

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (June 2019 - September 2019)

“Where you sit and where you stand – Parliaments get facelifts; but it is politics that really needs one.” *Economist* 432 (9153), July 27, 2019: 51-2.

- Renovations give parliamentarians an opportunity to shore up democracy. Will they take it?

Barry, Nicholas, Miragliotta, Narelle, Nwokora, Zim. “The dynamics of constitutional conventions in Westminster democracies.” *Parliamentary Affairs* 72 (3), July 2019: 664-83.

- Constitutional conventions are fundamental to the operation of Westminster democracies. However, despite their political significance, there have been few attempts to analyse and theorise their internal dynamics.

Lagassé, Philippe. “The Crown and government formation: Conventions, practices, customs, and norms.” *Constitutional Forum constitutionnel* 28 (3), 2019: 1-17.

- The Crown’s role in government formation is poorly understood in Canada... The author begins the article with a discussion of the difference between constitutional convention, practice, custom, and norms. He then examines how the Crown’s role in government formation are guided by these four types of rules. The author concludes by recommending ways that vice-regal offices can better explain their functions and avoid confusion and controversy about their powers and personal discretion.

Martin, Shane, Whitaker, Richard. “Beyond committees: parliamentary oversight of coalition government in Britain.” *West European Politics* 42 (7), November 2019: 1464-86.

- A legislature’s ability to engage in oversight of the executive is believed to derive largely from its committee system... legislatures conventionally

considered weak due to the lack of strong committees may nevertheless play an important oversight role through other parliamentary devices, including helping to police the implementation of coalition agreements.

Marland, Alex. “Fewer politicians and smaller assemblies: How party elites rationalise reducing the number of seats in a legislature – Lessons from Canada.” *The Journal of Legislative Studies* 25 (2), June 2019: 149-68.

- Scholars are unable to rationalise the number of elected representatives in legislative assemblies. This study offers some insights into the political arithmetic by examining the rare event of reducing seats in a legislature. It is hypothesised that a policy of cutting electoral districts occurs during a search for cost efficiencies and a burst of populism. Interviews with party elites involved with seven seat reduction events in Canadian provinces establishes that the primary reason for the policy is its symbolic value. The message of fewer politicians sets an example for belt-tightening across government that will assist the executive branch with its austerity agenda. In these situations, the final number of members of a legislature matters little to a cabinet and most legislators compared with the broader symbolism of a smaller legislative branch.

McFall of Alcluith, Lord (Chair). “Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure.” House of Lords Liaison Committee - 6th Report of Session 2017-19, HL Paper 398, Ordered to be printed July 8, 2019 and published July 17, 2019: 106p.

- The report recommends a move towards a more thematic structure of committee activity, addressing current scrutiny gaps including those around health, education and social affairs. It is recommended that a new Public Services Committee be created at the beginning of the next

Parliamentary session, and that the remits of some existing committees be expanded to provide more comprehensive coverage of the main areas of public policy. The report also contains measures intended to allow Lords committees to engage more widely and more creatively with external audiences, alongside provisions for greater follow-up and evaluation of previous committee activity.

Murphy, Gavin. "Whither legal professional privilege for government legal advice in the UK?" *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 13 (1), April/avril 2019 : 7-12.

- Amid the utter confusion surrounding negotiations for the United Kingdom's possible departure from the European Union following the 2016 Brexit referendum, one of the largely overlooked issues was parliament's vote of contempt against the Conservative government of Theresa May...

Neudorf, Lorne. "Reassessing the constitutional foundation of delegated legislation in Canada." *Dalhousie Law Journal* 41 (2), Fall 2018: 519-73.

- This article assesses the constitutional foundation by which Parliament lends its lawmaking powers to the executive, which rests upon a century-old precedent established by the Supreme Court of Canada in a constitutional challenge to wartime legislation...

Snagovsky, Feodor, Kerby, Matthew. "Political staff and the gendered division of political labour in Canada." *Parliamentary Affairs* 72 (3), July 2019: 616-37.

- While there is considerable research on elected legislators in a variety of contexts, the academic knowledge about their advisors is very limited... the authors demonstrate while close to an equal number of men and women work for MPs in a political capacity on Parliament Hill, men continue to dominate legislative roles while women continue to dominate administrative roles. Further, legislative work increases political ambition, which means more men benefit from the socialising effects of legislative work than women.

Timmins, Nicholas. "An elementary primer for politicians and potential chairs on public inquiries." *The Political Quarterly* 90 (2), April-June 2019: 238-44.

- There is relatively little central government guidance available on how to set up and run a

public inquiry. This short piece seeks to set out the very basic questions that politicians considering creating one—and potential chairs—will need to address. Including, crucially, whether a public inquiry is even the right answer. In the context of the National Health Service, on which this analysis focusses, it also argues that money may be far better spent on applying what is already known from the many previous inquiries—that is, spend it on prevention—rather than waiting to spend it on future similar inquiries that will, more than likely, produce similar findings and recommendations.

Walker, Charles (Chair). "Should there be a Commons Budget Committee?" House of Commons Procedure Committee - Tenth Report of Session 2017-19, HC 1482, July 9, 2019: 46p.

- ...the Committee recommends that the Government urgently implements significant improvement to Estimates documents to make them easier to understand, clearer and more helpful to a non-specialist audience. We expect to see more granular data, better presented, published either within or alongside the 2020-21 Main Estimates. The Government should aspire to match the detail on expenditure plans available to Parliamentarians and the public in Canada and New Zealand.

Cauchon, Hubert. "Sanction royale : un pouvoir discrétionnaire toujours exercé." *National Journal of Constitutional Law / Revue nationale de droit constitutionnel*, 39 (2), April/avril 2019 : 191-221.

- Royal assent is the exercise of a constitutional legislative function necessary to the enactment of statutes. As a matter of law, refusal of royal assent prevents any bill to become an act of parliament but the exercise of that power is meant to be completely neutralised by a constitutional convention. This article questions the existence of this convention. To do so, the author highlights the practical differences between the exercise of royal assent in the United Kingdom and Canada. Then he catalogues the limits within which royal assent may be granted. The author then demonstrates that some discretion is being exercised by the ministry every time royal assent is granted. Finally, the author argues that the discretionary power today has shifted to the governmental power to bring acts into force.