

**Majority Rule & Minority Rights
(But to Do What?)
An Introductory Essay
Don Wolfensberger
Congress Project Seminar
The Role of Minority Parties in Congress
Monday, November 15, 2010**

Speaker Thomas Brackett Reed (R-Maine) once opined that the only right of the minority party is to draw its pay; its only duty, to make a quorum. It's little wonder that the era stretching from roughly 1890 through 1910 became known as the "Czar Speaker" period, bracketed as it was by Reed and Speaker "Uncle Joe" Cannon (R-Ill.)—two benign autocrats who knew how to make party government work (or, in Cannon's case, how to block progressive legislation). Reed and Cannon set the tone for majority party behavior in the modern Congress, and minority parties reacted predictably—with anger and obstruction.

Republican majorities had no monopoly on such tactics. After progressive Republicans and Democrats removed Cannon as chairman of the Rules Committee in 1910 and Republicans lost control of the House, Democrats instituted a new form of party government dubbed by the new Republican minority as "King Caucus." Bills were drafted in the majority party caucuses where Members' committee and floor votes were then bound by caucus directives. When New Jersey's Democratic Governor, Woodrow Wilson, became president in 1913 he inherited this parliamentary style party system that he had long pined for as an academic. And he proceeded to play it like a violin, much to the consternation of the hapless Republican minority.

The Congress has alternated between party- and committee-government ever since, though during most of the middle third of the twentieth century (roughly 1937-1975), it was governed by strong, quasi-independent committee chairmen and a bipartisan coalition of conservatives on the Rules Committee. It wasn't until the latter third of the century that Congress slowly returned to stronger party leaders and greater caucus control of committees, their chairmen and the Rules Committee. The minority party became more active, vocal and rebellious during periods of party governance in response to being marginalized in the legislative process by assertive majorities--both in committee and on the floor. This was especially true during periods of unified party government when the same party controlled the White House and Congress.

Prior to the return of party government in the mid-seventies, minority Republicans were at least granted some concessions on legislation during committee markups, though they still found it necessary to draft alternatives to distinguish themselves from the majority and demonstrate they were capable of constructive governance.

In the Shadow of Presidents

Such activity was especially evident during President Lyndon B. Johnson's "Great Society" legislative blitzkrieg from 1964 to 1966 as Republicans complained that Democrats were mere "rubber stamps" of the White House and were not giving careful consideration to the

President's proposals. As later memoirs brought to light, even some of Johnson's aides were worried the bills being rushed through were not carefully enough drawn to accomplish their intended purposes. But Johnson would have none of such talk, telling his aides the laws could always be revisited later if found unworkable.

The biggest frustration of the minority was that it was being all but ignored by the media, and, consequently by the public. It was considered essentially irrelevant, and its Members' complaints about majority policies and tactics were usually dismissed as typical minority whining and temper tantrums because they couldn't have their way.

The minority's limited visibility during LBJ's presidency occurred at the press briefings on the White House tarmac following bipartisan leadership meetings with the president. The appearances were fondly dubbed, "The Ev and Charlie Show," after Senate Minority Leader Everett McKinley Dirksen (R-Ill.) and House Minority Leader Charles Halleck (R-Ind.); and later "The Ev and Jerry Show," after Rep. Gerald R. Ford (R-Mich.) ousted Halleck for Minority Leader in 1965. Unfortunately, the appearances took on the aura of a comedy duo playing more for laughs than political points. Dirksen, with his wild, curly locks and hangdog face evoked Emmett Kelly's clown but with a silver tongue and deep baritone that charmed and rocked reporters with laughter. He wasn't called "the Wizard of Ooze" for nothing. However, it wasn't exactly a brand that would compel the public to install Republicans to majority status in Congress.

Even the ascendancy of Republicans to the presidency, beginning in 1969 with the election of Richard M. Nixon, did not produce enough coattails to sweep Republicans into majority control of Congress. That did not happen until the election of Ronald Reagan in 1980--and then, only the Senate and for just six years before Democrats took control of the lease on both houses for the next eight years.

Meantime, House Republicans remained in the minority wilderness for 40 years, from 1955 to 1995. Even with Reagan in the White House, House Republicans were taken for granted in the first six years as the president triangulated between Senate Republicans and House "Boll Weevil" (southern conservative) Democrats. In the next six years of the Reagan, then Bush I presidencies, Republicans revolted against their own presidents more than once.

Seeds of Revolt

In a non-parliamentary democracy, it is difficult for a congressional minority to find its way, let alone for it to be heard and respected. Under unified party government, the minority in Congress is constantly pulled between simply opposing the president and his allies in Congress and trying to forge constructive alternatives to that president's agenda. Even when the congressional minority has a president of its own party in the White House, a tension often remains between often competing priorities and how best to implement them.

With the re-emergence of strong party governance in Congress in the 1980s and beyond, minorities have found themselves even more frustrated and left-out, whether at the committee, floor or conference levels of negotiations. And the cries of protest have grown louder along with

more dramatic ways to obstruct majorities and call attention to their misguided policies and abusive procedural tactics.

The seeds for this new and aggressive minority strategy were sown with the formation of the Republican Conservative Opportunity in the House in the late 1970s by Reps. Newt Gingrich (Ga.), Bob Walker (Pa.), Vin Weber (Minn.), and others. Their rise coincided with the introduction of televised House floor proceedings in 1979 and their exploitation of that medium to get their message out to the public, unfiltered by the news media.

Using the free speech periods at the beginning and end of each day, known as “one-minute speeches” and “special orders,” the new cadre of House conservatives staged the equivalent of House floor teach-ins in which they teamed-up to discuss a particular issue--their objections to the way it was being handled by the majority party and how Republicans would do things differently if they were in charge.

The Umpire Strikes Back

The efforts came to a head on May 15, 1984, when Speaker Tip O’Neill took to the floor to angrily denounce some of the tactics of the minority during these special order periods, using terms that were ruled unparliamentary by the Speaker Pro Tempore (O’Neill’s Bay State friend, Joe Moakley). O’Neill had used his authority over the House television system two days before to direct that the cameras begin panning the near-empty chamber during special order speeches to demonstrate that the majority party members being singled out for criticism were not present to defend themselves.

That brouhaha, that came to be known as “Camscam,” only further escalated the wars on the floor that had already begun to play out in other ways—mainly through the amendment process. The Republican insurgents became masters at offering politically embarrassing amendments, the votes on which they would then use against the Democrats in press releases and campaign ads in their districts.

This in turn provoked a reaction by the majority to begin to limit the amendments that could be offered on the floor. According to comparative tables kept by the Republican minority on the Rules Committee, whereas in the 97th Congress (1981-82), 75% of the bills were considered under an open amendment process, by the 103rd Congress in 1994, only 25% of the bills enjoyed open rules. In their “Contract with America” in 1994, the Republican minority promised more open debate if they became the majority.

While the new majority Republicans, during their first three Congresses in power (104th-106th), were more open than the Democrats had been, by the 107th Congress they were even more restrictive than the Democrats at their worst, with only 19% open rules by the 109th Congress (2005-2006). By the same token, in 2006 Minority Democrats promised a more fair and open legislative process if they became the majority. Yet, in their first Congress back in power (the 110th) they produced just 14% open rules, and in the current Congress (the 111th) just one modified open rule (1% of the total).

When asked to explain how they could backtrack on their pledges of greater openness, both majorities would claim it was the cost of getting things done over stiff and uncompromising minority opposition. And the more majorities stepped on the necks of minorities, the more the minorities squawked and fought back. The spiraling escalation of majority procedural abuses and minority counter-attacks was seen by the public and press as a dismal state of deadlock and petty partisan bickering, analogous to children fighting in a sandbox. And this in turn led to even higher levels of public frustration, discontent, distrust and even anger.

Conclusion

Randolph Churchill, son of Winston Churchill and a Member of Parliament during World War II, once said, “The duty of an Opposition is to oppose.” That may seem like a safe route to majority status if electoral outcomes are driven primarily by public opposition to majority party policies. That is how some read the 1994 election results—as a public pushback against President Clinton’s failed healthcare initiative. That is how many read the 2006 and 2008 Democratic take-back of Congress and the White House, respectively—as a referendum against the Bush administration’s foreign and domestic policies. And that is how many now read the 2010 Republican surge in Congress—as public pushback against President Barack Obama’s successful healthcare initiative and other examples of perceived government overreach.

While congressional minority parties in 1994, 2006, and 2010 all put forward some form of alternative platforms, these party agendas are given little credit for influencing the judgments of voters and electoral outcomes. American elections tend to be more about what people disapprove about ruling majorities than what about what they might expect from an elevated minority party.

Sir Robert Menzies, who served both as Opposition leader and then Prime Minister of Australia, took issue in his memoirs with Randolph Churchill’s aphorism that “the duty of an Opposition is to oppose.”

My first proposition is that the duty of an Opposition, if it has no ambition to be permanently on the left-hand side of the Speaker, is not just to oppose for opposition’s sake, but to oppose selectively. No Government is always wrong on everything, whatever the critics may say. The Opposition must choose the ground on which it is to attack. To attack indiscriminately is to risk public opinion, which has a reserve of fairness not always understood.¹

Menzies served as Opposition leader of his “heavily outnumbered” Liberal Party for six of its eight-year minority status before becoming Prime Minister in 1949—a post he held for the next 16 years. Looking on the bright side of being in the minority, he said because there were relatively few administrative duties, he had more time for study and thought—“a great constructive period in the life of a party; properly considered, not a period in the wilderness, but a period of preparation for the high responsibilities which you hope will come.”

¹ Robert Menzies, “The Gentle Art of Opposition,” from *Measure of the Years* (London: Cassell, 1970), 22.

In what could well be taken as advice for today's Republican party in opposition to the current Democratic president under similar circumstances, Menzies wrote:

A Government may become unpopular, and begin to lose some of the enthusiasm of its supporters. This does not mean that it is necessarily destined for defeat. If the Opposition has not created positive policies and secured positive support, the public attitude may become "A plague on both your houses." And if this cynicism becomes too deep-seated, there may be strange and unpredictable consequences.

And he concluded on this point:

In Opposition, it is never very sensible to underestimate your opponent's talents or methods of debate, or to seek always to defeat him in his own field. Better by far to develop and deploy your own talents in your own way; to exhibit the differences between you; to develop your own personality, not his; to help to present to the people a choice, both of men and of ideas, to which you hope they will respond.²

The U.S. does not have a parliamentary system like Australia's in which the lines between the parties are distinctly drawn between the Government and the Opposition. The special challenge in the U.S. system, where divided party government has been more the rule than exception over the last half century, is for an opposition party that can both oppose and, when necessary, share in governing. That goes double for the president's party which must sometimes compromise with the opposition to get anything done.

With party polarization at an all-time high in Washington and fierce partisan clashes occurring almost daily in Congress, it remains to be seen whether the majority and minority parties can exercise their respective roles with sufficient mutual respect for each other (and the opinions of the people) that they can come together when necessary to solve national problems while maintaining their high ideals and principles. Should they not, they may well suffer that "plague on both your houses" of which Menzies warned.

#

² Ibid, 26-27.