

The Usurping Democracy

In my long and pleasant career, I have served on so many boards and chaired so many meetings that I finally decided to buy myself a copy of the Scott, Foresman Robert's Rules of Order, newly revised. The thick little paperback book sits right on the middle of the second shelf of my credenza. Pulling it off the furniture, I note that the first copyright date was 1943, and the latest edition that I have is 1970. A further examination of the 557-page book reveals that Henry M. Robert was a General in the United States Army. The preface of the 1981 edition explains that the original Pocket Manual of Rules of Order for Deliberative Assemblies was first published in 1876 and in 1893. A number of revisions followed.

I have witnessed orderly meetings become cantankerous and remarkably disruptive where an individual or minority waived Robert's Rules of Order around as though they were the sayings of Chairmen Mao. To many, the work has achieved biblical status. The Ten Commandments, the Golden Rule and Robert's Rules of Order have become established in the American constellation of good behavior. The preface to my edition of the book traces a need for such rules of order to Anglo-Saxon tribes before their migration to the Island of Britain starting in the 5th Century of the Common Era. The author would have us believe that we would not be civilized today, were it not for Robert's. Assembled councils, communities and assemblies needed an orderly way of doing business. Thomas Jefferson is said to have understood the need for a practical model for Congress to follow, lest it slip into dysfunctionality. Jefferson wrote one manual only to be supplanted by Luther S. Cushing. Cushing was Clerk of the Massachusetts House of Representatives and a noted jurist. The fact that so many brilliant minds have published so many difficult to understand books on how organizations should be run, attests to the difficulty arriving at any consensus.

Clearly the influence of Robert has been enormous. What organization can be run without some inane person standing up and shouting, "This violates Robert's Rules of Order"? The only statement I hear more often in the various assemblies that I frequent is "majority rule."

Unfortunately, most of our elected assemblies in America, the United States Senate being one of the outstanding examples, have found a way around the very purposes for which these manuals of order were created. The idea was, of course, to assure that everyone would have a vote, that business would be conducted in a fair and impartial manner, and that minority opinions would not be suppressed. Rules of order were intended to assure civility, not to effect results. In fact, it was always my view that rules of order should be neutral in terms of who comes out the winner or the loser.

The United States Senate has adopted such procedures as “filling the tree,” the filibuster and cloture. “Filling the tree” gives dictatorial powers to a majority leader when there are suggestions as to how a bill or an act should be amended. Without the leader’s consent or initiation, there can be no compromise to a piece of legislation enabling a clear up or down vote. Our ancestors would have found this to be tyranny.

Early in our Republic’s history, when a matter became too contentious the floor would be taken and seized by an individual who would speak endlessly. This would prevent a vote, and business would grind to a halt. The legislature, attempting to stem such inappropriate behavior, established cloture rules which permitted a super majority to cut off debate. Enter the current system, where in effect there can be no vote in the United States Senate without 60 Senators. Whatever happened to majority rule? Tyranny? Antidemocratic? Usurpation of power by the minority?

The rules of bad behavior established by the United States Senate are defended by those who say that the problem is not with the rules but rather with individuals. Since people are the cause of all the world’s problems, perhaps all we have to do is reinvent the human mind and our legislatures will operate more in keeping with popular will. Since that is unlikely to occur, a better answer is to reform the rules so that one person or a minority of people cannot block amendments to legislation so that they can be voted upon based upon the will of the majority. There are those who say that the majority does not know what they are doing and therefore there needs to be a supermajority for important matters such as determining who shall be the new doorkeeper of the senate. If the Founders of this country wanted all legislation to be passed by a supermajority, they would have so provided as they did with respect to treaties.

It is difficult to get people excited about rules changes. Most folks are so busy battling issues such as abortion, the deficit cliff, and other such weighty topics that they cannot focus on the importance of doing business in the way that permits decisions to be made promptly. I trust the people to throw their elected representatives out of office if they are unhappy with how the majority has ruled. I am one of those who do not think it is necessary to have a supermajority or an empowered minority in order to conduct the business of America. It is very rare that any church, synagogue or Kiwanis Club permits only the chairman to decide what matters will be voted upon; to require supermajority votes on important matters; to permit a minority to hold up any progress or to allow one member to speak for so many hours that nothing further can be accomplished. Who in their right mind would allow that in any club or social organization? The answer is, of course, no one. Nevertheless, we permit our legislature to act a bunch of unruly brats who have devised a number of political artifices to insulate them from scrutiny and to empower those with the most bucks.

So long as powerful special interests can buy and sell elections, it will be very difficult to reform the procedure of handling the people's business in a way that encourages expedition and transparency. With a new congressional session about to start, we can only hope and pray that the will of the people will prevail and that enough legislators will be embarrassed by their past behavior to change the way that business is conducted.

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