

# Book Review Symposium

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*Relic: How Our Constitution Undermines Effective Government and Why We Need a More Powerful Presidency.* By William G. Howell and Terry M. Moe. New York: Basic Books, 2016.

## INTRODUCTION

It is both fitting and ironic after the inauguration of Donald J. Trump, who has promised strong presidential leadership to “Make America Great Again,” that the *Journal of Politics* publishes a forum on a book that identifies a “manifestly underpowered” executive office as the principal disease that plagues American constitutional government (172). Yet William Howell and Terry Moe seek to draw our attention away from presidential candidates and presidents to the Constitution and the way that its institutional arrangements “wire” the occupants of the office in predictable ways.

This interesting, thought-provoking, and accessible book poses a constitutional debate between the inherent parochialism of Congress and the innate nationalism of the president. As its title suggests, *Relic* views the Constitution, written when America was a decentralized rural republic, as establishing an antediluvian and mischievous formula. Moe and Howell argue that positioning Congress in the “front seat” of the legislative process and the president in the rear never made much sense. But the authors argue that it has had an especially perverse effect on our sprawling administrative republic, beset by complex problems, such as climate change, an immigration crisis, and a byzantine health care system, that Congress-centered government either has scandalously ignored or severely aggravated.

The modern presidency, born of the Progressive era and consolidated during the New Deal, has partially upgraded the Constitution; but the “most significant and lasting achievements . . . did not alter the core features of the Constitution itself” (43). The authors’ solution to this lingering constitutional crisis is “simple reform that makes Congress less central to the legislative process and presidents more central” (xv).

This mission would be advanced, if not accomplished, by adding a constitutional amendment that establishes “fast-track authority,” which currently applies to international trade agreements, as a permanent institutional device that would cover all policies (160). The modern president then “would have the right to craft a complete policy and propose it to Congress,” which would be required to respond with an up-or-down vote within a fixed period of time or accept that the proposal would become law without its authorization.

Although they deny that party polarization is the chief cause of America’s constitutional crisis, there is a sense that Howell and Moe want to rescue the Liberal State that emerged from the “tectonic shift in government” (42) during the end of the nineteenth and the beginning of the twentieth centuries from the recrudescence of partisanship. They credit progressive reforms—including the introduction of the direct primary, civil service protections, and the creation of the Executive Office of the President—for emancipating the Constitution from the grips of localized, patronage-based parties and forming a presidency-centered administrative state better equipped to confront the challenges posed by industrialization at home, and imperialism abroad. Like the leading public officials and intellectuals of that period—most notably, Theodore Roosevelt, Woodrow Wilson, and Herbert Croly—Howell and Moe hope to fulfill the Progressive hope for transcendent presidential leadership—in Roosevelt’s alluring phrase, “the steward of the public welfare” (Milks 2009, 8). The time has come for a new Progressive Era—one that gives formal expression to a stronger constitutional presidency that addresses the stubborn tumors of the postindustrial era: jury-rigged entitlements, environmental destruction, and haphazard health care.

The critics of *Relic* featured in this forum—Julia Azari, Douglas Kriner, Frances Lee, and Stephen Skowronek—suggest that this book’s indictment of the Constitution and its proposed solution provide a powerful call to arms. At the same time, these interlocutors raise challenging objections to the premises that shape the authors’ interpretation of the Constitution as well as the remedy offered to treat what ails it.

Lee criticizes the authors for failing to consider the arguments that can be made in favor of Congress and stresses its role as a “legitimator” of government and “formulator” of inclusive policy. Her principal concern is whether the modern presidency—emphasizing efficient rather than pluralistic policy making—can function as a truly democratic institution with meaningful links to a large and diverse nation. Indeed, Kriner identifies what he has called a “particularistic president” that cannot claim to represent the whole people; contrary to Moe and Howell, he argues that the Constitution deprives the White House of a national constituency (Kriner and Reeves 2015). As the 2016 election so dramatically shows, presidents are chosen by a “vestigial constitutional organ”—the electoral college, which bakes federal ingredients into the presidential selection process. Rather than encouraging presidents to seek the national interest, occupants of the White House are wired to court a handful of swing states, not only during campaigns but also in the policy-making process.

Azari argues that it is the modern executive’s obsession with special interests, not the Congress, that has been the principal fomenter of factionalism in recent American politics. With the unraveling of what Arthur Schlesinger Jr. ([1949] 1997) once called the “vital center” of the New Deal state in the 1960s, presidents became deeply implicated in rancorous conflicts between Democrats and Republicans. Consequently, an executive-centered partisanship currently shapes American politics, characterized by high expectations for presidential leadership in a context of widespread dissatisfaction with government, strong and intensifying political polarization, and high-stakes battles over the basic direction of domestic and foreign policy.

More than the other critics, Skowronek accepts the premise that the Constitution is a “relic” and in need of an update. Still, he criticizes the authors’ affinity for the Progressives: The false hope of Howell and Moe to revive progressivism, Skowronek insists, stems from *Relic*’s indulgence in formulaic rather than comprehensive reform. Although Howell and Moe rightly observe that the Progressives, more than reformers of the nineteenth century, envisioned a reconstituted presidency at the heart of a new political order, Skowronek argues that *Relic* fails to recognize the collective nature of the Progressive movement—how reformers during the first four decades of the twentieth century tied this “newfound power to an elaborate parastate of experts, scientists, and administrative managers.”

Beyond the Progressives’ championing of modernity, celebrants of the “steward” of the public welfare believed that modern executive power should be tied to—and constrained by—not only a professional bureaucracy but also mass public opinion. From this perspective, progressivism might not have collapsed but, rather, ensconced American politics in a co-

nundrum: how to reconcile the ideals of democracy with the goals of effective government (Milkis 2009). This seemingly irresolvable dilemma, which appeared to culminate in the 2016 campaign—a clash between competence and populism—might indeed require, as Skowronek urges, “thinking outside the box” rather than the more straightforward constitutional solution that Howell and Moe propose. Yet, as the rich discussion that follows in this symposium makes clear, *Relic*’s “little” proposal for fast-track authority—tied to a full-throated defense of presidents controlling the legislative agenda—promises to advance, as Howell and Moe hope, a serious and stimulating discussion of the causes of America’s present discontents (168).

**SIDNEY M. MILKIS**, University of Virginia

**M**uch has changed in American politics since I first read *Relic*, over the summer of 2016. I assumed that I would write my review to reflect upcoming conflicts between Congress and the Clinton administration. I assumed incorrectly. In some senses, little has changed since my original reading of the text. The authors’ depiction of the sources of presidential accountability warrants scrutiny and interrogation. Nationalized politics remain a false promise for national reconciliation. But the 2016 election also prompts us to reopen the constitutional questions that Howell and Moe consider. What purpose does our Constitution serve, and how should we think about defending it?

Howell and Moe assume that national issues are a discrete and self-evident category, and they downplay the process by which issues become national and the implications of that process. In short, nationalized politics as a salve to conflict and inaction is a false start. When presidents pursue issues, those issues are not intrinsically national, but they become *nationalized*. The national economy, the environment, the provision of social services, and a safety net are all issues that became part of the national agenda as politics and events changed—but also as politicians deliberately brought them onto the national agenda, framed them as national problems, and incorporated them into the symbolic debates between clashing parties and ideologies. This nationalized symbolism informs the intersection of presidential politics and party politics today. Congressional elections increasingly focus on national issues and policy agendas—including the agenda of presidents themselves.

As the parties have grown more national and message-oriented, they have also become more polarized. In this context, presidents themselves become information shortcuts, and

their policy positions and priorities become incorporated in that symbolism. In sum, presidents by definition nationalize an issue, which makes it highly polarized. The personal nature of the presidency and the cultural conflict that now inheres in our party divisions—over race, religion, and yes, region—mean presidents are unlikely to serve as a wholly centralizing force, or fix gridlock by setting the agenda. A stronger presidency is just as likely to raise the stakes of that gridlock.

Part of the reason this is true is that our nationalized party politics is layered atop persistent geographical divisions, which can reinforce as well as compete. Geography plays a key role in shaping party politics and selecting presidents. Indeed, the Electoral College was created to amplify the voices of rural voters and to protect the slave states. Slavery has ended, but the distinct interests of these states—including racism—persist. This design of the entire system to protect a specific political minority seems to be the source of much of the persistent gridlock. Race runs through many—if not at all—of the national issues Moe and Howell cover, shaping local responses to proposals. In this sense, our nation faces something frighteningly akin to the crisis of the 1850s: there are no institutional arrangements, no compromises, that can fully transcend these tensions. The Constitution, as written, takes accountability seriously but does not fetishize the linkage between accountability and transparency. Although part of the design of the Electoral College is to ensure that presidents are accountable to large geographic swaths of the population, the ability of the public to control presidential behavior is not assumed. The president's national constituency is too diffuse to serve as a meaningful mechanism of accountability. Who can hold the president accountable, and under what conditions? It has been more than 20 years since the electorate has opted not to return an incumbent president to office. There are many possible reasons for this, but mounting evidence points to the strength of partisanship. The other possible source of accountability is within the party itself—in the nineteenth century, incumbent presidents were replaced as often as they were renominated (Klinghard 2005). In contemporary politics, neither mechanism seems adequate to hold presidents truly accountable.

Howell and Moe suggest that while members of Congress respond to parochial interests, presidents operate with the entire nation in mind. Motivated by legacy-building, they argue that presidents are better poised to take a longer, more national view. But if we accept the assumption that presidents care most about legacy, we leave open many questions about whom they trust to carry out that legacy. Presidents shape parties—no longer the other way around—and it is there that their legacies will likely be solidified. Who will protect their accomplishments and tell favorable versions? The central work of this legacy-building will be done by partisans. Legacy

may motivate presidents, but it is not enough to dislodge the fundamentally parochial tendencies that are built into the Constitution and baked in by modern party politics.

Although their assumptions about presidential incentives deserve interrogation, Howell and Moe's core proposal is better than its justification. A central feature of twenty-first-century politics is the gulf between politics and policy. From promises to “transform” the way Washington works, to myths about death panels, political discourse is focused on abstractions, while the development of policy is obscured by the complexity of the issues and the process alike. Simplifying policy issues is likely irresponsible and impossible. But simplifying process in the way that Howell and Moe propose has promise. By allowing the president to set an agenda, requiring members of Congress to respond with a vote—not a filibuster, a hold, or a failure to introduce a bill—voters would have a much clearer sense of who is setting the agenda, and who is (or is not) responsible for enacting it.

A central claim of *Relic* is that the Constitution was written to establish governance in a wildly different context—one before modern pressures of foreign policy, environmental degradation, and industrialization made a more active national government necessary. But some of the institutional purposes of the Constitution remain pressing: the need to govern a diverse and divided society under duress. Howell and Moe have offered a thought-provoking book on how to think differently about the purpose of the Constitution—about its utility as a governing blueprint for a changing society. I share their concern about the challenges of governing a diverse nation. But as we consider infusing the Constitution with an updated purpose, I have my doubts that the presidency is the place to start.

**JULIA AZARI, Marquette University**

With predictable regularity, voices outside of academia call for political scientists to be more engaged with the “real world” and offer tangible solutions to the most pressing problems afflicting our polity (e.g., Kristof 2014). Such jeremiads often overlook the nuanced ways in which careful theorizing and exhaustive empirical research help us understand how government works and generate important insights of use to policy makers and citizens alike. However, William Howell and Terry Moe answer this call head-on in a bold, provocative way.

*Relic* offers a clear diagnosis for the source of the nation's problems: a parochial legislature constitutionally wired to be incapable of meeting the challenges of the modern era. Increasing polarization and hyper-partisanship have further

exacerbated Congress's institutional malaise; but turning back the clock to a less polarized and partisan era—even if it was possible—would not solve what ails the American system. Rather, the problem is the Constitution itself. Members of Congress, like all legislators, must balance their dual roles as representatives of both their narrow geographic constituencies and the nation as a whole. However, because members' political survival depends on the former more than the latter, Congress is hopelessly parochial. The presidency, with its national constituency, is the only institution capable of counterbalancing these impulses. Yet, its corrective force is blunted by the constitutional system of separated powers that places Congress in firm control of the legislative process.

What, then, is to be done? In contrast to many reform proposals that are hopelessly complex or politically impractical, Moe and Howell offer a simple proposal: extend "fast-track" procedures to all legislation and force members of Congress to give every presidential proposal an up or down vote. *Relic's* solution is both concrete and feasible. However, it is not clear that it is enough to overcome congressional parochialism. Moreover, it ignores the forces that also drive presidents to cater to parochial concerns at the expense of the national interest.

At times, *Relic* offers conflicting diagnoses about what most plagues the governing system: is the problem congressional parochialism—or obstructionism? In dismissing concerns that the proposed reform is too modest, *Relic* discusses the 2013 failure of comprehensive immigration reform. Although President Obama's proposal enjoyed majority support in the House, Speaker Boehner killed it by preventing a floor vote. Howell and Moe note that such cases are "not at all unusual" and persuasively argue that fast-track procedures could have resulted in landmark legislation (166–67). In such cases where partisan incentives to deny the president a victory—not congressional parochialism—are decisive, extending fast-track procedures may well break the impasse. However, if congressional parochialism is the main problem, simply guaranteeing a vote on the president's proposals may not be enough.

Currently, presidents can and do submit comprehensive reform proposals to Congress. More often than not, these proposals are simply buried in committee or amended beyond recognition by the time they reach the floor. *Relic's* prescription would force members to give presidential proposals as written an up or down vote. However, unlike in trade policy, this is not a take-it-or-leave-it choice. When voting on trade agreements, members must either accept the president's proffered deal or settle for no deal at all. By contrast, here members are free to vote against the president's proposal and then substitute an alternative bill of their own that is laden with pork catering to powerful special interests (162). If parochialism is

all but irresistible, many members might opt for this alternate path. Perhaps forcing members to vote publicly against the president will entail greater political costs than current stratagems of preventing floor votes. However, precisely how the fast-track proposal will curb members' preference for parochial policies is unclear.

Even if extending fast-track authority could blunt congressional parochialism, it fails to address and could even exacerbate the presidency's own parochial tendencies. *Relic* paints a compelling portrait contrasting legislators who kowtow to localized special interests with presidents who serve as stalwart "paragons of national leadership" (xvi). There is, of course, some truth in this characterization; however, this oversimplification consciously downplays the forces that also lead presidents to pursue particularistic policies that cater disproportionately to the needs of politically valuable constituencies. Perhaps most importantly, it is not clear that electoral incentives compel presidents, unlike members of Congress, to prioritize national interests (101–2).

Presidents do have a national constituency. However, as Hillary Clinton's hollow victory by more than 2.5 million votes in the 2016 election so plainly showed, in the American system some voters are more equal than others. To win the presidency requires prevailing in the Electoral College, a vestigial organ of American constitutionalism that does more than simply encourage presidential candidates to focus their time, energy, and advertising dollars on a handful of swing states. Across a range of policy areas, from the allocation of federal spending, to trade protection, to military base closures, and even to natural disaster declarations, presidents use their influence at varying stages of the policy-making process to systematically prioritize the needs of swing state voters (Hudak 2014; Kriner and Reeves 2015).

To alleviate such concerns, *Relic* could expand the scope of the called-for constitutional convention to abolish the Electoral College. This would remove one important incentive for particularistic behavior. However, before strengthening the presidency, it would behoove us to consider other factors that might lead the White House to pursue policies that are not squarely in the national interest. The relative strength of presidential and congressional particularistic forces and the scope of issues on which presidents succumb to parochial impulses are open for debate. However, further empowering the president in legislative policy making risks replacing the current process with one that creates new parochial outcomes favoring a different set of constituents.

*Relic* is a commendable book. It tackles some of the most pressing and seemingly intractable questions of contemporary governance and offers a simple, yet bold proposal for reform. It is unclear whether its constitutional prescription

would truly overcome congressional parochialism, and it would do little to tame the presidency's own particularistic impulses. Nevertheless, Howell and Moe have thrown down the gauntlet before their critics. Their work is sure to spur debate for years to come over the best practical solutions to America's dysfunctional governing system.

**DOUGLAS L. KRINER**, Boston University

Howell and Moe argue that the US constitutional system is out of date. If it ever worked well, it no longer works now. The fundamental source of the problem lies in Congress. According to Howell and Moe, Congress is pathological. It is parochial, fragmented, riddled with veto points, mired in special-interest influence, and prone to immobility in the face of serious social problems and government failures. When it bestirs itself to action, Congress produces "cobbled together concoctions" (104) that fail to work but that become entrenched anyway.

On the other hand, presidents, concerned with their legacies, are the "champions of coherence and effectiveness in a fragmented, parochial political world" (105). With the national interest in mind, presidents seek, not always successfully, to "prevent their best laid policy designs from being corrupted, weakened, and dismembered" by Congress (105). Presidents are the forces for rationality and effective government, up against a destructive obstacle in Congress.

This is a tough indictment. But it has been lodged in a timely manner. Regardless of one's political leanings, national politics has been relentlessly frustrating in recent years, and most would agree that there are big policy problems about which little is being done. But the book does not prosecute its case in one key respect: it never considers the arguments that can be made in favor of Congress. Reading the many failings detailed here, one wonders why anybody would even want a legislature in the first place. Yet legislatures are found throughout the political world. What functions do they serve that might not be better served some other way?

For insight into this question, one would have to turn elsewhere than Howell and Moe, who had nothing positive to say about Congress, either in theory or in practice. Their case in favor of reducing Congress's power needs to be weighed in a cost-benefit analysis.

In the 1975 *Handbook of Political Science*, Nelson Polsby argues that legislatures have unique capacity for three purposes: (1) legitimation of government, (2) policy formulation, and (3) holding executives accountable. Howell and Moe's plan to strengthen the president's proposal power would have

no impact on Congress's capacity to engage in oversight, but it might well affect Congress's performance as a legitimating and policy formulating institution.

Congress legitimates when it approves of government actions. It is powerful affirmation when a majority of Congress members, each independently elected and representative of a constituency, duly enacts legislation. But it is not just Congress's capacity to legislate on the basis of majority rule that empowers it as a legitimator. Congress rarely legislates on the basis of simple majorities.

Most of the time, when Congress actually passes laws, majorities of both parties vote in support. This was not only true of the Congresses of the 1960s and 1970s. It is the case now, even in the polarized contemporary House of Representatives. Many bills pass the House on the basis of majority rule, but only a minority of bills passed on party lines become law. Lawmaking remains predominantly bipartisan. The majority of laws Congress enacts pass with most members of both parties in support. The average bill that became law between 1985 and 2015 passed the House with more than 330 yeas and more than 60% of the minority party voting in favor. There was little difference between major bills and minor bills in this regard, and there has been no significant downward trend. In other words, supermajorities rule in Congress. Lawmaking rests on levels of House member support that, on average, exceed the three-fifths requirement that has become typical in the 60-vote Senate.

Presidents, by contrast, are not nearly so good at legitimation. Presidential claims to representation rest on a narrower base. Dating back to 1860, the average winning presidential candidate receives only 52% of the national popular vote. Presidents do not typically stand at the head of any overwhelming majority. Presidents then go on to assemble administrations entirely or almost entirely drawn from members of their own party. Nothing is as winner-take-all in American politics as the outcome of presidential elections. In office, presidents' role as partisans-in-chief limits their capacity for broad legitimation. Rather than conferring broad legitimacy, presidents are, in Skowronek's words, the "lightening rods" (1993, 20) of American politics.

Looking at the usual, dominantly bipartisan patterns in lawmaking, Congress is where conflicts get resolved to both parties' rough satisfaction, at least when they do get resolved.

The Howell and Moe proposal for a universal fast track would not deny Congress the authority to pass judgment on the president's proposals. But what they envision—simple majority rule, up or down votes—is at odds with congressional practice. Perhaps presidents might aim to do what Congress currently does—assemble big bipartisan coalitions. But presidential administrations are not set up to succeed in

doing this, even if they had incentive to do so. The Howell and Moe proposal would likely reduce Congress's capacity as a legitimator.

Of all the strengths of the American political system, surely its deep well of public legitimacy must be one of its greatest assets. The robust, even unshakable legitimacy that the US system enjoys, even in a time of great populist ferment and deep public dissatisfaction with government performance, undoubtedly helps sustain a large, diverse, conflict-riven polity. Its very powerful, very unpopular Congress probably contributes to this profound system legitimacy inasmuch as when new laws are written, they are usually supported by large majorities and both parties.

A second strength of legislatures is policy formulation. And it is policy formulation of a particular type: policy that is politically acceptable. As Polsby writes, "Undoubtedly, an experienced corps of experts can explore policy alternatives and select solutions to problems more expeditiously and more intelligently than a legislature, but legislatures have learned to do this tolerably well and in addition can test alternatives against the demanding criterion of political acceptability in ways not readily available to experts" (1975, 303).

Howell and Moe want policy making better grounded in technocratic expertise. One of the book's most common refrains is its call for "coherent, effective policy." It is hard to imagine anyone being against policy effectiveness. But what does coherence add? If policy is effective, does it also need to be coherent—as in one unified whole, internally logical, and consistent? Coherence is not Congress's strong suit. One doesn't need to resort to Arrow's Impossibility Theorem to recognize that coherence is not a salient quality of anything written by a committee. Congress, as Mayhew writes, is "the natural enemy of those who prefer rationalistic tidiness" (2015, 211). Congress instead builds policy by the construction of large coalitions. Former House Financial Services chairman Barney Frank explained congressional negotiation as follows: "The key to understanding deal making in Congress is to remember that the ankle bone is connected to the shoulder bone. . . . Completely unrelated matters can be the basis of a deal. This happens all the time" (Binder and Lee 2015, 246). Congressional leaders trying to build support for policy change are constantly asking rank-and-file members, "What can I do to help you out on this? What will offset the pain you'll experience because of this?" The result is policy that accommodates a large variety of interests and concerns.

No matter the setting—Congress, city councils, universities, and academic departments—legislation by deliberative body entails accommodation. A big, diverse group of people all need to be made to feel that they are getting

something they care about done, accomplishing something that matters to them, and that the benefits outweigh the costs. In such a process, policies must draw in a variety of provisions to encompass a wide diversity of views, circumstances, and concerns. No single mind could or would come up with what results, as it entails far more than the rational application of expertise.

Invoking the goal of policy coherence points toward a technocratic ideal of policy solutions as devised by a corps of experts. But, unlike technocrats, democratically elected political leaders have to seek policies that not only can work but also can be made to be politically acceptable. It can be a dismal business. But there is no escape from politics, not in any political system, and especially not in a democracy.

**FRANCES E. LEE**, University of Maryland

**R***elic* offers a pointed appraisal of the current predicament of American government and what might be done to break out of it. Will Howell and Terry Moe assert the public voice of political science, arguing in a simple, straightforward fashion for a serious course correction in the way our nation is governed. They aim to save our institutional system from its own moribund tendencies and to give it a new lease on life. Their book pulls no punches. It points directly to the Constitution as the source of our problems, and it pronounces presidential power the only realistic solution at hand. Its clipped indictment and ready alternative come together in a tight and powerful package.

I accept the authors' premise that the Constitution is a "relic," sorely in need of an update if we are to address the most pressing issues of our day. Indeed, every major pitch for the empowerment of the American presidency has, like this one, ridden on the back of a forceful critique of the Constitution. Howell and Moe link their program to that of the early twentieth-century Progressives, but the connection between constitutional critique and a presidential empowerment is much older than that. The linkage goes back to the electoral crisis of 1800, to Jefferson's critique of the constitutionally mandated system for selecting the president and the near-immediate ratification of the Twelfth Amendment by his supporters. Jackson pressed a similar critique after the election of 1824, and in 1829 he ventured another proposal for constitutional change. In the end, his assaults on received governing arrangements yielded a presidency newly empowered by an electoral mandate for action on policy and by an assertion that the president is superior to the Congress when it comes to representing the will of the people as a

whole. Howell and Moe invoke the progressive historian Henry Jones Ford in support of their program, but Ford was simply observing what the nineteenth century had already shown when he identified presidential power as the one, indispensable mechanism for breaking through the outmoded constraints of our Constitution. As I see it, the presidential cure for our constitutional ills is the oldest theme on the books, and I think it is hard to resist the conclusion that at every step of the way presidential empowerment has been integral to the continuing success of the American experiment.

My hesitation stems less from what the book says than from what it omits. Presidential empowerment has always been one piece of a much larger rethinking of governing relationships. It has never been the whole solution to our constitutional ills, or even the main part of it. The followers of Jefferson, Jackson, Theodore Roosevelt, and Wilson undertook these broader constitutional alterations willingly. They were the beneficiaries of the presidential breakthrough, but they also showed how the benefits of newfound presidential power could be tapped with minimal risk to, and maximal input from, everyone else. Willing to cast off old constraints on presidential power, they were equally intent on fashioning a more serviceable harness. The Jeffersonians tied the president's newfound power to nomination by a party caucus; the caucus reassured them that the president would not become king. The Jacksonians tied the president's newfound power to the party convention, and convention managers reassured them that the president would not become the boss. The Progressives went further on both sides of the equation. They anointed the president steward of the nation, but they tied his newfound power to an elaborate parastate of experts, scientists, and administrative managers. They were far less interested in the power of the president than in finding ways to harness executive energy to collectively determined goals and to force the executive into new collaborative relationships.

Against this backdrop, the prescription offered by Howell and Moe strikes me as stark and mechanical, forced and formalistic. Their presidentialism comes to us stripped of intermediary provisions that might rework governing relationships at large and invite everyone else to buy in. For carrots, it offers structural conjectures that strain credulity. Howell and Moe want us to rest content with assurances that presidents, whatever their past lapses, are structurally predisposed to do the right thing, that the presidential office, by virtue of certain innate qualities—nationalism, public exposure, love of fame, stake in historical reputation—needs no additional inducements to pursue the public good. Even the most wide-eyed progressive would blush at this profession of faith in presidential power.

What made the Progressives' critique of the Constitution so compelling is that they offered something besides the president on which to construct a new order and more effective government. Indeed, they elaborated institutions outside of the Constitution altogether, and they surrounded constitutional actors with a new governing class on whom all could depend. In contrast, the critique of the Constitution offered in *Relic* never moves beyond the Constitution. It remains fixated on the structural relationship it identifies as the most problematic, and it presents a weighty diagnosis of the interaction effects. But its solution is nothing more than a leaner, meaner version of the original, a strong-arm response to anyone who might be reluctant to get with the program.

Howell and Moe argue that if their proposed constitutional amendment were enacted—fast-track authority for all presidential policy proposals and appointments—“*the rest of the Constitution would stay exactly the same*” (italics in original). It is hard to imagine two structuralists as astute as these writing a line like that without a wink and a nod. But the promise to keep everything else the same is precisely the problem with what they propose. Never before have we been asked to indulge a major shift in constitutional power toward the presidency *without corresponding changes elsewhere*. The authors call their proposal a new “model of joint decision making,” but the only decision the Congress is called upon to make is “yes” or “no.” Since there is no limit to how much the president will be able to propose and thus on how much the Congress will be compelled to consider, their assurance that the legislature will remain as free as before to work up its own proposals rings hollow. Their newly empowered president stands to overwhelm the legislature with proposals demanding their attention.

If the progressive solution to the problems of governing under the Constitution were still adequate—still effective in making American government safe for presidential power—there would be no need for a book like this. By the same token, if you understand the problem at hand as I do—as the collapse of the progressive solution, the atrophy of the last serious attempt at constructing systems for institutional intermediation and interbranch collaboration—you will likely end up with a prescription very different from the one we are presented with in *Relic*. If you understand that presidential empowerment used to be a two-way street, you would not feel that you have to choose up sides for or against it. If you take your cues from past thinkers who faced the ineffectiveness of received mechanisms for intermediation, you would seek to invent new ones and avoid becoming a partisan in some zero-sum contest between president and Congress. If you wanted to invoke the presidential cure once again, you would do so

comprehensively, not mechanistically. A game change may be in order, but let's open it up, not hem it in. The history of presidential empowerment is not a history of constitutional mechanics; it is rather a history of thinking outside the box.

**STEPHEN SKOWRONEK**, Yale University

## RESPONSE

*Relic* is about our Constitution's impact on effective government. This is an important topic, as fundamental as they come, yet political science has had very little to say about it. That needs to change, and symposia like this one are a promising start. We are grateful to Sid Milkis for putting it together and to the other scholars for participating.

A central theme of the book is that American government is highly ineffective and that—while polarization has surely aggravated the situation—the roots of the problem trace back to the Constitution. The founders crafted a government some 225 years ago for a simple agrarian society of four million people. Government wasn't expected to do much, and they purposely designed a byzantine government that couldn't do much. Compounding matters, they put Congress right at the center of the lawmaking process, and their design ensured that legislators would be tied to their states and districts and responsive to special interests. Congress is not wired to solve national problems in the national interest. It is wired to allow parochial legislators to promote their own political welfare through special-interest politics. As a problem solver, Congress is inexcusably bad.

Presidents are different. They think in national terms about national problems, and their obsession with their historical legacies drives them to seek effective solutions. They are not always right or successful. And then, of course, there's Donald Trump. (We'll deal with him in a moment.) But as a general matter, if policy making can be shifted in the president's direction—and away from Congress and all its pathologies—the prospects for effective government will be much improved, whether it is along liberal or conservative lines.

Such is our argument, in much-distilled form. In the book, we discuss at length the disjuncture between the social problems that faced our nation at its creation and the much larger, more complex, more troubling array of social problems generated by modernity; we provide diverse examples of Congress doggedly working on behalf of parochial, short-term interests and of presidents attending to national, longer-term concerns; and we review the nation's experience with fast-track authority, which provides a template for the enhanced agenda-setting power that we think the president ought to have. But the ar-

gument throughout is simple. The institutional arrangements drafted in the Constitution were intended for a bygone era, and they impede problem solving in modern times. If the nation is to move toward a more effective government, it needs to recognize Congress's built-in pathologies and take advantage—carefully and responsibly—of the national leadership that presidents uniquely afford.

Each of our reviewers takes issue with some aspect of the book. Julia Azari raises a batch of points about the ways in which issues are not inherently national but become “nationalized,” and about the connection of presidents to geographic divisions, factionalism, and polarization. We disagree with some of what she has to say here, but the real problem is that her essay fails to directly engage the core components of our argument. Azari weaves a narrative of oblique observations that are of tangential relevance, are confusing, and do not come together as a logical whole. As a result, we are at a loss to say how her essay might bear on the arguments we make about the need to update the Constitution, the institutional differences between presidents and legislators, and the class of reforms that will enhance effective government.

Douglas Kriner offers two clear criticisms of direct relevance. First, he doubts that granting the president enhanced agenda-setting powers “is enough” to eliminate congressional parochialism. And second, he recognizes a variety of ways in which electoral considerations distract presidents from their national orientation. On both scores, we find something to agree with, and we say as much in the book. But Kriner goes too far.

Regarding his first point: we do not claim that fast track will eliminate congressional parochialism, but rather that it will reduce its influence. In crafting policy proposals, presidents will primarily be oriented by the kinds of national, long-term, problem-solving considerations that help secure their legacies. But presidents will still need to work with Congress as it is currently constituted. As such, they surely will make at least some concessions to local, short-term interests. The issue is not whether parochialism will vanish, but whether it will decline—and there is solid reason to think that it will.

On Kriner's second point: we readily agree that presidents do not offer an unalloyed vision of the national interest. Electoral considerations train their attention on swing states, and presidents have incentives to engage in distributive politics on certain kinds of policies. Our own claim, however, is very much a relative one: owing to their overriding concern for their legacies, presidents are far more likely than Congress to evaluate policy in national terms and to seek coherent, intellectually well-justified solutions to problems. If you're looking for leadership from within our existing political system on complex, large-scale, long-term challenges, the president simply is the best available option.



Frances Lee professes to wonder why, after reading our book, “anybody would even want a legislature in the first place. Yet legislatures are found throughout the political world.” The fact is, we are not talking about legislatures in general, but about one legislature in particular, the US Congress—which is peculiarly pathological and is perhaps the most powerful legislature in the world. We neither believe nor say that Congress should somehow be done away with. We simply contend that it should not retain its monopoly on formal agenda-setting powers. To argue as much is hardly radical.

Like Azari, Lee doesn’t even address our argument about the impact of the Constitution on effective government. Instead, she insists that our fast-track reform would undermine two valuable functions that Congress currently performs—legitimation and policy formulation—and she essentially makes a case for the status quo. We don’t find it persuasive.

If Congress is actually performing a legitimation function, public opinion certainly doesn’t seem to bear it out. The American people regularly give Congress scathingly low evaluations (the lowest of the three branches) and express deep distrust of the federal government. There isn’t much legitimation going on here, as far as we can see. Yet Lee thinks there is and points to logrolling and supermajorities to make her case, arguing (without evidence) that the range of interests thereby accommodated yields legitimation. The argument we make in *Relic*, by contrast, is that members’ appetites for carve-outs, special favors, and deals satisfying the special interests in their districts and states tend to yield cobbled-together policies that fail to solve the social problems they pretend to address. The result is ineffective government, which doesn’t bode well for legitimacy.

Lee’s second congressional function is policy formulation, which refers to the making of “policy that is politically acceptable.” Here again, Lee glorifies Congress’s piecemeal process of policy making. Nowhere, we should emphasize, does she actually claim that this process leads to policies that are effective at solving social problems. Political acceptability is her only coin of the realm—and she seems to view Congress as doing a great job, and as wonderfully democratic, if it simply succeeds in passing something. That its various somethings don’t do much to solve the nation’s problems—indeed, aren’t even seriously designed to do that—is beside the point. We disagree. Ineffective government is precisely the point, and fast track is a simple, potent means of promoting better-designed policies.

Finally, there is Stephen Skowronek. He agrees that “the Constitution is a ‘relic,’ sorely in need of an update” and that presidential empowerment needs to be part of any reform. But he is otherwise relentlessly critical.

Before getting to the essence of his complaint, we want to deal with two specific issues. First, he portrays us as claiming that presidents are angels disposed to do the “right thing” and “pursue the public good.” We do not argue that. We are very clear in saying that, while presidents care about their legacies and have incentives to take on national problems, they may pursue policies that we—or you—think are inappropriate, misguided, unwise, or downright bad. We do argue that, whatever policies presidents favor, they will push for designs intended to make them as effective as possible at achieving their goals. But that is very different from the caricature Skowronek sets out.

Second, Skowronek chastises us for saying that our fast-track reform would leave the rest of the Constitution exactly the same. We could hardly write such a thing, he opines, “without a wink and a nod” because fast track would surely produce adaptive behavioral changes by the president and Congress downstream, which might change politics in unwanted ways. No need for any winks or nods here. The truth is, fast track does leave the rest of the Constitution the same, which is a very good thing, as wholesale changes would be at once infeasible and reckless. And while it is obvious that fast track would lead to later adaptive adjustments, the nation has 40 years of experience with just such adjustments in the realm of international trade, and that experience has been quite positive.

Skowronek’s real concern here in pointing to adaptive adjustments—aside from raising red flags—is to put the focus on extraconstitutional considerations that, in his view, argue for a much more comprehensive approach to reform. Indeed, this is the main theme of his essay. He argues that improving American governance involves more than empowering the presidency and more than reforming the Constitution—and thus that *Relic* falls short in its fast-track proposal, which he sees as “stark and mechanical, forced and formalistic.” Noting, approvingly, that the Progressives “offered something besides the president on which to construct a new order,” he argues that *Relic* should have been far more expansive and extraconstitutional in approaching modern-day reform. “A game change may be in order, but let’s open it up, not hem it in.”

So what exactly does Skowronek have in mind? He doesn’t say. Not even remotely. Here is the kind of thing he does say. Our fast-track reform is deficient because it is “stripped of intermediary provisions that might rework governing relationships at large.” As such, it fails to address the challenge at hand, which is one of “constructing systems for institutional intermediation and interbranch collaboration.” Reform needs to be carried out “comprehensively, not mechanistically.” Get it?

We have no idea what he’s talking about. Nor could anyone. In his entire elliptical essay, he offers no concrete sug-

gestions about what types of reforms actually need to be adopted, whether to the Constitution or to the larger political system. More fundamentally, he has nothing at all to say about why he thinks the Constitution is unsuited to modern times and in need of an update—no assessment of Congress and its incentives, no assessment of the presidency, no assessment of which aspects of the Constitution might be problematic—and thus provides no basis for arriving at any conclusions about what specific reforms might improve things.

We do believe that, long term, reform must ultimately go beyond fast track. In *Relic*, we argue—as Thomas Jefferson did—that each generation must alter its institutions to deal with the new challenges it faces and that the work of institutional reform is never complete. Were universal fast-track authority adopted, additional correctives may be needed further down the road as American society continues to change—which it will, doubtless in ways that we can't foresee or anticipate today. Even today, there may be ways to productively marry universal fast-track authority with additional institutional reforms—for example, as Kriner suggests, the elimination of the Electoral College. Our proposal is meant to jump-start serious thinking about such matters. It is disappointing that Skowronek, while professing a vague commitment to comprehensive change, comes to the conversation empty-handed.

A final point. As he formulates his thematic complaint about how we're missing the big picture, Skowronek misconstrues (or ignores) the purpose of our book. *Relic* is explicitly about the impact of the Constitution on effective government and how the Constitution might be reformed to make government more effective in modern times. These are topics of immense importance, and they are woefully understudied. *Relic* is not about reforming America's larger "systems for institutional intermediation," whatever those might be. Such a shift in scope would obviously make for a vastly different and far more expansive project, one we never had any intention of pursuing. The book should be evaluated on the basis of what it actually attempts to do, not on what it doesn't attempt to do.

We'll conclude with a few words about the elephant in the room: Donald Trump—who was barely mentioned by the reviewers, but, in our experience, is very much on the minds of many readers of *Relic*. We are no fans of Trump. To be honest, we are horrified by nearly everything he represents and espouses. Does that mean, however, that a shift in power from Congress toward presidents would threaten American democracy, and thus that we should back off our analysis and favor even more restrictions on the presidency?

No, it doesn't. As a matter of institutional design, it is a mistake to think that government must now be tied up in protective knots—forever—to ensure that no government

could ever do anything we don't like. The price of such arrangements is that government would rarely be able to do anything positive either, and indeed, would lack the capacity to do what government should be doing by responding effectively to social problems. The challenge of reform is to maintain adequate protections, which American government already possesses in abundance, and to seek out targeted means of enabling effective action. In our book, we make the case that fast track is one such reform.

It is worth asking why Donald Trump was elected president in the first place. A big part of the answer is precisely that American government doesn't work. For decades now, globalization and technological change have disrupted the nation's economy and society, leaving many Americans feeling marginalized and in despair about their futures. Yet their government—captured by special interests, incapable of crafting effective policies—has demonstrated time and again that it can't perform and can't be trusted to meet their needs. Enter Donald Trump, the rogue outsider, who spoke of "the forgotten men and women of this country," and who promised a government that would finally act on their behalf. Trump is a con man. But the underlying reality is that many Americans are hurting, and they are fed up with ineffective government. He gave voice to that reality.

Demagogues feed off dysfunction. If the United States is to avoid the coming of Trump 2.0, its institutional failings must be recognized and responsibly confronted. Political scientists have not done their part. They have devoted countless resources to the study of how Congress and presidents produce policies, but with little attention to whether those policies are effective at addressing the nation's problems. The discipline needs to think seriously about the institutional origins of effective government. *Relic* is our attempt to do that. We don't expect it to settle matters. But we do hope that it stimulates new thinking, inspires argument and debate—and leads to progress.

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