best within the space left open by legal rules. Standards do not create the reasons on which judges are to rely in fleshing them out.

Standards are delegations to future decision-makers to engage in first-order practical reasoning and (unlike rules) do not themselves authoritatively settle controversies over the deliverances of such reasoning. But is this true of standards that require the future decision-maker to consider certain factors or criteria?

To answer this, one should distinguish two types of multifactor standards. One type requires the decision-maker to consider certain factors (criteria) but does not preclude the decision-maker from also considering other factors that the decision-maker may think relevant to the correct all-things-considered judgment. Such a multifactor standard is not a counterexample to the claim that standards invite first-order practical reasoning. The factors are merely things the standard promulgator thinks will probably bear on that reasoning. But the future decision-maker is not precluded from taking into account any factor that bears on that reasoning. A standard issued by the owner of a major league baseball team to the team's general manager instructing him, when trading ball players, to consider batting average, fielding percentage, and salary, among other factors, leaves the general manager unconstrained in making the best all-things-considered baseball decision. He can give the named factors whatever weight he believes they possess.

The second type of multifactor standard requires the future decision-maker to consider nothing but the mentioned factors. This type of standard is really a combination of a standard and a rule. It essentially directs the decision-maker to make an all-things-considered judgment (a standard) but, in doing so, to screen out all considerations but the named factors (a rule). The decision-maker would, in essence, be bound by the rule portion to assume that all the relevant factors he is not supposed to consider are in equipoise, even if they really are not. It would be like a directive from the owner to the general manager to determine trades based only on batting, fielding, and salary, and to assume therefore that all the players are equal in leadership qualities, tendencies to injury, fan appeal, and so on.

4. Constitutional Interpretation I have argued that constitutional provisions creating governmental structures are like assembly instructions for toys and gadgets. They are assembly instructions for creating a government. Constitutional rights provisions, I have argued, can be of two types: determinate rules creating the rights; or incorporation by reference of real moral rights. Finally, I have argued that creating rights other than through determinate rules is an impossibility.

So what do these points suggest is the proper way to interpret constitutions? Let us consider first the interpretation of structural provisions. Consider what the constitutional enterprise is in this regard. We have asked the constitutional authors to tell us how we should construct our government. How should the legislative branch be structured and chosen? How should the other branches be structured and chosen? What should be the respective powers of the federal and provincial governments? And so on. The constitutional authors have communicated their resolutions of these issues to us through symbols —marks on pages, in the case of written constitutions. It would make sense, would it not, to interpret those symbols as meaning what the constitutional authors intended them to mean —that is, by reference to the constitutional authors' intended meaning. After all, we charged them with the task of producing governmental assembly instructions, and these symbols were meant by them to convey what they had produced. It would be decidedly