

TERM LIMITS OR PARTISAN DISCIPLINE: HOUSE RULES VOTES PROVIDE FIRST TEST OF REFORM

Term limits on committee chairmen and the constitutional definition of Congress will be the subject of the first two significant votes cast by the new House of Representatives when it convenes on January 5. These votes will offer a clear test of whether the 110 freshman Representatives elected, and the hundreds of incumbents reelected, on promises of reform, will honor those promises or pursue business as usual. Another key test is whether the House Democratic leadership will allow Democratic Representatives to vote as their consciences and constituents dictate, or whether Speaker Tom Foley and his allies will enforce party discipline in an effort to preserve the powers of entrenched congressional interests.

Among the first orders of business for a new Congress is adoption of rules of procedure, since internal rules technically expire with the end of each Congress. Most rules are readopted unchanged from one Congress to the next, but a few are altered in response to changing circumstances or public demands. While the House is free to change its rules at any time, changes usually are made only at the beginning of a Congress. Thus, the votes on January 5 will set a pattern for the entire 103rd Congress.

Term Limits for Committee Chairmen. Overwhelming popular support for term limits has spawned proposals for the House to take the intermediate step of limiting the tenure of chairmen of committees. Much of the business of Congress is carried on in committees, where Members gain influence largely through seniority. Coupled with the powers of incumbency, the seniority system allows Congressmen to become insulated and unresponsive to the public. Long-serving committee chairmen forge "iron triangle" relationships with special interests and bureaucrats, dealing the public, the President, and even other Congressmen out of the policy-making process.

Limiting chairmen's terms would curb the worst tendencies of the careerist Congress by breaking the iron triangles, giving more Members opportunities to chair committees, and reducing special interest influence. Limits for committee chairmen are supported even by some opponents of overall term limits, who recognize that unlimited tenure and narrow specialization are inimical to the legislative process. Whatever constitutional questions may apply to term limits for election to Congress, limits on committee service are clearly permissible. The House already limits all members of its Budget and Intelligence Committees to no more than six years' service without a break, in recognition of the value of rotating assignments.

Republican Leader Bob Michel intends to propose amending House rules to institute a six-year limit on committee chairmanships. This procedure varies from usual first-day business in which Republicans and Democrats offer competing rules packages which differ in numerous details, and which are decided on predictable party-line votes. Michel will still offer a comprehensive Republican rules proposal, but he will also offer a second motion solely on the committee chair limits. Representatives can and should ignore party labels and vote their convictions, and those of their constituents, on the term limits motion. Public support for term limits is indisputable. And Representatives from California, Florida, Ohio, Michigan, and the ten other

states which approved term limits this November have a special obligation to adhere to the expressed will of the voters.

Pressure by Foley and other Democratic leaders to stop House Democrats from voting their consciences on committee term limits will be an early demonstration of the leadership's intent to use partisan tactics to thwart term limits and other popular reforms. Congressmen who campaigned as term limits supporters or who have supported limits on committee chairmen in the past, but who oppose the Michel motion using party affiliation as an excuse, will show that partisanship is more important to them than congressional reform.

Representation Without Taxation. A second rules question which may face an independent vote is a Democratic proposal to allow the Delegates from the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the Virgin Islands to vote on legislation when the House is using the "Committee of the Whole" procedure under which most significant legislation is considered. This plan clearly violates the Constitution, which specifies that Congress is composed of Representatives of states. While some argue that the Committee of the Whole is only an advisory group, it is so integral to the operations of the House that the procedure was established by the First Congress in 1789. As a practical matter, many actions taken in the Committee of the Whole are irreversible, so granting delegates a vote there would be equivalent to granting them a vote in Congress.

Beyond explicit constitutional requirements, there is the question of whether territorial residents who pay no federal income taxes, yet receive numerous federal benefits, are entitled to voting representation on tax matters (which must be considered in the Committee of the Whole) and other laws governing the rest of the United States. (District of Columbia residents pay federal taxes, but residents of the four territories do not.) The one-man, one-vote principle is also at stake: Samoa has a population of some 40,000 (the smallest state as eleven times as many residents); Puerto Rico has a population of 3.3 million, which would entitle it to six Representatives were it a state. Certainly such serious questions deserve more open public debate than a rushed change in House rules allows.

Increasing opposition may force a modification, postponement, or separate vote on this proposal. Since hasty changes cannot resolve the constitutional issues, Representatives should either defeat the proposal outright or refer it for study of constitutionally permissible alternatives. As all five of the Delegates in question are Democrats, the application of partisan pressure to secure this rules change would have the appearance of the exercise of raw, extra-constitutional power to enhance a party majority.

Conscience and Constitution, or the Party Line? First-day voting in the 103rd Congress will provide a clear first test of Representatives' commitment to reform. Will Representatives take the modest and clearly constitutional step of applying term limits to committee chairmen, or will opposition to term limits, so frequently couched in high-flown constitutional rhetoric, be revealed as the mere clinging to power of entrenched politicians? Will a partisan majority brush aside significant constitutional objections and grant representatives of a non-taxpaying residents votes in Congress? Will Democratic House leaders allow their fellow Democrats to vote their consciences and constitutional convictions, or will they twist arms to enforce the party line, regardless of the merits or public opinion? In a way unprecedented in recent memory, the opening day can set the tone for the entire 103rd Congress: Is Congress genuinely committed to reform, or will unnecessary partisanship perpetuate the unresponsiveness and gridlock Americans voted against just two months ago?

David M. Mason

Director, U.S. Congress Assessment Project