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CONGRESSMAN'S REPORT

By Morris K. Udall

WHO RULES THE RULES COMMITTEE?

As the 88th Congress opened this month, the House Rules Committee was again a center of controversy. The year's first big fight developed over whether this committee should continue to have 15 members (which it had in 1961-62) or whether it should revert to 12 members (which it had for some years prior). The vote was 235 to 196 to retain the 15-member committee. I was one of the 235.

Some of our 20 standing committees change their size nearly every year. There is nothing revolutionary about changing the size of committees. Thus, on the surface, this would seem to have been a trivial problem, but actually it had far-reaching implications. I should like to explore some of them with you.

OUR SYSTEM OF CHECKS AND BALANCES

The constitutional system of the United States is a great instrument. The President, elected by all the people, has great powers to act -- but they are limited by Congress and the Courts. The Congress has "power of the purse" -- but it cannot administer the laws it makes, and the Courts can strike down an attempt to exercise unlawful legislative power. The Courts have great power -- but judges are appointed by the President and subject to consent of the Senate; in addition, the Congress and state legislatures can amend the Constitution if they are unhappy with court interpretations.

The whole system is filled with checks and balances calculated to defeat hasty or ill-considered legislation. If you introduce a bill, the chances are about 20 to 1 against passage -- largely because the Constitution requires the bill to run a whole series of "roadblocks." It can be killed in sub-committee, full committee, by votes at several stages in either house, in a conference committee, or by Presidential veto. If money is involved, the whole process must be repeated for the appropriation. If the bill stops at anyone of these numerous barriers, it is dead. If it passes them all, one may usually assume that the proposal represents the majority will of Congress.

ANOTHER ROADBLOCK NEEDED?

Many of my letters seem to suggest that we need even more barriers and that without a House Rules Committee dominated by ultra-conservatives we 435 elected representatives will succumb to evil pressures and enact hundreds of wild, socialistic spending measures with consequences too dire to contemplate. What these sincere people really advocate is that we establish a "Third House" of the Congress with an almost absolute veto over the decisions of the other 520 duly-elected senators and representatives who comprise our national legislature.

WHO REPRESENTS YOU ON THE RULES COMMITTEE?

The 435 House members each represent about 450,000 people in districts covering every city and county in the United States. The people of each congressional district expect that their one vote will have equal weight with all other votes in determining whether legislation will be passed or defeated. Constituents who write me, for example, assume I will have some say over the issues on which they convey their opinions. Unfortunately, this is an illusion. The Rules Committee has an almost complete power to determine on important issues whether the rest of us can vote at all. In the short time I have been in Congress a great bulk of my mail has been on issues that ultimately were killed by the Rules Committee, preventing me from casting a vote for my district pro or con.

The fact is that Arizona has no voice in the vital decisions of the Rules Committee; only 15 congressional districts do. Even though three-fourths of our people live in large cities, only Boston, Kansas City and New York have Rules Committee votes; the remaining members represent rural, or largely rural, districts in Virginia, Mississippi, Indiana, Arkansas, Texas, Alabama, California, New York, Illinois and Kansas.

In Arizona we take great interest in our elections. Presumably it matters whom we elect to represent us, and yet there are Arizonans who say they want six congressmen, chiefly from the South, to be able to block our elected representatives from voting on great national issues. This was the case with the old 12-member Committee, and this is what these people tell us we need now. I disagree.

WITH LEADERSHIP GOES RESPONSIBILITY

A two-party democracy can work only when there is party responsibility. The people of the United States have elected a Democratic President and a Democratic Congress. The President and party leaders have a legislative program; if they didn't they would be shirking their responsibilities to the voters who elected them. Now, there is no way for the people to hold them to account in subsequent elections unless they can somehow present their program to the Congress and have it voted up or voted down. With the old Rules Committee this was impossible or nearly so; with the 15-member committee it is a little more likely, but still uncertain.

I don't believe there is another legislative body in the world which operates on the strange principle that a party in control should hand over to its opponents complete control of subjects to be debated and voted upon. The United States Senate has no such system. The Arizona Senate and Arizona House of Representatives have Rules Committees, but neither is vested with this kind of veto power or anything similar. Yet these respected legislative bodies, and dozens of others, seem to operate successfully and responsibly.

FOUNDING FATHERS NOT GUILTY

Some seem to feel that a powerful Rules Committee, hostile to the controlling party, is a creation of the founding fathers and that the number 12 is a sacred, proven, historical formula. In fact, the Rules Committee has had 5, 11, 12, 14 and 15 members. For the first 80 years of our history the

Committee was not even a standing committee of the House. During five Congresses the Speaker didn't even bother to appoint such a committee. It is significant that until the Committee was expanded two years ago it was the only committee of the Congress with an even number of members, allowing a tie-vote to thwart the legislative process.

The 15-member committee is not a radical, untried innovation. We have had it for two years, and it has proven anything but a rubber stamp for the Administration. Proposals for federal aid to education, the Youth Conservation Corps, grants for medical and dental school construction, aid for migrant workers, the establishment of a Department of Urban Affairs -- these were all great, controversial national issues that were debated during 1961-62 by the Senate, BUT NOT ONE OF THEM WAS DEBATED IN THE HOUSE. The "liberal" 15-member Rules Committee refused to allow debate and a vote on any of these proposals. Thus, it can hardly be said that continuing the Committee at its 15-member size was a drastic step in the direction of rampant, free-wheeling liberalism.

The question, of course, is not so much whether one favors or opposes these measures blocked by the Rules Committee. I'm for some and against some. The question is: Should the House be allowed to debate and vote on these important issues of our time? Obviously, I believe it should.

FLAGRANT VIOLATIONS OF PRINCIPLE

In recent years, particularly before its expansion to 15 members, the Rules Committee has flagrantly violated democratic principles, even to the extent of killing bills which had been passed by BOTH the House and Senate. An example of this was H. R. 10128 of the 86th Congress, an Eisenhower bill to provide federal aid to the states for school construction. The Committee accomplished this seemingly difficult feat when it refused to send a House-passed bill to conference to work out differences between it and the bill passed by the Senate.

Another example was H.R. 3575 of the 83rd Congress, a bill passed by both bodies of the Congress to grant statehood to Hawaii and Alaska. Fortunately, history has now shown how ill-advised the Committee was in this act of obstruction against the Republican leadership of that Congress.

CAN THE MAJORITY ALWAYS 'WORK ITS WILL'?

To be sure, there are ways that routine, non-controversial bills can be brought to the House floor without approval of the Rules Committee. However, the fact is that nearly all controversial bills -- nearly all bills of consequence to the nation as a whole -- must obtain a "special order" or "rule" to gain the debate time necessary for consideration on the House floor. Defenders of Rules Committee obstructionism often cite the "discharge petition" as a means whereby a majority of House members can always express their will. Proof that this unwieldy procedure has little practical value lies in the fact that it has succeeded only twice in the last 20 years.

BOTH PARTIES FAVORED 15 MEMBERS

It is interesting to note that, when the time for a decision came, a vast majority of the members of both political parties in the House favored retention of 15 members on the Rules Committee. The Republican caucus differed from the Democratic caucus in only one respect: the Republicans by a caucus vote of 142 - 0 agreed to a 15-member committee, but would have had the division 9 Democrats and 6 Republicans, whereas the Democrats favored continuation of 10 Democrats and 5 Republicans -- the same 2 to 1 ratio established by the Republicans when they had a majority in the House of Representatives. When the Republicans saw they could not get 6 of the 15 members, most of them voted for the 12-member committee, but 28 Republicans, against strong party pressure, voted for the right of the Democratic leadership to have a voice in deciding what bills will get to the House floor.

OUR ANTIQUATED LEGISLATIVE PROCEDURES

Congress is steadily losing its initiative and its powers to the Executive, and the Rules Committee is only part of the reason. Nearly everyone who studies the workings of Congress emerges with the conclusion that its archaic, time-consuming procedures, its rigid seniority system and other weaknesses must be remedied. Congress struggles along with horse-and-buggy machinery in the Space Age and then wonders why it never seems to get its work done and why the President and the Executive Departments tend to make policy as well as carry it out.

I have co-sponsored a bill to create a joint committee of the House and Senate patterned along the lines of the LaFollette-Monroney Committee of 1946, to study the procedures of Congress and recommend reforms. Out of such a study could come a modernized Congress with less duplication of effort in committee hearings and less time lost in antiquated voting machinery. From it could come a series of meaningful reforms calculated to permit the Congress to play a more creative role and be a better check on the Executive.

THE OTHER SIDE OF THE COIN

I suspect that none of this discussion will satisfy many "conservatives" who have written strong letters favoring the 12-member committee. To them I would leave this parting shot.

When the voters have elected a Democratic President and a Democratic Congress, you say that no issues should be voted on unless a hostile Rules Committee gives its consent. If your proposition is logical and fair, it should work if the situation were reversed. I ask you, then, this hypothetical question:

Suppose Senator Goldwater were elected President (mind you, this is hypothetical) and the people had elected a "conservative" Republican House. Would it be fair to create a Rules Committee, having an absolute veto on the Goldwater legislative program, with the Committee headed by Rep. Jimmy Roosevelt and dominated by "big-city liberals"? My answer would be "no", for if democracy means anything, it means that in the long run we must have majority rule, subject only to the constitutional checks and balances that are part of our system.

LET'S STAND UP AND BE COUNTED

One of the strongest arguments made in support of the Rules Committee, as it has operated in the past, is that the Committee is necessary because it can "take the blame" for burying bills that we lesser Congressmen don't dare vote against. For my part I'm not afraid to take a stand on controversial measures; I don't think my constituents want a representative who has to have someone else handle the tough ones. As Harry Truman once said, "If you can't stand the heat, you better stay out of the kitchen." I agree with him.