

NATIONAL JOURNAL OF •• REVUE NATIONALE DE  
**CONSTITUTIONAL •• DROIT**  
**LAW •• CONSTITUTIONNEL**

2005-2006

**Constitutional Update 2005**

THOMSON  
★  
CARSWELL

# Table of Contents

<i>Editorial Board</i> . . . . .	iii
<i>Contributors</i> . . . . .	vii
<i>Table of Cases</i> . . . . .	ix

## ARTICLES

### Reflections on the 20<sup>th</sup> Anniversary of Section 15

A Powerful Agent for Progress: Section 15 - <i>William C. McDowell</i> . . . . .	1
The Impact of Section 15 on Canadian Society — Equality Rights: Beacon or Laser? - <i>Marilou McPhedran</i> . . . . .	7
The Impact of Section 15 on the Courts - The Honourable <i>Karen M. Weiler</i> . . . . .	21

### Developments In *Charter* Interpretation And Analysis

Tradition and Change in Constitutional Interpretation: Do Living Trees Have Roots? - <i>David M. Brown</i> . . . . .	33
Developments in the Section 15 Test - <i>Judith Keene</i> . . . . .	103
Recent Developments in Section 1 of the <i>Charter</i> : <i>N.A.P.E.</i> and <i>Oibański</i> : <i>Elias</i> - <i>Mahmud Jomai</i> . . . . .	141
Constitutional Values, Faith-Based Arbitration and the Limits of Private Justice in a Multicultural Society - <i>Jean-François Gaudreault-DesBiens</i> . . . . .	155

**Charter Rights To Privacy And Security: The Impact of International Terrorism and Globalization****Privacy, Transparency and the Rule of Law: Critical to Preserving Freedom and Liberty**

- *Ann Cavoukian* ..... 193

**Charter Rights to Privacy and Security: The Impact of International Terrorism and Globalization Impact on Charter Rights in Immigration Law**

- *Barbara Jackman* ..... 229

**Social and Economic Rights Under the Charter*****Auton and Chaoulli: Who Decides the Future of Health Care in Canada?***

- *Robert E. Charney and S. Zachary Green* ..... 263

**Unequal Benefits or Unequal Persons? Social Benefit Programs and the Charter**

- *R. Douglas Elliot and Jason J. Tan* ..... 285

**Charter Developments In Criminal Law****Profiling and the Charter: Criminal, Racial and Constitutional Torts**

- *Morris Manning, Q.C.* ..... 321

**COMMENTARY****Free Expression and Publication Bans: Towards a More Open Criminal Justice System**

- *Daniel Henry* ..... 337

**Canadian Women and the Charter of Rights**

- *Doris Anderson* ..... 369

**The Impact of Section 15 on Equality Seeking Groups: Disrimination Based on Race, Origin or Colour**

- *The Honourable Jean Augustine* ..... 381