

Reasoning with the Charter

Leon E. Trakman

Butterworths Canada Ltd. 1997, pp.238

Reasoning with the Charter, a critique of the current "liberalist" interpretation of the Charter of Rights and Freedoms. Through deconstruction of main judicial interpretations of the Charter Professor Trakman reconstructs their interpretative process to reveal the Charter's potential for positive action.

Professor Trakman considers the attempts by the judiciary to limit interpretations of the Charter to traditional negative rights. He suggests a limit, and in forwarding this limitation, these interpretations often reveal the potential for a positive construction within the Charter. Further, Professor Trakman criticizes judges for denying their political roles in society and demonstrates how judges do, in fact, exercise political influence. These philosophical underpinnings are extensively explored.

Professor Trakman proposes a communitarian conception of liberty which does not abolish Charter Liberalism, but puts it in its place by treating "private rights as a subset of the social sphere".¹ Individual rights, he argues, cannot be, and in reality are not separable from their social milieu. Thus, Professor Trakman seeks "community through communication" whereby groups are acknowledged as having a distinct role apart from government and the individual. To encourage "communicative discourse" between the parts, in their social context, with the Charter as the focus, is "to seek political harmony among diverse peoples".²

This is an ambitious task. Reinterpreting the Charter to provide "discourse" to seek "political harmony", however, is not the book's main thrust. Except for the occasional diversion into these broader goals, Professor Trakman's focus is on the fallacies and inconsistencies of current judicial interpretation of Charter rights.

A difficulty in following Professor Trakman's train of thought lies in the lack of concrete development of case law and societal issues. The general style throughout the book is to state very specific conclusions without guiding the reader through his process of reaching these conclusions. For example, in Chapter Two, Professor Trakman attempts to develop a theme of group-group interaction to refute the traditional liberalist state-individual dichotomy:

No group of linguists, blacks, women or aboriginal people, can personalize collective attitudes towards sex, race and religion without also affecting the social climate around them... They affect everyone... They cannot pass as special interest groups... Within this wider sphere,

Reasoning With The Charter

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Reasoning With The Charter:

Reasoning With The Charter Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its ability to stir emotions, provoke thought, and instigate transformation is really remarkable. This extraordinary book, aptly titled "**Reasoning With The Charter**," written by a very acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound effect on our existence. Throughout this critique, we shall delve into the book's central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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