

**Symposium on  
“Does Quebec Need a Written Constitution?”**

Yale University  
Henry R. Luce Hall  
34 Hillhouse Avenue  
March 31, 2016

**Convened by**  
Richard Albert

**With the support of**  
MacMillan Center for International and Area Studies at Yale  
Research Support Program on Intergovernmental Affairs and Québec Identity  
Québec / United States University Grant Program

**Academic Associates**  
Patrick Baud  
Sameer Jaywant  
Leonid Sirota

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**Thursday, March 31**

**9:45am**

**Welcoming Remarks**

Richard Albert  
Convenor

Marie-Claude Francoeur  
Québec Delegate to New England

**10:00am**

**Panel Discussion: A Quebec Constitution within a Canadian  
Constitutional Framework**

Chair: Deborah Mazer

Hoi Kong  
*Should Quebec Do the “Write” Thing? An Inquiry into Constitutional  
Theory and Practice*

Daniel Turp  
*Does Québec Need a Written Constitution?*

Patrick Taillon  
*A Quebec Constitution within Canadian Constitutional Law: A Russian  
Doll or a Trojan Horse?*

**11:30am**

**Lunch**

Timothy Dwight Residential College  
Fellows' Room  
345 Temple Street

**1:00pm**

**Panel Discussion: Popular Sovereignty and a Quebec Constitution**

Chair: Andrea Katz

Maxime St-Hilaire  
*A Constitution Both For And By Quebec?*

Mark D. Walters  
*Constitutive Power and the Nation(s) of Quebec*

Nelson Wiseman  
*A Codified Constitution for Quebec: A Futile Pursuit or the Making of a Sovereign People?*

**2:30pm**

**Break**

**2:45pm**

**Panel Discussion: Comparative Perspectives on Subnational Constitutions**

Chair: Ana Beatriz Robalinho

Erin F. Delaney  
*Constitutionalization À L'Anglaise: Lessons for Québec from the United Kingdom*

F.L. Morton  
*Provincial Constitutions in Canada*

Sofia Ranchordás  
*The Functions of Subnational Constitutions in Dual and Asymmetric Federalism: The Belgian Case*

**4:15pm**

**Break**

**4:30pm**

**Keynote Address**

Provost's House  
35 Hillhouse Avenue

The Hon. Jean Charest  
29th Premier of Quebec (2003-2012)

**6:00pm**

**Dinner**

Timothy Dwight Residential College  
Fellows' Room  
345 Temple Street

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### **Keynote Speaker**

**Jean Charest** is a Partner in the Montréal office of McCarthy Tétrault LLP. He provides invaluable expertise to the firm's clients with his in-depth knowledge and experience with public policy, corporate Canada and international matters. As a strategic advisor with a unique perspective, he supports our clients on complex transactions, projects and international mandates, as they navigate the global business environment.

With a public service career spanning almost 30 years, Jean Charest is one of Canada's best known political figures. Mr. Charest was first elected to the House of Commons in 1984 and, at age 28, became Canada's youngest cabinet minister as Minister of State for Youth.

In 1991, he was named Minister of the Environment and, a year later, he led Canada's delegation at the 1992 Earth Summit on the economy and the environment in Rio. At the summit he was praised for his leadership role among G7 countries on climate change and biodiversity.

In 1993, Mr. Charest was named Minister of Industry and Deputy Prime Minister of Canada.

In 1994, Jean Charest was chosen Leader of the federal Progressive Conservative Party, becoming the party's first French Canadian leader. He held that post until 1998 when he became the Leader of the Québec Liberal Party. Mr. Charest then broke a 50-year provincial record by winning three consecutive election campaigns in 2003, 2007 and 2008.

Under his leadership, Québec experienced a sustained period of economic prosperity with stronger economic growth from 2008 to 2012 than the US, Europe, Canada and Ontario, despite a global financial and economic crisis. His government implemented a major infrastructure investment program.

The Charest government has been a world leader on the environment and climate change, having brought forward the first carbon levy in North America with the implementation of its climate change policy.

His legacy includes a major initiative for the sustainable development of Northern Québec called "Plan Nord". The plan covers a territory above the 49th parallel of 1.2 million sq. km (twice the size of France).

In the area of energy, the Charest government pushed ahead with major hydro-electric and wind power projects that will maintain Québec's position as the 4th biggest producer of clean and renewable hydro-electric power in the world after China, Brazil and the USA.

In International arena, the Charest government has been the most active administration in the history of Québec. Premier Charest led numerous economic missions in emerging economies including China, India, Russia and Brazil. He has been a panellist at the World Economic Forum in Davos, discussing issues ranging from environment, climate change and international trade to labour mobility.

Mr. Charest has participated in four summits of French speaking countries that include more than fifty French speaking jurisdictions, and hosted the successful 2008 edition of this grouping in Québec City (Sommet de la Francophonie).

He initiated a ground-breaking and unprecedented labour mobility agreement between France and Québec for over eighty professions and trades.

Jean Charest's most noteworthy international initiative has been to convince Canada and the European Union to negotiate a broad economic partnership, including cooperation agreements, in the wake of the failed Doha round.

As a leader, Mr. Charest has been a strong supporter and promoter of women in politics. In 2006 his government voted legislation that requires gender parity on the boards of the 22 most important state owned corporations, and in 2007, his 18 member cabinet had an equal number of men and women.

Mr. Charest has received the following distinguished awards and honours:

- Member of the Queen's Privy Council for Canada, June 1986 (Canada)
- Commandeur of the Légion d'honneur, February 2009 (France)
- Bavarian Order of Merit, July 2007 (Germany)
- Grand Croix of the Ordre de la Pléiade, November 2007 (Francophony)
- The Woodrow Wilson Award for Public Service, October 2011 (United-States)
- Medal of the Academy of Distinguished Canadians and Americans of the Maple Leaf Foundation, November 2009 (United-States)
- Statesman Award from the Foreign Policy Association, June 2011 (United-States)
- South Australian International Climate Change Leadership Award, December 2010 (Australia)

Mr. Charest has been a lecturer on political science at Concordia University, and he remains active in public policy and community activities. He obtained his law degree from the University of Sherbrooke in 1980 and was admitted to the Québec bar in 1981.

### Participants

**Richard Albert** is an Associate Professor at Boston College Law School and, in 2015-16, a Visiting Associate Professor of Law and the Canadian Bicentennial Visiting Associate Professor of Political Science at Yale University. His research concerns constitutional amendment from comparative, doctrinal, historical and theoretical perspectives. A former law clerk to the Chief Justice of Canada, Albert holds law and political science degrees from Yale, Harvard and Oxford. He is currently completing a monograph on constitutional amendment with Oxford University Press. A native of Gatineau, he was raised in Hull and Orleans, just outside of Ottawa.

**Erin F. Delaney** is an Associate Professor of Law and Political Science at Northwestern University. In 2014, she held the Fulbright Visiting Research Chair in the Theory and Practice of Constitutionalism and Federalism at McGill University. Her research focuses on constitutional design and comparative constitutional law, with particular attention to the role of courts in multi-level governance systems.

**Marie-Claude Francoeur** was appointed the Québec Delegate to New England in May 2014. She previously held this post from 2012 to 2013. Ms. Francoeur formerly served as the Assistant Deputy Minister for Policies and Multilateral and Francophone Affairs and the Acting Chief of Protocol at the Ministère des Relations internationales et de la Francophonie du Québec. Ms. Francoeur was also Chief of Staff for the Québec Ministers of Transportation and Labour. Throughout her career, Ms. Francoeur has worked to shape and promote Québec's policies on climate change, transportation and energy, both at home and internationally. Ms. Francoeur holds masters' degrees in both public administration and international relations from the Maxwell School at Syracuse University, as well as a bachelor's degree in applied sciences from Laval University in Québec and a certificate in advanced management from the McGill Executive Institute. Ms. Francoeur has also completed the Senior Managers in Government program at Harvard University's John F. Kennedy School of Government.

**Sameer Jaywant** is a first-year student at Yale Law School. He received his B.A., *summa cum laude*, in International Relations and Economics from New York University, where he graduated Phi Beta Kappa and was a recipient of the President's Service Award as well as the Evan & Barbara Chesler Prelaw Scholarship. At Yale, he is an Editor for the *Yale Journal of International Law* and *Yale Law and Policy Review*, a Senator on the Graduate & Professional Student Senate, and a volunteer for the International Refugee Assistance Project. He is an Academic Associate for this conference.

**Hoi Kong** is an Associate Professor of Law at McGill University. He teaches and researches in the areas of Constitutional Law, Comparative Law, Administrative Law, and Municipal Law. He joined the Faculty of Law at McGill in 2009. From 2006 to 2009, he was an Assistant Professor of Law, cross-appointed with the School of Urban and Regional Planning, at Queen's University. From 2003 to 2006, he was an Associate-in-Law at Columbia University. From 2002 to 2003, he was law clerk to Justices Marie Deschamps and Claire L'Heureux-Dubé at the Supreme Court of Canada.

**F.L. Morton** is currently an Executive-in-Residence at the School of Public Policy at the University of Calgary and Senior Fellow, Energy and Environment, at the Manning Foundation. In 2013, he was appointed by the Federal Minister of Industry to the Board of Governors of the Council of Canadian Academies. He recently served as Minister of Energy for the Government of Alberta (2011-12). Prior to that, he was the Minister of Finance (2010) and Minister of Sustainable Resources Development (2006-2009). In 2001, he was the Director of Policy and Research for the Office of the Official Opposition in the Canadian House of Commons. Dr. Morton is known for his expertise in the energy-environment interface in Alberta and federal-provincial relations. Prior to his public service, Dr. Morton taught political science at the University of Calgary since 1981. His publications include five books and over 50 scholarly articles. Dr. Morton holds a B.A. degree

(Phi Beta Kappa) from Colorado College and MA and Ph.D. degrees from the University of Toronto.

**Sofia Ranchordás** is currently a Resident Fellow of the Information Society Project at Yale Law School as well as an Assistant Professor of Constitutional and Administrative Law at Tilburg Law School, in the Netherlands. As of June 1st, she will join Leiden University. She has a PhD in Law from Tilburg Law School and Antwerp University. Her work is focused on the interaction between comparative public law and new technologies, notably digital platforms, experimentalism, local law, and federalism. She has published a book on the constitutional limits of sunset clauses and experimental legislation with Edward Elgar (“Constitutional Sunsets and Experimental Legislation,” 2014), co-edited a volume on the principle of proportionality in comparative administrative law with Routledge (“The Judge and the Proportionate Use of Discretion,” 2016), as well as a number of articles on temporary and experimental legislation, and the regulation of sharing economy platforms. She is currently working on a research project on participation platforms at local level and their implications for meaningful civic engagement and the interaction between participatory and representative democracy.

**Ana Beatriz Robalinho** is an LL.M. candidate at Yale Law School. She is currently pursuing her Masters at the University of Sao Paulo, in Brazil, with a dissertation that focuses on *Constitutional Mutation*, informal constitutional change and its consequences for democracy. She also holds a B.A. in Law from the Federal University of Brasilia, and is a member of the Brazilian Bar Association since 2013. She has worked as an academic assistant at the Brazilian Institute of Public Law between 2013 and 2015, performing research on Constitutional Law, and has been a member of the University of Sao Paulo’s teaching program since 2014.

**Maxime St-Hilaire** is a Professor of Law at the University of Sherbrooke, where he has been since 2010. He was previously a researcher at the Ethics Research Centre of the University of Montreal (CRÉUM), where he also taught comparative constitutional law as a lecturer. He was a former intern at the European Commission for Democracy through Law, and he also worked in 2009-2010 at the Supreme Court of Canada as a law clerk to the Honourable Marie Deschamps. Professor St-Hilaire is a member of the Advisory Board of the Institute of Parliamentary and Political Rights as well as the editorial board of the Journal of Parliamentary and Political Law.

**Patrick Taillon** is an Associate Professor of Law at Laval University. His fields of interest include constitutional law, comparative public law, rights and freedoms, and administrative law. He received his LLB from the University of Montreal, his DEA – Comparative Public Law European States from the University of Paris 1 (Panthéon-Sorbonne), and his LL.D from University of Paris 1/Laval University (joint supervision).

**Daniel Turp** is a Professor of Constitutional and International Law at the Université de Montreal. He served as a Bloc Québécois Member of Parliament (1997–2000) and as a Parti Québécois member of the Quebec National Assembly (2003–2008). He studied law at the Université of Montreal and the University of Ottawa, earned a Master’s degree at the Université of Montreal, and a doctorate in law at Panthéon-Assas University. He has worked for the Canadian International Development Agency, and was called as an expert for the Bélanger-Campeau Commission on Quebec's constitutional future. He has also taught at Université of Montreal (since 1982),

University of Paris X (1986–1996), The International Institute of Human Rights in Strasbourg (1988) and Harvard University (1996). He has also been a director of studies at the international law academy in The Hague (1995).

**Mark D. Walters** is a Professor of Law at Queens University. His research focuses on constitutional law, legal history, and legal theory. One theme that he is continuing to consider is the status of Aboriginal customary laws and government in colonial Canada. In particular, he is interested in exploring what may be labeled the ‘covenant-chain constitution’ that existed in pre-confederation Canada – the covenant chain being the series of treaties that bound the Crown and Aboriginal nations in the Great Lakes region. He is also interested in some general theoretical problems arising in constitutional law, and how approaches to these problems affect approaches to practical legal issues. An example that he has been considering is the notion of the ‘unwritten’ constitution. Finally, he is exploring the evolution of jurisprudential and constitutional theory.

**Nelson Wiseman** is a Professor of Political Science and Director of the Canadian Studies Program at the University of Toronto. His research interests include Canadian government and politics. His recent publications include: “Unintended Consequences of Proportional Representation” and “A Dead End: Conservatism and the Conservative Party” in M. Charlton and P. Barker, eds. *Crosscurrents: Editors’ Choice* (2015).

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### Special Thanks

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