

Book Notes: Constitutional Politics in Canada and the United States, by Stephen L. Newman (ed)

Brent Arnold

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>
Book Note

Citation Information

Arnold, Brent. "Book Notes: Constitutional Politics in Canada and the United States, by Stephen L. Newman (ed)." *Osgoode Hall Law Journal* 42.4 (2004) : 697-697.
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol42/iss4/9>

This Book Note is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

BOOK NOTES

CONSTITUTIONAL POLITICS IN CANADA AND THE UNITED STATES, ED. STEPHEN L. NEWMAN. ALBANY, N.Y.: STATE UNIVERSITY OF NEW YORK PRESS, 2004. Pp. vii + 282. Contributors, index. From the "SUNY series in American Constitutionalism," ed. Robert J. Spitzer. USD \$55.00 hardcover.

BY BRENT ARNOLD

This collection brings together eleven essays under the broad and "surprisingly neglected" category of comparative studies of Canadian and American constitutional politics. A variety of themes are examined; Peter H. Russell revisits the question of whether Canadians can be a sovereign people, and speculates that Canada's management of the constitutional politics of a multinational federation may be more relevant in the twenty-first century than America's constitutional model. Sheldon D. Pollack notes the political nature and consequences of the choice of method in constitutional interpretation, while Raymond Bazowski challenges the critics of judicial review and calls for "a jurisprudential theory applicable to the modern state"; he argues that the broadening pallet of rights and rights claims were neither invented nor seized upon by the judiciary but are rather "part of a political process neither invented nor finally settled by courts." Ian Greene corrects the misconceptions about the extent of the difficulty in amending the Canadian and American constitutions, revealing patterns in both countries of successful piecemeal and informal constitutional revision. Ronalda Murphy emphasizes the importance of political context in comparative constitutional law in her study of women's rights groups in North America and South Africa during periods of constitutional negotiation.

The remaining contributions concern the "rights revolution." Authors consider the extent to which courts in both countries have converged in interpreting rights (Ran Hirschl), uncover the origin of American-style "rights talk" in Canada (Robert Vipond), and compare Canadian and American judicial approaches to pornography (Samuel V. LaSelva), hate speech (Stephen L. Newman), and affirmative action (Sandra Clancy). Ian Brodie and F.L. Morton revise Marc Galanter's theory of the success of "haves" as "repeat players" in litigation by arguing that some disadvantaged groups, such as feminists, homosexuals, and linguistic minorities, have themselves become successful "haves" in the game of litigating *Charter* rights.
