


greater political engagement and better calibrating policy-making based on institutional competence. But for those, and others, to happen, we first need a genuinely functional multiparty democracy that checks against presidential aggrandizement without fear of reprisal from each side's increasingly strident base. Profound misunderstandings set our threatened scheme into motion. For U.S. democracy to endure and thrive, we must now correct the Framers' unforced errors—presidentialism and the two-party system.

Colomer's book is a major contribution to the literature on our constitutional crisis. Our job remains devising remedies worthy of his powerful historical account.

**Response to Maxwell L. Stearns' Review of
*Constitutional Polarization: A Critical Review of the
U.S. Political System***

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— Josep M. Colomer 

Juan J. Linz initiated the modern critique of the United States political system and its imitators by warning about “the perils of presidentialism” and praising “the virtues of parliamentarism” (especially in his 1990 article for *Journal of Democracy* and later in his 1994 book, *The Failure of Presidential Democracy*, with Arturo Valenzuela). My point is that these two institutional systems can be better labeled as separation of powers and fusion of powers or parliamentarism (to follow Walter Bagehot's nomenclator). “Presidentialism” is not an institution but an anomalous behavior in an institutional system of separation of powers; as it favors the concentration of powers in one of the institutions, it generates institutional conflict with the separate congressional branch.

My book is subtitled “a critical review” of the U.S. political system, while Maxwell Stearns' book is a proposal for its transformation. He says that my “powerful diagnosis demands as effective a cure.” I agree, and in the last chapter of my book, I suggest three possible lines of behavior that could improve the current system's performance without major institutional reforms. First, improving voting with procedures already spread at the local and state levels, such as open primaries with a top-two runoff. Second, reinforcing cooperation between the Cabinet and Congress by generalizing the Secretaries' delivery of periodical accounts of their job to Congress. And third, more overlooked and more important, reconsidering some divisions of powers between the federal government and the states to diminish the confrontation on certain issues that may be more consensually settled at lower institutional levels. The subsidiarity criterion states that whatever a low-level government can do efficiently should not be transferred to a higher level. What the local government can handle should be left to the local government; what the state can handle should be under state jurisdiction; the

federal government should have jurisdiction only over those issues that lower-level authorities cannot handle well. An efficient distribution of issues between the different levels of government should lower the stakes of national politics and, thus, reduce the contentiousness of presidential elections and de-escalate political conflicts in Washington.

All in all, my proposals point to “parliamentarizing presidentialism.” Let us change political behavior if the foundations of the institutional system cannot be replaced. The tone may sound like muddling through and kicking the can down the road. This is because I guess that the blockage of the existing political system regarding major legislation is even stronger when it comes to constitutional amendments. But, of course, I salute the debate about more ambitious initiatives for institutional reforms, such as those framed by Maxwell Stearns, which can always serve as a reference for critical comparison.

**Parliamentary America: The Least Radical Means of
Radically Repairing Our Broken Democracy.** By

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Parliamentary America is a highly relevant, timely book about the flaws of the United States political system with a proposal for its transformation. The author, a law professor, makes good use of political economy, social choice theory, and comparative politics to make his case. It certainly is not an “academic” exercise in the bad sense of the word, but it is in the best one. The presentation is didactical, with a practical purpose; for the author, his book is not a “mere thought experiment,” but “deeply personal and existential” (p. 241).

I particularly appreciate the diagnosis of the long-term origins of the United States' current institutional and political crisis. Contrary to a broadly shared opinion, Maxwell Stearns holds that the U.S. Constitution does not deserve credit because it has “long outlasted other constitutions through the world” (p. 28). A better explanation of its endurance can be found in the country's geopolitical isolation, which avoided military threats and foreign wars on its territory, the long-term experience of slavery, the steady and constant influx of immigrants. “To the extent that the story of our nation is exceptional, it's in spite of, not because of, our constitutional design”, he states (pp. 2-3). In fact, the basic tenets of the U.S. constitutional system—the separation of powers between the legislative and the executive branches alongside congressional elections in single-member districts by plurality rule—have not been replicated anywhere else across the globe.

Stearns' analysis and his reform proposals fall along two axes: the electoral rules for the House of Representatives and the relations between Congress and the president, the latter presented as the structure of "presidential accountability." After a summary review of a few major European systems and some variants elsewhere, Stearns basically embraces the model of Germany, a parliamentary multiparty system.

In my view, the main deficit of the analysis is its neglect of federalism, which is critical for describing both Germany's excellent governance and for explaining the survival of the United States' inefficient constitutional design. We should not take the United States as one more nation-state analogous to the largest countries of Europe. It is a much larger and more diverse federation, a "Union" of preexisting separate states that still now keep vigorous powers and create an asymmetric balance with the federal institutions.

Let us start with the House of Representatives. Stearns' proposal is to double its size and replace its electoral system with one of mixed-member proportional representation by which some representatives would keep being elected in single-member districts and others would be elected in larger districts with multiple seats.

As the author notes, political scientists like Rein Taagepera have shown that the average size of democratic assemblies better fits the cube root of the country's population. In 1911, when the U.S. House size was fixed at 435 seats, it was an almost exact fit with the nation's cube root. However, it has remained frozen over the last century, despite the population's further increase.

Doubling the number of seats of the U.S. House to 870, however, would make it the largest democratic lower chamber in the world, larger than the one in more populous India and than the European Parliament. A major unfortunate consequence would be the infliction of higher costs of organization and decision-making among representatives who would have to multiply their efforts in collecting information, coordinating issues and committees, and negotiating agreements.

It may not be merely chance that the House froze its membership at almost exactly the same time as the United States completed its institutionalization of the forty-eight territorially contiguous states. In the complex political structure of the federal United States, the broad decentralization into a high number of states has compensated for the federal House's small size and its restrictive political consequences. The very high number of states somehow offsets the limitations of the small federal representation. The effect is extreme in this country, which, with 50 states, is the most decentralized in the world.

A logical inference is that an increase in the size of the House would make it more inclusive, with more diverse partisan affiliations, which would push for a stronger federal government. Some issues that are now mainly debated and decided by the state legislatures would be

channeled to Congress as territorial demands by the additional representatives in Washington. In a long-durable democracy, the trade-off between the size of the assembly and territorial decentralization must keep a consistently bounded relationship. It may not be possible to significantly alter an institution without affecting the balance of the other.

According to the "cube root" law, now the House should have around 700 seats. The proposal of "doubling" the current size seems to be motivated by Stearns' will to keep the current 435 single-member districts and to add the same number in multi-member districts with proportional representation. However, the current single-member districts could also be kept if as many as 265 seats by proportional representation were added to fit the 700-seat more manageable size.

To prevent an excessive number of parties from obtaining representation in the federal House on the basis of peculiar local supports, a national threshold of 5% of the votes would be required (also like in Germany). However, research has shown that in a large and diverse country, the threshold does not have a great influence on the number of political parties that can enter the assembly, which mostly depends on the size of the assembly and the average number of seats in the districts (called "district magnitude").

Taagepera has also provided a formula to estimate this result in his 2007 book, *Predicting Party Sizes* (Oxford). In my calculations with that formula, a House with 870 seats and an average district magnitude of $435/50 = 8.7$ seats (as the allocation of the number of seats to the parties would only depend on the proportional segment) would tend to produce 9.3 parliamentary parties (about half of them very small). With 700 seats, the average magnitude would be 5.3 and the subsequent number of parties, 7.8 (also about half very small). In short, in both cases, we could roughly expect about four major parties with a few minor ones around. Increasing the size of the assembly by a smaller amount than Stearns proposes might make only a relatively small difference in the number of parties, but it could involve significantly lower organizational and decision-making costs.

Stearns also proposes a procedure to choose the executive president and vice president by the House of Representatives, which is the essence of a parliamentary regime as heralded by the book title. Namely, he would expect either a selection driven by a majority coalition negotiated among party leaders, or an executive with minority legislative support led by the largest party. In both cases, Stearns forecasts a "consensus government" based on "a possible grand coalition that included the now-smaller Republican and Democratic parties" (p. 281).

A motion of "no-confidence" could remove the president and vice president for "mal-administration" (not needing criminal acts like the current impeachment) if

supported by 60% of the representatives. Then, he suggests keeping the monarch-ish “line of succession” currently established, instead of the “constructive” censure that leads to investing the leader of the opposition and winner of the censure, as is the case in Germany and other parliamentary countries. As the president and vice president would keep being elected every four years, and the House every two years, this might increase instability, but the peril is tamed by the innovative requirement that an alternative majority replacing the incumbent should include at least one party member from the overthrown coalition.


An inescapable discussion is whether and how these reforms, formally presented as three Constitutional Amendments, could be approved by either two-thirds of the existing Congress or by a Convention called by two-thirds of the states. As the author acknowledges, “the bar is extraordinarily high” (p. 242). He realistically considers that winning support for these reforms among current politicians and public officers will be more important than raising their appeal among citizens. Nevertheless, the author’s list of incentives for supporting the reforms partly relies upon the fact that they might serve as a “pressure release valve” for too busy and overwhelmed incumbent politicians, while he expects they would “empower aspiring leaders” without a decision power in the process (pp. 244, 246).

Stearns hopes these parliamentary-style reforms would make the United States emerge from the current crisis as “a beacon to other nations” with a “genuine, thriving democracy” (p. 241). Yet he mentions more than once that in the United States we live with “the present past”. I would like to evoke the historical analysis of Nobel laureate Douglass North, who remarked how once inefficient institutions exist, they can reinforce themselves and make their replacement difficult. Restrictive institutions can survive as a consequence of actors’ learning by use, their adaptation to institutional regularities, and the costs of their replacement, as he summarized in his 1990 book, *Institutions, Institutional Change and Economic Performance* (Cambridge).

Notwithstanding, in the current degraded political environment, Stearns’ ambitious and optimistic proposal for a parliamentary America is pleasantly refreshing and should be a welcome addition to an urgent debate.

**Response to Josep M. Colomer’s Review of
*Parliamentary America: The Least Radical Means of
Radically Repairing Our Broken Democracy***

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— Maxwell L. Stearns 

I’m honored by the esteemed Professor Josep Colomer praising *Parliamentary America*. He commends my “good

use of political economy, social choice theory, and comparative politics;” describes the book as “didactical, with a practical purpose” and “academic” in the best sense; and calls my proposals “highly relevant,” “timely,” and “a welcome addition to an urgent debate.”

Despite common ground, our differing perspectives emphasize competing concerns. Colomer and I agree two-party presidentialism, replicated nowhere despite its remarkable longevity in the United States, is the root of our constitutional crisis. We agree that where we end up depends on where we started (see his note about “the present past” and Douglass North). And we recognize the need for buy-in among politicians with blocking power.

Colomer levels two central criticisms: first, that I treat the United States as “one more nation-state analogous to the largest countries of Europe,” giving inadequate attention to federalism (I don’t), and second, that I contravene the cube-root rule (I do). I criticized Colomer’s *Constitutional Polarization* for not prescribing a remedy worthy of its bold diagnosis and for embracing proposals that can’t solve the crisis or be enacted. The ultimate question remains: “who’s right?” I remain confident *Parliamentary America* makes the stronger case.

My virtual world tour—England, France, Germany, Israel, Taiwan, Venezuela, and Brazil—doesn’t treat the United States as any foreign nation. It shows that avoiding the twin threats to democracy—either too few or too many parties—demands revisiting choices along two key democratic axes, namely how we elect the House of Representatives and the manner of presidential selection and accountability.

Although my proposals place separation of powers at center stage, they are sensitive to federalism, with discussions of these dynamics interspersed throughout. I observe that overcoming the first two constitutional crises transformed federal-state relationships (pp. 23–24); that modern affinities are regional (pp. 247–50); and, contrary to Colomer, that U.S. state sovereignty has long been constrained (p. 248).

Federalism rarely defines our most divisive issues—e.g., guns, racial justice, reproductive rights. But it does play a central role in existing institutional arrangements, explaining the Senate’s egregious representational disparities (pp. 247–50). That’s why, despite suggesting possible future Senate reforms (pp. 284–87), my amendments leave that body intact. My proposals will undoubtedly affect federal-state dynamics, but Colomer offers little beyond speculation as to how this threatens *Parliamentary America*.

Colomer acknowledges the importance of political buy-in for reform but disregards my explanation that the cube-root rule defeats it (pp. 183–84, 250–52). His alternative, adding 265 seats to achieve 700, rather than doubling the size of the House to 870, does as well. Representation demands whole numbers. The party effects of Colomer’s