

PERSPECTIVES ON THE SUPREME COURT
RULING ON SECESSION

THE Quebec DECISION



Edited by David Schneiderman

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Quebec Decision Perspectives On The Supreme Court Ruling On Secession

Laurel E. Miller, Louis Aucoin



Quebec Decision Perspectives On The Supreme Court Ruling On Secession:

The Quebec Decision David Schneiderman, 1999 The Supreme Court decision on Quebec delivered in August 1998 was hailed as a victory by both federalists and sovereigntists This book explains the reasons for this historic decision It includes the full text of the Supreme Court's opinion together with essays and other key documents David Schneiderman Executive Director of the Centre for Constitutional Studies at the University of Alberta provides a thoughtful introduction to the decision and the debates surrounding it He has selected a wide range of essays that explore the profound implications of the Court's decision for Canada's future Anyone interested in Quebec and the future of Canadian federalism will find *The Quebec Decision* an invaluable resource

The Invisible Constitution in Comparative Perspective Rosalind Dixon, Adrienne Stone, 2018-11-08 Constitutions worldwide inevitably have invisible features they have silences and lacunae unwritten or conventional underpinnings and social and political dimensions not apparent to certain observers *The Invisible Constitution in Comparative Perspective* helps us understand these dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems This volume provides a nuanced theoretical discussion of the idea of invisibility in a constitutional context and its relationship to more traditional understandings of written versus unwritten constitutionalism Containing a rich array of case studies including discussions of constitutional practice in Australia Canada China Germany Hong Kong Israel Italy Indonesia Ireland and Malaysia this book will look at how this aspect of invisible constitutions is manifested across different jurisdictions

On State Secession from International Law Perspectives Jing Lu, 2018-10-30 This book provides essential legal information on state secession in an innovative manner unlike conventional approaches which invariably focus on whether there is a right to secession here the discussion centers on how secessionist conflicts can be effectively resolved To that end the book not only reveals the inadequacy of the current international legal framework but also carefully considers how relevant actors can work to improve the legal system In short it argues that secessionists and non secessionists should conclude an agreement to reconcile their conflicting rights to self determination while external actors should do their utmost to ensure the success of these efforts Positive external involvement requires external actors to refrain from the use of force and to participate more rationally in secessionist conflicts Given its subject matter the book will appeal to a broad readership including students and researchers in international law international relations and ethnic studies as well as enthusiasts in these fields

Contested Constitutionalism James B. Kelly, Christopher P. Manfredi, 2010-01-01 The introduction of the Canadian Charter of Rights and Freedoms in 1982 was accompanied by much fanfare and public debate This book does not celebrate the Charter rather it offers a critique by distinguished scholars of law and political science of its effect on democracy judicial power and the place of Quebec and Aboriginal peoples twenty five years later By employing diverse methodological approaches contributors shift the focus of debate from the Charter's appropriateness to its impact for better or worse on political institutions public

policy and conceptions of citizenship in the Canadian federation

Essential Readings in Canadian Constitutional

Politics Peter H. Russell, Christian Leuprecht, 2011-01-01 Essential Readings in Canadian Constitutional Politics introduces students scholars and practitioners to classic authors and writings on the principles of the Canadian Constitution as well as to select contemporary material To complement rather than duplicate the state of the field it deals with the Canadian Charter of Rights and Freedoms and with Canadian mega constitutional politics in passing only focusing instead on institutions federalism intergovernmental relations bilingualism and binationalism the judiciary minority rights and constitutional renewal Many of the selections reverberate well beyond Canada's borders making this volume an unrivalled resource for anyone interested in constitutional governance and democratic politics in diverse societies [Responsive Judicial Review](#)

Rosalind Dixon, 2023-01-18 Democratic dysfunction can arise in both at risk and well functioning constitutional systems It can threaten a system's responsiveness to both minority rights claims and majoritarian constitutional understandings Responsive Judicial Review aims to counter this dysfunction using examples from both the global north and global south including leading constitutional courts in the US UK Canada India South Africa and Colombia as well as select aspects of the constitutional jurisprudence of courts in Australia Fiji Hong Kong and Korea In this book Dixon argues that courts should adopt a sufficiently dialogic approach to countering relevant democratic blockages and look for ways to increase the actual and perceived legitimacy of their decisions through careful choices about their framing and the timing and selection of cases By orienting judicial choices about constitutional construction toward promoting democratic responsiveness or toward countering forms of democratic monopoly blind spots and burdens of inertia judicial review helps safeguard a constitutional system's responsiveness to democratic majority understandings The idea of responsive judicial review encourages courts to engage with their own distinct institutional position and potential limits on their own capacity and legitimacy Dixon further explores the ways that this translates into the embracing of a weakened approach to judicial finality compared to the traditional US model of judicial supremacy as well as a nuanced approach to the making of judicial implications a calibrated approach to judicial scrutiny or judgments about proportionality and an embrace of weak strong rather than wholly weak or strong judicial remedies Not all courts will be equally well placed to engage in review of this kind or successful at doing so For responsive judicial review to succeed it must be sensitive to context specific limitations of this kind Nevertheless the idea of responsive judicial review is explicitly normative and aspirational it aims to provide a blueprint for how courts should think about the practice of judicial review as they strive to promote and protect democratic constitutional values **Last Word**

Florian Sauvageau, David Schneiderman, David Taras, 2011-11-01 Media coverage of the Supreme Court of Canada has emerged as a crucial factor not only for judges and journalists but also for the public It's the media after all that decide which court rulings to cover and how They translate highly complex judgments into concise and meaningful news stories that will appeal to and be understood by the general public Thus judges lose control of the message once they hand down decisions

and journalists have the last word To show how the Supreme Court has fared under the media spotlight Sauvageau Schneiderman and Taras examine a year in the life of the court and then focus on the media coverage of four high profile decisions the Marshall case about Aboriginal rights the Vriend case about gay rights the Quebec Secession Reference and the Sharpe child pornography case They explore the differences between television and newspaper coverage national and regional reporting and the French and English language media They also describe how judges and journalists understand and interact with one another amid often clashing legal and journalistic cultures offering a rich and detailed account of the relationship between two of the most important institutions in Canadian life Courts Without Cases Carissima

Mathen,2019-04-18 Since 1875 Canadian courts have been permitted to act as advisors alongside their ordinary adjudicative role This book offers the first detailed examination of that role from a legal perspective When one thinks of courts it is most often in the context of deciding cases live disputes involving spirited adversarial debate between opposing parties Sometimes though a court is granted the power to answer questions in the absence of such disputes through advisory opinions also called references These proceedings raise many questions about the judicial role about the relationship between courts and those who seek their advice and about the nature of law Tracking their use in Canada since the country's Confederation and looking to the experience of other legal systems the book considers how advisory opinions draw courts into the complex relationship between law and politics With attention to key themes such as the separation of powers federalism rights and precedent this book provides an important and timely study of a fascinating phenomenon **Law, Politics and the Judicial**

Process in Canada Frederick Lee Morton,2002 Since the first edition of this popular textbook appeared in 1984 the Charter of Rights and Freedoms has transformed the role of the courts in Canadian politics The book introduces students to issues raised by the new political role of Canadian judges Law Politics and the Judicial Process in Canada features new introductions and new readings that deal with current issues in the realm of Canadian law and politics **The Chrétien**

Legacy Lois Harder,2006-07-13 Assessing the legacy of Canada's twentieth prime minister **Constitutional Odyssey**

Peter H. Russell,2004-09-13 Constitutional Odyssey is an account of the politics of making and changing Canada's constitution from Confederation to the present day Peter H Russell frames his analysis around two contrasting constitutional philosophies Edmund Burke's conception of the constitution as a set of laws and practices incrementally adapting to changing needs and societal differences and John Locke's ideal of a Constitution as a single document expressing the will of a sovereign people as to how they are to be governed The first and second editions of Constitutional Odyssey published in 1992 and 1993 respectively received wide ranging praise for their ability to inform the public debate This third edition continues in that tradition Russell adds a new preface and a new chapter on constitutional politics since the defeat of the Charlottetown Accord in 1993 He also looks at the 1995 Quebec Referendum and its fallout the federal Clarity Act Quebec's Self Determination Act the Agreement on Internal Trade the Social Union Framework Agreement and the Council of the

Federation progress in Aboriginal self determination such as Nunavut and the Nisga a Agreement and the movement to reduce the democratic deficit in parliamentary government Comprehensive and eminently readable Constitutional Odyssey is as important as ever

Judicializing Everything? Mark S. Harding, 2022-02-22 Nearly every common law jurisdiction in the world has adopted a charter or bill of rights Yet adopting a new rights document creates rather than resolves many fundamental constitutional questions Should constitutional rights be relevant in private disputes Does every political question need a constitutional or judicial answer Should courts and legislatures equally participate in addressing the scope of which issues are to be considered constitutional Judicializing Everything illustrates how debates surrounding these persistent judicial questions are best understood as part of an ongoing clash between distinct forms of constitutionalism on and off the bench Mark S Harding canvasses the perennial debates within the field of constitutional studies and provides novel ways of understanding key disagreements between judges and scholars alike Despite important formal differences between rights documents in Canada New Zealand and the United Kingdom Judicializing Everything shows that there are also considerable similarities in the kinds of cases arguments and legal outcomes in the three countries As political life becomes increasingly constitutionalized and judicialized this important book sheds light on the persistence of debates over bills of rights and their interpretation

Framing the State in Times of Transition Laurel E. Miller, Louis Aucoin, 2010 Analyzing nineteen cases this title offers practical perspective on the implications of constitution making procedure and explores emerging international legal norms

The Judicial Role in a Diverse Federation Robert Schertzer, 2016-05-09 In *The Judicial Role in a Diverse Federation* Robert Schertzer uses the example of the Supreme Court of Canada to examine how apex courts manage diversity and conflict in federal states Schertzer argues that in a diverse federation where the nature of the federal system is contested the courts should facilitate negotiation between conflicting parties rather than impose their own vision of the federal system Drawing on a comprehensive review of the Supreme Court federalism jurisprudence between 1980 and 2010 he demonstrates that the court has increasingly adopted this approach of facilitating negotiation by acknowledging the legitimacy of different understandings of the Canadian federation This book will be required reading both for those interested in Canada s Supreme Court and for those engaged in broader debates about the use of federalism in multinational states

The Oxford Handbook of the Canadian Constitution Peter Oliver, Patrick Macklem, Nathalie Des Rosiers, 2017-08-10 The Oxford Handbook of the Canadian Constitution provides an ideal first stop for Canadians and non Canadians seeking a clear concise and authoritative account of Canadian constitutional law The Handbook is divided into six parts Constitutional History Institutions and Constitutional Change Aboriginal Peoples and the Canadian Constitution Federalism Rights and Freedoms and Constitutional Theory Readers of this Handbook will discover some of the distinctive features of the Canadian constitution for example the importance of Indigenous peoples and legal systems the long standing presence of a French speaking population French civil law and Quebec the British constitutional heritage the choice of

federalism as well as the newer features most notably the Canadian Charter of Rights and Freedoms Section Thirty Five regarding Aboriginal rights and treaties and the procedures for constitutional amendment The Handbook provides a remarkable resource for comparativists at a time when the Canadian constitution is a frequent topic of constitutional commentary The Handbook offers a vital account of constitutional challenges and opportunities at the time of the 150th anniversary of Confederation

The Canadian Journal of Law and Jurisprudence, 2002 *Self-Determination in International Law, Quebec and Lessons Learned* Anne Bayefsky, 2021-11-15 The case of Quebec within Canada and the Supreme Court of Canada's case on the legality of secessionist attempts by Quebec is one example of the tension associated with the relationship between self determination and a right of secession The object of the book is to render available to the international community the expert opinions and legal arguments associated with the Supreme Court of Canada's decision on the Quebec Secession Reference The questions put to the Court in large part concerned international law leading the parties to the Reference to seek opinions from international law experts around the world as they prepared their arguments which are presented in this book Self determination is an idea rooted in human dignity and its meaning and force parallel the emergence of new understandings of the nature of sovereignty and the role of international law in the protection of human rights The UN Human Rights Committee has identified self determination as one of the most awkward principles to define because abuse of this right could jeopardize international peace and security Self determination as formulated by the International Court of Justice requires a free and genuine expression of the will of the peoples concerned But serious questions remain about the extent of the relationship between self determination and a right of secession Does self determination legitimate internal self government association of some kind with another state or statehood and in what contexts

Canada and the Ethics of Constitutionalism Samuel V. LaSelva, 2018-12-30 Canada is caught between two empires and between two constitutional systems However neither the British model of a single sovereign nor the American people's sacred fire of liberty matched the pluralistic identity of Canada so Canadians engaged in constitutional experimentation In *Canada and the Ethics of Constitutionalism* Samuel LaSelva argues that in order to understand the old Canada of Confederation and the new one that followed the Charter of Rights and Freedoms it is necessary to see how distinctive Canadian constitutionalism is and how that distinctiveness does not depend on borrowings from the British or American constitutional models LaSelva supports his argument by exploring different aspects of Canada's contribution to the ethics of constitutionalism including the limits of free expression the Charter's notwithstanding clause the origins and functions of judicial review the Quebec secession debate Aboriginal self government and the conception of Canada as a multicultural and multinational mosaic Through a careful consideration of how Canadian constitutional pluralism with its focus on the rights of others differs from American and British ideas *Canada and the Ethics of Constitutionalism* provides engaging answers to contested questions about how Canada was founded and what it has become

The State of the

Nations 2008 Alan Trench, 2017-05-24 The State of the Nations 2008 Into the third term of devolution in the United Kingdom is the sixth publication of a major research programme into devolution in the United Kingdom published on behalf of the Constitution Unit at University College London The focus of this volume is on the devolved elections of May 2007 analyzing the outcome in terms of both the immediate aftermath and longer term implications In particular it will consider influences on policy making finance the UK Parliament and the resolution of intergovernmental disputes This book replaces the previously announced volume The State of the Nations 2007 **Constitutional Preambles. At a Crossroads Between Politics and Law** Justin Orlando Frosini, 2012

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