

PERSPECTIVES ON THE SUPREME COURT
RULING ON SECESSION

THE Quebec DECISION



Edited by David Schneiderman

LORIMER

Quebec Decision Perspectives On The Supreme Court Ruling On Secession

Samuel V. Laselva



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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 This contributed volume will help its wide audience including scholars students and practitioners understand the dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems

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

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 and the Charter remains the subject of controversy twenty five years later Contested Constitutionalism 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 in Canada Employing a diversity of methodological approaches contributors explore three themes governance and institutions policy making and the courts and citizenship and identity politics The influence of the Charter has been profound they conclude but has it been beneficial This thoughtful volume shifts 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

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

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 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 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 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 *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

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