

# Term Limits and Beyond

On October 26, 1995, smarting from having her congressional district eliminated by judicial decree, Representative Cynthia McKinney (D-GA) sponsored H.R. 2545 — the Voters' Choice Act. This obscure piece of legislation, which died at the end of this Congress, would have allowed states with more than one representative in Congress to establish multi-member congressional districts. Such a change would, of course, move the nation away from its present system of direct representation toward a system of proportional representation.

More important than the bill itself — which would undoubtedly weaken the individual representative's accountability to the voters — is the public endorsement it received from Paul Jacobs, executive director of U.S. Term Limits, the most significant pro-term limits group in the country. At the press conference unveiling McKinney's bill, Jacobs enthused: "This legislation really goes to the heart of an issue that both myself and U.S. Term Limits feel very strongly about."

## A Convoluted Process

What Jacobs and U.S. Term Limits "feel very strongly about" is an agenda broader than just limiting congressional terms. That agenda includes allowing states to establish multi-member districts and to choose from one of three methods for electing congressmen within those districts. H.R. 2545 describes those three methods:

- Limited Voting: "... a system in which a voter may not cast a number of votes that is more than one-half the number of Representatives to be elected."

- Cumulative Voting: "... a system in which a voter may cast a number of votes up to the number of Representatives to be elected, and the voter may distribute those votes, including fractions of votes, in any combination, including all votes for one candidate."

- Preference Voting: "... a system in which a voter ranks the candidates and candidates win by reaching a required

threshold of votes." H.R. 2545 goes on to describe the convoluted process of the "preference" method:

After totaling first-place votes, all candidates who have reached the threshold are declared elected. Votes in excess of the threshold are transferred to the voters' next-choice candidates: either some votes at full value or all votes at an equally reduced value. When no candidate is above the threshold and all seats have yet to be filled, the candidate with the fewest top-ranked votes is eliminated, and all of the candidate's votes are transferred to the next-choice candidates at full value. Voters may rank candidates equally. When candidates are so ranked, the value of the ballot is divided equally among such candidates. The threshold is calculated as —

(1) votes divided by the number of Representatives to be elected;

(2) votes divided by the number of Representatives to be elected plus one vote; or

(3) any number between the number calculated under paragraph (1) and the number calculated under paragraph (2).

It is difficult enough to get people informed and motivated to go to the polls under the present system. The above system might well necessitate classroom instruction in voting just so citizens would understand how to mark a ballot. The resulting confusion and decrease in public participation at the polls would provide an invitation to fraud and corruption and a ripe opportunity for manipulation and tampering.

## The Parliamentary System

Proportional representation, with its multiple-member districts, is a common feature of the European parliamentary systems. Among the characteristics of such a system is the ability of each elector to cast votes for more than one candidate, or to cast several votes for one candidate. The number of votes each voter may cast

differs from one nation (and its parliamentary system) to the next. Even under the system described in H.R. 2545, the number of votes which a voter may cast would not necessarily be the same under Limited Voting, Cumulative Voting, or Preference Voting. It would therefore be possible for some voters to cast more votes for Congress than other voters, depending upon which system of election each state decided to institute.

Not surprisingly, whenever voters are able to cast their ballots for more than one candidate for the same office, the political parties and their approved slates of candidates become more important, and the individual candidates become less so. This transfer of power to the party not only leads to myriad competing political factions, but makes it much more difficult for candidates who refuse to fit the mold of their party's chieftains to get elected. (In cases where voters are required to vote for a slate of candidates instead of the candidate of their choice, the independent candidate is eliminated altogether.)

Additionally, in the parliamentary system, a majority of the members must select what is called "the government." This simply means that a majority selects the prime minister and his cabinet from among members of the parliament. Great difficulties arise when the electoral process assures that several parties will hold seats in parliament. Often no single party is in the majority. At that point, the party with the greatest number of members elected to parliament seeks the support — a coalition — of parties which elected fewer members in order to build a majority so that the prime minister and his cabinet can be selected. In order to construct — and then hold together — this "coalition government," a great deal of backroom dealing and compromising must be done.

Once a coalition is formed, it is the duty of every member of the "majority" to follow orders from his party leadership, or the coalition will dissolve and the government will fall. Coalition governments demand party discipline among their members in parliament, and members are far more beholden to the party leadership than they are to the people who elected

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them. Even so, the coalition remains fragile, and the shifting allegiance of a single faction or handful of members can bring down a government. Look at the history of the multiplicity of governments which have risen and fallen in France and Italy since the end of World War II. Their instability was a direct result of the various political parties produced by the voting systems used to elect their parliaments.

### A Broad Agenda

One of the great strengths of the U.S. Constitution is the division of powers among the legislative branch (Article I), the executive branch (Article II), and the judicial branch (Article III). Implementation of a parliamentary system in America would require a mingling of the legislative and the executive branches, which would enable the government in power to call the shots. This radical transformation of our form of government could only be accomplished through a rewriting of the U.S. Constitution, and the best way to accomplish that objective would be through a constitutional convention. It is of more than passing interest that Paul Jacobs and U.S. Term Limits are working for such a convention.

Primarily as a result of the efforts of U.S. Term Limits, term limit initiatives will appear on the ballot in at least 13 states in this year's elections. Unbeknownst to many voters, the fine print of those ballot measures would require legislators to apply for a constitutional convention for the purpose of proposing amendments to our nation's governing document. Although term limit promoters have led the public to believe that they seek a single amendment to limit congressional terms, their use of the plural in the ballot initiatives telegraphs that they actually desire multiple changes to our system of government. Part of their agenda involves moving from direct representation to proportional representation.

If a change in the electoral system were all U.S. Term Limits was seeking, it would be a highway going nowhere. In an article about the term limits con appearing in the June 10th issue of THE NEW AMERICAN, this writer described efforts by the Committee on the Constitutional System (CCS) to make major revisions in the entire structure of the American system of government. The thrust of these reforms would be to redesign Congress into a parliamentary body — the logical conclusion

to U.S. Term Limits' efforts. The CCS proposals include:

- Permitting the President to dissolve Congress and call for new elections.
- Permitting Congress to cast a "no confidence" vote in the President and thereby force new elections.
- Placing congressional leaders in the President's cabinet, further eroding the separation of powers between the legislative and executive branches.

All three of these elements are common to parliamentary forms of government. Certainly the American people would not tolerate such radical changes en masse. Instead the proposals come one at a time, with the subversive effect of the total package of "reforms" largely hidden from public view. The push for term limits under the leadership of U.S. Term Limits constitutes a beginning step. An additional step includes a constitutional convention that would draft multiple changes to the Constitution. About this there can be no doubt since, as we have already noted, this year's various "term limit" state ballot measures — courtesy of U.S. Term Limits — call for a constitutional convention to draft amendments.

### No Limits

But even if the ballot measures called for only a *single* amendment, the constitutional convention mechanism established by Article V of the U.S. Constitution cannot be limited. The Constitution, after all, refers to *amendments*, and the nation's first and only constitutional convention in 1787 threw out the Articles of Confederation and wrote an entirely new Constitution. The facts are so obvious that even liberal jurors who often twist the clear meaning of the Constitution agree. Former Supreme Court Chief Justice Warren Berger declared: "A new convention could plunge our nation into constitutional confusion and confrontation at every turn...." And Supreme Court Justice Goldberg wrote that "the most serious problem Article V poses is a runaway convention. There is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights."

With a constitutional convention in place, the pretense of term limits would no longer be needed, and U.S. Term Limits would have accomplished a beginning step in a long and dangerous process. ■

— GEORGE DETWEILER

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