

Cozen Currents: The Limits of Trump's Domination

The Cozen Lens

- The second indictment against former President Trump this year may be the talk of the town, but has done little to change the political or governing dynamics in DC.
- House Speaker Kevin McCarthy (R-CA) successfully kept House Republicans unified on debt limit negotiations, but he's had more difficulty keeping his fractious conference on the same page since.
- With the debt ceiling out of the way, the GOP is returning to its favorite topic — tax policy — ahead of FY24 appropriations negotiations and many tax breaks that will end in 2025.

Do Trump's Indictments Even Matter?

Indictments and the Presidential Election. The indictments have only reinforced, rather than changed, the prevailing views of former President Trump. But such a change, if any, may happen slowly.

- The vocal support for Trump is much louder than the vocal opposition from Democrats and anti-Trump Republicans. This asymmetric noise masks the quiet majority in DC who oppose Trump but know opening their mouths is more trouble than it's worth.
- While Trump's trial date on his latest indictment was set for August 14th, the legal process is slow, and Trump's legal team will make it slower. The average criminal trial before a jury in the Southern District of Florida takes about 16 months from start to finish. Trump's legal team will try to prolong any verdict until after the 2024 election.
- The political impact also happens slowly, until it doesn't. Trump is a known quantity. He has only grown stronger among Republicans since the first indictment in NYC, yet remains as controversial as ever with the general electorate. What changes this dynamic is if conservative media, which has more influence with the GOP base than DC conservatives, begins to legitimize the indictments and question Trump's electability.

Indictments and Down-Ballot Elections. The Trump indictments put a spotlight on the presidential race, but down-ballot races will have their own dynamics. With Republicans over performing Trump in 2016 and 2020, the indictments aren't necessarily an albatross on the GOP in Congress.

- Trump wants defenders, but also winners. With Trump directly on the ballot, he doesn't necessarily want to share the ballot with a controversial MAGA candidate who would only accentuate his vulnerability with swing voters.
- Senate Minority Leader Mitch McConnell (R-KY) wants winners, but is okay with defenders. McConnell may hate Trump (the feeling is mutual), but he hates being in the minority even more. If a strong general election candidate in a state like West Virginia, Montana, Ohio, Arizona, or Pennsylvania needs to defend Trump in order to win the primary, it's a small price to pay.
- Speaker Kevin McCarthy (R-CA) needs to be a defender and let his swing-district winners be winners. In leading a more conservative and unwieldy GOP caucus, McCarthy is hyper aware of mollifying Trump and his right flank. His hope is that such fealty gives him capital for his majority makers to not have to do and say the same about Trump.

Indictments and the Governing Agenda. A Trumpist GOP is ready to use the indictments as a precursor for a conservative activist executive branch. But beyond the far-right's clamoring for accountability, there remains bipartisan collaboration in today's divided government.

- Trump and Trumpism look to radicalize the executive branch. In 2016, Trump said, "I alone



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can fix it." This campaign, Trump said, "I am the only one that can save this nation," and "I am your retribution." Proposals by Trump and Governor Ron DeSantis (R-FL) underscore an activist executive branch against perceived threats like "deep state" civil servants, foreigners, and "woke" corporations.

- Trump allies in Congress are looking to disrupt the appropriations process by pushing to defund parts of the FBI and Department of Justice (DOJ), including the special counsel's office. Such a push would divide Republicans and only empower the Senate and Democrats in FY24 negotiations.
- The Trump indictments are not a January 6th event that ruptures bipartisanship in Congress. The horseshoe theory of governing continues as far-right Republicans who at once defend Trump and attack the DOJ are also finding willing partners on the far left to co-sponsor legislation like rail safety or bank compensation limits.

McCarthy's Tenuous Relationship with the House GOP

House GOP in Rebellion (Again). Conservative hardliners rejected a procedural vote earlier this month, a bad sign for House Speaker Kevin McCarthy's (R-CA) relationship with the right flank of his conference.

- At the end of last month, McCarthy was riding high. Fresh off passing House Republicans' Limit, Save, Grow Act, he successfully negotiated a debt ceiling deal with President Biden that included GOP wins such as spending caps for FY24 and FY25 and new work requirements for Supplemental Nutrition Assistance Program (SNAP food stamps).
- The Fiscal Responsibility Act of 2023 did not keep spending at FY22 levels, as hardline conservatives had wanted, however. Earlier this month, members of the hard-right House Freedom Caucus, angered by the speaker's handling of the debt limit debate, rejected a procedural vote on a GOP bill to prevent bans on gas-powered stoves. This was the first time that a vote on a rule for the consideration of legislation in the House failed in over 20 years, and it brought the House floor to a screeching halt.
- This was not a good sign for McCarthy's leadership, though it doesn't necessarily mean that his days in the speaker's office are numbered. The vote was a way for hardline conservatives to express their frustration about the debt ceiling deal and assert power over the speaker. Though McCarthy agreed when he won the speakership on the 15th ballot to allow any single member to force a vote to remove him from the role, it's not clear that anyone will, or that there are enough votes to do so. What is clearer is that the House GOP standoff is poised to make a key part of McCarthy's job harder: the basic task of governing.

FY24 Appropriations. Hardline conservatives' voices are being reflected in the House's FY24 spending bills.

- In markup sessions last week, House Republicans prepared appropriations bills to FY22 levels, teeing up a major funding fight with the Democratic-controlled Senate and raising the risk of a government shutdown. McCarthy, facing pressure from the right, has not enforced the funding levels in the debt limit deal. "You always have to remember with appropriation levels — that's your cap. You can always do less," he said to reporters last week.
- The subcommittee allocations announced by House Appropriations Committee Chair Kay Granger (R-TX) last Monday and approved on a party-line vote amount to about \$1.7 trillion, about \$119 billion less than the topline agreed upon in the debt limit deal. By contrast, the Democratic-controlled Senate is expected to write its appropriations bills in accordance with the spending caps.
- If Congress does not pass all 12 appropriations bills by the start of FY24 on October 1st, there's a chance that a government shutdown could result if lawmakers cannot agree on a continuing resolution (CR). If lawmakers have not passed FY24 appropriations by January 1st, 2024, then that triggers an automatic CR with one percent spending cuts from FY23 levels across-the-board, to take effect April 30th, 2024 or 15 days after appropriations legislation is enacted, whichever comes first. Ultimately, by allowing hardliners to ignore the spending caps, McCarthy may be empowering the Senate to take the lead on FY24 appropriations.

Other Must-Pass Legislation. Divisions in the House majority could also create challenges for the National Defense Authorization Act (NDAA) and the Farm Bill.

- Defense hawks hope to exceed the debt limit deal's spending caps on the Pentagon by passing a supplemental appropriations package. Some fiscal conservatives are loath to increase defense spending, however. House and Senate GOP leadership are split. McCarthy has come out against a defense supplemental, while Senate Minority Leader Mitch McConnell (R-KY) is for giving the Pentagon a boost. The NDAA authorizes and does not appropriate funding, but the legislation is generally associated with the appropriations process. A fight over the Pentagon budget could put up obstacles to passing the NDAA, which would also put at risk a key vehicle for other unrelated bills to hitch a ride as amendments.
- In addition, hardline conservatives may be spoiling for a fight over SNAP benefits in the Farm Bill. While the debt limit deal raised the age threshold for work requirements from 49 to 54, it also removed them for veterans, homeless Americans, and young adults leaving foster care. When the Farm Bill comes up for consideration, the Freedom Caucus might try for another bite at the apple in reducing the social safety net, which could derail Farm Bill negotiations.

GOP Turns to Taxes

Tax Season (for Appropriators). With the debt ceiling out of the way and appropriations spinning up, the GOP-controlled House is deploying proposals that will be the subject of budget negotiations later this year.

- The House Ways and Means Committee marked up and passed a collection of proposals known as the *Build It in America Act* this week. This is the awaited GOP response to the many tax breaks that have either recently expired or will soon. It passed on a party-line vote to considerable criticism from Democrats who called it the “*GOP Tax Scam 2.0.*”
- This bill would restore business tax benefits through 2025, like R&D expensing (made retroactive to the start of 2022), EBITDA cap on interest deductibility, and 100 percent bonus depreciation. As an offset, it would repeal or modify many provisions from the Inflation Reduction Act (IRA), including the Hazardous Substance Superfund, the clean electricity production tax credit, and clean electricity investment tax credit. It also modifies the IRA's electric vehicle tax credit.
- Although the legislation is theoretically close to budget-neutral per government accounting, it's riddled with budget gimmicks and would realistically cost \$320 billion through FY25 and over \$1 trillion if the temporary provisions were made permanent (per the *Committee for a Responsible Federal Budget*). Despite much hand wringing about government debt very recently, Republicans believe tax cuts are good for taxpayers and the economy and don't count towards deficits.

The Counteroffer. Democrats have their own tax wish list, and with the Senate and White House in their hands, Republicans will have to play ball if they want to get any of their own proposals passed.

- President Biden's budget this year called for raising the corporate tax rate from 21 to 28 percent, the top individual income rate from 37 to 39.6 percent, and taxing capital gains for those earning over \$1 million. This budget has no chance of passing under divided government where Republicans are only willing to cut spending, not raise revenue. It does, however, signal where the party is and what they would try to do under unified government.
- Senate Democrats are behind the *Work Families Tax Relief Act*. The proposal would make the Child Tax Credit (CTC) and Earned Income Tax Credit — pandemic-era relief measures — permanent. The cost would approach \$2 trillion over the next decade, making it anathema to the GOP.
- The Biden administration has been tough at work building a coalition of over 100 countries that have agreed to implement a global corporate minimum tax rate of 15 percent. If the US doesn't raise its minimum rates, other countries will soon be able to recoup the difference themselves. But changes needed for implementation must go through Congress, where Republicans are opposed and threatening retaliatory tax measures on foreign corporations.

The Coming Fiscal Cliff. In a world where Congress only acts at the last minute, an upcoming 2025 deadline may be too far away to provide the push they need.

- Many of the provisions of the Trump-era Tax Cuts and Jobs Act are scheduled to expire in

2025. The top individual tax rate and the estate tax would effectively rise; the pass-through deduction and the state and local tax cap would lapse. Making these permanent is a GOP priority that will be difficult for many Democrats to resist.

- Despite being so far apart on the big proposals, there is across the aisle support for smaller changes. R&D expensing, increasing the 1099-K reporting threshold, and a higher standard deduction appeals to some Democrats as a narrower CTC appeals to some Republicans. The new markets tax credit and affordable housing tax credits may be inoffensive enough to get across the finish line.
 - Both sides are not currently in a position to negotiate and trade wins though. Both sides (especially Republicans) foresee their hand being strengthened after the 2024 elections. House Speaker Kevin McCarthy (R-CA) is still trying to repair relations with far-right members after his debt ceiling deal.
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