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The Evolving Role of History in Constitutional Interpretation – *Stephen Donaghue QC and Thomas Wood*

In 1995, Sir Anthony Mason observed that “it may be that there is a need to elucidate further the relevance and significance for constitutional interpretation of the beliefs and intentions of the Delegates to the Conventions”. This article is intended to contribute to that further elucidation, primarily from a practical rather than theoretical perspective. 248

From Disruption to Deliberation: Improving the Quality and Impact of Community Engagement with Parliamentary Law-making – *Sarah Moulds*

Around the world, parliamentary democracies are facing a daunting mix of challenges, including an implosion of trust among citizens in democratic institutions, disruption of traditional political processes and the need to respond to increasingly complex policy questions. In response to these challenges, parliaments have begun to experiment with new ways of engaging with communities and experts, with varied levels of success. This article examines the role of parliamentary committees in law-making and rights protection in Australia and offers a unique insight into the risks and opportunities associated with these new forms of community and expert engagement. By focusing on two very different case studies – counter-terrorism law-making and marriage equality reform – it suggests that adopting a combination of direct democracy techniques and more traditional forms of community engagement has the potential to enhance the deliberative quality of parliamentary law-making, and offers new opportunities for parliaments to respond effectively to the institutional and policy challenges confronting modern democracies. 264

Examining Digital Campaigning Through the Normative Framework Underpinning Election Law – The Rationale and Challenges of Regulation – *Amy Chinnappa*

Digital and data-driven tools are the hallmarks of the contemporary political campaign. Broadly described as “digital campaigning”, these new tools and techniques are currently subject to significant scrutiny. A number of governments and international organisations have launched investigations into digital campaigning in order to understand how it influences the election process and make recommendations for regulation. However,

election law scholars have been somewhat absent from this discussion. Political scientists or communication experts have undertaken most of the scholarly analysis, reducing it to the binary question: did digital campaigning influence a voter’s political choice? The purpose of this article is to examine digital campaigning through the normative framework underpinning existing election laws, and therefore to offer an alternative to the dominant binary approach. It outlines a normative rationale for regulation of digital campaigning and concludes that, although regulation would be a complex task, election law is well placed to respond. 281

Empowering Joint Commonwealth – State Royal Commissions through a National Applied Law – Ben Fraser

Royal Commissions carried out jointly by multiple Australian jurisdictions (Joint Commissions) have become an increasingly important part of Australian governance. However, legislation in each jurisdiction does not confer consistent powers and limitations on Joint Commissions, causing practical and legal difficulties. This article considers the role Joint Commissions have played in Australia, the limitations on Royal Commissions established in one jurisdiction, the benefits of Joint Commissions and the difficulties caused by the different powers conferred on Joint Commissions. It suggests these difficulties could be addressed by passing a uniform law conferring identical powers on a Joint Commission. 303

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