

Number

3/29/90

131

THE HOUSE AND CHILD CARE: TRAMPLING ON THE RULES

(Updating Gordon S. Jones and John A. Marini, *The Imperial Congress: Crisis in the Separation of Powers*, New York: Pharos Books, 1988.)

There they go again. In what last year's book *The Imperial Congress* termed the "arrogance of the majority," the House of Representatives majority leadership is attempting to ram through the chamber a new child care bill without allowing hearings or debate on the proposed law. Exclaimed Representative Lynn Martin, the Illinois Republican, in a floor speech today: "The Democrats are slam-dunking the Republicans and slam-dunking Democracy."

Such strong-arm tactics by the House leadership were common during the Jim Wright era. But many members of Congress and Capitol Hill observers had expected that the House minority would be treated more fairly by Wright's successors, particularly by new Speaker Tom Foley of Washington State. These hopes were fulfilled for a while, but now the honeymoon appears to be over. In a flurry of hastily-arranged March 27 and 28 meetings the powerful House Rules Committee sent to the floor a new child care bill that had not been debated or approved by any committee of the House. The reason: the House leadership is hoping to avoid debate and public criticism of its new child care bill in order to pass a bill quickly before adjourning for Easter recess.

Under normal House proceedings, Representatives have three days to review legislation after it has been approved by committee and before it is sent to the Rules Committee, which authorizes consideration of legislation by the full House. Such a review is essential for those who may want to introduce floor amendments to modify the bill. Under House procedures, the Rules Committee approves a "rule" which defines what amendments, if any, to the bill can be considered on the floor. In this case, however, no member of the minority and few members of the majority had seen the new child care bill before it was reported to the Rules Committee. The result: Democrat and Republican conservative legislators will be unable to offer amendments to the liberal day care bill being considered by the full House.

Hard-Ball Strategy. Majority Whip William Gray, the Pennsylvania Democrat, in a confidential March 26 memorandum to his Democrat Whips, outlined the leadership's hard-ball child care strategy: pass the bill by stifling debate. The predominantly liberal House leadership hoped that by preventing potential opponents from studying — or even reading — the new bill, it could foreclose any meaningful objections like those that doomed last year's liberal version of child care legislation, called the Act for Better Child Care, known generally as the ABC bill. Central to this strategy was the leadership's contention that there is little substantive difference between their new bill and the bipartisan alternative sponsored by Charles Stenholm, the Texas Democrat, and Clay Shaw, the Florida Republican. Consistent with this plan, the *Washington Post* in a March 27 story prominently quotes a "Democratic leadership source" as saying "I don't think anyone wants to claim there are any major differences [between the liberal and conservative bills]."

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In fact, the bills are dramatically different, although the House leadership, by failing to produce any copies of their bill, clumsily but effectively prevented most Congressmen, outside experts, and the press from seeing for themselves how the bills compare.

“Lousy Rule.” By reporting a secret bill to the Rules committee, the leadership prevented other representatives from crafting amendments to the bill that could be debated and voted on by the full House. Representatives hardly could propose to the Rules Committee amendments to a bill that they had not even seen. The result: the secrecy guaranteed that only the leadership’s amendments would be appropriate for floor consideration. These tactics prompted one Rules Committee member, Representative Gerald Solomon, the New York Republican, to charge during the Rules Committee meeting: “This rule is a disgrace. This rule is an outrage. This is a lousy rule, and I’m leaving.”

Such legislation-by-fiat is unique to the House of Representatives. Unlike the Senate, which traditionally places few restrictions on floor debate and amendments that can be offered and voted on to change proposed legislation, the House has strict rules that sharply limit debate and, more important, restrict the amendments to legislation that can be considered and voted upon by the full House. Under a so-called “closed rule,” for example, the Rules Committee can prevent or restrict any amendments to a committee-reported bill.

Increasingly in recent years the House majority has used its dominance of the Rules Committee to issue closed rules sharply limiting the minority’s ability to air its views to the public. Example: During the 97th Congress (1981 to 1982), 80 percent of all rules were “open,” thus allowing amendments if germane to the bills topic. Since then, the number of open rules has declined steadily, dropping to 56 percent during the 100th Congress (January 1987 to July 1988). This arbitrary control over the rule’s process has choked off meaningful debate on controversial issues. As noted in the *Imperial Congress*:

The oligarchic leadership in the House uses its predominance on the Rules Committee to bypass the other committees entirely, to completely waive the House rules with respect to the consideration of legislation, and to limit or eliminate the possibility of amendment on the floor. In the second session of the 100th Congress, for example, 62 percent of the measures considered on the floor were never considered by the appropriate committee.

Muzzling Debate. The child care issue is far too important to allow a small group of lawmakers to bypass the normal democratic procedures of full and open debate. It has pitted two distinct governing philosophies against each other: a bipartisan approach of providing tax benefits to families to ease the family budget and allow more child care choices, versus a very partisan approach of mandating federally funded day care. Now the House leadership is attempting to use its control over the rules and procedures to muzzle debate over the merit of the two approaches.

The House’s action gives credence to those who claim that the House of Representatives has become a virtual House of Lords, in the least flattering sense. Such behavior demeans democracy, notes Representative Martin, among others, particularly at a time when it is sweeping the world.

If the House leadership’s child care bill is passed under such circumstances, George Bush should veto it, telling the American people that he will not even consider signing legislation passed with such disregard for established rules and procedures. He then should send the bill back to Congress for the debate that this important issue deserves.

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