

## **MEMO TO DEMOCRATS: STRENGTHEN CONGRESS<sup>i</sup>**

by Roger Myerson<sup>ii</sup>

Many countries have had presidents who manipulated the great powers of their office to nullify constitutional constraints and establish a permanent grip on political power. But from George Washington's first election until now, Americans always elected Presidents who, in prior public service, had demonstrated their commitment to exercise power responsibly within legal and constitutional limits. In January 2017, however, America will for the first time have a President who has never held any public office and who, as a businessman, has a long record of manipulating laws to his personal advantage.

Throughout the presidential campaign, many consistently underestimated Donald Trump's ability to market himself and denigrate his opponents in a relentless drive for power. Now his perplexing mixture of extreme and moderate policy statements must not distract us from the fundamental constitutional issues which may be at stake in the next four years if the new President continues on this trajectory: bending rules to augment his wealth and power, and undermining people's trust in anyone who can oppose him.

Under the Constitution, Congress has the ultimate responsibility for enforcing legal limits on the presidency. Among all the challenges that Democrats must face as the loyal opposition under a Trump presidency, the highest priority should be to preserve and protect Congress's ability to fulfill this vital constitutional role.

The President might try to weaken Congress by posing as a moderate who can play off Democrats against Republicans on contentious policy issues. But Democrats should recognize that defending the authority of Congress is more important today than any of the policy issues that they have debated with mainstream Republicans in the past. It will be better to make the President work with the majority leaders in Congress than to accept a few policy concessions from the hand of this President.

Filibusters to block Republican legislation could also be counterproductive. Obstructive filibusters would force Republicans to set policies less by legislation but more by executive orders, which would make the majority leaders more dependent on the President. After an election in which the Republicans won majorities in both houses of Congress as well as the White House, people have a right to expect that Republican congressional leaders should take responsibility for setting new directions in public policy. Democrats should believe in their own message and have confidence that, if they do not interfere with this responsibility, the results will turn many voters back toward the Democratic party.

The President-elect won the recent election by making extreme promises to millions of voters which he cannot fulfill. When his performance in office disappoints his supporters, he will try to divert them by blaming others. Any effort to pin the blame on Congress as an institution must be countered.

The President could have a substantial incentive to campaign against Congress. When the President can undermine people's trust in their congressmen, Congress can be deterred from considering any evidence for impeaching him.

In this regard, the President-elect's call for term limits in Congress should be recognized as a particularly dangerous distraction.<sup>iii</sup> Term limits sound good, but they can actually reduce democratic accountability in a legislature, as experience in California has shown.<sup>iv</sup> Congressmen who cannot be re-elected must look elsewhere for their next job, and then they would have a greater incentive to serve someone other than their constituents. A better proposal for strengthening electoral accountability of Congress would be to reform the seniority system,<sup>v</sup> which has served largely to reward voters for re-electing incumbents.<sup>vi</sup>

Term limits are a particularly dangerous idea today because their effect would be to weaken Congress. Simplistic comparisons between presidential term limits and congressional term limits are invalidated by the fundamental need to maintain Congress as an effective check on the nation's most powerful official. Now more than ever, America needs leaders who can expect a long and successful career in Congress if they serve their country well.

America's constitutional system depends fundamentally on a balanced distribution of power between the separate branches of government. Over the past century, a long expansion in the size and scope of federal agencies has entailed a steady growth of presidential power. Now, with a President-elect who has never exercised public power within constitutional limits, our best hope is that the next four years should be a time for strengthening the effective authority of Congress. For this vital goal, Democrats today should support the constitutional right of congressional majorities to legally direct the policies and actions of the federal government, even when those majorities happen to be Republican.

November 2016

***Postscript (December 2016):*** *It is hard to predict how the next President might test the limits of his office, but I expect that one big constitutional question for America in 2017 will be whether the President of the United States should be able to develop his own cable TV news network while in office.<sup>vii</sup> We may shudder at the possibility that a private channel for influencing political perceptions in millions of households could be acquired with revenue from advertisers who desire favorable treatment from public agencies. But I fear that an act of Congress may be needed to prevent it.*

---

<sup>i</sup> <https://econciv.wordpress.com/2016/11/22/a-memo-to-the-democratic-party/>  
and <http://home.uchicago.edu/~rmyerson/memo2dems.pdf>

<sup>ii</sup> Roger B. Myerson is the Glen Lloyd Distinguished Service Professor at the University of Chicago and was awarded the Nobel Memorial Prize in Economic Sciences in 2007

<sup>iii</sup> <http://www.nytimes.com/2016/11/17/us/politics/as-trump-embraces-term-limits-allies-in-congress-pull-away.html>

<sup>iv</sup> <http://www.washingtonexaminer.com/do-congressional-term-limits-work/article/2607882>

<sup>v</sup> <http://uspolitics.about.com/od/politicaljunkies/g/senioritysystem.htm>

<sup>vi</sup> <https://www.jstor.org/stable/1964347>

<sup>vii</sup> <https://www.nytimes.com/2016/10/18/us/politics/donald-trump-tv-jared-kushner.html>