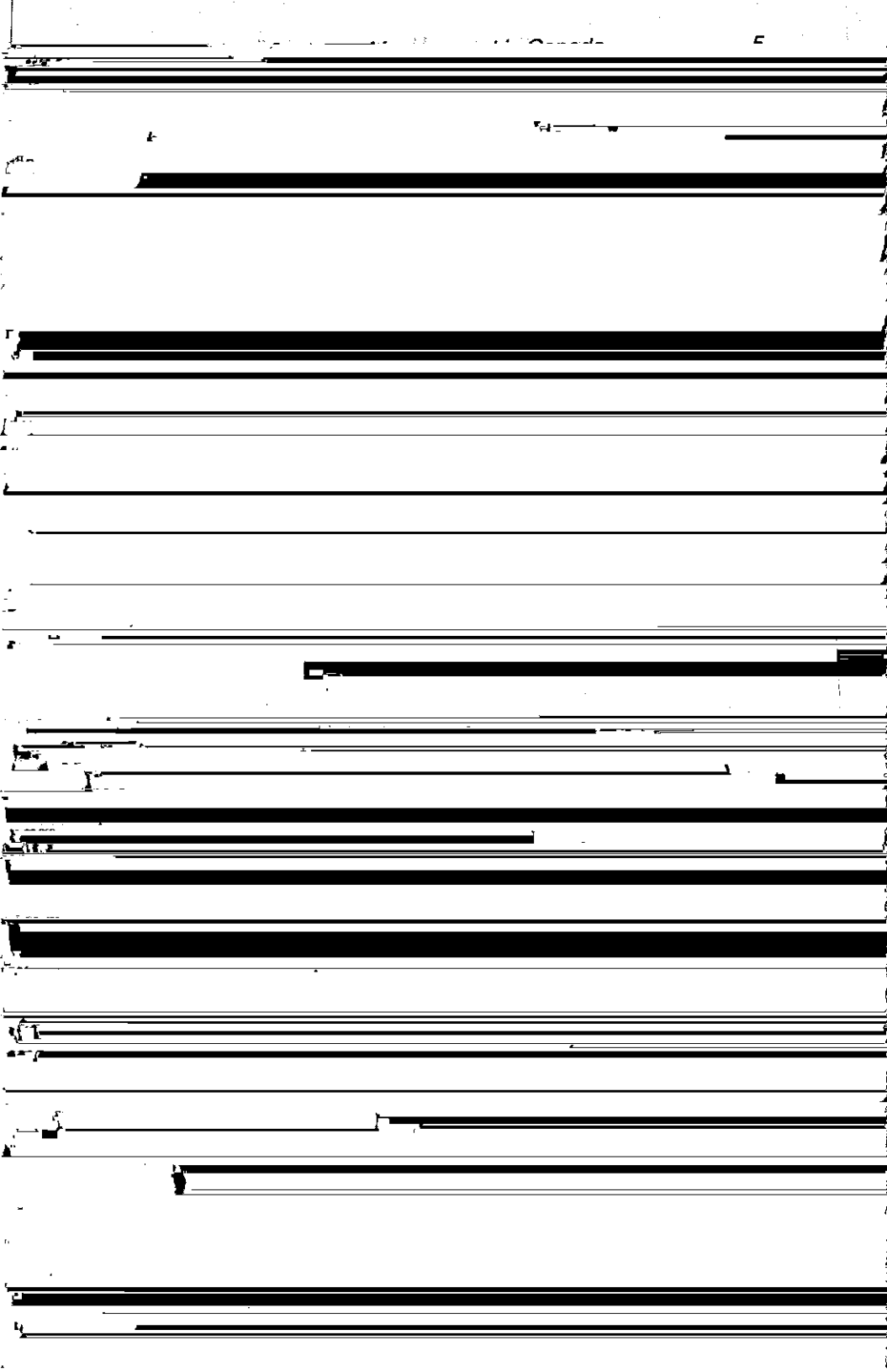




As water issues increase in prominence, so too will the difficulties of reconciling competing interests and making the policy decisions necessary to manage this resource in a sustainable manner.<sup>2</sup> The challenges of water management include conflicting demands in regions of water shortages, threats to water quality, and the social, economic and environmental consequences of

17.

With many externalities, a common property resource is the medium by which costs are transmitted. In fact, a classic example of behaviour producing externalities is when an upstream polluter's consumption of the "free" good of waste







undermining<sup>18</sup> Stevenson proposes five criteria as guides to the distillation of

rivalry, and its overlap with other criteria of choice. The first problem posed by the criterion of community is that it reveals very little about how specific



argues that “[i]here is no province in Canada that is made up of a homogeneous

have limited relevance to the design of federalism as it relates to water management.

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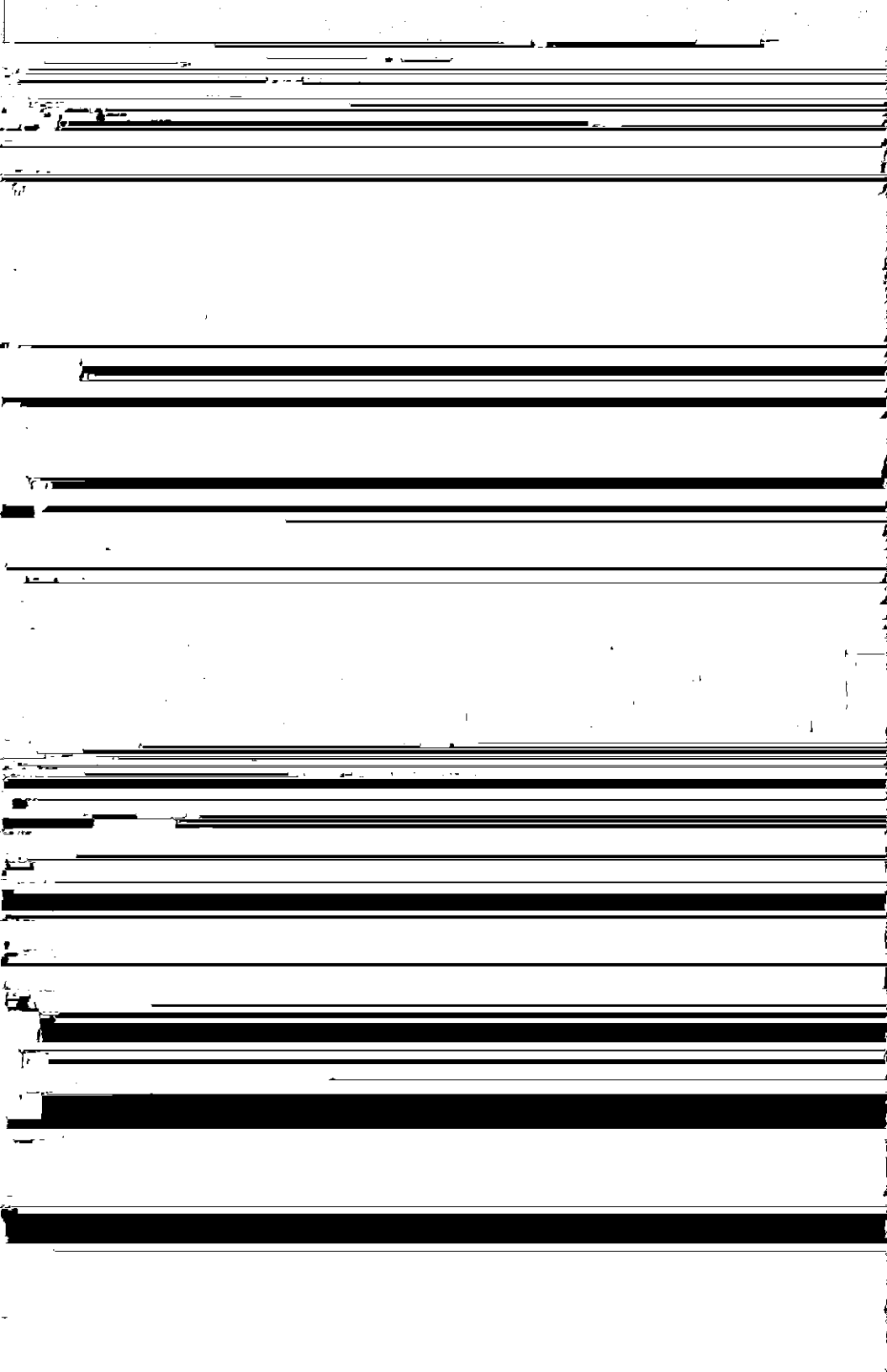
implementation requires adaptation to local circumstances... and...

heads of provincial power in section 92 and to the authority of Parliament over many policy areas affecting two or more provinces, such as interprovincial transport, trade and commerce, fisheries and works declared to be for "the general advantage of Canada." The importance of externalities is also recognized in Simeon's comment that:

Perhaps the clearest criterion for allocating powers is the view that the jurisdiction for a given policy should precisely coincide with the set of people affected by it.

MINIMIZATION OF INTERJURISDICTIONAL EXTERNALITIES  
AS AN OPERATIONAL PRINCIPLE OF FEDERALISM

In this section, the minimization of interjurisdictional externalities is examined

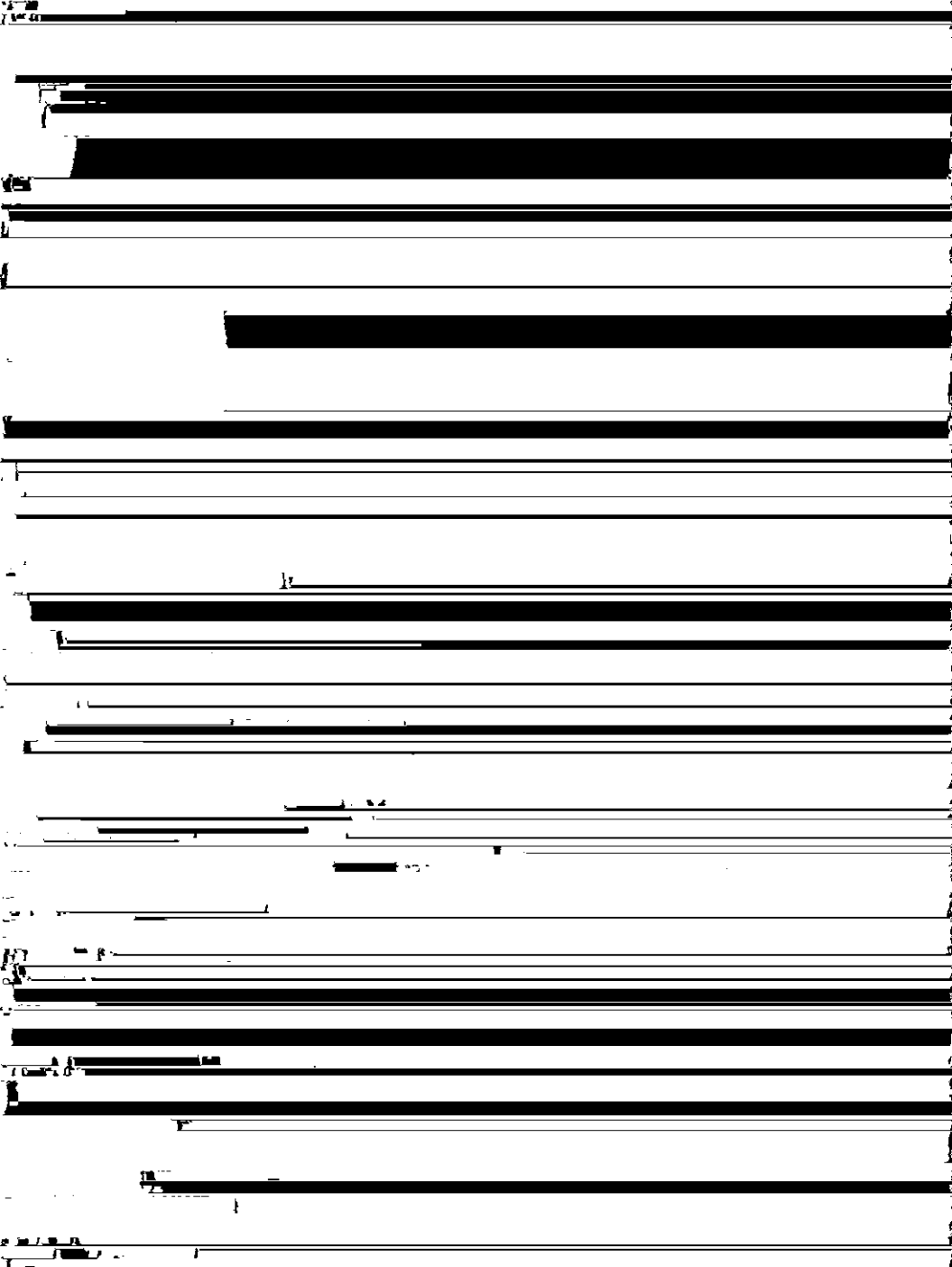




resources that citizens can devote to political activity. In the context of Canadian federalism, however, there is no need to go back to first principles. The number of jurisdictions to which powers can be assigned under the constitution is limited 50

sovereignty just become irritating man-made obstacles to solving unbounded

problems for water world



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... of ... of policies

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THE MINIMIZATION OF ORGANIZATIONAL COSTS AS A  
FRAMEWORK FOR ALLOCATING POWERS IN FEDERALISM

In this section, the Breton and Scott framework of analysis is used to

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cost minimization yields useful conclusions as to how specific powers should be allocated. It should be noted that this approach does not require putting a dollar value on these costs. Rather, it provides a useful framework for identifying and organizing arguments about the division of powers.

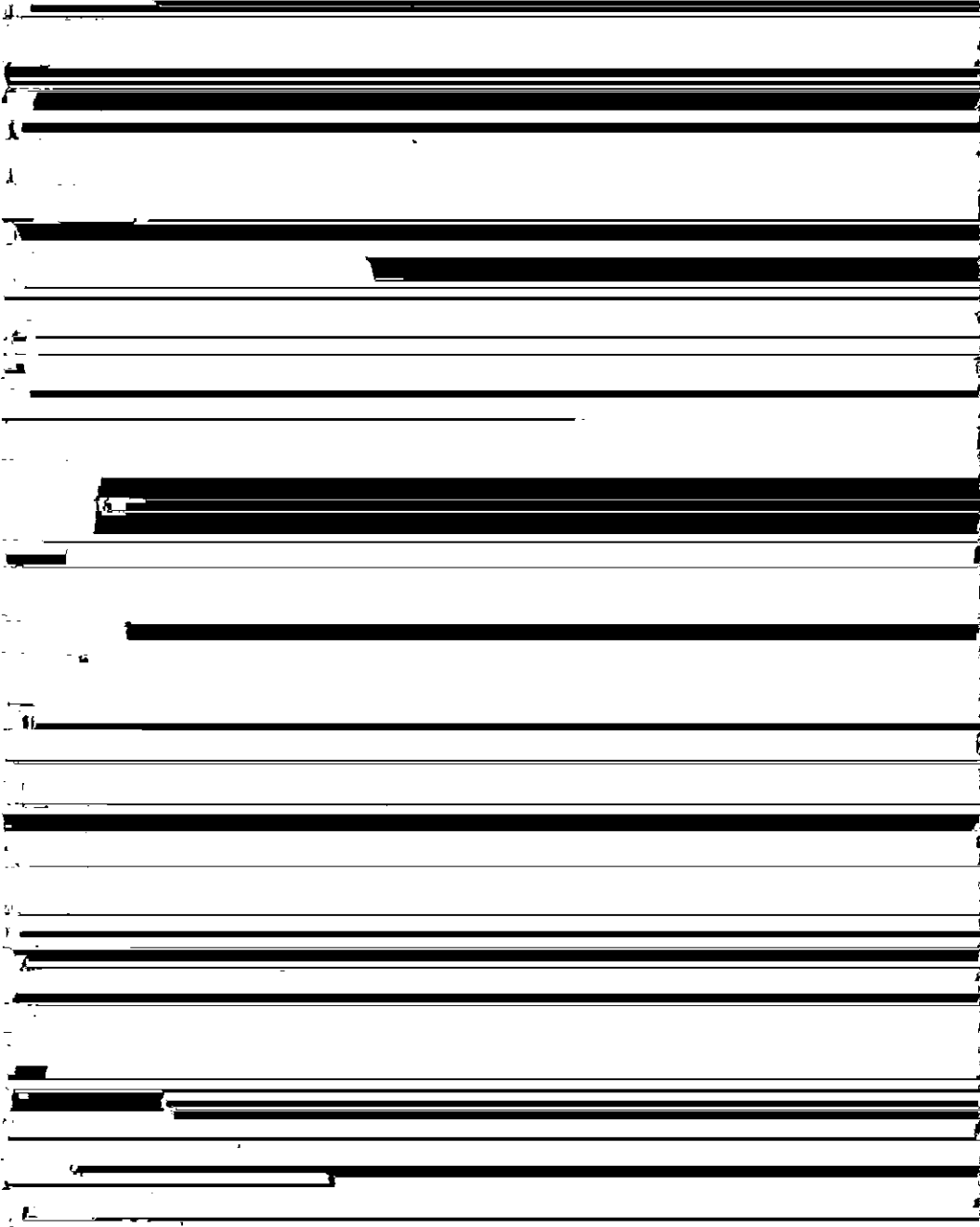
The second element of the Breton and Scott approach to federalism is an emphasis on the value of intergovernmental

[I]n our approach spill-overs are one of the principal influences that give rise to "organizational" activities. The reader who doubts this need only recall that "organizational" activities include co-ordination between governments and co-ordination to mitigate or compensate for the effects of externali-

Interjurisdictional externalities, thus, are an important source of organizational costs. It will be argued that, in certain policy areas of water management, this factor dominates other elements of the Breton and Scott framework.

The next four sections examine each of the four organizational costs and their implications for water management. Although the Breton and

unwilling to resort to moving as political "exit." These constraints include location-specific employment, residence requirements for social services or benefits, social and cultural ties, lack of information about alternative jurisdictions and feelings of community loyalty.<sup>70</sup> Even Brotenas (1980)





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **withholding support from political parties**

[REDACTED]

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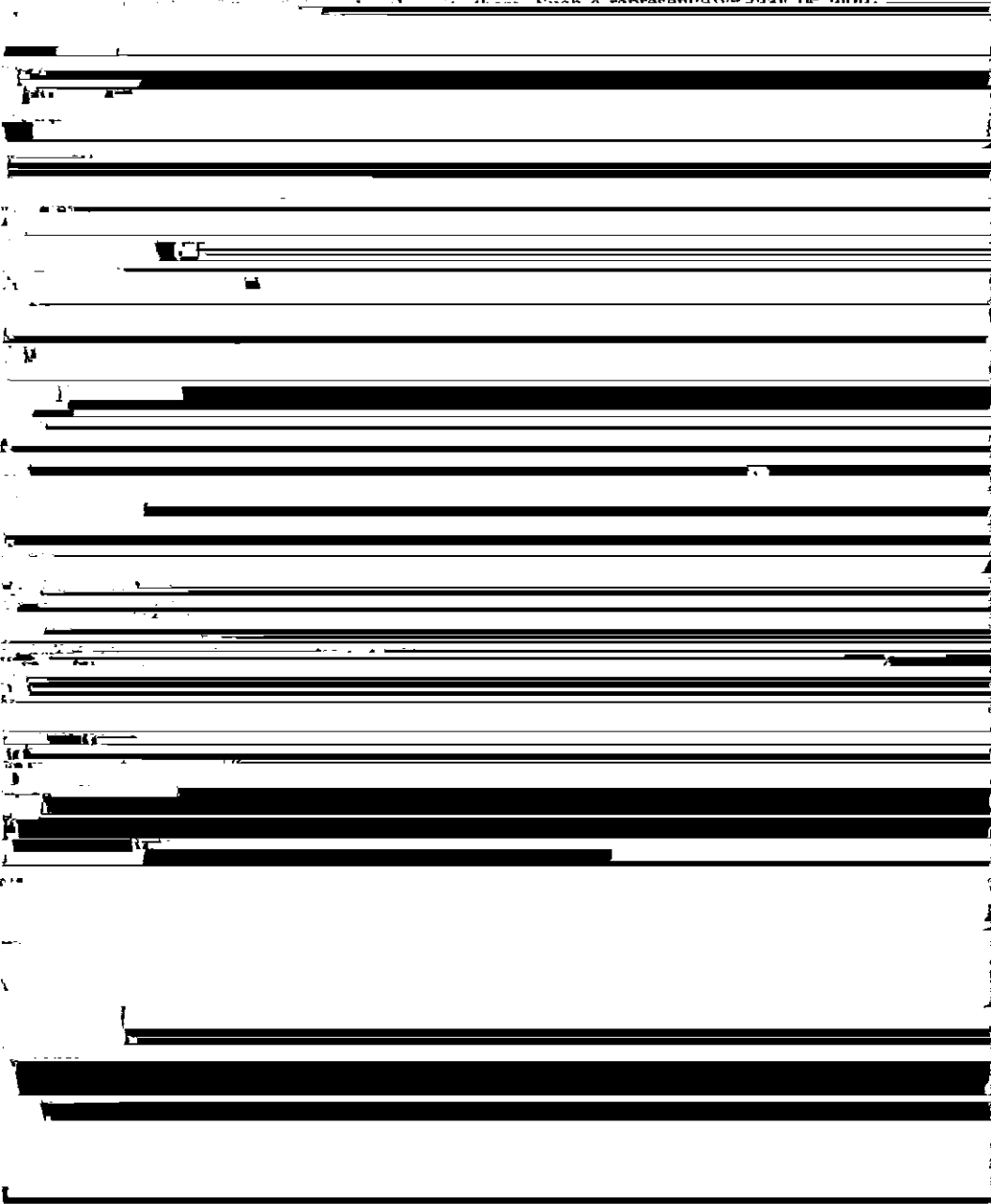
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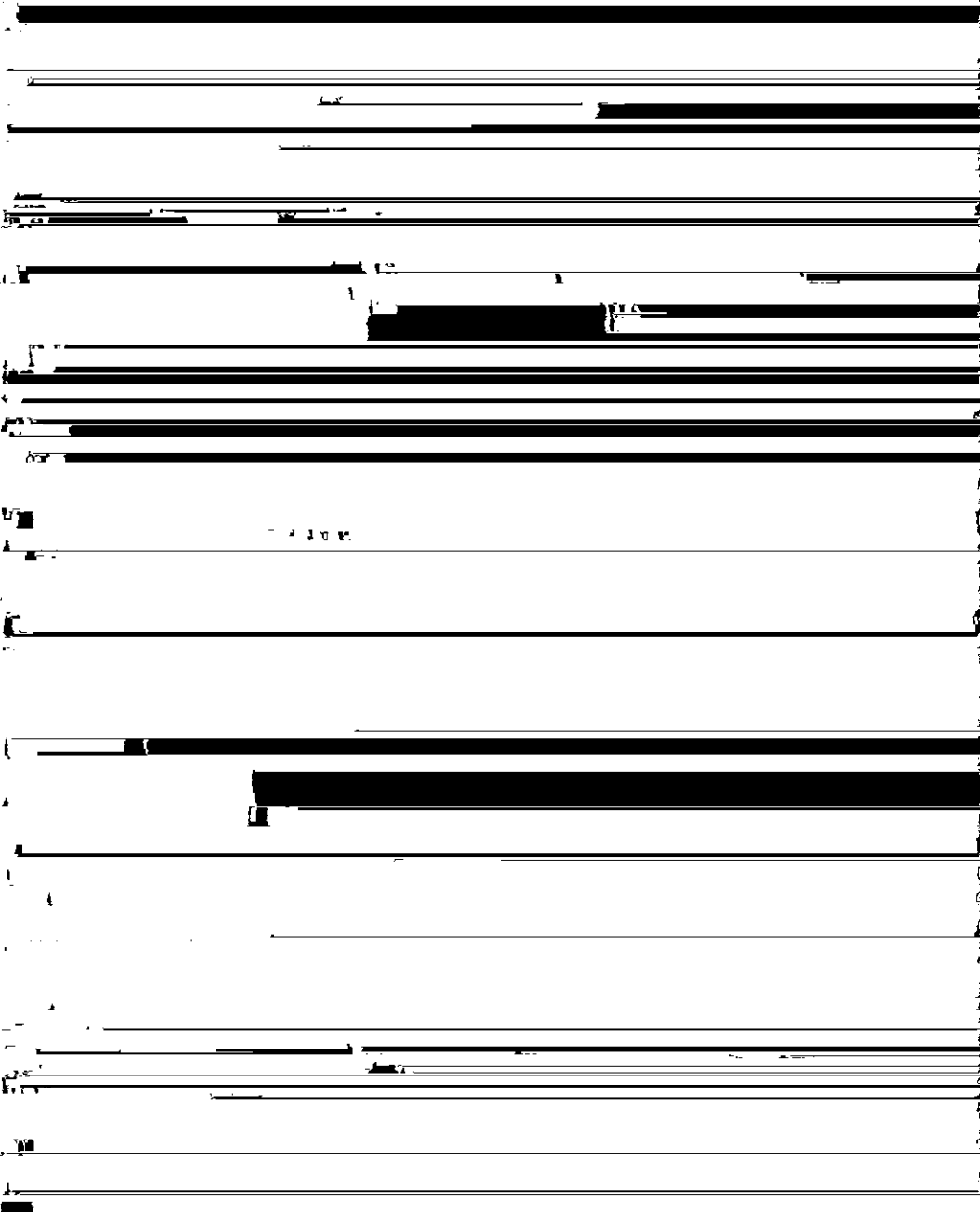
constituency, and hence fewer and less diverse interests behind him, he may have

Each representative may be more



is matched by a simultaneous

of powers over water management. To further complicate the picture, these powers might also be reduced through techniques, such as administrative decen-



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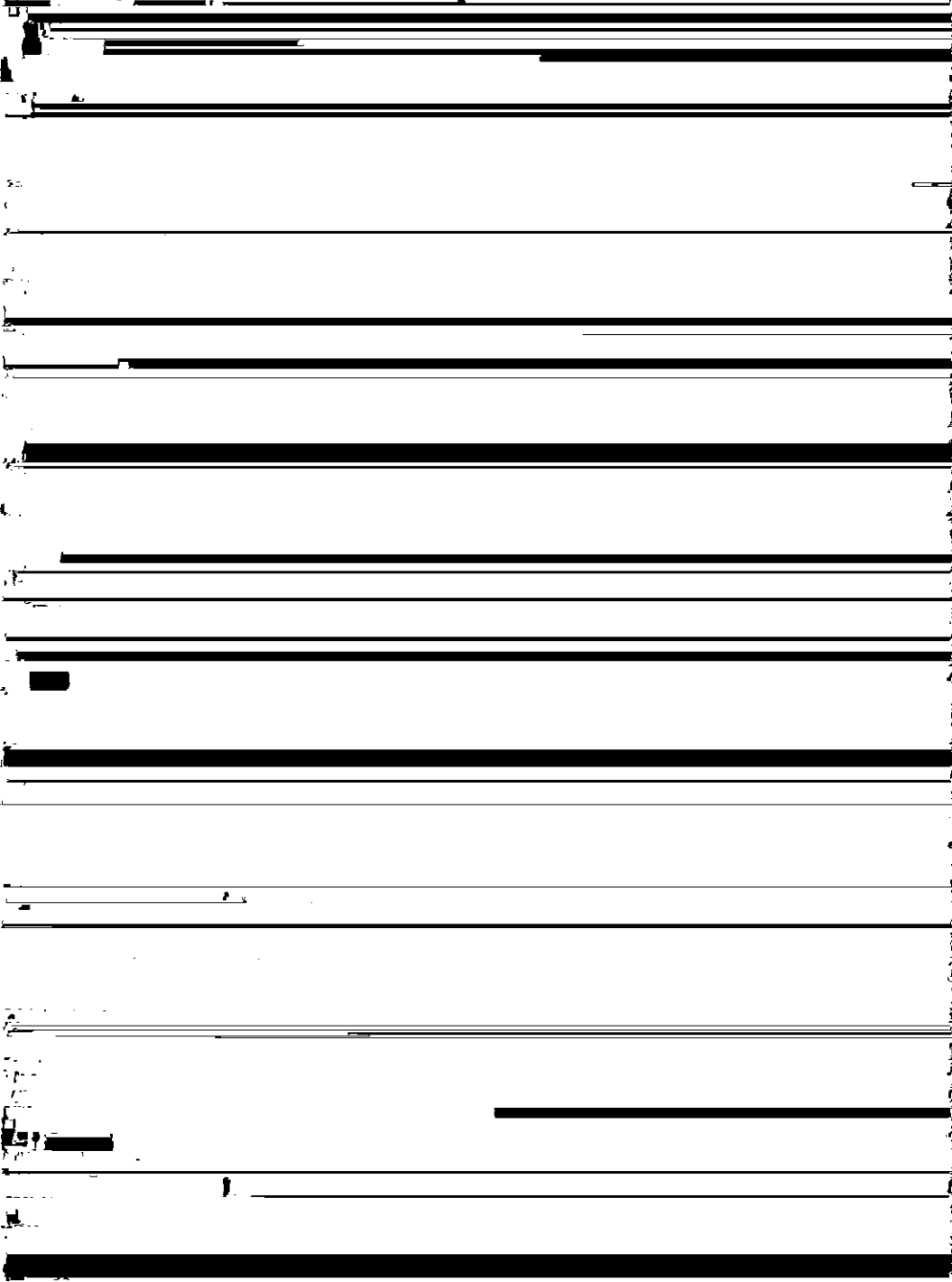
data. From a "cosmopolitan" point of view, however, real costs incurred with the aim of loading more of the costs onto the other party (even though well-spent from a national point of view) should be regarded in relation to the minimum amount needed to obtain agreement, having regard not only to the eventual levels of abatement and damage costs but also the costs of information.

11 \_\_\_\_\_



The upstream jurisdiction has nothing to lose from delay unless and until the downstream interests find a way to exert pressure on it. There is a temptation for [redacted] of any cooperative activities that could only lead to [redacted]

When otherwise necessary





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118 Water pricing would encourage efficient use and conservation, facilitate

mobilization is easier when a disaster occurs.

over natural resources, what can be said about conflict in general and what does the future hold in the area of water management?

constitutional order itself."<sup>131</sup> In addition, they identified a threat to democratic



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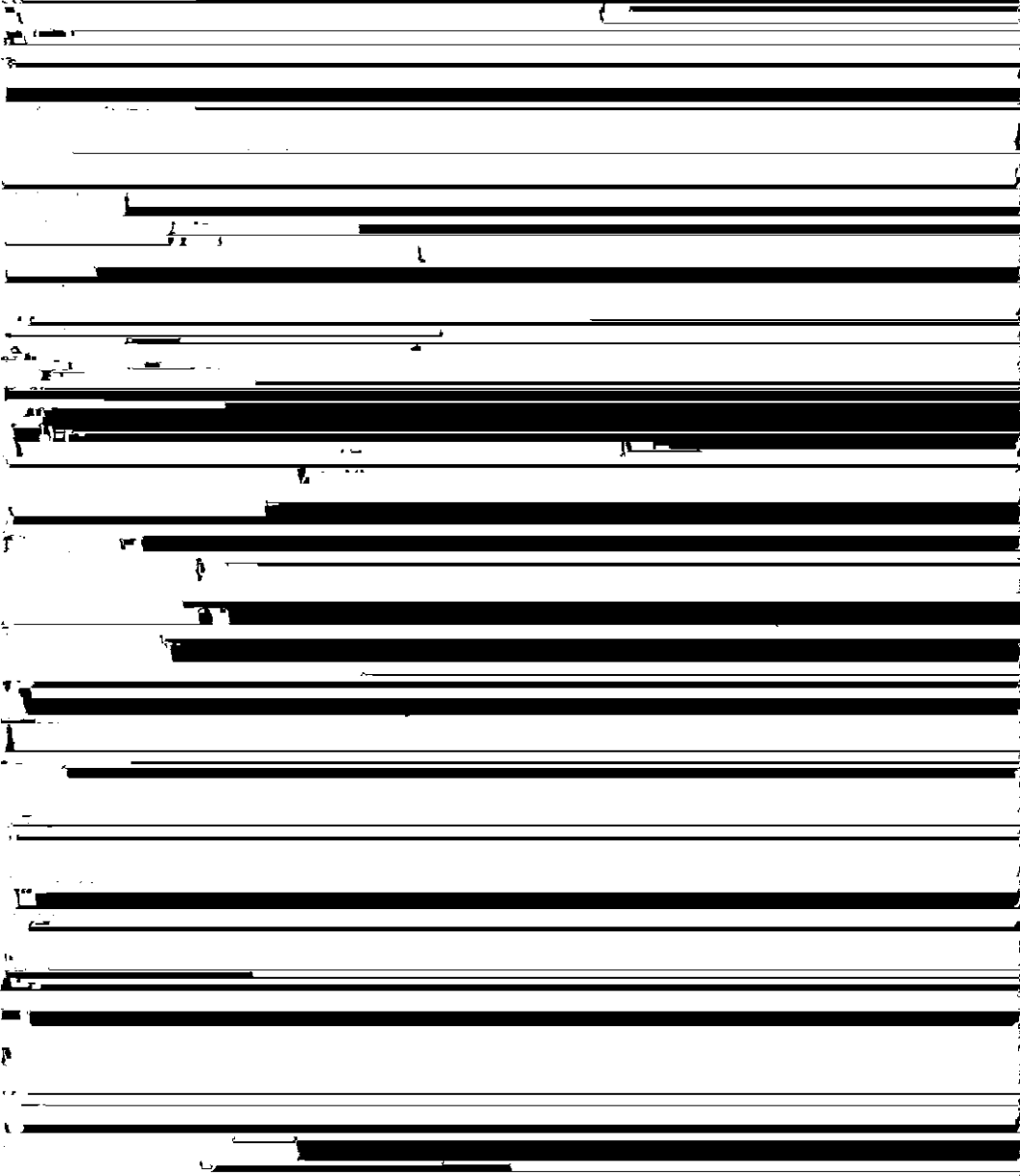
"[t]his nightmare actually confronts managers in Canada and abroad."<sup>139</sup> Scott reaches the following conclusion regarding the allocation of powers:

It seems clear that under such circumstances a single management — a government empowered to regulate having jurisdiction broad enough to encompass all these locations, fish and persons — would have decidedly lower costs of co-ordination than would smaller jurisdictions. Unless its enforcement, search, signalling, migrating and information costs were so high as to swamp these external costs, organization costs would be lower. The higher the government the more inclusive jurisdiction. Indeed, regulation by either a central government or by a council of lower governments is most commonly to be expected in these circumstances.<sup>140</sup>

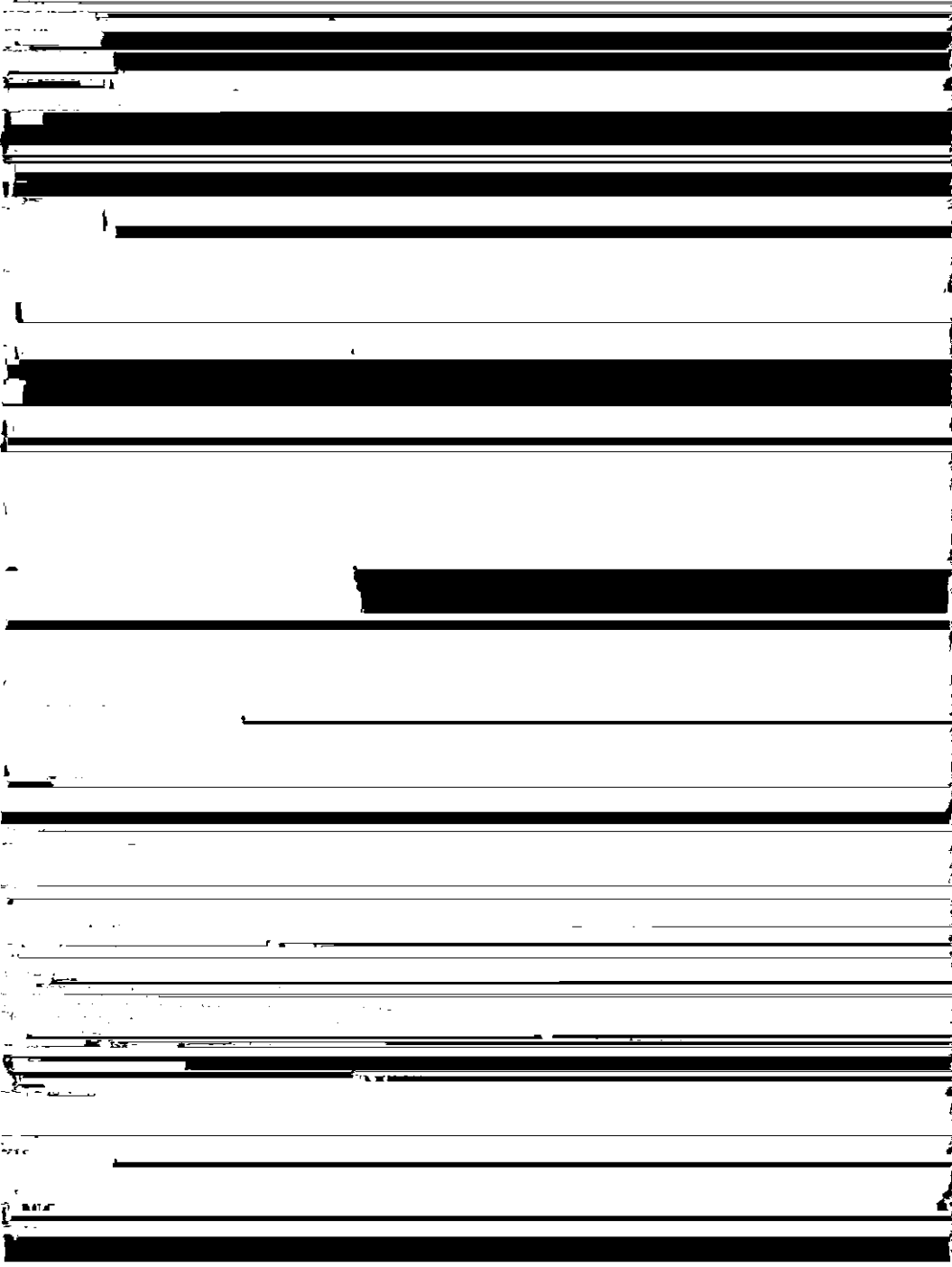
If all fishery powers are to be assigned to one level of government, the

IMPLICATIONS OF THE BRETON AND SCOTT FRAMEWORK FOR  
CANADIAN WATER MANAGEMENT

The implications of the Breton and Scott framework to water management in



to a level of government able to take decisive measures is preferable to extensive competition, conflict and jurisdictional overlap.



CONCLUSION

The management of Canada's water resources is likely to be an urgent and complex policy challenge in the coming years. It is also one which, at least in its interjurisdictional aspects, raises significant constitutional and intergovernmental issues. From the perspective of the design of federalism, the funda-