

# **Securing the Social Union**

## **A Commentary on the Decentralized Approach**

**Steven A. Kennett**

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The social union is not a constitutional concept. Rather, it is an idea about



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Des propositions pour une approche plus décentralisée à la refonte de l'Union



fédérale, autant la capacité que la crédibilité doivent être maintenues si le gouvernement fédéral est pour jouer un rôle constructif. En se tournant vers la dynamique intergouvernementale, la monographie révisé des stratégies de promotion de l'action collective intergouvernementale qui ont servies au niveau



focus is particularly on the role of institutional arrangements in facilitating inter-



# SECURING THE SOCIAL UNION

## A COMMENTARY ON

### I. INTRODUCTION



principles and standards."<sup>10</sup> The focus of this recommendation was social policy, an area where national standards — such as they exist — have largely been the





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a federal role, or even a pan-Canadian approach based on intergovernmental co-operation, may be opposed by governments whose primary objective is to foster the provincial political community which they depend on.







high-wage economies.<sup>43</sup> Social assistance programs (welfare and unemployment

requirements for income support programs is a measure promoting negative integration. Positive integration, however, involves the development of harmonized or complementary social policies. It requires that governments undertake positive action to strengthen the social union.

Courchene's vision for "social Canada" calls for greater positive integration than currently exists. This proposal has important implications for his analysis of the appropriate locus of policy development. Courchene argues that the federal

government can only deliver negative integration through a series of prohibitions; "A full-blown social union also requires 'positive integration,' and this has to come from the provinces."<sup>48</sup> The need for active provincial involvement in order to achieve positive integration is an important reason why Courchene promotes a decentralized model for social Canada. It should be noted, however, that he con-

tinues to view negative integration as being critical to social Canada "since guarantees of portability and transferability do serve to link the various provincial



amendment.<sup>51</sup> The principle of parliamentary sovereignty dictates that Parliament

Courchene's preferred means to secure the social union is to bring the provisions fully and more formally into the legal social goal of providing and

economic union, not before. Implicitly, the need for a federal role as ultimate

assumption upon which the viability of this model depends is that the provinces  
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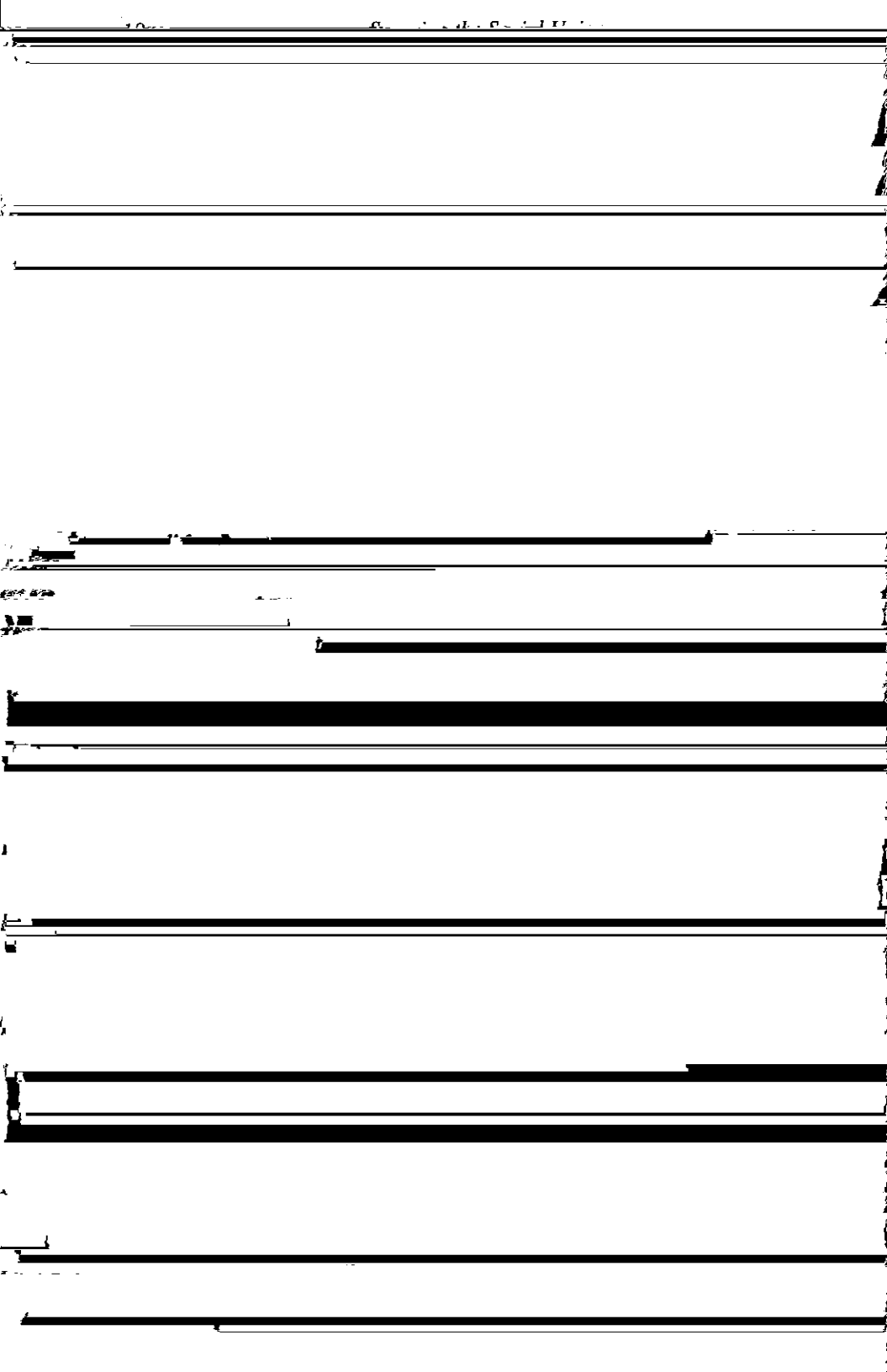
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social policy faces an impressive series of obstacles. The objective here is to outline the incentive structure that, it is argued, constitutes the operational environ-



paying for training programs to enable its residents to move to Ontario or Alberta

47. Employment Alberta, *Alberta's Economic Outlook: The Road to 2010*, p. 10.

to move to other jurisdictions, introduces distortions into the labour market and may precipitate retaliatory beggar-thy-neighbour policies, the cumulative effect of which is to fragment the economic union. One response to the social dumping issue is to establish common minimum standards for social security programs,



The free-rider problem arises when governments see opportunities to reap the

for example, that decentralization is not likely to result in a race to the bottom in

General problems of collective action are therefore likely to arise in the con

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negative policy externalities for one another, and unilateral adjustment strategies are ineffective, inadequate or expensive.<sup>291</sup>

tyranny of consensus decisionmaking. Furthermore, the threat of negative externalities from the coalition may induce the hold-out to compromise. While this strategy may increase the possibility of agreement, it also distributes bargaining chips unequally. Moravcsik states that it favours governments of larger entities, the participation of which is essential in forming a viable coalition and govern

At the very least, reliance on linkage as a strategy for lubricating mechanisms of

the system is a useful strategy if it is to succeed. Canada's recent

- be motivated by ideological considerations or overriding political objectives — as is the case for a separatist government in Quebec — rather than by more narrowly-defined rational self-interest;
- experience (and measure) costs and benefits of cooperation or non-cooperation





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may follow Britain's lead in stepping outside the social policy constraint. While

• those who were directly affected by this restriction were individuals in other

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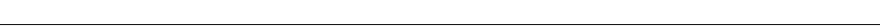















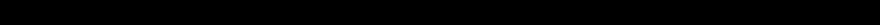











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adhering to such a principle over the long term if it is agreed to (particularly if

framework of analysis outlined in this section does, however, provide an explana-



tion of some of the principal obstacles to bringing about collective action of the





disseminator of innovation in that field.<sup>122</sup> While he supported federal unilateralism as essential to ensuring harmonization where the need is greatest, Forget argued that federal use of the spending power should be confined to legitimate harmonization objectives, as opposed to extending into the details of program



...through the provision of public services in ...

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Consistent with the fundamental objective underlying the ACCESS paper, he affirmed his strong commitment to a “full-blown social union” and argued that “positive integration” requires action by the provinces.<sup>133</sup> However, he continued

maintain federal cash transfers at a “substantial” level “could send the ‘national’

equalization, charters of rights, and interstate instruments such as agreements or uniform laws were considered to be a part of the national government's power.

effective national standards generally require direct action by the federal govern-

In contrast to the secular trend toward decentralization identified by Courchene, the Group of 22 suggests that, under some circumstances, the pendulum could

social union.

Use of the federal spending power also requires leverage in the form of condi-



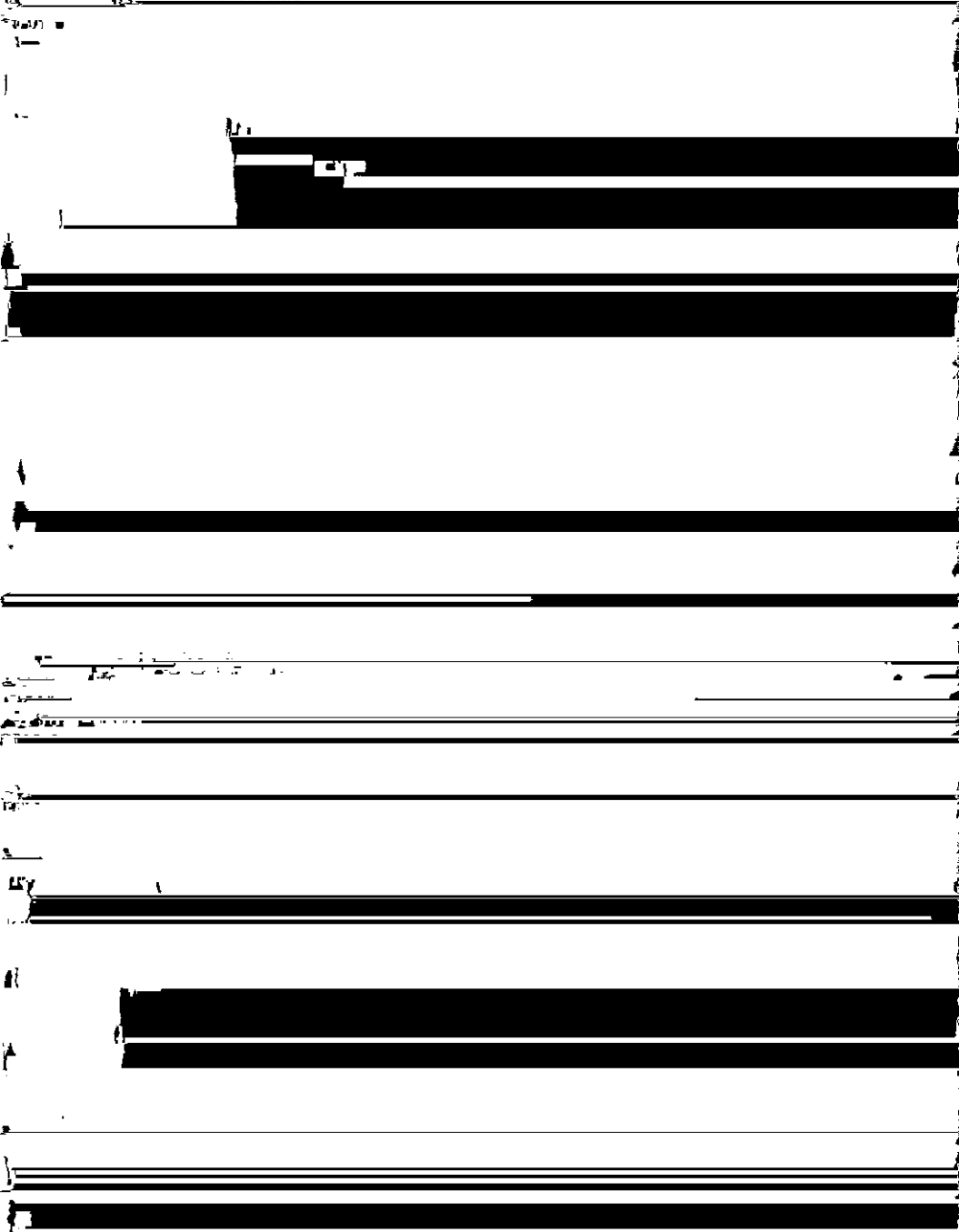
and suggests that small steps toward agreement on the undermining of the social

union might lead to greater progress down the road.

*Applying the international analogy to the AIT, for example. Patrick Monahan*

GENERAL FEATURES OF INTERNATIONAL COOPERATION

On the basis of their examination of intergovernmental...



the provinces. As in the international context, strong leadership from some parties will be required if this process is to succeed.

A third observation of Haas et al. is that the distinctive functions of international institutions involve modifying the incentive structure facing governments rather than policing compliance through the administering of sanctions. Their case studies revealed little evidence of rule enforcement by international institutions.<sup>159</sup> Rather, monitoring environmental quality and national policy measures



among sovereign governments: "low levels of concern about the environmental threat, lack of capacity to manage it, and the inability to overcome problems of collective action"<sup>164</sup> All of these factors have parallels within federalism.

of action more influence through leadership roles than they would have in

while the political risk is small, insofar as each delegated decision is relatively insignificant.<sup>202</sup>

Members of this group have been named for Canada. The amount



Designing strategies to overcome the unanimity constraint is likely to be an



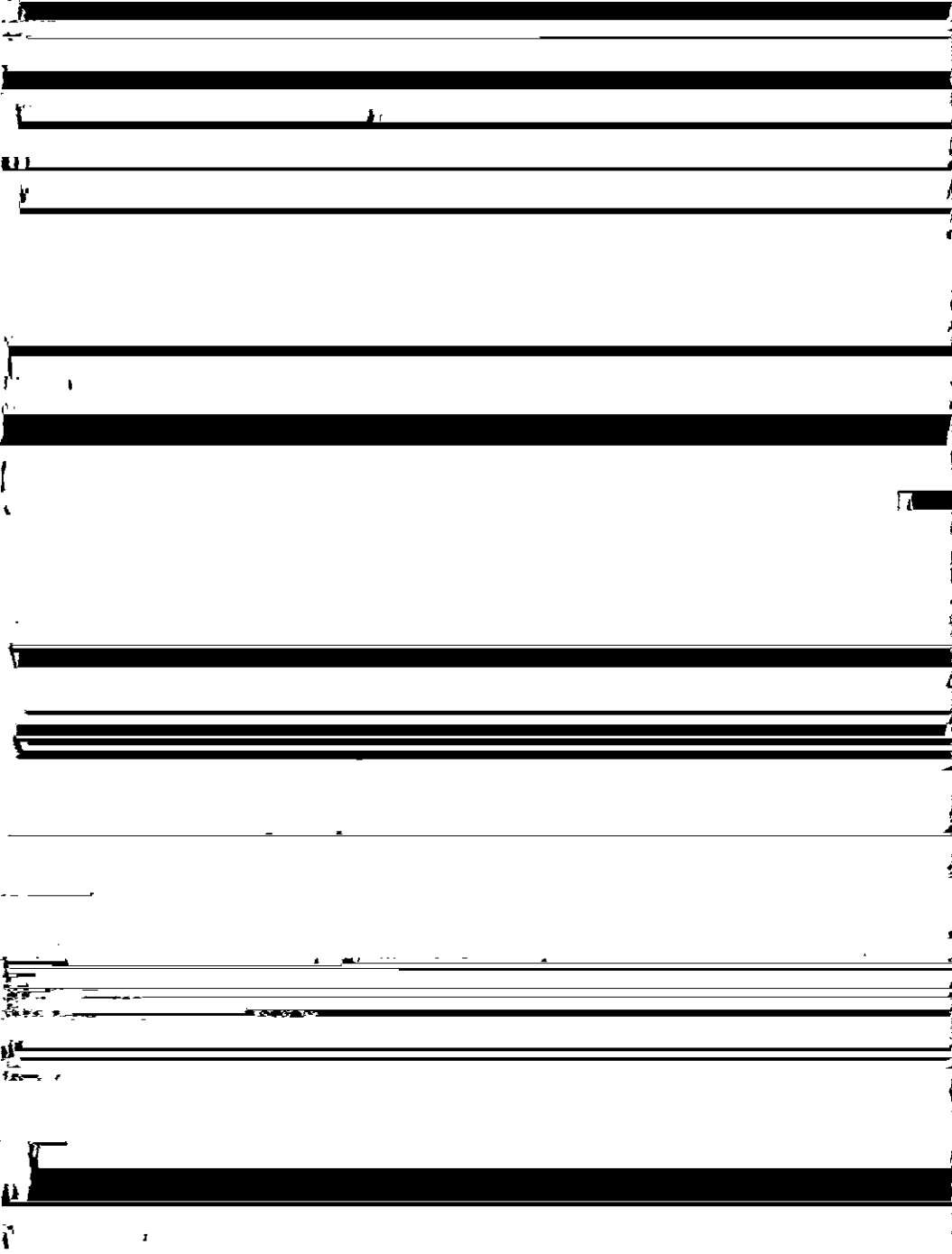
signs of success, pressure will quickly increase on the other governments to join the club.

While Courchene lists several good reasons why governments may want to turn into the benefits of the social union, he also notes that the social union is not a magic bullet. It is a long-term project that requires a commitment from all governments to work together to build a strong and sustainable social union.



reasons. First, in the event that agreement is not reached among the provinces, the capacity is retained within the federation to establish the basic principles necessary to maintain the social (and economic) union. Second, the federal fall-back

is the power of the federal government to secure the social union







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for institutional design. In particular, it has been argued that social and economic

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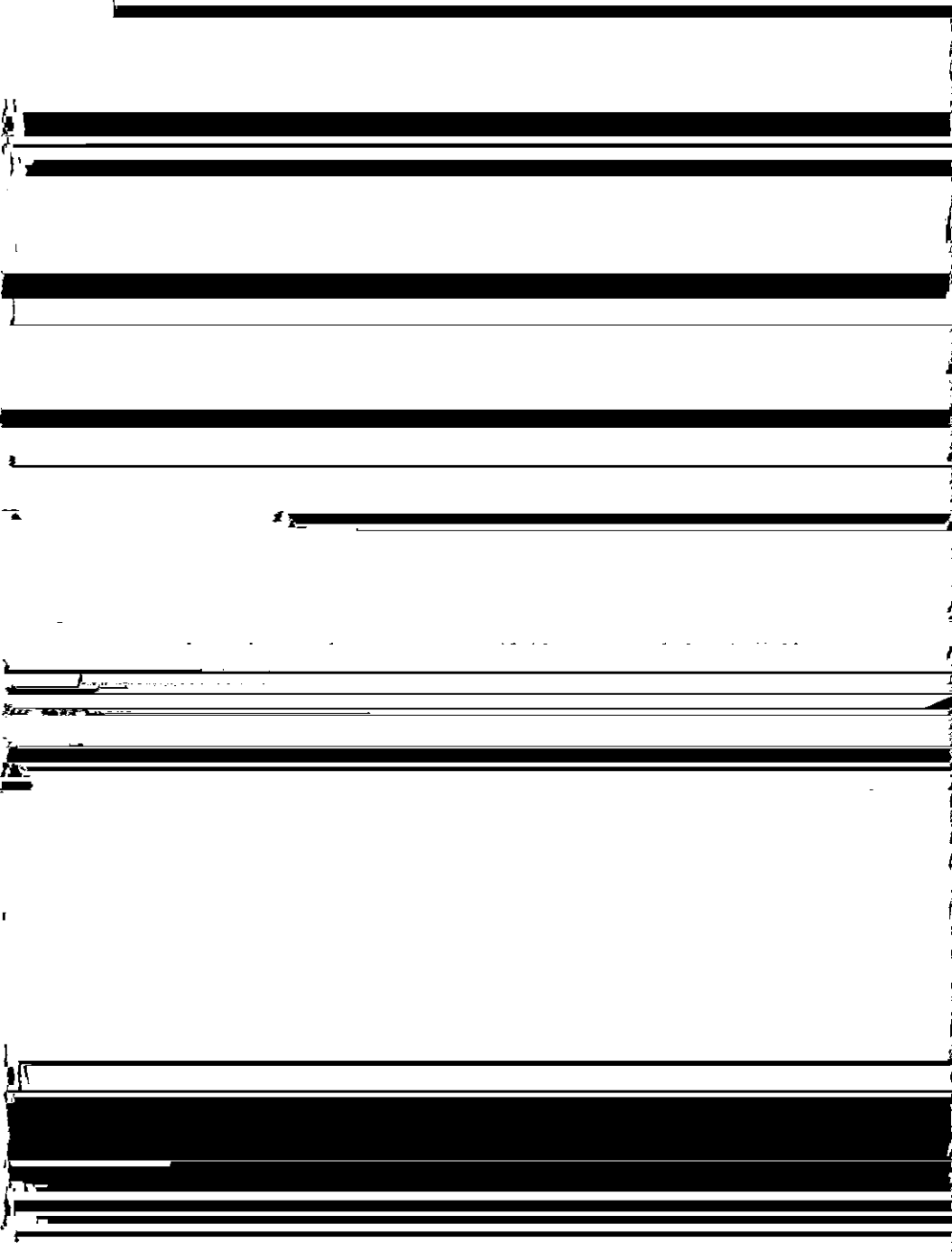
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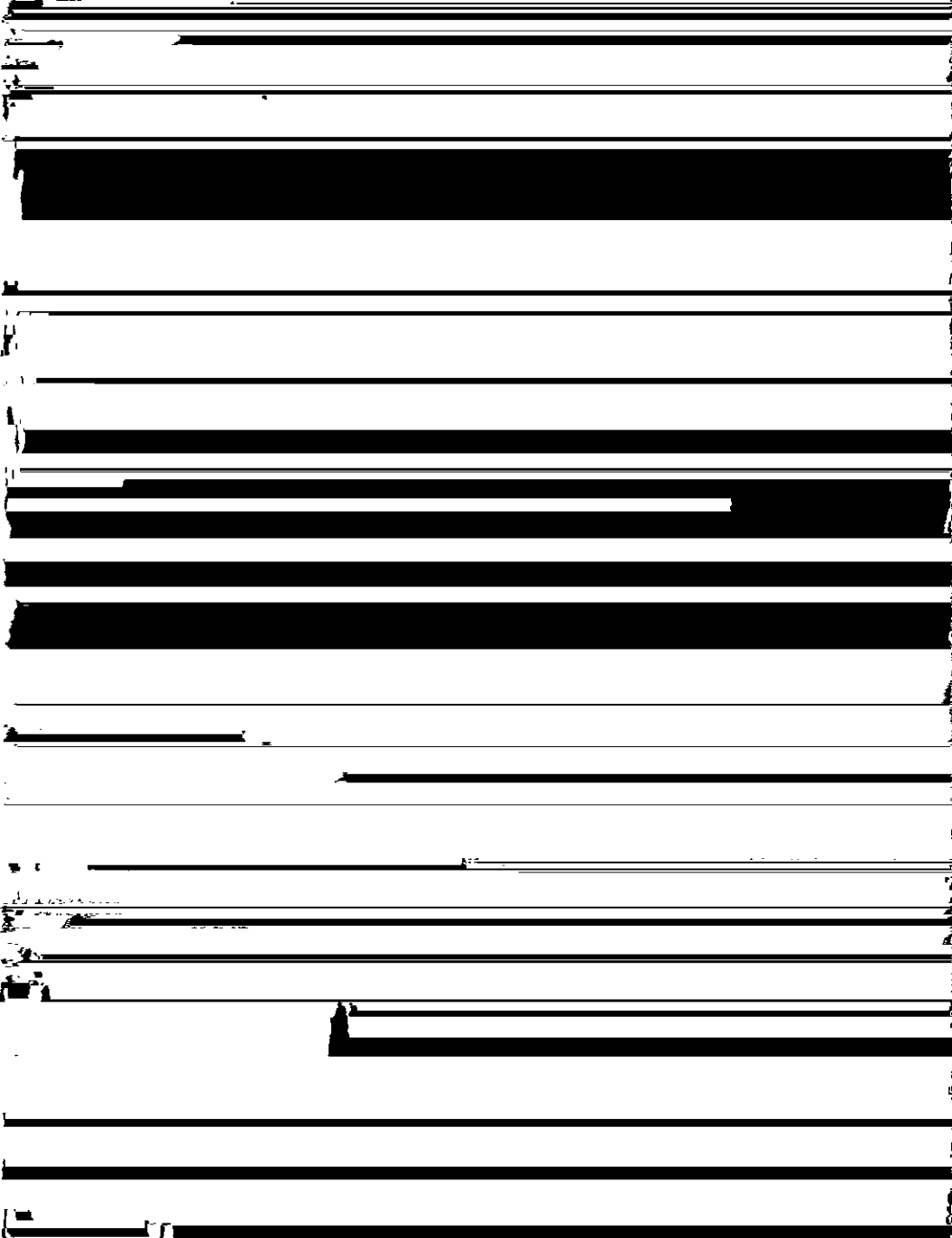
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2 "if one province is intent on fragmenting Social Canada in one way or an



(to eliminate frivolous and vexatious complaints) that is undertaken by an appointee of the government against whom the complaint is lodged. Other than this

1. *Canada's Health Care System: A Report of the Commission on Health Care Services*





Second, the fit for fat retaliation illustrated by the Ontario-Quebec dispute de

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intergovernmental convention.<sup>218</sup> The “enormous political and economic cost” of

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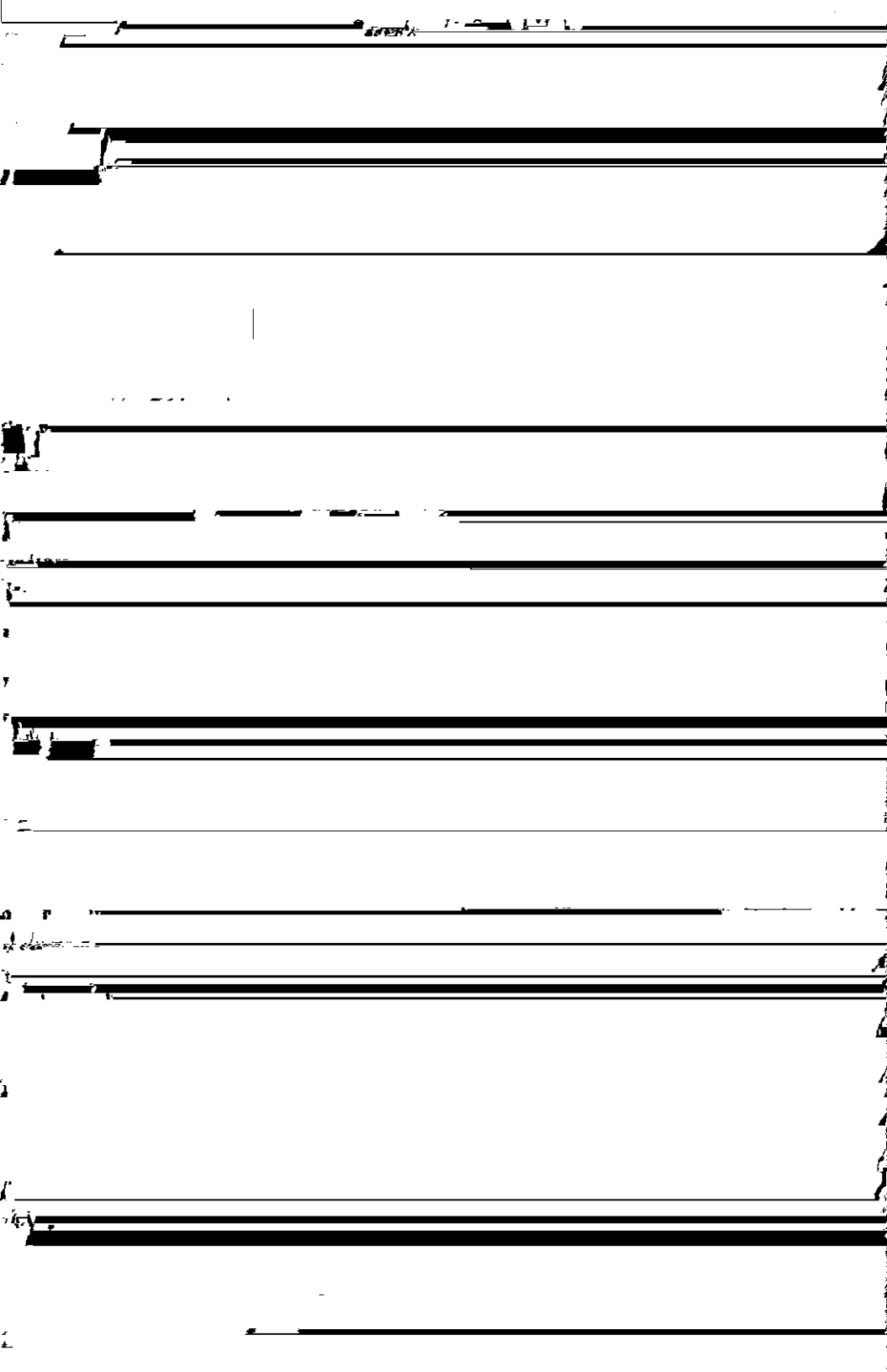
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union will be preserved and enhanced, not simply on a weak "best-efforts" undertaking on the part of the provinces. A significant provincial commitment to building the social union should be clearly demonstrated before the federation's existing

that the term "national" has particular significance in Quebec, connoting a collectivity

24 Donald C. Lohman "When a Legitimate Objective Hits an Unnecessary Obstacle"

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75. Fred Lazar, "Labor Market Policies and the Jurisdictional Distribution of Powers," in *Free to Move: Strengthening the Canadian Economic Union*, ed. David M. Brown

Settlement in the Agreement on Internal Trade," in *Getting There*, ed. Trebilcock and Schwanen, p. 217.

131. Courchene, "Canada's Social Policy Deficit," pp. 115-16 (emphasis added).

132. Courchene, "ACCESS."

133. Courchene, *Redistributing Money and Power*, p. 7.

134. *Ibid.*, p. 63.

135. *Ibid.*

136. *Ibid.* (emphasis in original).

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of International Environmental Institutions," in *Institutions for the Earth*, ed. Keohane, Haas and Levy, p. 398.

160. Keohane et al., "The Effectiveness of International Environmental Institutions," pp. 23-24.

161. Levv et al., "Improving the Effectiveness of International Environmental Institu-

186. See "The Bargaining Dynamic," in Section IV of this paper.

187. See, for example, the comments on Britain's opt-out from European social union provisions in Moravcsik, "Preferences and Power in the European Union," p. 504

and Tachibana and Delbecq, "The Canadian Agreement on Internal Trade," p. 64

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