

Time to ban hitching: Unrelated items should not be attached to Senate bills

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by Edwin D. Reilly Jr.



Mark Wilson illustration

“We the People of the United States, in Order to form a more perfect Union . . .”

— Preamble, U.S. Constitution

“Each House may determine the Rules of its Proceedings. . .”

— Article 1, Section 5, U.S. Constitution

Ratification of our Constitution in 1788 began the perfection of our union in that the fragile Articles of Confederation of 1781 was replaced by a system of government that united loosely confederated states into a tightly bound federal system that not even a Civil War could dissolve. Absolute perfection, of course, is beyond human attainment, but movement in that direction began almost immediately with the 1791 adoption of the first 10 amendments to the new Constitution, the Bill of Rights, a year before our first presidential election.

Over the next 201 years, the Constitution was amended 17 more times, and one can make a pretty good argument that 15 of those amendments did, indeed, enhance the perfection of our most precious document. Certainly the abolition of slavery and the granting of the right to vote regardless of race or sex did, because they removed palpable imperfections in the Constitution as originally adopted. The 18th, imposition of Prohibition in 1919, clearly did not; the rampant crime that ensued killed more people than were saved from demon rum, and that ill-advised amendment was summarily repealed via the 21st amendment 15 years later.

Imperfection in rules

Until a week ago, I had thought that the greatest remaining constitutional imperfection was the Electoral College, because it violates the most fundamental principle of democracy that each person’s vote be given equal weight. But now I realize that there is a coequally pernicious imperfection, namely, that part of Article 1, Section 5 that lets each house of Congress choose its own rules of parliamentary procedure.

The earliest Senate rules were quite simple, often quaint to the point of amusement. One of them reads: “No member shall speak to another, or otherwise interrupt the business of the senate, or read any printed paper while the journals or public papers are reading, or when any member is speaking in any debate.” Reminds me of a day three decades ago when I admonished a student for reading a newspaper while I was lecturing. Today, I would commend any student any time, anywhere that he or she reads a newspaper. Especially on Sunday.

The first Senate can hardly be blamed for not adopting Robert’s Rules of Order; Henry Martyn Robert wasn’t even born until 1837 and didn’t get around to writing his famous manual until 1876. The original list of 19 Senate rules has now grown to 44 and that of the House of Representatives is comparably long.

But a fundamental difference is that whereas the House has always followed the fundamental principle that an amendment to a resolution under debate must be germane to that resolution, the Senate does not. And that leads to trouble, trouble I say, right there in Potomac River City and all the cities, towns and villages of our land.

Credit-Card bill

The instance at hand, a scant two weeks ago, was that Sen. Tom Coburn (R for Rascal) of Oklahoma succeeded in attaching an NRA-backed amendment to

the credit card reform bill that the Obama administration strongly favored but did not have quite enough votes to pass. The amendment would remove Reagan-era federal restrictions on carrying weapons into national parks. With the amendment, enough Republicans who love the NRA more than they love bankers voted for the hybrid bill, allowing it to reach the president’s desk. But would he sign it?

Newspapers across the land, including our own Gazette, were quick to editorialize, urging President Obama to veto the contaminated bill and insist that Congress give him a clean one. What, pray tell, does banking practice have to do with gun regulation? The bill should have been vetoed on its demerits, and, to boot, the president had every reason to smack the craven NIMBY senators who had just refused him funding to close Guantanamo.

Alas, the man I so ardently supported last year signed the bill, giving me my deepest disappointment in his performance to date. This president is clearly weak on gun control, refusing even to push for restoration of the ban on personal use of assault weapons that the lesser Bush let expire.

Removal of federal restrictions on carrying weapons into national parks will have no effect on the parks that lie in states that prohibit the practice, so some that currently do not do so might leap to the rescue. But Yellowstone extends over three states, and two other parks extend over two. What if all co-involved states do not act?

Need for amendment

The Credit Card/NRA bill is just an example, not the essence of the main point I wish to make — the imperfection of a Constitution that allows the Senate (and the House if it ever so chooses) to attach amendments to a bill that are not germane to the subject of the bill under debate. And since passage of a constitutional amendment is the only way We the People can continue our quest to form a more perfect Union, let’s get on with it now.

A surgically crafted amendment to Article 1, Section 5 is sorely needed, one that would continue to allow Congress to adopt its own set of parliamentary rules, provided that among them is one that enforces the pertinence of all clauses of a bill to a single coherent purpose. And it just so happens that through the exquisite beauty of our English language, the opposite of pertinence is impertinence.

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