

Proxy Voting Comes to the House

Proxy voting in Congress is one of those weird procedural terms that most normal people try to avoid. Nevertheless, because of the pandemic and the need for social distancing, it's coming to a virtual theater near you when the House of Representatives starts using new proxy-voting rules.

This is the most significant change to House Rules since the Constitution was adopted.

The new rules will be in effect for at least 45 days. They allow committees to hold virtual hearings and report legislation remotely. They allow House members to cast votes by proxy on the House Floor. Perhaps most significantly, all members who vote remotely will be counted toward a quorum.

The new rules raise more questions than they do answers. Both sides have valid arguments. Supporters point out the Supreme Court is conducting business virtually. Other legislatures around the world, such as the British Parliament, are adopting proxy voting systems. Senators Durbin and Portman are developing a bipartisan proposal for the Senate, although Leader McConnell has expressed opposition to virtual voting.

House Republicans voted unanimously against the new rules for constitutional and practical reasons.

Article I of the constitution, they say, requires the physical presence of members to establish a "quorum" to conduct business, including "assembling" and "attendance." Not so fast, say House Democrats and others, using their own string of Supreme Court cases to justify their support.

Republicans argue the new procedures will lead to more polarization. Each proxy-voting member can cast 10 votes for other members. That means 20 House Democrats could cast votes for 200 other Democrats. That could turn control of the entire institution over to 20 House Democrats.

House Republicans also note that "temporary" rules have a funny way of becoming permanent. In the future, for example, would members who experience flight delays, weather trouble, or illness be allowed to use proxies? How about members from remote areas with limited connectivity? Will they be able to find a WIFI hotspot somewhere to vote and, if so, where?

What about cybersecurity issues? The House is the target of 1.6 million cyber attacks a month. No secure technology currently exists for committees to conduct business.

One argument, however, is beyond dispute. Rule changes of this magnitude demand bipartisan cooperation, not to be jammed through on a party line vote with no chance to offer amendments.

House Republicans had several proposals to allow the House to function during the pandemic. They were shut out. There was an easier way to do the House's business and a harder way. Unfortunately, the House chose the harder way.