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**Meg Russell and Daniel Gover, LEGISLATION AT WESTMINSTER:
PARLIAMENTARY ACTORS AND INFLUENCE IN THE MAKING OF BRITISH
LAW**

Oxford: Oxford University Press, (www.global.oup.com), 2017. 336 pp ISBN:
9780198753827. £50.

One would have thought that the idea of the Westminster Parliament being merely a “rubber stamp” for executive legislation would have died with the publication of Griffith’s *Parliamentary Scrutiny of Government Bills* (1974). That exceptional work demonstrated that Parliament’s influence on legislation was, even in the mid-twentieth century, “by no means negligible” (Griffith, 256). And Griffith’s account took place before the emergence of select committees (including the recently formed Backbench Business Committee), Ministerial statements on Human Rights Act compatibility, the elimination of most hereditary peerages in the Lords in 1999, and other changes. Alas, there are still many who assert that Parliament is a “rubber stamp”, an allegation that may be an ode to Walter Bagehot’s “efficient secret” quip on the UK constitution regarding the fusion of executive and legislative powers. But what Bagehot looked at as an asset, contemporaries now look at with disdain. We live in an era where all facets of government are relentlessly disparaged, and legislatures—comparatively—have taken the brunt of that abuse.

Russell and Gover’s *Legislation at Westminster* is a welcome respite from the callous opprobrium aimed at Parliament. And for those interested in the complexities of parliamentary process it is not only a welcome respite, but is downright enjoyable reading. The book is an intricate and considered analysis of the way that Westminster operates. Using twelve detailed case studies on Bills that arose from 2005-2012, in addition to over 120 interviews with key parliamentary insiders, the authors detail how specific actors in Parliament affect legislation. Chapters on the opposition, backbenchers, pressure groups, and select committees—amongst others—routinely point toward substantive changes in legislation that “are traceable to pressure from non-government parliamentarians” (260). The analysis differed from Griffith’s in that the extent of bills studied was narrower, but the penetration into parliamentary processes and the actors involved in legislation was much deeper. This richer study confirms that non-government parliamentary actors’ shaping of legislation can be subtle, but is nonetheless considerable.

Oftentimes the impact of these players occurs behind the scenes, or even before the legislation is officially presented to Parliament. Backbenchers and others may be consulted or pre-legislative scrutiny of a draft bill may take place before introduction. The emergence of “handling strategies” in the late 1990s for government bills is another example of Parliamentary influence. Departmental bill teams develop these strategies with officials in the whips’ offices, as contentious areas of legislation are identified in conjunction with an assessment of how they will be received by various actors, such as the opposition, particular select committees, or Lords cross-benchers. Thus “consideration of parliamentarians’ views occurs right from the early stages” (61), and some interviewees were not hesitant to admit that reception in the Lords is frequently the key focus. Given the vast expertise of this body and its strong cross-party component—the latter of which can significantly influence votes in the Lords—this focus seems entirely reasonable.

Another change from Griffith’s study was the focus on legislative “strands”, rather than individual amendments, which allowed the authors to track the impact of proposed amendments at later stages in the legislative process. After all, non-government amendments can reappear and be implemented as government amendments during a later parliamentary stage, thus obscuring the original amendment’s origins and impacting the perception that the executive dominates parliament. Excluding technical amendments, the authors found that in

the twelve bills they used as case studies, successful strands were initiated by non-government parliamentarians 55 per cent of the time (N.B. if technical amendments are included, this figure drops to 45 per cent, which is still considerable)(262). Thus, non-government parliamentarians are affecting and changing, not merely legitimizing, legislation.

Russell and Gover take issue not only with those who decry Parliament as a “rubber stamp”, but also with academics who classify legislatures in parliamentary systems as relatively weak. The Westminster Parliament has long been viewed in this manner, recognised as an “arena” as opposed to a “dynamic” legislature, such as the US Congress. Yet this classification has been propagated primarily by academics more familiar with Congress than with Westminster, and the authors’ findings in this text demonstrate that the classification may be inadequate or defective. At the very least this book demonstrates that the characterisation of Westminster as “executive-dominated” is extreme, and does not reflect the realities of the law-making body. If it was indeed executive-dominated, poorly presented bills such as the Public Bodies Bill 2010 would have been passed without much parliamentary input, which was certainly not the case (263). Perhaps softer language, such as “executive-led”, could be applied to legislatures in parliamentary systems. Moreover, as Bagehot identified long ago, debates and votes in Westminster are much more significant than in Presidential-system legislatures, as the latter such bodies “cannot turn out the executive, and the executive can veto all it decides” (Bagehot, *The English Constitution*, 2001, p 124).¹ Therefore to classify the US Congress as “strong” and Westminster as “weak” completely disregards the respective legislature’s constitutional position.

My only grumble with the book is that there could have been more discussion of private members’ bills, some of which have had considerable effects throughout the years. These bills are also detached from the government programme, and may provide even more insight into parliamentary influence on legislation.

Ultimately, Russell and Gover’s book is a vigorous rebuttal to Parliament being merely a “rubber stamp” for the executive. For journalists, politicians or academics to assert this claim with any seriousness will be much more difficult—if not absurd—after the publication of this book.

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¹ Bagehot, p 124.