



Canada: The State

of the Federation 1990

Edited by

Ronald L. Watts and
Douglas M. Brown

Institute of
Intergovernmental
Relations

Queen's University
Kingston, Ontario
Canada

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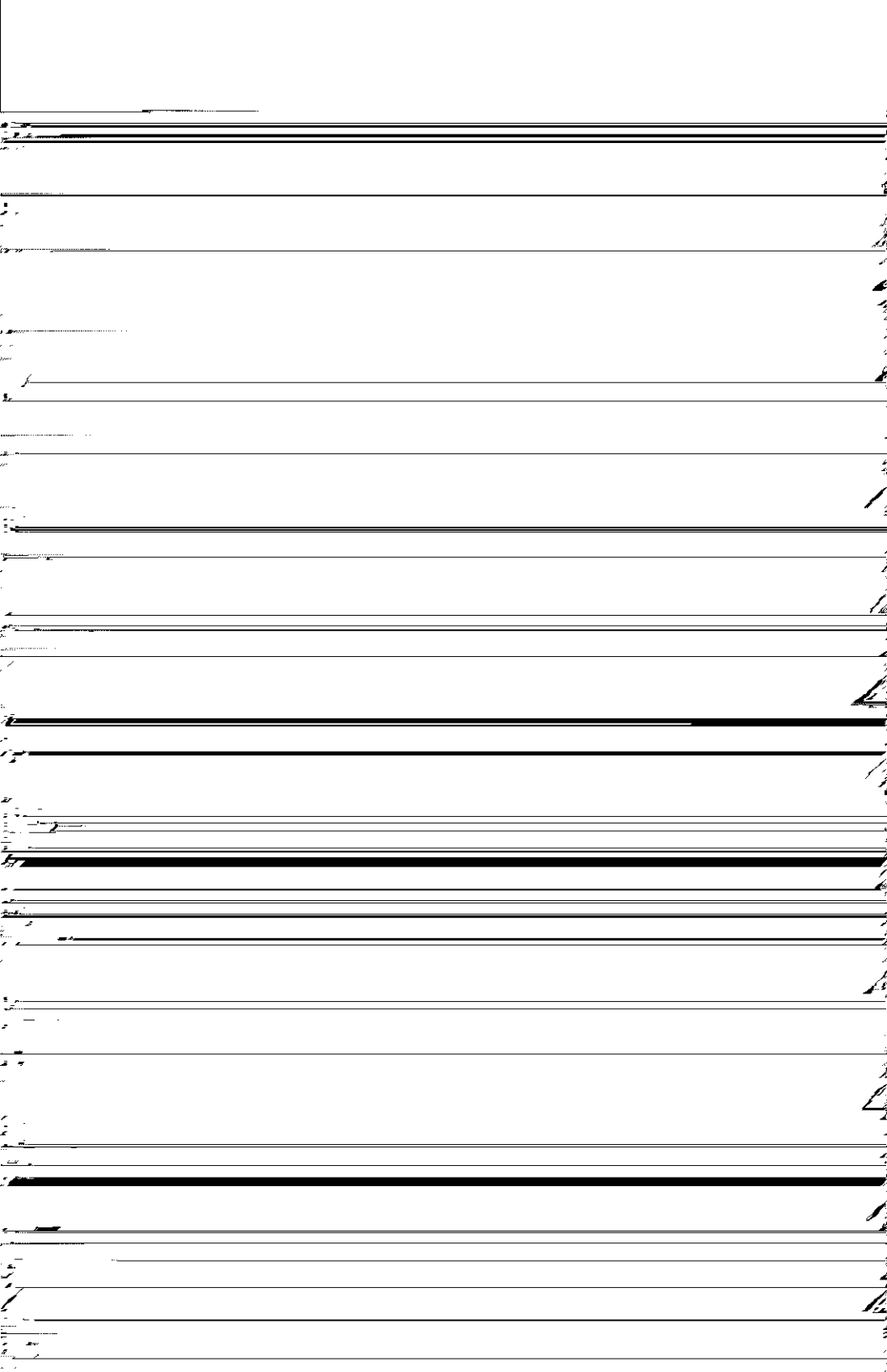
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DONALD V. SMILEY (1921-1990)

Donald Smiley, one of Canada's pre-eminent political scientists died on 28 April

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declared, was constantly in question. His task was to diagnose the ailment and to seek a possible cure.



I

Introduction





An Overview

Ronald L. Watts

Annuaire annuel des divers objectifs de ...

des répercussions les plus significatives de l'échec de l'Accord du lac Meech. La non-ratification de l'Accord en juin 1990 aura constitué un événement crucial dans l'histoire de la fédération canadienne. Si la structure fédérale canadienne instaurée

Given the momentous significance of the failure of the Meach Lake Accord

it is hardly surprising that that event dominates the contributions to this volume. As in previous annual volumes chapters were commissioned on a variety of issues and about developments in some specific provinces, but each of the authors of the chapters in this volume has found it necessary to include

Agreement so much more strongly supported in Quebec than elsewhere. These factors and the denial of bilingualism and of the Canadian Charter of Rights

more difficult than during the Meech Lake debate of the past three years.

An important development has been the erosion of uniting beliefs within Canada. Traditionally Canadians have emphasized the importance of compromise and the recognition of diversity as essential elements in continued federal

... areas of federal government insidiation and widespread distrust. ...

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describes the transition being forced upon that province in terms of two major factors: the decline of the agricultural industry, and the efforts of the Conservative government since 1982 to apply a neo-conservative program in a province which during most of the postwar period had played a unique role in the life of

is the source of much dissatisfaction in western Canada and also in the Atlantic provinces. Furthermore, events during the summer of 1990 have made Canadians realize that the issues of aboriginal rights and self-government require urgent attention.

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For all purposes of this contract, the term "Contractor" shall mean the Contractor named in the Schedule to this contract.



like Brian Mulroney and Jean Chrétien, both of whom come from Quebec? Can individual premiers in the other nine provinces given the differences among

Concerns about adequate public discussion prior to intergovernmental

tiation has led to proposals, not only in Quebec but in several other provinces, for the establishment of commissions to consider constitutional issues.

question that needs to be considered is whether the establishment of provincial, federal, federal-provincial, or non-governmental commissions would help or hinder the reaching of a resolution.

Why Did the Meech Lake Accord Fail?*

Richard Simeon

Ce chapitre propose un certain nombre d'explications de l'échec de l'Accord du lac Meech dont on pourrait tirer quelques enseignements dans la perspective d'une éventuelle révision des arrangements constitutionnels.

INTRODUCTION

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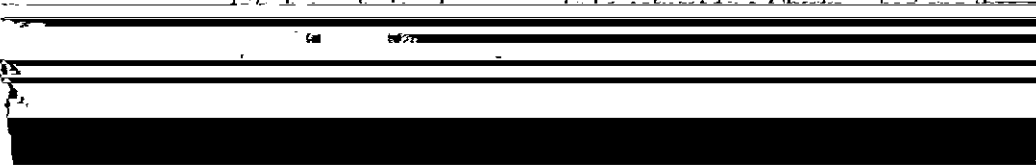
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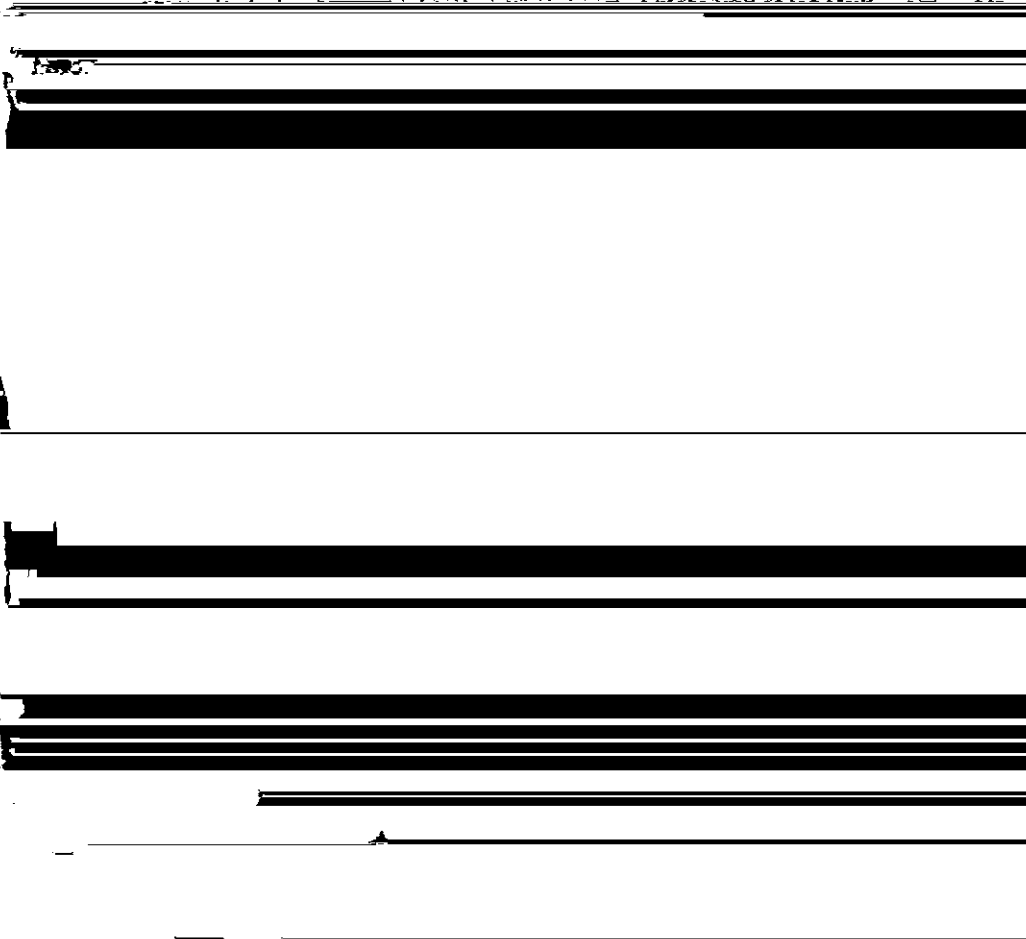
lost the veto over future constitutional change which most political actors



public mind at least was intrinsically hostile to collective rights and which



As the groundwork for Meech Lake began to be laid in 1986 and 1987, conditions for a successful resolution of the Quebec issue could hardly have seemed more propitious. The federal government not only held a huge overall

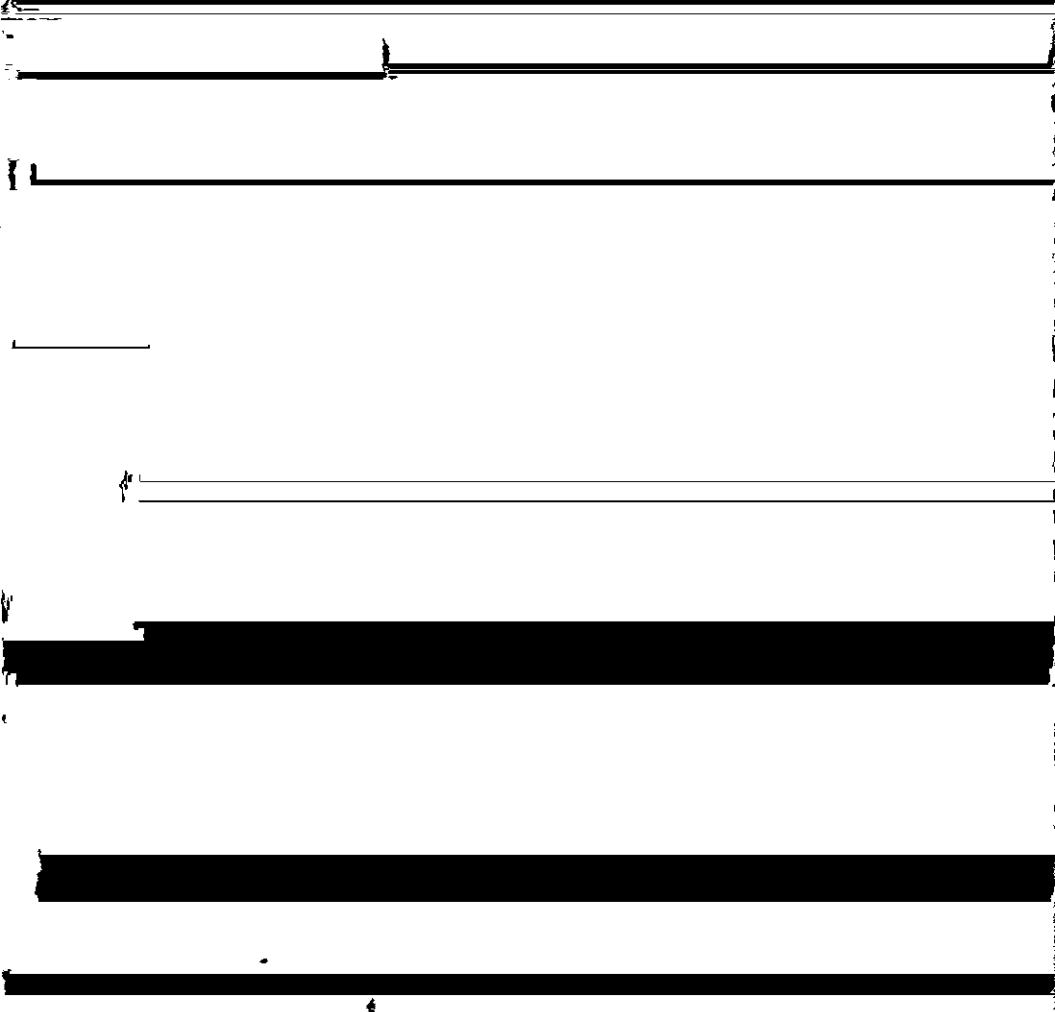


imagine any government better equipped to bridge regional and inter-

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Interests opposed to the Accord from across the country rallied to McKenna's support. For the first time, they realized it might be possible to stop or at least, force major changes to the Accord

Then, in March 1988, the New Democratic government of Howard Pawley,



but it could address some of the additional constitutional issues which others were putting forward.

The political dynamics made either strategy very difficult. As the list of proposed changes and additions grew on one side, public opinion

fifth floor of the National Conference Centre almost continually, emerging
to meet their advisors, and to deliver crucial messages to the

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WHY MEECH FAILED: SOME EXPLANATIONS

Could the outcome have been different? Or was the Accord flawed from the outset and bound to fail?

self-interest; that is, that Meech Lake succeeded in accomplishing what it was intended to do.

Unanimity rules also cut two ways: they are a tool for those who fear change

being imposed on them, but a barrier for those who wish to achieve change.

to Foresta reform. Opponents argued that the extended unanimity rule would

requirements of parliamentary government and of intergovernmental relations as they have evolved in Canada. The logic of the former is of course that

(b) "executive federalism"

Whatever its merits, the model depends for its success on a situation of

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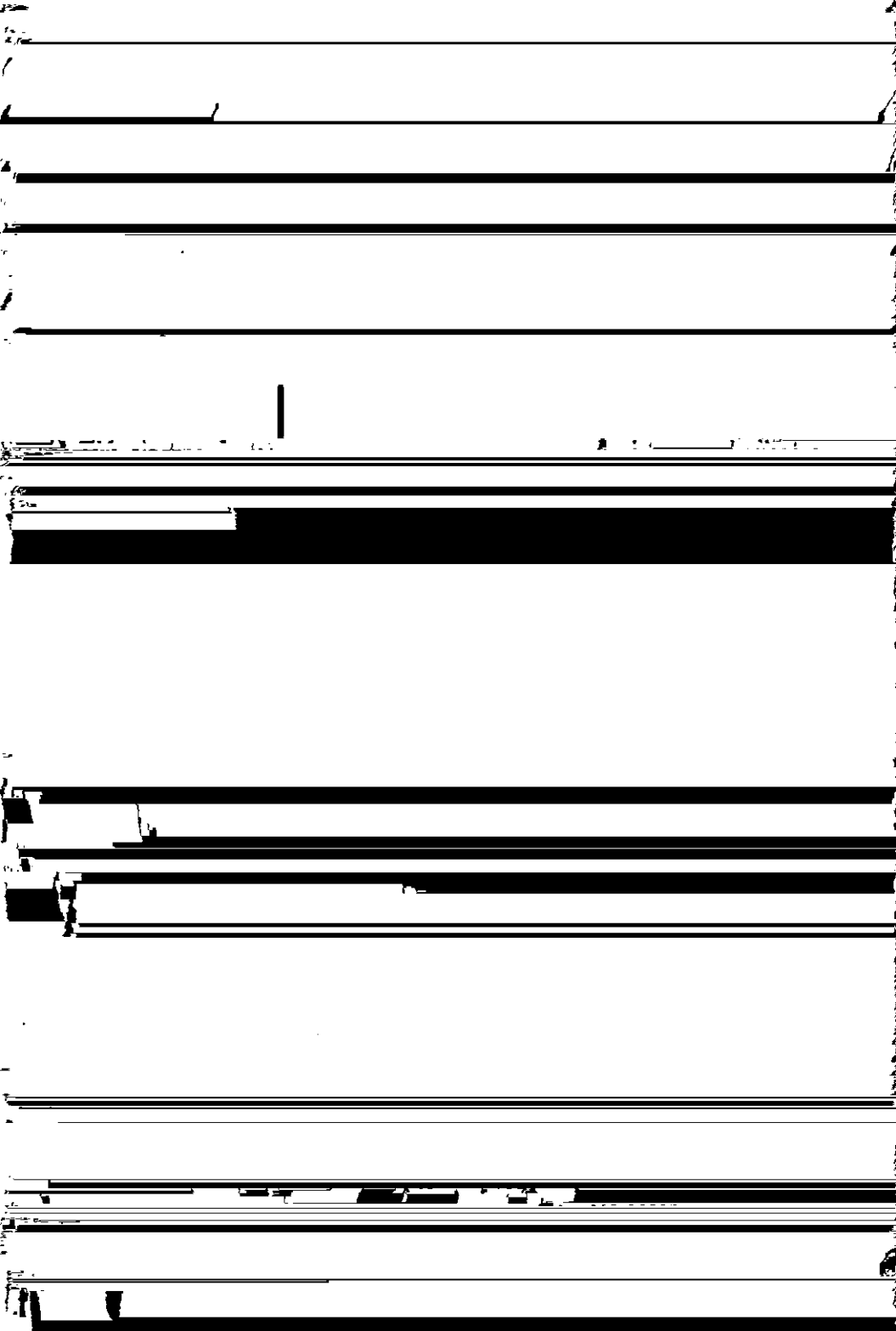
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focused both on what was included in the Accord and on what it left out. Throughout, the debate on the Meech Lake Accord was influenced by events

The primary context for the Meech Lake debate was the increased participation of constitutional politics, a legacy both of larger changes in Canadian political culture, and of the 1980-82 constitutional process. More and more

rather than as the property of political elites. Hence, as we saw in the previous



to pass "English only" resolutions in their municipal assemblies. These and related events had an impact in Quebec parallel to the impact of Bill 178 outside

another external event — the debate over the Canada-U.S. Free Trade Agree-

is also likely that, under the terms of the companion accord agreed to in June 1990, steps would be underway to address other constitutional issues in a far less fevered atmosphere.

Plausible as it is, however, this explanation begs some larger questions. It seems almost certain that if there had been a referendum on the Accord in Canada outside Quebec, it would have lost badly. As the debate went on, the

which is likely to support strong federal leadership. More generally, Ottawa's

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to exercise national leadership are likely to find a weaker Ottawa; supporters of the Triple E Senate will find it even further delayed. Constitutional change, using the procedures adopted in 1982, has come to a halt for the foreseeable future. Events are likely to be driven by crisis, and by decisions taken outside the Constitutional arena. The 1982 amending procedures are unlikely to be effective in such an event.

NOTES

1. Quebec Liberal Party, *A New Canadian Federation* (Montreal: Quebec Liberal Party, 1980).

2. A full account of this period can be found in John White, *Down Down* ...

and the Canadian Union (Halifax: Institute for Research on Public Policy, 1989),
and Robert E. Hawkins, "Meech Lake — The Reality of the Time Limit," *McGill
Law Journal* December 1980, 35(1) pp. 106-205

d'après eux, il s'agit essentiellement de prétextes qui permettraient aux auteurs

eu l'impact le plus dévastateur pour l'Accord du lac Meech. En jouant aux martyrs, les porte-parole de la communauté auront simplement alimenté les

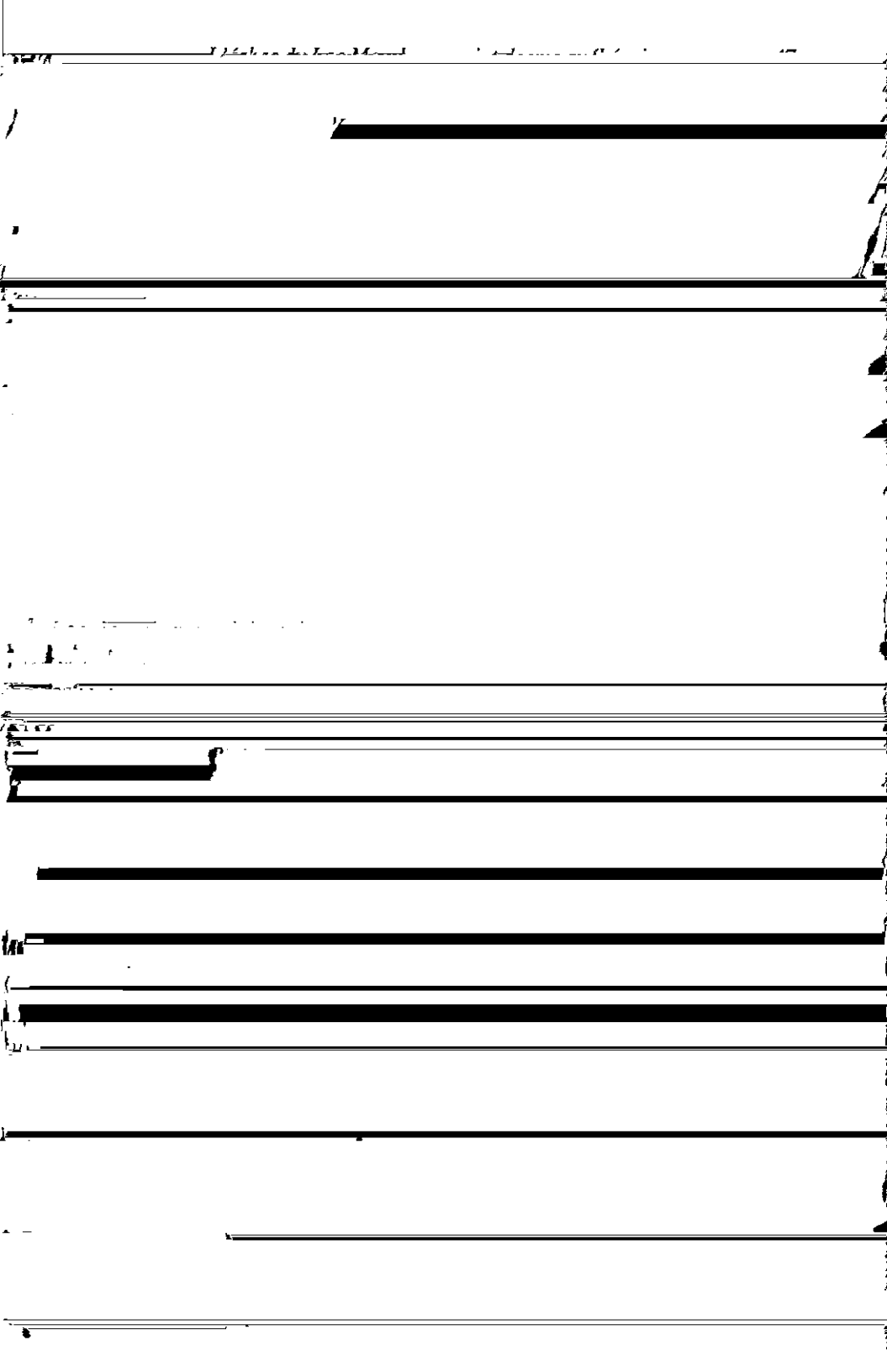
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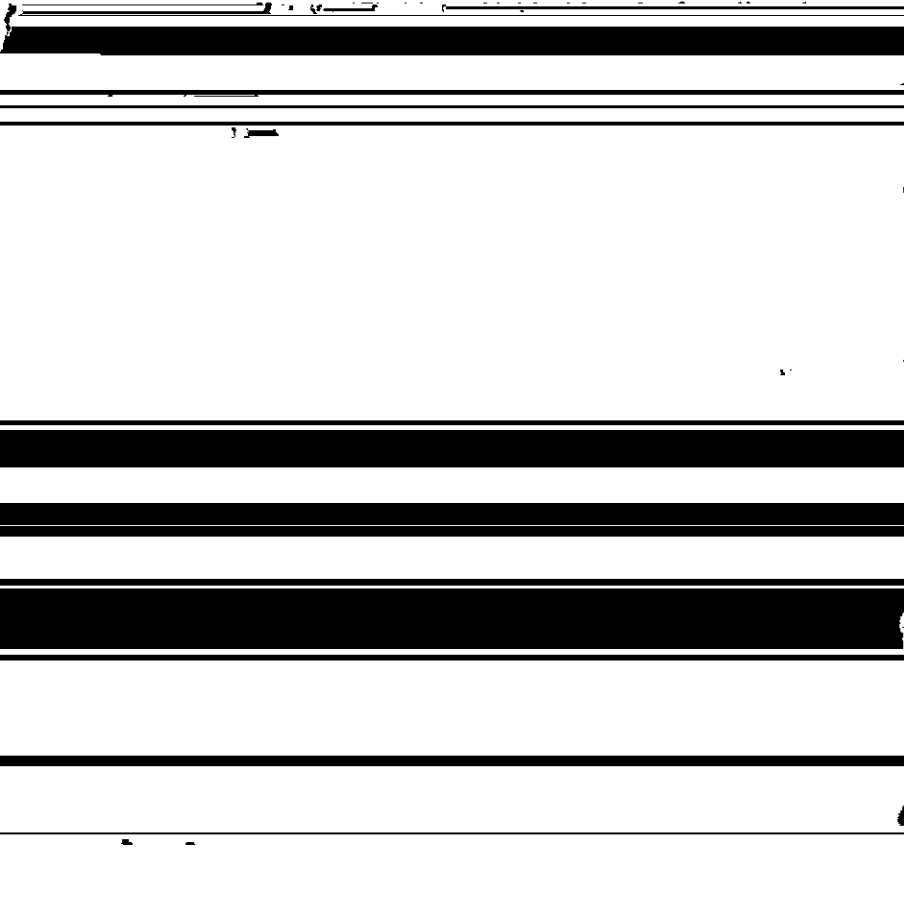
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nomination des sénateurs et des juges de la Cour suprême.

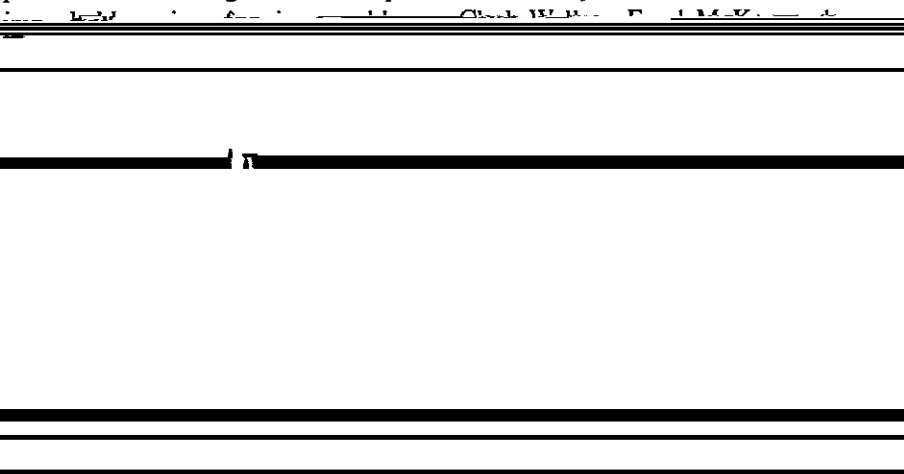
Robert Bourassa, une des têtes de Turc préférées de l'ancien premier



ment appuyée lors de l'élection provinciale de 1988, qui a porté un coup mortel à l'Accord dans cette province. De même, en brisant l'unité du Québec



partie du Canada anglais face à la parole donnée en juin 1987. Il est tout à fait



6) pouvait revenir sur le parole et la signature de son prédécesseur. En fait,

McKenna exigea des amendements importants à Meech, y compris l'assurance

que l'aide fédérale aux provinces défavorisées ne serait pas touchée, une reconnaissance constitutionnelle du bilinguisme au Nouveau Brunswick, un

L'occasion lui fut fournie lorsque le gouvernement du Québec décida de se soumettre au jugement de la Cour suprême sur le lacus d'effectivité.

inacceptables. Il ne saurait donc être question d'un accord parallèle. Il fallait réouvrir l'entente, et introduire des amendements et des modifications

Une partie de l'année à Claude Wells vient des années 1970-1980.

UN NOUVEAU CANADA ANGLAIS?

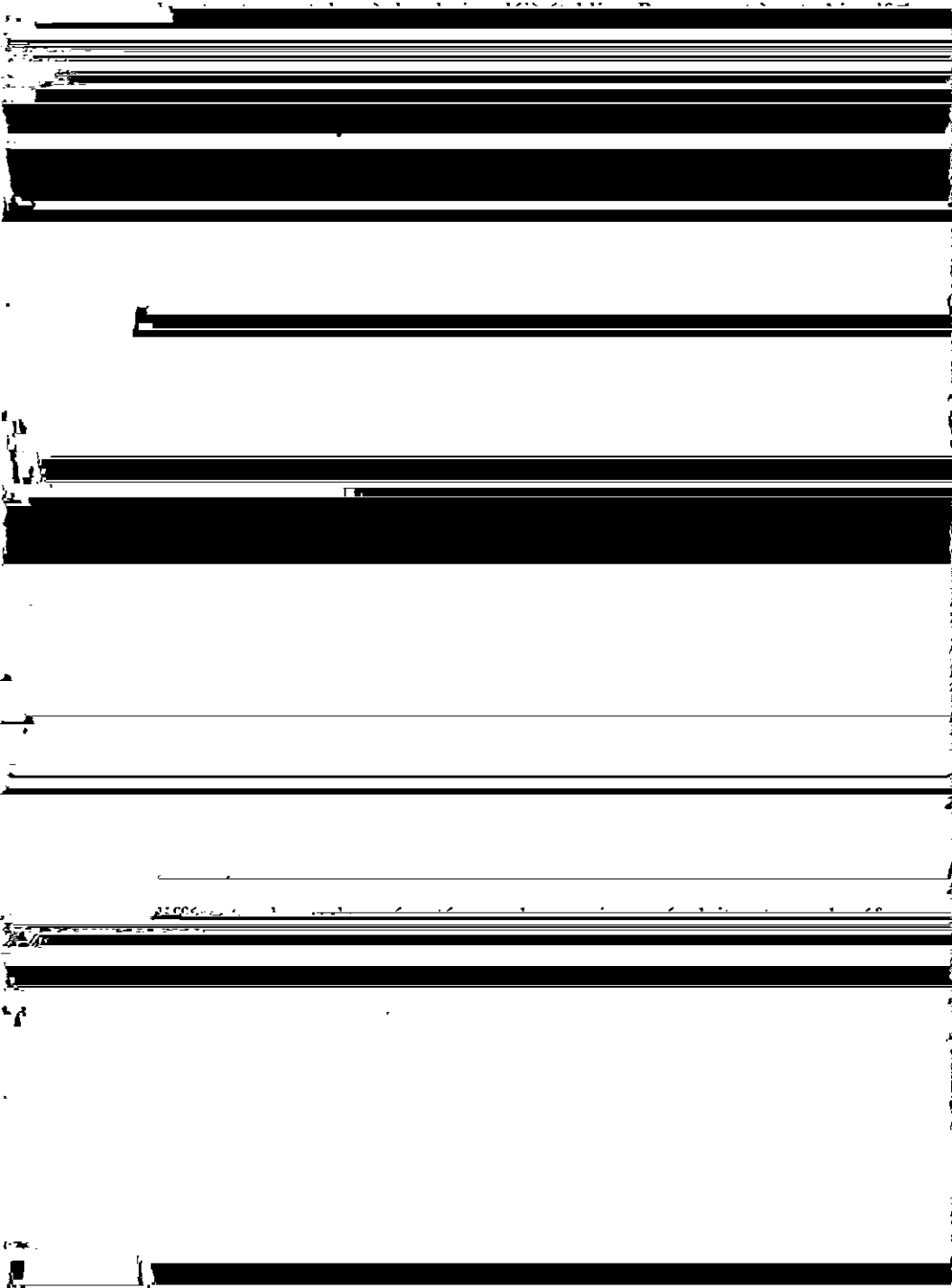
Au-delà des individus, des groupes et des partis qui ont contribué à l'échec de

Marie et à Thunder Bay²⁴. De façon générale, on se déclarait défavorable à toute extension des politiques de bilinguisme. Selon George Perlin, professeur de science politique à l'Université Queen's, "les gens acceptent le bilinguisme en tant que principe, mais dès qu'il s'agit d'adopter des politiques concrètes en ce sens, ils se rebiffent"²⁵. La loi fédérale sur les langues officielles suscite

le Commissaire aux langues D'Iberville Fortier, que le gouvernement fédéral
n'a pas encore eu le courage nécessaire de déposer les règlements devant donner

Le Lac Meech aura provoqué chez de nombreux anglophones un percutant ras-le-bol par rapport aux questions constitutionnelles et aux revendications du Québec. Trudeau ne leur avait-il pas promis que la réconciliation nationale et

bien sûr que le Québec continue à faire partie du Canada, mais dans le respect



signifia ne pour autant que le Canada anglais refuse tout nouveau mode

vivendi avec le Québec. De plus en plus de Canadiens anglais perçoivent
maintenant l'intérêt pour eux d'une redéfinition fondamentale des rapports

entre le Québec et le reste du pays. Le lendemain de l'échec de Meech, le

10 Donald JOHNSTON, *Commissaire général de l'Énergie et des Ressources*

37. Terme beaucoup plus péjoratif qui renvoie à l'esprit de clocher ou de paroisse.

39. Clyde WELLS, *op.cit.*, p. 5.

40. Philip RESNICK et Daniel LATOUCHE, *Réponse à un ami canadien*, Montréal, Editions du Boréal, 1989, p. 29.

41. *Ibid.*, p. 56.

42. Christian DUFOUR, *Le défi québécois*, Montréal, Editions de l'Hexagone, 1989, p. 139.

43. Philip RESNICK et Daniel LATOUCHE, *op.cit.*, p. 56.

Constitutional Minoritarianism in Canada^{*}

Alan C. Cairns

innocés sur le plan constitutionnel en marge des arrangements à la faveur de

When someone with the authority of a teacher, say, describes the world and you are not in it, there is a moment of psychic disequilibrium, as if you looked into a mirror and saw nothing.²

INTRODUCTION

I thank Queen's University for the opportunity to deliver the annual Corry lecture. Professor James Alexander Corry bridged law and political science in a long and productive scholarly career. He was an adviser to governments

Indeed he was one of the key academics who, in the 1930s, left their intellectual

imprint on one of the great state documents in Canadian history, the Rowell-

the governors and the governed, most importantly by reducing the deference

accorded the former by the latter. Relatedly, as Robert Vipond recently argued, and as the Meech Lake drama convincingly confirmed, the coexistence in the

to Meech Lake suggests a remarkable lack of sympathetic comprehension in

the highest quarters of the Charter's psychological impact on the citizenry.

SOCIETAL PLURALISM AND CONSTITUTIONAL PLURALISM

In the '60s, when we began the round of constitutional introspection that is now entering its fourth decade, we thought our task was to replace or update a no longer viable version of French-English and of Quebec-Ottawa relations that were challenged by a modernizing Quebec nationalism. As we entered the '70s, centrifugal provincial pressures in English Canada enlarged the constitutional

from the large number of accounts received and ...

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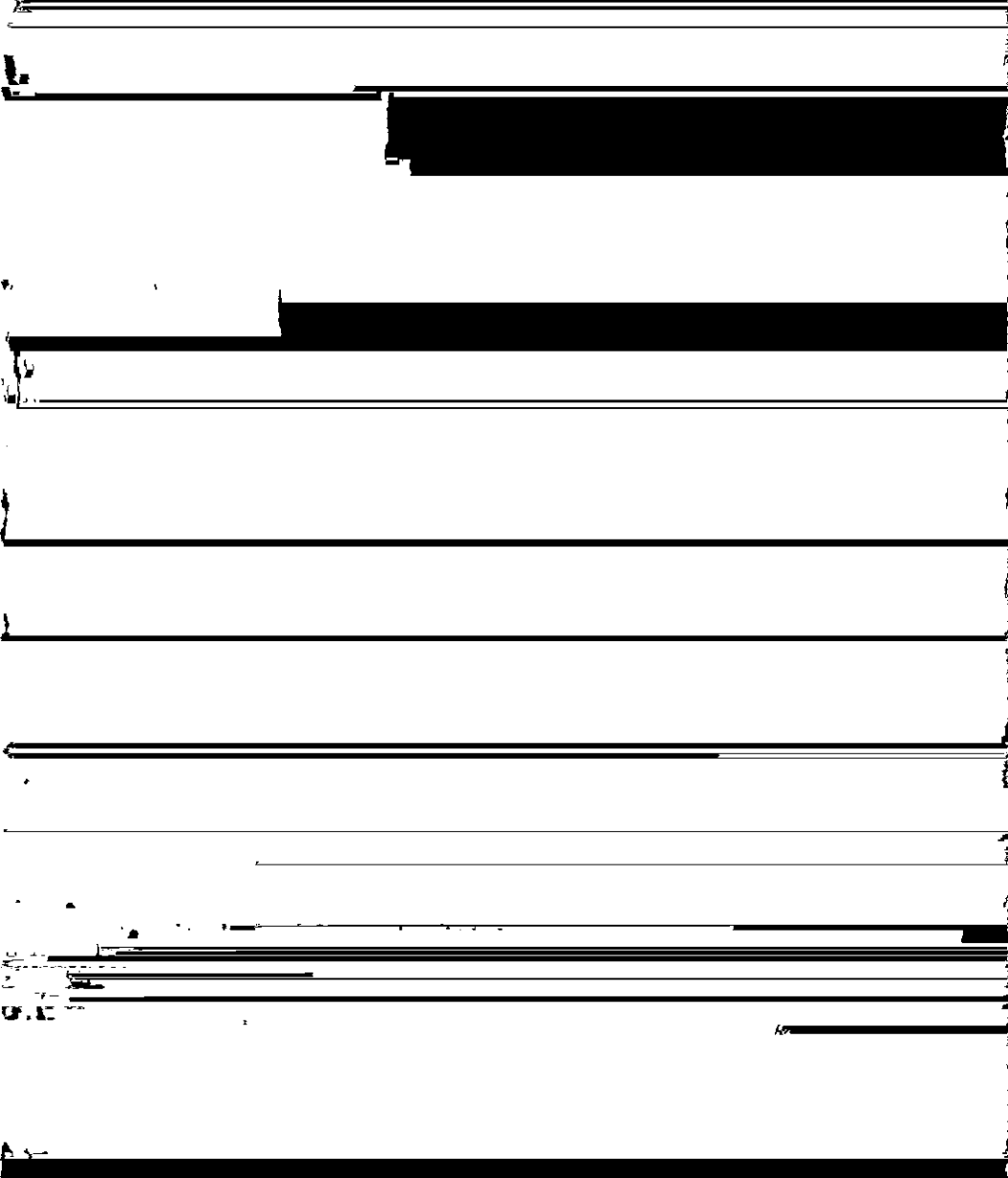
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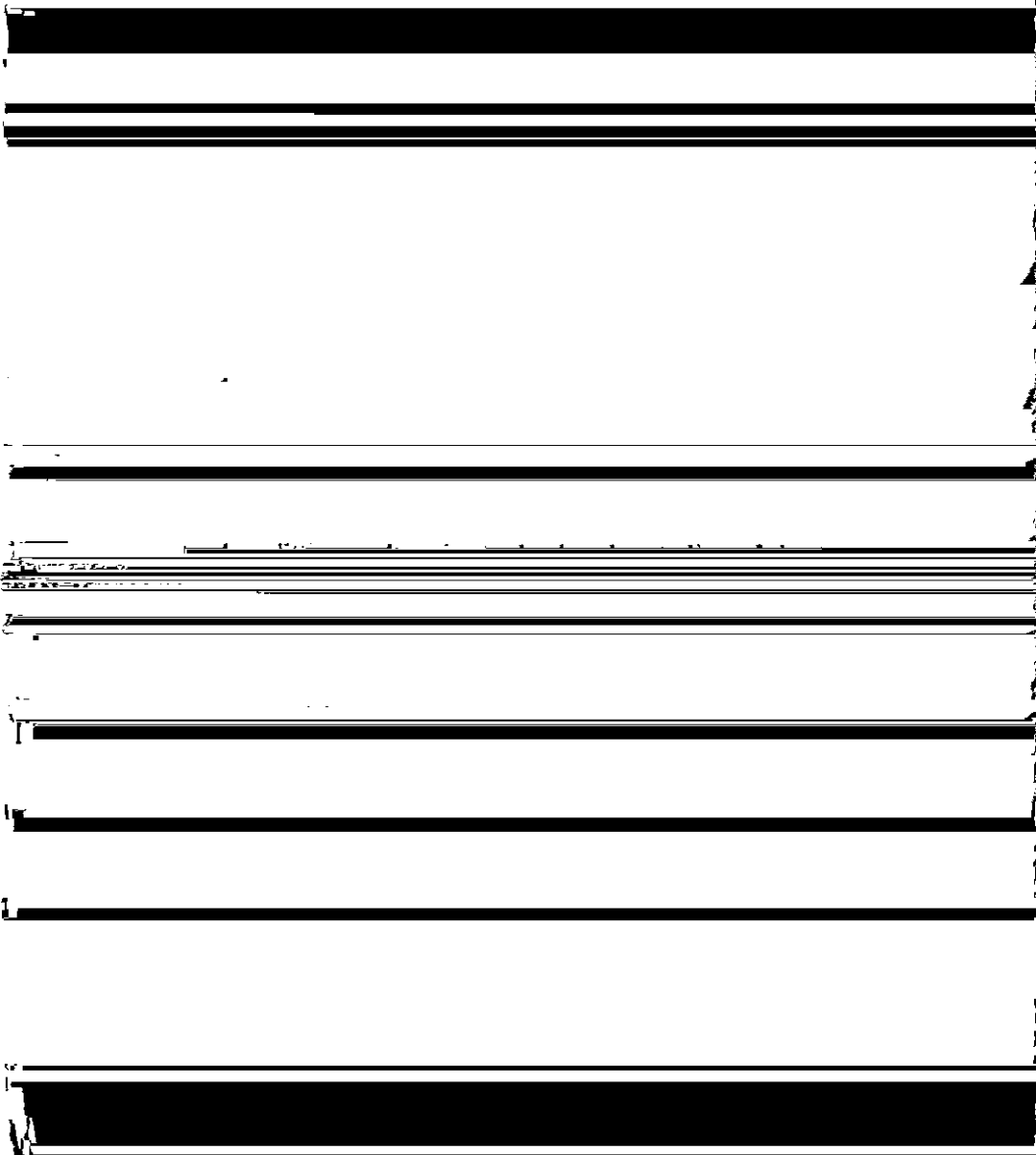
existed only in my imagination.¹² I appreciate the criticism, which is not the same as accepting it, and I am still mulling it over.

follows may not be received as dispassionate, unassailable truth convincing to

The category, Status Indians, which generates a political identity, is legal, not ethnic. Its members include many non-Indian women and young Indians.



Indeed, from one perspective, the living nature of the constitution is a



of those who did battle on the Plains of Abraham met to do constitutional

as Canadians," and that we can only be just in our time, based on the premise
that the most immediate field is within the borders of the country. 29

others who exist as minorities within provincial, territorial, and national

to constitutional amendment typified by the early stages of Meech Lake is incompatible with the kind of constitutional people Canadians have become.

Courts are subjected to the criticism that minorities are not proportionately represented in their ranks, resulting in a lack of...

The same author, James Clifford, continues: "The time is past when privileged

... (some voices? (as history) to others without fear of

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adians, visible minorities, francophones outside Quebec and aboriginal

of groups throwing themselves into the constitutional game, especially that of the Charter, with such zest?

One answer is provided by Mary Douglas, who notes that as government

Canadian case is not properly to be compared to Central Europe or to the

place — one in which the activity of “coming out” described earlier revealed

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The constitutional world we have lost had many virtues, as our analysis

from four small territories 1968

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Boivin, et al. (eds.), *Canadian Human Rights Yearbook*, (Ottawa: University of

human interaction [could] do for the Constitution and thus for all of us," (with
respect to the American constitution) see Kenneth J. Kerst, "Women's Constitu-


p. 11-32 for a discussion of whether "majority group members [can] speak as minority members. Whites as people of colour was an earlier formulation.

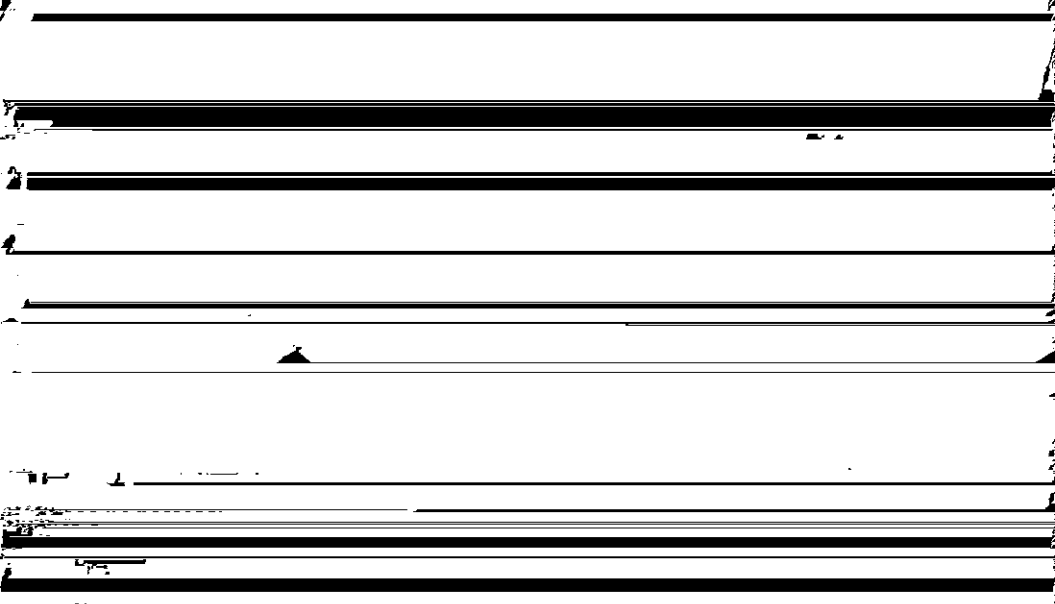
working people.?" p. 11. For a Canadian contribution to the debate see Lenore
Yee's "White 'Superiority' and 'Inferiority'" (1991, 2007, 2008) 25

The Public's View of the Canadian Federation

Michael Adams and Mary Jane Lennon

George-Etienne Cartier, l'un des pères fondateurs de la Confédération, définissait le
Canada comme toute chose commune "action politique". Il avait obtenu, en effet, que





lacked the other elements that usually bind people together, elements such as

of society. Canada's native peoples, women, ethnic and racial minorities, the

[REDACTED]

today than it was a decade ago, as the case of the May 1990 Quebec referendum

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on sovereignty-association.

THE INCREASINGLY CENTRIFUGAL NATURE OF CANADIAN ATTITUDES

Public opinion in the United Kingdom and the Commonwealth has been

majority in 1900. And certainly, there is no doubt that the

THE TRIDEAL VISION AND CANADA'S TWO OFFICIAL

LANGUAGES

Canadians also continue to be deeply divided on the issue of the country's two official languages. In the most recent surveys, conducted earlier this year, just

100% of Canadians support the policy of official bilingualism for all of Canada.

the Meech Lake Accord. All combined together to set the context for Canada's current constitutional crisis.

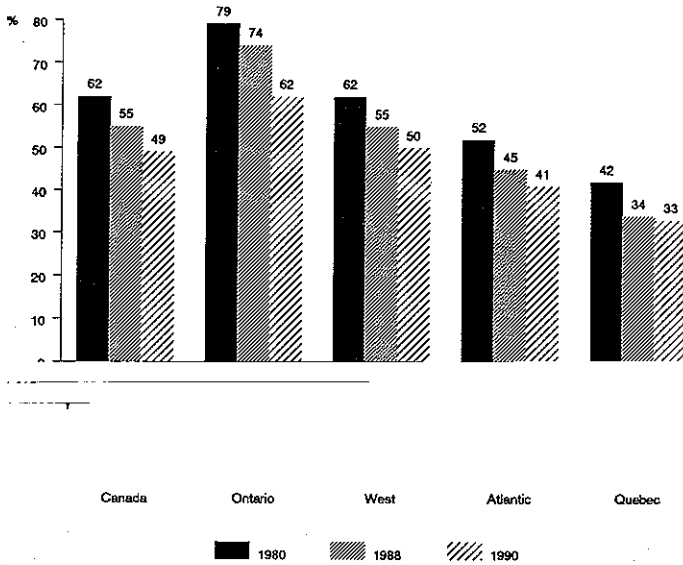
1970s, and has led many English Canadians to adopt a stance of stubborn indifference.

THE NEED FOR NEW APPROACHES

THE NEED FOR NEW APPROACHES

failure of our federal system of government to adapt to the new economic

Figure 5.2
Citizenship Identity*



“Do you feel you are more a citizen of Canada or more a citizen of this province?”

**Percentages saying they feel more a citizen of Canada.*

Figure 5.3

Does Your Province Receive Its Fair Share of Federal Spending?

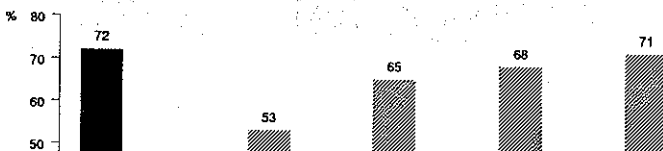
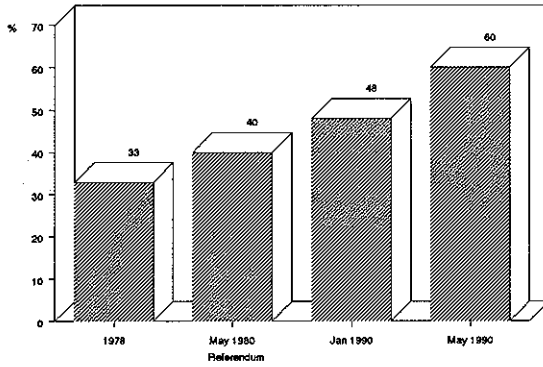


Figure 5.4
Support for Sovereignty-Association for Quebec



“Do you strongly favour, somewhat favour, somewhat oppose or strongly oppose Quebec becoming politically independent but having an economic association with the rest of Canada?”*

**Asked by FOCUS CANADA surveys in 1978 and 1990.*

Figure 5.5
The Two Solitudes

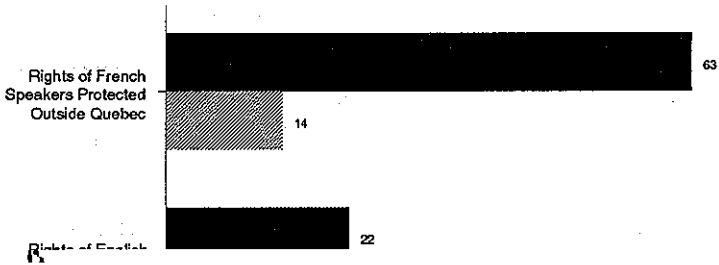
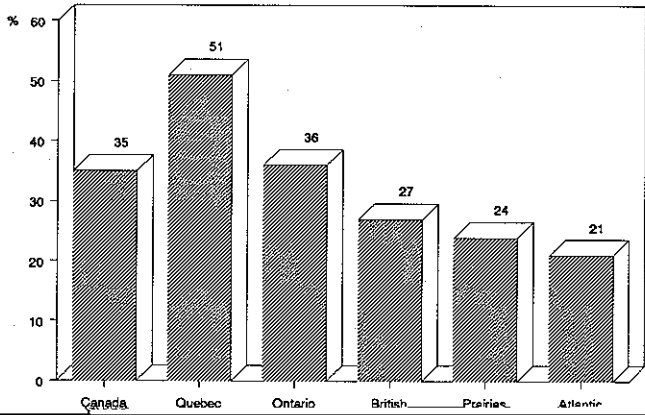


Figure 5.7
Meech Lake Support



The most immediate imponderable is of course the nature of post-Meech Lake Canada. Will a prolonged period of political uncertainty and continual negotiation ensue? Will Quebec separate? Will a new, looser federation be

than the United States? Or will some parts of "Canada-that-was" seek to join the United States? Will the other provinces, whether or not Quebec remains in Canada, become more centralist or more decentralist in orientation? No one can

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means by which the "excess" collections of the centre are transferred to finance the deficits of lower levels of government.⁶

This "fiscal gap" may of course be closed, and vertical fiscal balance

ing responsibility for expenditures to the central government. Indeed, both paths have been followed in Canada at different times, with emphasis on the

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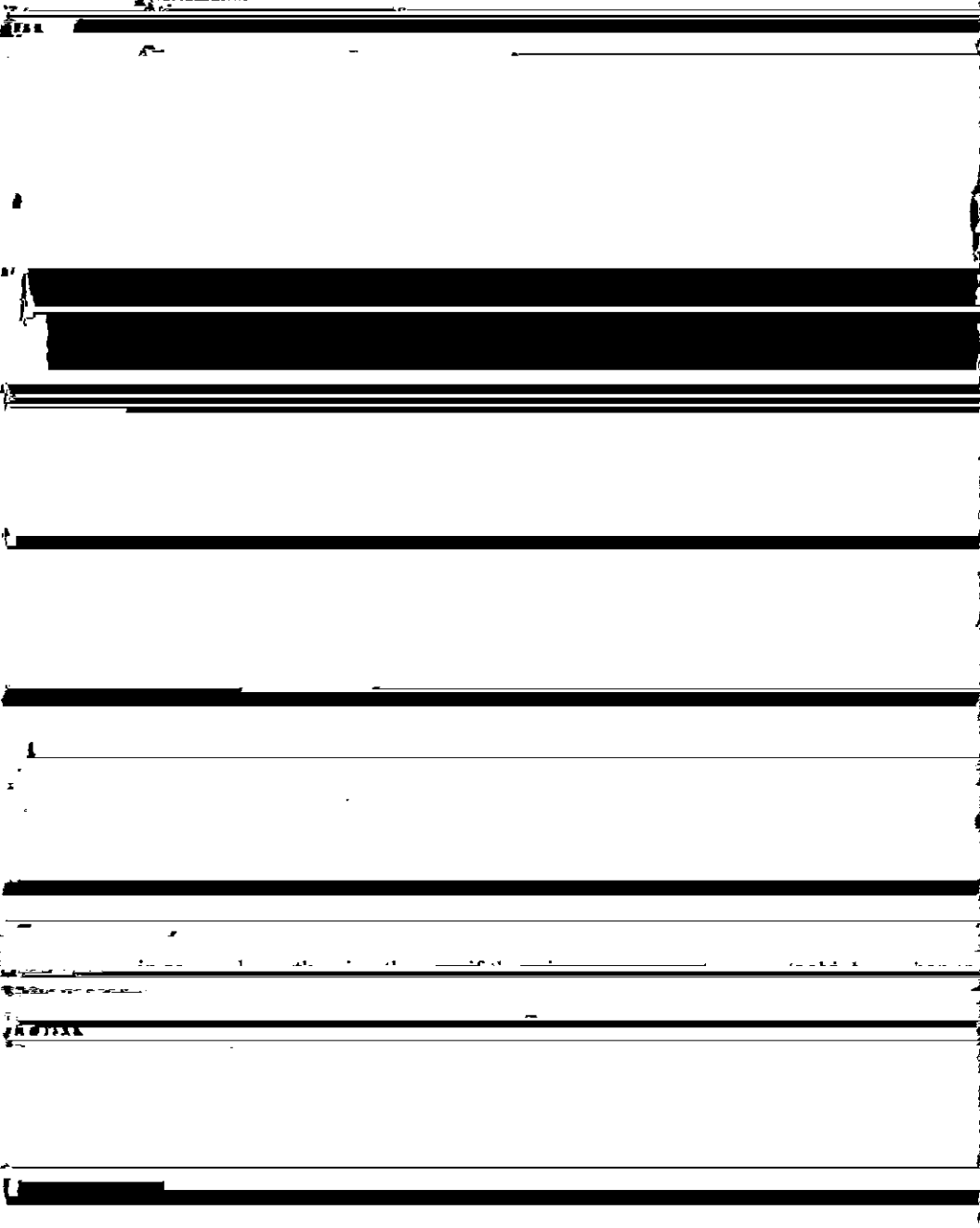
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the size of the spillovers. This rate may perhaps decline as the level of expenditure rises if the external benefits diminish. Conceivably, it may also



such complex ones as in, say, Australia or Switzerland (Bird, 1986). Nonetheless, problems remain with each of the main existing federal-provincial transfer

EQUALIZATION: IS ALL WELL THAT ENDS WELL?

representative five-province standard); (3) changes in the "standard" tax rate (e.g., national average, a hypothetical standard); and (4) the introduction of various arbitrary methods of altering the outcome of applying the formula (partial inclusion of energy revenues, personal income override, GNP cap),

tax bases). Each of these alternatives has some important advantages over the

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(Akin, 1973). The first is that, unlike the "arithmetic" averaging of the RTS

RTS approach to the measurement of fiscal capacity also fails to account for

EPF AND CAP: CONDITIONALITY REVISITED?

The rise, decline, and potential rise again of conditional federal-provincial

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and the shifting political influence in Ottawa of particular constituencies

ernments. Of course, Meech Lake also demonstrated that many Canadians (and

of worrying about fiscal and other barriers to interprovincial trade and compar-

uniform the regulatory systems prevailing in such areas as transport, the more

therefore, the degree of tax harmonization will remain more a matter of taste than of necessity. Even the increased competitive pressure that would be felt in

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2. On the distinction between "tight" and "loose" federations, see Musgrave, Musgrave and Bird (1987), pp. 478-79.

4. As noted above, the purpose of this section is simply to provide a general

framework within which some of the particular features of the Canadian system can be discussed: it does not purport to be either a full or an accurate account of why federal-provincial fiscal arrangements in Canada are as they are.

10. Note that, if reduced EPF transfers are partially offset by increased taxes in the

approach, however, neglects the critical issue of variability over time: a province with a less stable revenue base may have more need to borrow in order to "smooth" tax rates over time (as may be desirable for efficiency reasons) but it will also have less ability to do so because of the higher risk attached to repayment.

22. Incidentally, it is important to understand that in principle the underlying measure

REFERENCES

Advisory Commission on Intergovernmental Relations (1962) *Measures of State and*

Crosby, Thomas L. (1984) *Equalization Payments: Past Present and Future* (Tor-

onto: Ontario Economic Council).

L'immigration au Québec en 1990:
à l'heure des choix

Daniel Bonin

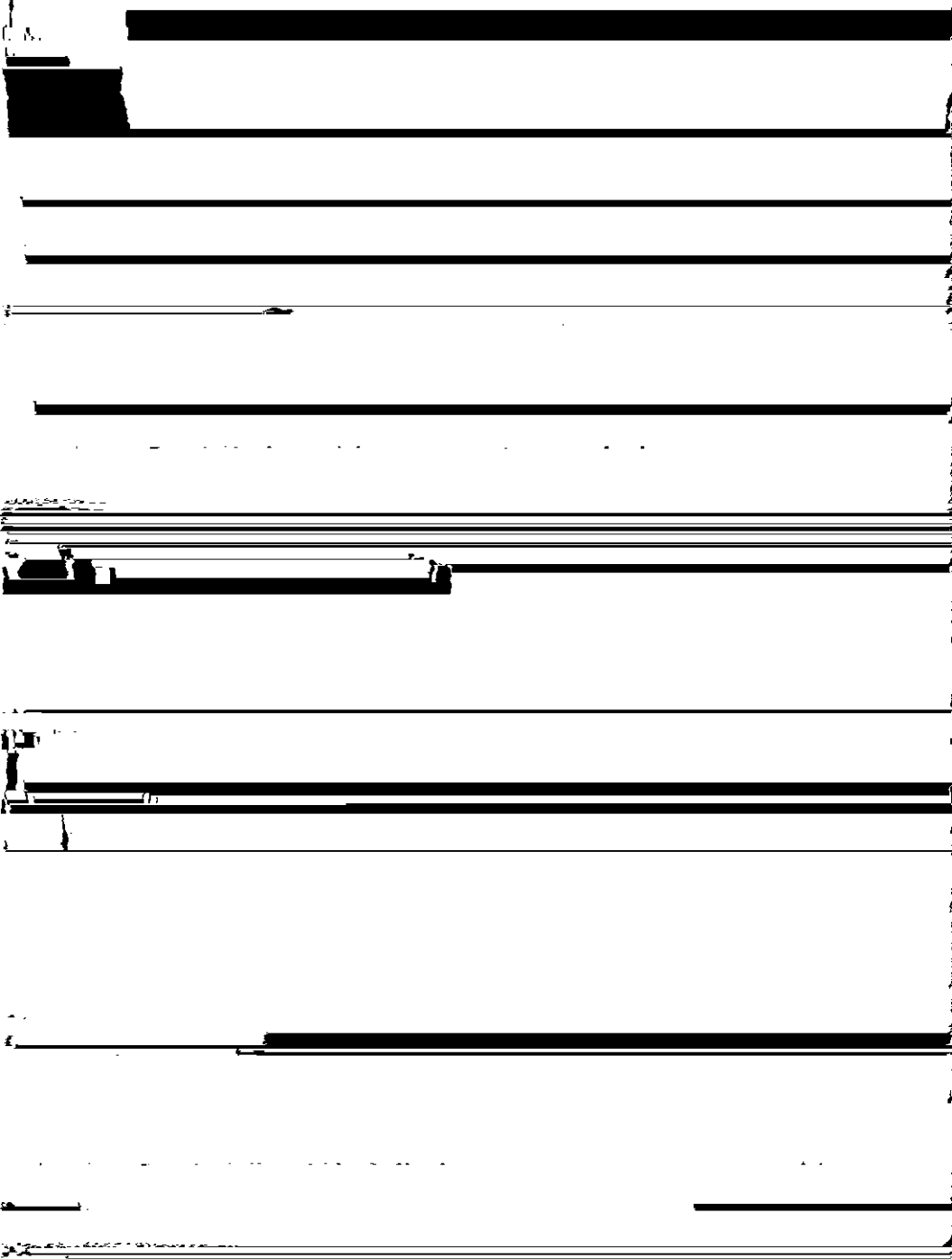
démocratiques de la société québécoise, est encore loin des feux de la rampe.

Québec. À l'ère de la Loi 101, l'épisode récent montrant, dans nombre d'écoles
pluriethniques, le remplacement de l'anglais par le français dans les cours de

The table contains several rows of data, but the content is almost entirely obscured by thick black horizontal bars. Only a few faint characters and line structures are visible, making the data unreadable.

Au demeurant, le réflexe défensif présent au Québec face à l'immigration non-francophone témoignait d'une profonde insécurité sur plan culturel, qui ne s'est d'ailleurs jamais démentie jusqu'à nos jours. Ainsi, on était convaincu en effet que la société québécoise ne parviendrait, en aucun temps, à réaliser l'intégration de ses immigrants sur son territoire. Du reste, " les nationalistes

ment économique fut grosso modo moins marqué au Québec qu'ailleurs au



Québec. Ainsi,

l'Etat québécois ne se sentait guère concerné par l'intégration des (...) immigrants et il ne disposait d'aucune structure d'accueil à cet effet. Ce champ de compétence était abandonné au gouvernement fédéral et les services étaient laissés à l'initiative de l'Eglise, de la Chambre de commerce et des groupes ethniques.²⁸

