

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (November 2016 - February 2017)

“Not turning out – Millennials across the rich world are failing to vote.” *Economist* 422 (9026): 51-2 February 4, 2017

- Democracies are at risk if young people continue to shun the ballot box.

“Vote early, vote often – Why the voting age should be lowered to 16.” *Economist* 422 (9026): 10 February 4, 2017.

- Young voters are becoming disillusioned with elections. Catch them early and teach them the value of democracy.

Chalifour, Nathalie J. “Canadian climate federalism: Parliament’s ample constitutional authority to legislate GHG emissions through regulations, a national cap and trade program or a national carbon tax.” *National Journal of Constitutional Law / Revue nationale de droit constitutionnel* 36 (2): 331-407, November/novembre 2016.

- Climate change is perhaps the quintessential issue for engaging the tools of cooperative federalism and progressive interpretation of our Constitution.

Dodek, Adam M. “Omnibus bills: Constitutional constraints and legislative liberations.” *Ottawa Law Review / Revue de droit d’Ottawa* 48 (1): 1-41, 2017.

- Ultimately, this paper concludes that in the absence of action by Parliament itself, the courts may be forced to find a way to restrict the most abusive uses of omnibus bills.

Edwards, Cecilia. “The Political consequences of *Hansard* editorial policies: the case for greater transparency.” *Australasian Parliamentary Review* 31 (2): 145-60, Spring/Summer 2016.

- When discrepancies are spotted between spoken speeches and reported speeches, it is often assumed that a member has altered the record

– a practice that can have serious consequences because it raises the question of whether there has been an attempt to deliberately mislead the House.

Everett, Michael. “A public service ombudsman: Removing the MP filter.” *UK House of Commons Library - Second Reading Blog* 2p., December 14, 2016.

- One of the draft bill’s most notable features is the removal of the ‘MP filter’ – the requirement that all complaints to the existing Parliamentary Ombudsman (PO) must be made through an MP. This filter is unique to the PO.

Feldman, Charlie. “Legislative vehicles and formalized Charter review.” *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 79-89, 2016.

- Although parliamentarians consider the constitutionality of proposed legislation through various means, formalized review occurs only with respect to specific classes of legislation and does not mirror how courts review impugned legislation. This article compares and contrasts current parliamentary practices aimed at *Charter* compliance and explains where gaps exist.

Feldman, David. “Legislation which bears no law.” *Statute Law Review* 37 (3): 212-24, 2016.

- In the United Kingdom, examples of statutory provisions which do not contain the sort of content which would normally be regarded as legally cognizable norms are multiplying. The phenomenon of *non-law-bearing* statutory provisions challenges the notion of legislation and endangers the psychological influence on which the success of legislation usually depends..

Hunter, Josh. “Renovating Canada’s constitutional architecture: an examination of the government’s democratic reform initiatives.” *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 15-32, 2016.

- This paper examines the electoral reform referenda that have been held in other Commonwealth countries and in several Canadian provinces. It will also consider whether a constitutional convention has arisen requiring any major changes to Canada's electoral system to be approved by referendum.

Jennings, Sarah. "Extreme makeover." *Literary Review of Canada* 25 (1): 10-13, January/February 2017.

- Will the multibillion-dollar renovation of Parliament Hill create a vital new capital, or a spectacular members-only club?...to stand in this space is powerful, a tribute to its design architects and the many teams and dozens of subprojects on the site...

Kazmierski, Vincent. "Accessing with dinosaurs: Protecting access to government information in the cretaceous period of Canadian democracy." *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 57-66, 2016.

- In many ways, our democratic institutions, processes, and frameworks resemble the dinosaurs of the Cretaceous period...They have ceased to evolve sufficiently and are being left behind in an environment where technological innovations and greater expectations for political consultation, participation, and accountability have combined to present new challenges to the legitimacy, and perhaps the viability, of the *status quo*...

Mikhael, Mina Mark. "The dangers of the reference question: SCC v. SCOTUS." *Canada-United States Law Journal* 40: 71-83, 2016.

- This article deals with diverging approaches to the question of a legal reference in Canada and the United States.

Painter, Pauline. "New kids on the block or the usual suspects?: Is public engagement with committees changing or is participation in committee inquiries still dominated by a handful of organisations and academics?" *Australasian Parliamentary Review* 31 (2): 67-83 Spring/Summer 2016.

- Committees play an important role in the democratic system of government in providing opportunities for groups and individuals to engage with Parliament...with the changing face of technology, new forms of participatory democracy

and the rise of social change movements this article examines if this movement has had an influence on participation in committee inquiries.

Ponsford, Matthew P. "The law, policy, and politics of federal by-elections in Canada." *Journal of parliamentary and political law / Revue de droit parlementaire et politique* 10 (3): 583-627, November / novembre 2016.

- The author aims to elucidate several key aspects of laws governing federal by-elections in Canada, both in contrast and similarity to general election laws and policies...includes an examination of the role of the Chief Electoral Officer of Canada and the Speaker of the House of Commons... several examples are provided to illustrate the convenience of by-elections as pilot projects for improved general elections.

Purser, Pleasance. "Overseas Parliamentary News: October 2016." *New Zealand Parliamentary Library* 9p.

- Australia - Restriction on photography in Senate chambers lifted - Since 2002 the media have been able to take photographs in the chamber of the senator who has the call and is speaking, but not of anyone else. The Senate has now lifted this restriction...

Purser, Pleasance. "Overseas Parliamentary News: November 2016." *New Zealand Parliamentary Library*, 11p.

- Denmark - Increased penalties for attacks on people providing public service - A bill to increase respect for public life, public authorities and people in public service, including politicians, would amend the Penal Code to make it an aggravating circumstance for the purpose of sentencing if the offence had been committed in the context of the performance by the victim, or a close family member, of their official duties...

Purser, Pleasance. "Overseas Parliamentary News - December 2016." *New Zealand Parliamentary Library*, 12p.

- United Kingdom - Blogger given prison sentence for harassing MP - A blogger who published a series of abusive anti-Semitic postings against a Jewish MP was convicted of racially aggravated harassment and sentenced to two years imprisonment. The MP gave evidence in court

that she had feared for her personal safety as she knew that what happened online did not always stay online...

Walters, Mark D. "Judicial review of ministerial advice to the Crown." *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 33-42, 2016.

- How is ministerial advice to the sovereign concerning how a power ought to be exercised different from the exercise of the power itself? Does ministerial advice exist within a domain of political action beyond the reach of law? These are persistent questions in Canada.

Whyte, John D. "Political accountability in appointments to the Supreme Court of Canada." *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 109-18, 2016.

- There are many issues related to the method and formal structure of a hearing process. There are also legitimate concerns about the damage that might be done to the Supreme Court or the judicial branch generally by hearings, chiefly the risk of political partisanship in the review process, which might be perpetuated through politically partisan conflict among the members of the Court...

Zwibel, Cara Faith. "The committee process: Platform for participation or political theatre?" *Constitutional Forum / Forum constitutionnel* Special Issue 25 (3): 43-55, 2016.

- This article focuses on the role that committees of the House of Commons play in the legislative process. It also examines how committees work in practice in order to assess whether the theory of citizen engagement reflects the practical reality of how committees perform their functions...

Jacques-Barma, Sophie. « Un directeur parlementaire du budget pour le Québec ou comment crédibiliser le débat. » *Fondation Jean-Charles-Bonenfant*, National Assembly of Quebec, 40p. juin 2016.

- The purpose of this paper is twofold: First, the paper informs the reader about the PBO's

mandate. The federal example serves as the basis for the discussion. The reasons for its creation, the tasks it performs and the challenges faced by the first PBO are examined. Second, the paper outlines the debate on establishing a PBO in Quebec and takes a position on this issue.

McDonald-Guimont, Julien. "La face cachée du travail de député : étude des implications de faire le saut en politique." *Fondation Jean-Charles-Bonenfant*, National Assembly of Quebec, 59p. June 2016.

- Even today, despite the unprecedented volume of information that is available and consumed, the work of a Member of the National Assembly remains deeply mysterious. Few people can claim to have spoken with their MNA, and MNAs themselves generally prefer not to expose their private lives. To fill this information gap, this paper aims to shed light on the real implications of an MNA's work.

Monière, Denis. "Pour une réforme du mode de scrutin." *L'Action nationale* 106 (8): 74-85, October 2016.

- The function of the electoral system is to transform votes into seats according to formulas of varying complexity. The choice of a voting system reflects a choice of a theory of politics. Some put the principle of equal representation of political forces first, while others give priority to more stable governments.

St-Hilaire, Maxime. "De la compétence sur la révision du système électoral fédéral." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 10 (3): 641-48, November / novembre 2016.

- The Constitution, even when it is interpreted, as it should be, in a non-literal manner such that the constitutional amendment procedure it sets out applies not only to the amendment of provisions already in force, but also to the adoption of new provisions as changes to an "architecture," and even taking into account the "unwritten principles" that fall under it, authorizes Parliament alone to amend the electoral system for the House of Commons.

