

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (May 2016 - July 2016)

Atkinson, Michael, Rogers, Dustin, and Olfert, Sara. "Better politicians: If we pay, will they come?" *Legislative Studies Quarterly*, 41 (2): 361-91, May 2016.

- While each election provides the Canadian House of Commons with a fresh batch of politicians, no consideration has been given to the question of whether the quality of politicians is improving or how to further improve the quality ...

Everett, Michael. "A Public Service Ombudsman for the UK." House of Commons Library Briefing Paper 07587: 22p., July 2016.

- This Briefing Paper looks at the Government's proposal to bring forward a draft bill for a public service ombudsman...

Fitzgerald, Oliver. "Distant echoes: Discussing judicial activism at Canadian and American Supreme Court nomination hearings." *Constitutional Forum constitutionnel*, 25 (1): 37-47, 2016.

- This paper begins by tracing Canadians' concerns about judicial activism ... and concludes with some thoughts on what Justice Nadon's comments may portend should televised *ad hoc* committee hearings for Supreme Court nominees be restarted.

"Free exchange – Make me." *Economist* 419 (8991): 68, May 28, 2016.

- Compulsory voting is hardest to enact in the places where it would make most difference.

Geisler, Paul. "Will the *Reform Act, 2014*, alter the Canadian phenomenon of party discipline?" *Manitoba Law Journal* 38 (2): 17-43, 2015.

- This paper attempts to determine the extent to which this Bill can be expected to reduce the powers of party leaders, to empower caucuses, and, most importantly, the extent to which this rebalancing of power may result in more politicians dissenting from the party line, and less party cohesion.

Goodwin, Mark, Bates, Stephen, and McKay, Steve. "Elected Chairs do not seem to have brought a new kind of parliamentarian to [UK] Select Committees." *Democratic Audit UK blog*, 3p., June 7, 2016.

- The Wright reforms have been widely credited with revitalising Parliamentary Select Committees. However, the authors question whether the reforms have improved rates of turnover, attendance or gender balance.

Hulme, Kristin. "Alberta's great experiment in senatorial democracy." *American Review of Canadian Studies* 46 (1): 33-54, 2016.

- ...in 1989, the province of Alberta enacted the *Senatorial Selection Act*, arguing that it would serve as a stepping stone for substantive reform to the Senate. This article argues that the Court's opinion in *Reference re Senate Reform* undermines the foundation upon which the provincial statute rests.

Leston-Bandeira, Cristina. "A year on, the new [UK] Petitions Committee has much to celebrate." *Constitution Unit Blog*, July 20, 2016.

- ...The next challenge may be to consider how to maximise the number of petitions that can realistically lead to some sort of outcome.

Lisvane, Lord. "In a fix?" *The House Magazine* 1553 (37): 30-1, June 15, 2016.

- Is the *Fixed-term Parliaments Act* about to be stress-tested by the unpredictable consequences of a Brexit win? Former Clerk of the Commons (2011-14), Lord Lisvane, examines potential scenarios should the UK vote Leave – and the hazards of trying to regulate parliamentary proceedings in statute.

Massicotte, Louis. "Canadians to debate electoral reform, again – but at this stage success seems unlikely." *Constitution Unit Blog*, May 24, 2016.

- The author offers an overview of the long, and largely unsuccessful, history of attempts to reform the Canadian electoral system and discusses the prospects for the current debate. He concludes that at this stage success seems unlikely.

Massicotte, Louis. "Federal electoral system reform and its impact on Canadian federalism." *Federal News - The Federal Idea* 7 (2): 5p., May 2016.

- The election of Justin Trudeau's Liberals in October 2015 has led to renewed debate about reforming the voting system used to elect members to the House of Commons. The new government is considering two very different formulas: the alternative vote system used in Australia, and a mixed-member proportional system, like the systems used in Germany and New Zealand.

McCormack, Tara. "The emerging parliamentary convention on British military action and warfare by remote control." *The RUSI Journal* 161 (2): 22-9, 2016.

- Recent British military interventions in Libya, Iraq and Syria have all been put to the vote in the House of Commons. This suggests a shift away from the longstanding Royal Prerogative on war-making powers towards an expectation that parliamentary authorisation is first required...

Murray, Colin, and O'Donoghue, Aoife. "Towards unilateralism? - House of Commons oversight of the use of force." *International and Comparative Law Quarterly* 65: 305-41, April 2016.

- Engaging democratically-elected assemblies in national decision-making over the extraterritorial use of force seemingly provides a secure check on executive abuses of power...the authors consider what Parliament's evolving role heralds for the general relationship between domestic and UN mechanisms.

Schmitz, Cristin. "Minister pledges to reveal risks in some legislation." *The Lawyers Weekly* 36 (7): 1, 10 June 17, 2016.

- Federal Justice Minister Jody Wilson-Raybould has committed to disclosing the constitutional considerations underpinning at least some government bills - including the recently tabled transgender anti-discrimination bill (C-16).

Walker, Charles. "Reform is needed to restore public and parliamentary confidence in the private members' bill process." *The Constitution Unit Blog*, May 12, 2016.

- Last month the House of Commons Procedure Committee published a report on the private members' bill process in which a number of proposals for reform were put forward. The committee's chair offers an overview and argues that the alternative to reform is that more members will abandon the existing process and backbench legislation, as we know it, will cease.

Cyr, Hugo. « Du vote de non-confiance. » *Un regard québécois sur le droit constitutionnel : mélanges en l'honneur d'Henri Brun et de Guy Tremblay* (Édition Yvon Blais) : 133-57, 2016. [French only] ["Non-Confidence Votes." *A Quebecois Perspective of Constitutional Law: A Collection of Essays in Honour of Henri Brun and Guy Tremblay*]

- A constitutional monarchy such as ours is based on the unwritten principle whereby Her Majesty rules, but does not govern. This principle is complemented by the principle of "responsible government" whereby the government is accountable to the elected House and is therefore no longer subject to the dual responsibility that it once had, which meant that it was also accountable to the monarch. Excerpt, *Un regard québécois sur le droit constitutionnel* [972p, 2016]. [French only] [*A Quebecois Perspective of Constitutional Law*]

Pelletier, Réjean. « La responsabilité ministérielle : mythes et réalités. » *Un regard québécois sur le droit constitutionnel : mélanges en l'honneur d'Henri Brun et de Guy Tremblay* (Édition Yvon Blais) : 159-80, 2016. [French only] ["Ministerial Responsibility: Myths and Realities." *A Quebecois Perspective of Constitutional Law: A Collection of Essays in Honour of Henri Brun and Guy Tremblay*]

- ...there is no mention of the prime minister, or of a responsible government, in the *Constitution Act, 1867*, because executive authority for Canada is vested in the Queen...The constituents of the day (and present-day constitutionalists) could not conceive of an elected assembly ever adopting a motion of non-confidence vis-à-vis the Queen. We must therefore look to the notion of constitutional convention to grasp the very essence of ministerial responsibility, especially given that, as the Supreme Court stated in September 1981, "constitutional conventions plus constitutional law equal the total constitution of the country".