

# New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (February 2016 - April 2016)

Alford, Patrick Ryan. "War with ISIL: Should Parliament decide?" *Review of Constitutional Studies - Revue d'études constitutionnelles*, 20 (1): 118-44, (2015).

- The government of Canada presently possesses the power to commit Canadian soldiers to battle without parliamentary approval. On this basis, troops were deployed to Northern Iraq after a brief debate inaugurated by a non-binding take note motion presented in the House of Commons. This article notes that this power is anomalous in the era of responsible government, and argues that it should be reconsidered in the light of recent changes to the constitutional order of the United Kingdom.

Angus, Debra. "Legislating for parliamentary privilege: the New Zealand *Parliamentary Privilege Act 2014*." *The Table: The Journal of the Society of Clerks-At-The-Table in Commonwealth Parliaments*, 83: 8-15, (2015).

- Parliamentary procedure may sound like a dry and academic topic, but over the past three years the New Zealand Privileges Committee has been at the cutting edge of developments in parliamentary law and procedure, culminating in the enactment of the *Parliamentary Privilege Act 2014*.

Appleby, Gabrielle. "Challenging the orthodoxy: Giving the court a role in scrutiny of delegated legislation." *Parliamentary Affairs*, 69 (2), 269-85: (April 2016).

- Australia was once a world leader in parliamentary oversight of delegated legislation. Today, parliamentary scrutiny has been undermined by a number of factors, including overly wide delegations, uncritical bi-partisan support for measures, party discipline restraining oversight, abuse of the disallowance procedure and parliamentary recesses to avoid parliamentary scrutiny, and interest-group capture within government.

Bowen, Phil. "The Parliamentary Budget Office: Supporting Australian democracy." *Papers on Parliament: Lectures in the Senate occasional Lecture Series, and other papers* 64: 73-89, (January 2016).

- For our democratic processes to work effectively, it is essential that our parliamentarians, whether in government or not, are well informed about the policy choices they are required to make. Similarly, a well-informed public is a prerequisite for a well-functioning democracy.

Christians, Allison. "While Parliament sleeps: Tax treaty practice in Canada." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique*, 10 (1), 15-38, (March 2016).

- What explains Parliament's minimal input on tax treaties despite the significant role they play in national tax policy? A plausible answer seems to be a settled history of foreign affairs being the sole prerogative of the Crown, coupled with a treaty policy that prioritizes procedural expediency in Parliament over the messy politics involved in greater deliberation.

Editorial. "Secondary legislation and the primacy of Parliament." *Statute Law Review*, 37 (1): iii-iv, (February 2016).

- In the Strathclyde Review, there is an interesting question that is not asked...the *Parliament Act of 1911*, nobody expected that subordinate legislation would come to be used so routinely to enact extremely important tranches of legislation in a way that in effect evades Parliamentary scrutiny, of both Houses, altogether.

Everett, Michael, and Danielle Nash. "The Parliamentary Oath." *UK House of Commons Library Briefing Paper*, 7515: 38p, (February 26, 2016).

- This Briefing Paper looks at the oath of allegiance or affirmation which Members of both Houses of Parliament are required to take before they can take their seat. It focuses primarily on the

Parliamentary Oath in the House of Commons, although later sections look at the oath in the House of Lords, the devolved legislatures and in certain Commonwealth countries. It also sets out some of the key stages in the history and development of the Parliamentary Oath.

Greenberg, Daniel. "The length of modern legislation means that the effectiveness of parliamentary scrutiny is often compromised." *UK Constitution Unit Blog*, (April 15, 2016).

- The author identifies a number of trends that he argues are reducing the effectiveness of parliamentary scrutiny of legislation.

Hillmer, Norman, and Philippe Lagasse. "Parliament will decide: an interplay of politics and principle." *International Journal - Canada's Journal of Global Policy Analysis*, 71 920: 1-10, (2016).

- Debates about Parliament's role in deciding military deployments are clouded by misunderstandings of the relative legal authorities of the executive and the legislature, and the mixture of political objectives and democratic obligation that inform these discussions...

Kelly, Richard. "Short money." *UK House of Commons Library Briefing Paper*, 01663: 43p, (March 11, 2016).

- Short Money – that is funding to support opposition parties – was introduced in 1975. Short Money is made available to all opposition parties in the House of Commons that secured either two seats or one seat and more than 150,000 votes at the previous General Election.

Lithwick, Dara. "Privacy and politics: Federal political parties' adherence to recognized fair information principles." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique*, 10 (1): 39-113, (March 2016).

- Canadian federal political parties collect, use, and disclose increasing amounts of Canadians' personal information, yet are not subject to either of Canada's federal privacy laws, the *Privacy Act* or the *Personal Information Protection and Electronic Documents Act*. As well, Members of Parliament obtain a significant amount of personal information in the course of their constituent work, yet no law, written rule or guideline exists to help MPs determine how best to manage, store, share and dispose of such information.

Maer, Lucinda, and Michael Everett. "The Parliamentary Ombudsman: Role and proposals for reform." *UK House of Commons Library Briefing Paper*, CBP7496: 19p, March 16, 2016.

- The Parliamentary Ombudsman can investigate complaints from members of the public who believe that they have suffered injustice because of maladministration by government departments or certain public bodies.

O'Brien, Gary W. "The background and intellectual roots of the Province of Canada's elected upper house." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique*, 10 (1) : 195-204, (March 2016).

- The former Clerk of the Senate and Clerk of Parliaments notes that pre-Confederation Central Canada had an elected upper house is a salient though often forgotten footnote in the historiography of parliamentary government. The purpose of this article is to briefly review the idea of an elected chamber, how it played out in the early years of our constitutional evolution, and the role an elected second chamber was originally expected to perform.

Purser, Pleasance. "Overseas parliamentary news: January 2016." *New Zealand Parliamentary Library* 5p, (January 2016).

- Scotland - Reforms to committees recommended - To enable members to engage fully with committee work, committee numbers and membership should be such that members generally serve on only one committee, the Standards, Procedures and Public Appointments Committee recommended. Committees should set strategic priorities at the start of each session, and give priority to areas where they are likely to have the greatest impact. The Committee also recommended that the government should be required to publish a post-legislative report on the implementation of each act within three to five years of its being granted Royal Assent.

Purser, Pleasance. "Overseas parliamentary news: February 2016." *New Zealand Parliamentary Library* 7p, (February 2016).

- Norway - Parliamentary Intelligence Oversight Committee reviewed - A review of the Committee, which is responsible for external, independent control of the intelligence services, found the fact that the Committee's members are appointed by

the Storting gives the Committee an independence that a government-appointed body would not have...

Purser, Pleasance. "Overseas parliamentary news: March 2016." *New Zealand Parliamentary Library* 7p, (March 2016).

- Australia - Press gallery journalist's phone searched - Shortly after a press gallery journalist tweeted about a senator playing a game on his iPad in the chamber, an attendant asked to see her phone and searched it...

Russell, Meg, Daniel Gover, and Kristina Wolter. "Does the executive dominate the Westminster legislative process?: Six reasons for doubt." *Parliamentary Affairs*, 69 (2): 286-308, (April 2016).

- The British Westminster parliament is frequently dismissed as a weak policy actor in the face of dominant executive power. But through analysis of 4361 amendments to 12 government bills, and over 120 interviews, the authors suggest six reasons for doubting the orthodox view.

Thompson, Louise. "Debunking the myths of bill committees in the British House of Commons." *Politics*, 36 (1): 36-48, (2016).

- Bill committees play a crucial role in the scrutiny of government legislation, yet they have traditionally been overlooked by academics and journalists in favour of the more newsworthy aspects of parliamentary scrutiny on the floor of the House of Commons chamber or by investigative select committees. This lack of interest has perpetuated a series of myths about bill committee work.

Vickers, Kevin. "Faith like a river." *Convivium*, 5 (24): 15-19, February/March 2016.

- The hero of 2014's attack on Canada's Parliament, and now our ambassador to Ireland, speaks of how religious belief has shaped his life.

Boucher, Maxime. "L'effet Westminster: les cibles et les stratégies de lobbying dans le système parlementaire canadien." *Canadian Journal of Political Science / Revue canadienne de science politique*, 48 (4) : 839-61. December / décembre 2015.

- This research note tests the hypothesis that lobbying activities in Canada are primarily aimed at the members of the executive branch, owing to the particularities of the parliamentary system. It reviews data from the Canadian registry of lobbyists to determine the number of contacts between lobbyists and Canadian public office holders and politicians between the summer of 2008 and the summer of 2013. The results indicate that the majority of lobbying activities are aimed at the executive branch, and that the House of Commons is one of the most popular targets of lobbying activities. Lastly, it appears that approaches that insist too strongly on the pivotal role of parliamentary institutions do not effectively translate the reality of lobbying. In fact, empirical evidence shows that numerous Canadian lobby groups prefer integrated strategies that target both the executive and legislative branches.

Poirier, Johanne. «Souveraineté parlementaire et armes à feu : le fédéralisme coopérative dans la ligne de mire ? » *Revue de droit*, 45 (1/2) : 47-131 2015

- For a number of years, the principle of cooperative federalism has fulfilled two functions in the Supreme Court of Canada's jurisprudence. First, it has promoted de facto or de jure recognition, and acknowledged the overlap of authorities. Second, it has allowed judges to remove obstacles to normative networks. This conception of flexible and modern federalism contrasts with the dualist nature of the official Canadian federal architecture and invites the legislative and executive institutions of the different levels of government to collaborate. The Supreme Court's 2015 ruling on the abolition of the long gun registry offers fertile ground for reflecting on a third dimension of cooperative federalism, which arises when public authorities at the various levels of government do not or no longer wish to collaborate, or act unilaterally despite pre existing coordinated arrangements. In that decision, the Court refused to revisit its maximalist understanding of parliamentary sovereignty—one of the pillars of dualist federalism—in light of cooperative federalism.