

## Book review

**David R. Mayhew:** *The Imprint of Congress* (New Haven: Yale University Press, 2017)

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When David Mayhew publishes a new work on the primary focus of his scholarship – the US Congress – it behooves American politics scholars and political historians of the US to pay close attention to what he has to say. Mayhew is among the foremost living scholars of American national politics and government. His *Congress: The Electoral Connection* (1974) laid the foundation for subsequent political science scholarship on the federal legislative branch. Mayhew's publications are invariably succinct, but also highly insightful, and characterized by meticulous research and scholarship. His work has also been informed by a comprehensive knowledge of the academic literature in US history as well as political science. Another valuable characteristic of his scholarship is that Mayhew is unafraid to tackle big questions – the impact of divided government, the validity of the theory of electoral realignment, the impact of parties on Congress – in an era when so much research in American politics has focused on ever-narrower aspects of the electoral and governmental process.

In this regard *The Imprint of Congress* does not disappoint. The book sets the ambitious goal of determining the impact of Congress as an institution on US history – “What has been Congress's imprint on American society and life?” (1). Mayhew is also keen to address the traditional critique of Congress (dating to Woodrow Wilson's *Congressional Government* in the 1880s) as an outdated or dysfunctional element in the American system of government. By contrast Mayhew argues that Congress has had a real impact on American political development and plays a critical “legitimizing” role among the US's national governing institutions. *The Imprint of Congress* approaches the above question in two ways. First, Mayhew examines how congressional actions have contributed to regime stability and legitimacy since 1789, and concludes that this contribution has been critical: “I will argue that Congress through its operations across history has probably helped legitimize – and keep legitimized – the US regime out there among the public” (6). Secondly, Mayhew analyses how has the US governmental system has performed in comparative perspective in addressing the major common challenges faced by the US and its international peers since the founding, and the extent of Congress's imprint on those performances: “Compared with

peer national systems elsewhere across history, how has the US government performed?”(8–9) and “What have been the signature imprints of Congress in these performances?” (9).

To answer these questions Mayhew selects a number of “transnational impulses” (11): major challenges faced roughly simultaneously by the US and its international peers and utilizes the historical literature to assess how the US political system has performed in the face of these “impulses” and the distinct imprints of Congress and the Presidency on that performance. He writes, “To get a fix on Congress, we need to know what the impulses have been, how the United States has fared against the transnational field – perhaps Congress has veered the result one way or another – and the roles of the American executive branch as well as Congress.” (17) Mayhew then examines 13 transnational impulses that American system has had to address since 1789 in chronological order, including: founding a new nation, industrialization, regulating capitalism, response to the Great Depression, constructing a welfare state, addressing climate change, and controlling deficits in recent times.

Mayhew concludes that the American governing regime had been remarkably stable. In most (but not all) instances the presidency has been the chief lever for policy change in reaction to transnational impulses, with Congress’s usual role in the system being to legitimize policy change through large bipartisan majorities. This function falls to Congress since the legislature’s short election cycle and the inherent “messiness” (108) of congressional activity – the brokerage and prolonged bargaining necessary to overcome congressional procedures geared to frustrating rather than enabling majorities – ensures that it is the most responsive to the views of the “median voter” of the institutions of the American federal government. Again in contrast to much of the contemporary critique of Congress from latter-day “Wilsonians” who seek a “rationalistic” approach to government, Mayhew also sees the value of congressional inaction:

Often, when Congress is doing nothing at all, to the despair of partisans, intellectuals and the media, it is actually responding to an unresolved electorate with a perfect ear. *Don’t!* the public is in effect saying. Consider a stark counterfactual: Every quick, narrow, temporary majority gets to jam into law whatever its activist base wants. Play that out for awhile, especially in a context of ideological polarization, and what level of system legitimacy would result? (107)

Another “bottom line” conclusion of *The Imprint of Congress* is the US has not generally underperformed its international peers in responding to transnational challenges. Mayhew acknowledges, however, that the level of polarization in the contemporary US does pose a severe challenge for the American governmental system. He prefers the terms “fractionalization” and sees this development as a

consequence of American society having become more heterogeneous and inclusive, entirely positive developments in his view, but which provide severe challenges – “a task and a half”(113) – for American national government in the 21st century. Mayhew cites the 2010 *Affordable Care Act*, passed with narrow Democratic congressional majorities over unanimous Republican opposition, as an example where the political process is yielding an outcome that likely lacks the broad degree of legitimacy among the wider public for long-term success.

*The Imprint of Congress* is characterized by David Mayhew's usual scrupulous scholarship and engagement with historical research. A major strength of the book is Mayhew's focus on the functioning of the US political system as a whole untainted by an ideological or partisan agenda and the author's healthy appreciation of the inherent messiness in democratic governance in an increasingly diverse American society. *The Imprint of Congress's* comparative perspective on Congress and focus on Congress's role as a legitimating body in the US governmental system is also rare and welcome. Mayhew's conclusion that the American political system has not performed so badly in comparative context is refreshing in an era when the public consensus regarding the performance of American national governing institutions, and Congress in particular, is overwhelmingly negative.

While I find the general thrust of Mayhew's argument convincing, there are several aspects of the *Imprint of Congress* that are worthy of further exploration. The book probably pays insufficient attention to the greatest failure of the American governmental system: the outbreak of the Civil War. Mayhew correctly points out Congress's role in forging the compromises on the slavery question that averted conflict for 30 years, but clearly these were being seen as less legitimate in the fervid political atmosphere of the late 1850s, and perhaps only contributed to accelerating the conflict. On the other hand it seems unlikely that the median voter – North or South – in the late 1850s sought bloodshed as a solution. The interesting political science question – which has relevance for our own times – at what point does the governing system's outputs tend to reflect the preferences of intensely committed minorities (Madisonian factions) as opposed to the median voter or the messy middle? In the modern era it is hard to see how grand bipartisan compromises come about where both parties are pulled away from the center responding to the intense activism of their electoral bases and passing legislation that lacks the popular legitimacy to have lasting impact. How does the system adjust to this situation so that Congress can play its legitimizing role? Perhaps the answer is simply *not* to act, as Mayhew suggests. Ominously perhaps, we currently see increasing pressures on either side of the ideological spectrum to make this option harder by removing the supermajoritarian rules and deliberative norms of Congress – for example the Senate filibuster on presidential executive

and judicial nominations – that necessitate broad bipartisan coalitions for major policy change to be implemented.

Curiously Mayhew does not discuss the role of the courts in his assessment of the transnational performance of American national government, yet it seems at least plausible to argue that the judicial branch – particularly since the 1930s – has also frequently assumed the role of initiator and “legitimator” of significant policy change in the US – particularly on issues pertaining to civil rights. Interestingly, one could argue (to revisit the discussion on the Civil War above) that the Court’s 1857 *Dred Scott* decision rather than frustration with congressional compromises was the catalyst for heightening national divisions on slavery (median voters in the North likely saw *Dred Scott* as entrenching the South’s “peculiar” institution, encouraging its spread to the non-slave states, and rendering slavery’s eventual disappearance a more distant prospect rather than an inevitability). Would Lincoln’s election and South Carolina’s secession have occurred without the Court’s intrusion into the slavery question? Certainly the evidence for the success of the judicial branch’s effectiveness as a legitimating institution for social change is mixed at best. The Court initiated the civil rights revolution with *Brown vs. Board* but it took a mass political movement and congressional legislative actions to confirm and implement it. Many of the Supreme Court’s actions on social/cultural issues (most notably the 1973 *Roe vs. Wade* abortion decision) and free speech issues (the 2009 *Citizens United* decision) rather than resolving these issues only seem to have contributed to continued polarization and lack of consensus. Overall the evidence seems to confirm the common sense hypothesis that a legislature elected on a basis of universal adult suffrage is generally better placed to legitimate major policy change with the proviso that the winning congressional coalition for change is bipartisan.

In summary, *The Imprint of Congress* is a thought-provoking and stimulating work that should be of great interest to all scholars of American politics. Even more so as Mayhew’s conclusions tend toward accentuating the positives of US governing institutions in comparative perspective. With the exception of the outbreak of the Civil War, Mayhew demonstrates that America’s national governing institutions invariably responded appropriately to the various major transnational impulses and challenges, and congressional actions have legitimated these changes to the wider American public. In an era of enhanced partisan polarization with national institutions being controlled by relatively narrow partisan majorities, the responsiveness of political institutions and the legitimacy of governmental actions are likely to come increasingly into question. The next few decades will likely provide a serious test of the continuing elasticity and popular legitimacy of the American system of government.