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NEW GAG RULES FOR THE HOUSE

Although the legislative business of Congress will not begin until late January, House members convene today to consider new rules of procedure that would have a profound effect on the next Congress. If the rule changes proposed by the Democratic Caucus are passed by the full House, power will be further concentrated in the hands of the House leadership, making it even more difficult than it is now for members to force debate on issues opposed by the Speaker. The rule changes would weaken the power of both liberal and conservative members out of step with the leadership.

Among the proposed rule changes, three are particularly threatening to free debate. The first would prevent riders on appropriations bills, unless a majority of the House voted to open an otherwise completed bill for such amendments. The second would require two-thirds of the members to sign a discharge petition before the Judiciary Committee would be forced to allow a floor vote on a bottled-up constitutional amendment; the current requirement is half the membership. The third proposal would change the quorum rule, allowing the Speaker to ignore calls for a quorum unless a vote is about to take place.

Supporters of the rule changes argue that they are necessary to improve the efficiency and orderliness of business. "The fact is, the House is not working well," says Democratic Caucus Chairman Gillis Long of Louisiana. The fact is also that the change will, as Representative Long admits, strengthen the power of the Speaker at the expense of ordinary members.

The restriction on appropriation riders would widen existing differences between the House and the Senate. In the latter chamber, extensive use is made of the rider. It has been used to move key items of legislation past obstructive committees. Senate Majority Leader Lyndon Johnson, for instance, used the device in 1960 to unlock his seminal civil rights bill. The proposed rule changes would also make it extremely difficult for a majority of members to place tight constraints on the uses of appropriations. Both liberals and conservatives have used riders to introduce key restrictions on appropriations. In the early 1970s, for instance, liberal Democrats used the device in an effort to limit America's military activities in Vietnam. Most recently, conservatives have used riders to restrict the federal funding of abortions and busing. The advent of omnibus appropriation bills and budget resolutions makes it even more important for members to have the right to use riders in their oversight capacity. As Representative John Breaux (D-LA) complains, the rule change would be nothing short of a "gag rule."

The move to increase the number of signatures needed for a discharge petition is a reflection of embarrassment sustained by the leadership over the Balanced Budget Amendment. The change would make it much more difficult for the House to debate a constitutional amendment opposed by the leadership. But without this "safety valve, a very democratic procedure," as civil rights champion Don Edwards (D-CA) terms it, voter pressure for populist constitutional conventions is likely to grow. As such, it is far more likely that the Constitution will be "tampered with," which proponents of the rule change wish to avoid, than under the existing petition rules.

The quorum rule change seems little more than an attempt to thwart the intent of the Constitution. Article I, Section 5 requires Congress to have quorum present when conducting business. The attempt to interpret "business" solely as voting makes a mockery of debate. More importantly, it would extend the practice of "phantom legislating," whereby the Speaker allows work to continue on measures he approves of during meetings of the House that do not have enough members for a quorum, and then blocks later business he opposes.

The effect of these rule changes would not be to defend orderly House business from the tactics of a mischievous minority, as some proponents have argued, but to enable the House leadership to withstand the majority desires of the chamber. Majorities supporting riders and discharge petitions could be blocked, and the new quorum rule would enable a small minority, with the acquiescence of the Speaker, to steam-roller legislation. While the rules of Congress may well need reform, these three changes would be a retrograde step, stripping the majority of members of key powers to control and initiate legislation. These proposed changes should alarm all those--liberals, conservatives, centrists--who are determined to protect the integrity of the federal legislative process.

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For further information:

Steven Roberts, "Altering the Way the House Operates," The New York Times, December 13, 1982.

"Democrats Set Stage for House Rules Battle," Congressional Quarterly, December 11, 1982.