

## BOOK REVIEWS

### **Relic: How Our Constitution Undermines Effective Government— and Why We Need a More Powerful Presidency**

William G. Howell and Terry M. Moe  
New York: Basic Books, 2016, 256 pp.

There is a grim inevitability to William Howell and Terry Moe's *Relic: How Our Constitution Undermines Effective Government—and Why We Need a More Powerful Presidency*. For many years, indeed since Woodrow Wilson's *Congressional Government* in 1885, people have taken the American Constitution to task for jamming up the works of government. Without the concurrence of the House, Senate, and President, it's virtually impossible to pass a law. In contrast, you don't see gridlock in a parliamentary system.

For most American conservatives, that was just fine. We didn't want "progress"—things were bad enough already. Rather, it was the 20th-century progressives who objected to the separation of powers, which got in the way of the reform legislation they proposed. More recently, however, there's been a reversal of roles, as conservatives have recognized that gridlock has made it almost impossible to repeal laws they hate: our Tax Code, the 1965 Immigration Act, and a host of special-interest laws passed when Democrats controlled all three branches. For their part, the intelligent progressives might recognize that gridlock favors things they like: Obamacare, the EPA, and legislation favoring one part or another of the Democratic constituency.

Most conservatives, in the age of Obama, would remedy this by empowering an impuissant Congress. Obama's willingness to

disregard Congress and rule by ukase has troubled many on the Right, especially when both houses of Congress are controlled by Republicans. Remarkably, Howell and Moe offer a cure for gridlock through a further grant of power to the presidency. What they would give the president would require a constitutional amendment, which is one reason not to pay too much attention to their book. Another reason is that what they propose—fast-track authorization for all policy matters, including budgets and authorizations—would further empower an executive branch already on steroids.

That's not what the Framers wanted, and Howell and Moe's understanding of the Philadelphia debates seems almost entirely derived from the secondary literature in political science. Had they paid more attention to the notes of the debates, they would not have dismissed the delegates' fear of what George Mason called an "elective monarchy," and they might then have thought more carefully before proposing something like that for America. The authors might also have benefited from a greater understanding of comparative constitutional law. They tell us that America is the only presidential system, whereas I count 83 of them. With a greater knowledge of the rest of the world, the authors might also have encountered the persuasive empirical literature suggesting that presidential regimes are bad for liberty.

Presidential systems tend toward tyranny because they concentrate power in one person as the head of state and head of government. Moreover, presidents aren't accountable to Congress the way that prime ministers are accountable to the House of Commons, with their duties to show up at Question Period and run the risk of dismissal through a non-confidence motion. Because of this, presidents in presidential regimes are encouraged to abuse their power and threaten political liberty. The failure of Howell and Moe to acknowledge these findings leaves the reader entirely unpersuaded by their thesis.

In response, those favoring a presidential system may raise the standard of American Exceptionalism. We are exceptional in that we have preserved liberty in spite of our Constitution. But when one considers how the Democrats ran a rock star as president in 2008, and how voters and the media reacted to Obama, one might begin to wonder whether we are really all that different from the less successful presidential countries. There remains, of course, the requirement of an election every four years, but that simply means that we've become what political scientist Theodore J. Lowi condemned as a

“plebiscitary republic with a personal presidency.” And then Argentina suggests the possibility of a wife succeeding a husband, for a 16-year run. Might that even happen here, one wonders?

Howell and Moe correctly blame much that is wrong with congressional legislation on the perverse incentives of individual members of Congress, who seek wastefully to bring pork to their districts. One can’t do anything to cure this, they argue, and thus we need a strong presidential system. But there is a congressional response to minoritarian misbehavior of this kind, and that is to nationalize congressional elections as Newt Gingrich did in 1994. We saw partial efforts to repeat this in the Tea Party congressional elections of 2010 and 2014. That doesn’t require the kind of impossible constitutional amendment the two authors propose, and it wouldn’t threaten political liberty. But neither of these is considered by the two authors.

Howell and Moe dismiss the Constitution as a “relic,” the title of their book. I do not know whether they have seen real relics. I have, and I venerate them, as is proper. I feel the same way about the Constitution, notwithstanding any imaginary amendments I might concoct in my mind.

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### **Frank: A Life in Politics from the Great Society to Same-Sex Marriage**

Barney Frank

New York: Farrar, Straus and Giroux, 2015, 400 pp.

As a social scientist, it is easy to forget that policy is ultimately made by people—real, living human beings participating in real-world institutions. At the center of American public policymaking is Congress, an institution largely populated by forgettable names and faces. Barney Frank is not one of those. His recent book, *Frank*, which takes us from his earliest days in Boston politics to his recent retirement, reminds us why. It also reminds us of the give-and-take process of legislating. Whatever one’s own policy preferences, *Frank* offers a variety of lessons on the congressional process.

*Frank* is not an academic book, despite its author’s professed academic pretensions. It is, however, a book academics can learn from. Plus, as a book heavy with the author’s infamous wit, it is generally an