2005

# Book Review of Jasmine Farrier's "Passing the Buck: Congress, the Budget, and Deficits"

David Schoenbrod

**Passing the Buck: Congress, the Budget, and Deficits** *by Jasmine Farrier. Lexington, University Press of Kentucky, 2004. 284 pp. $40.00.*

Jasmine Farrier sets out to understand why Congress "tells the country that it is not well suited to making tough decisions on major policy questions" such as declaring war or controlling spending (p. 1). She does so by analyzing how it structured the budget process from 1974 to 1996.

Budgeting involves tough policy choices because voters want spending, but not taxes or large deficits. In 1974, in the shadow of Watergate and "the Imperial Presidency," the legislators took responsibility by establishing a process through which Congress was supposed to face squarely the deficit that would result from the spending items contemplated. Yet, in 1985, in the shadow of unpopular deficits, the legislators prospectively shed responsibility through Gramm-Rudman-Hollings by empowering the General Accounting Office (GAO) to cut spending if deficits exceeded predetermined limits. When the Supreme Court ruled that the GAO could not be given this executive power, Congress, in 1987, reassigned it to the Office of Management and Budget—one of the bastions of "the Imperial Presidency." The Budget Enforcement Act of 1990 and the Line-Item Veto Act of 1996 shifted power in other ways from Congress to either the president or automatic mechanisms. The Supreme Court invalidated this "veto" also.

Farrier argues, and convincingly so, that prevalent theories of delegation fail to account for much of the post-1974 legislation. The principle-agent theory—in which the majority in Congress cedes power to an agent likely to work its will—is contradicted by Congress ceding power to a president of the opposite party. The transactions cost theory—in which Congress delegates to reduce transaction costs, but does not delegate distributional choices—is contradicted by its ceding distributional choices.

To explain why Congress sheds budget responsibility, Farrier looks to "an under-utilized source of legislative intent: the historical record" (p. 6). She finds the legislators repeatedly claiming incompetence to budget wisely. For example, Senator William Cohen cracked: "Stop us before we spend again" (pp. 1, 165). The legislators may, of course, only be pretending incompetence in order to justify shedding responsibility for tough budget cuts. In this way, they position themselves to say "yes" to popular spending requests and "no" to unpopularly large deficits, which truly is to have one's balanced budget cake and eat it too.

Farrier urges Congress to "do a much better job of explaining to citizens the real challenges" instead of abdicating its constitutional responsibilities (p. 220). There is, however, a design flaw in the Constitution when it comes to spending. The Framers' response to the threat of factions—and spending is, of course, a problem of factions—was that faction would counter faction. So long as Congress balanced the budget—and it did so, except during emergencies, long after the Constitution was written—it could satisfy a plea for spending from one faction only by taking the money away from another. When Congress gained the political latitude and access to credit markets necessary to run huge intentional deficits in the absence of an emergency, faction no longer checked faction.

Congress is, however, competent to design legislative mechanisms that would put discipline back into the appropriations process. Legislators do not want voters to know that, but perhaps, in her next book, Jasmine Farrier could spill the beans by showing precisely how Congress could organize itself to have a backbone. In the meantime, her present book is a highly informative read.

DAVID SCHOENBROD
*New York Law School and Cato Institute*