

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (December 2018-March 2019)

Bell, Lauren C. "Obstruction in parliaments: a cross-national perspective." *The Journal of Legislative Studies* 24 (4), December 2018: 499-525.

- In legislative institutions, disruptions to the agenda and delays in processing legislation can have a significant impact on the ability of legislative majorities to realise success. Few previous studies have systematically examined parliamentary obstruction in non-U.S. settings. In this article, the author investigates the extent to which obstruction occurs in parliaments around the world.

Bochel, Catherine. "Explaining the e-petitions process to the public." PSA Parliaments Group January 16, 2019: 2p.

- How can we judge success or failure in relation to e-petitions to Parliament? The author discusses a framework for assessing e-petitions, drawn from research in the National Assembly for Wales and Scottish Parliament.

Burns, Ian. "Federal Appeal Court 'misunderstood the purpose' of parliamentary privilege in expenses case: lawyer." *The Lawyer's Daily*, March 1, 2019: 3p.

- The Federal Court of Appeal has ruled the proceedings of an internal body of the House of Commons is protected by parliamentary privilege in a case involving the expenses of a number of members of Parliament, a decision the MPs' lawyer is pledging to bring to the Supreme Court to get a final answer on what he calls a fundamental issue of constitutional law.

Collier, Cheryl N., Raney, Tracey. "Canada's Member-to-Member code of conduct on sexual harassment in the House of Commons: Progress or regress?" *Canadian Journal of Political Science / Revue canadienne de science politique* 51 (4), December/décembre 2018: 795-815.

- In 2015, the Canadian House of Commons passed a new code of conduct governing non-

criminal sexual harassment between members of Parliament becoming the first of its kind in any Westminster system in the world. Using a feminist institutional and violence-against-women-in-politics approach, the authors assess how the code challenges, legitimizes and upholds traditionally gendered norms and institutionalized sexism within Canada's parliamentary system including parliamentary privilege, party cohesion and party discipline. Despite its novelty, the authors argue this code fails to enact positive gender-friendly institutional change and may do more harm than good in its efforts to curb sexual harassment.

Defy, Andrew. "How did the government end up in contempt of Parliament?" Political Studies Association Specialist Group of Parliaments blog December 10, 2018: 4p.

- On December 4, 2018, the UK Government was found to be in contempt of Parliament. The author explains how this unprecedented situation occurred.

Elliott, Mark, Tierney, Stephen. "House of Lords Constitution Committee reports on delegated powers." The UK Constitution Unit November 27, 2018: 5p.

- The Constitution Committee recently published its report on the increasing use of delegated powers by the government. The authors highlight the key concerns raised and proposals made by the Committee in two principal areas: the ways in and extent to which legislative powers are delegated, and scrutiny of such powers' exercise.

Feldman, Charlie. "Beyond Charter statements: Constitutional communications in the parliamentary context." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique Special Issue – Canada's Constitutional & Governance Challenges After 150 Years / numéro hors-série – Les Défis Constitutionnels et de Gouvernance du Canada Après 150 ans*, 2018: 37-66.

- The parliamentary record is replete with historical and contemporary expressions of concern by federal legislators regarding the constitutionality of proposed enactments. Yet, little research appears to explore how parliamentarians' constitutional knowledge is developed - both generally and in relation to specific enactments - within the parliamentary context.

Greenberg, Daniel. "Editorial – The myth of line by line scrutiny." *Statute Law Review* 39 (3), 2018: pp. v-vii.

- The author has been waiting for a very long time to tell UK Parliamentarians formally that the myth of 'line-by-line' scrutiny at Committee in either House is exactly that.

Kennedy, Gerard. "Public inquiries' terms of reference: Lessons from the past - and for the future." *Manitoba Law Journal* 41 (1), 2018: 317-41.

- Terms of reference define public inquiries' power, yet there has been little analysis of them. In this article, the author analyzes the terms of reference of six different public inquiries - three widely considered successful (the Walkerton Inquiry, Goudge Inquiry, and Kaufman Commission), three widely considered unsuccessful (the Somalia Inquiry, Cornwall Inquiry, and Missing and Murdered Indigenous Women Inquiry) - to investigate how terms of reference contribute to the success of public inquiries.

Kennon, Andrew. "The Digital, Culture, Media and Sport Committee, Facebook and parliamentary powers and privilege." *Hansard Society* November 27, 2018: 4p.

- For its 'fake news' inquiry the House of Commons DCMS Committee has reportedly acquired papers related to a US court case involving Facebook. A former Commons Clerk of Committees says the incident shows how the House's powers to obtain evidence do work, but that it might also weaken the case for Parliament's necessary powers in the long term.

Baroness Taylor of Bolton (Chair). "The Legislative process: the delegation of powers." *House of Lords Select Committee on the Constitution - 16th Report of Session 2017-19, HL Paper 225: 42p.*

- Delegated powers are a necessary part of the legislative process. When used appropriately, they allow Parliament to focus on the important policy frameworks and decisions in primary legislation, and to leave the detail of implementation to secondary legislation. They provide the Government with the flexibility to deliver its policy, and adjust its operation as circumstances change, through a less onerous scrutiny process. However, decisions as to what powers to delegate, and the level of parliamentary scrutiny to which they should be subject, have proved increasingly contentious.

Wollaston, Sarah. "Effective and influential: where next for departmental select committees?" *The Constitution Unit*, February 15, 2019: 3p.

- Forty years after the creation of departmental select committees, it is beyond doubt that they have contributed significantly to the scrutiny of government. But could they be doing more? The House of Commons Liaison Committee has established an inquiry to answer this question. The author explains that this is a necessary task to ensure that committees continue to innovate and perform their crucial functions with the involvement of MPs, experts and the general public.

Pelletier, Benoît. « La validité de la Loi de 2013 sur la Succession au Trône. » *Revue de droit d'Ottawa / Ottawa Law Review* 49 (2), 2018 : 331-72.

- On October 28, 2011, the heads of government of the 16 Commonwealth countries, headed by Elizabeth II, met in Perth, Australia. Collectively, they expressed their desire to abolish the rule of male primogeniture in regard to succession to the throne, and the rule stating that a person married to a Catholic cannot ascend to the throne of the British Crown...the constitutionality of *the Succession to the Throne Act, 2013* has been contested in the Canadian courts, yet to no avail. In this article, the author examines its constitutionality. He concludes that *the Succession to the Throne Act, 2013* is not only constitutional, but is sufficient in every respect to mark Canada's adherence to the United Kingdom's change to the rules of succession to the throne.