



The Public Check on Congress -- Executive Overview

Bill Bridgman – September 25, 2020

Introduction

The Public Check on Congress (PCC) directly addresses a tap root cause of our national political dysfunction: the lack of incentive within Congress to reach consensus and act in better alignment with the national interest. It would create, by means of a constitutional amendment, a new mechanism by which the national electorate could hold members of Congress collectively accountable for what they do – and choose not to do.

PCC should be thought of as a contingency “Plan B”. There are many reforms already moving forward that will do much to improve the performance of Congress and our government in general. These include Ranked Choice Voting, open primaries, anti-gerrymandering laws, Electoral College reform, campaign finance reform, vote by mail, easing registration requirements, etc.

But as the political reform movement devotes increasing bandwidth to longer-range strategies, next level options should be evaluated in the event they become necessary. Given the potential outlined below of collective congressional accountability, the Public Check on Congress amendment is worthy of such evaluation.

Advantages

A properly constructed Public Check o Congress amendment would have many favorable effects on our national government. It would:

- reincentivize Congress toward consensus and compromise (its core purpose)
- strengthen the influence of the general public on Congress at the expense of moneyed special interests, fringe partisans, etc.
- penalize polarizing and demonizing behaviors among members of Congress converting them into lose-lose tactics; this, in turn, would have a salutary impact on the general public
- provide a constructive channel for political movements such as Black Lives Matter, March for Our Lives, Indivisible, Women’s Resistance, climate activists, etc.
- reinforce Congress’s eroded guardrails vis-à-vis the executive and judicial branches of government
- oblige members of Congress to think longer term (as long as 8 years in the example below)
- give younger generations more political leverage and help reconnect them to our political system
- soften the growing distortion of the Senate’s constitutionally protected “small state gerrymander”
- provide a constructive “public square” ecosystem during the years leading up to the PCC referendum. (It would encourage civic deliberations to focus on Congress’s overall institutional performance on policy issues, not on which party has been the lesser of evils.)
- bolster our country’s capacity for leadership on the world stage
- and the many other benefits of a meaningful measure of joint bipartisan / bicameral ownership of congressional outcomes where the general public - not moneyed interests or tribal factions - holds the carrot and stick.

PCC is compatible with most other reforms under consideration and would be a highly useful complement to some. For example, with RCV and other reforms intended to improve representation by encouraging new political parties, coalition government could make congressional consensus more elusive - especially if each house has its own dominant coalition. Under those circumstances, a meaningful collective accountability incentive may be even more necessary.

PCC would also be a very useful complement to an upcoming amendment on campaign financing as it will give Congress a continuing incentive to keep related legislation abreast of whatever new tactics moneyed interests can devise to corrupt our politics.

PCC is in early concept form at this point. I'm providing a draft below (slightly modified from a previous draft) as a starting point for developing a consensus formulation. The rationale for this draft — as well as more detailed support for the rather sweeping benefits claimed above for PCC — are laid out in the accompanying booklet, *Restoring the Consent of the Governed*.

The Public Check on Congress Constitutional Amendment (draft)

✓ A nationwide referendum on Congress's overall performance is held once every eight years. Congress needs a 35% approval rating to "pass". If this occurs, there are no further PCC procedures until the next referendum eight years later.

✓ If the approval rating is less than 35%, a second, "recall," nationwide vote is held two years later.

✓ If, again, the support for Congress is below 35%, then one-third of the members of each house of Congress — the most senior third in terms of total tenure in Congress — are to be replaced by elections held in their home districts and states by no later than the next general congressional election. They cannot run again for either house for ten years. Anyone having left Congress at any time during the prior five years is also ineligible for ten years.

✓ Eight years after the replacements are selected, the next PCC referendum is held.

While a constitutional amendment is a heavy lift, a properly constructed PCC amendment could be somewhat more easily accomplished since it could be viewed as a preferred version of highly popular congressional term limits. It could be preferred by the public since, as a "credible threat of term limits," PCC has the advantage of significantly modifying the incentive system within Congress to dramatically improve behaviors and outcomes. From the standpoint of members of Congress themselves, PCC would be preferred to outright term limits since it affords them an opportunity to avoid being termed out by adopting those same improved behaviors and outcomes. The primary intent of PCC is not to throw the bums out, but to shape them up.

Conclusion

We are at a moment where we must think through big reform ideas with commensurate potential for fixing our political system. Collective congressional accountability is such an idea. The draft amendment offered above is a credible starting point. It might not be ready for prime time. And it might not ever make it to that point. But it is also possible that collective congressional accountability could become a key element of the healthy "new normal" we desperately need in American national politics.