

. . . And Mischief

By Norman Ornstein (The Washington Post, 12/1/03)

One of the most disgraceful moments in American sports came in the 1972 Olympics, when officials gave the Soviet Union's basketball team three chances to shoot the ball after the clock had apparently run out -- allowing it to defeat the U.S. team.

American politics now has its own version of that infamous game. Early last Sunday, starting at about 3 a.m., the House of Representatives began its roll call on the Medicare prescription drug plan -- the most significant vote of the year. The House votes by electronic device, with each vote normally taking 15 minutes. After the allotted time, the bill, supported by the president and the Republican leadership, was losing. The vote stayed open. Before long it became clear that an absolute majority of the House -- 218 of the 435 members -- had voted no, with only 216 in favor. But the vote stayed open until Republicans were able to bludgeon two of their members to switch sides. It took two hours and 51 minutes, the longest roll call in modern House history.

This was not, technically speaking, against the rules. House Rule XX, clause 2 (a) says that there is a 15-minute minimum for most votes by electronic device. There is no formal maximum. A vote is not final until the vote numbers have been read by the speaker and the result declared. But since electronic voting began in January 1973, the norm has been long established and clear: Fifteen minutes is the voting time.

In the 22 years that Democrats ran the House after the electronic voting system was put in place, there was only one time when the vote period substantially exceeded the 15 minutes. At the end of the session in 1987, under Speaker Jim Wright of Texas, the vote on the omnibus budget reconciliation bill -- a key piece of legislation -- was one vote short of passage when one of the bill's supporters, Marty Russo of Illinois, took offense at something, changed his vote to no, and left to catch a plane to his home district in Chicago. He was unaware that his switch altered the ultimate outcome. Caught by surprise, Wright kept the vote tally open for an extra 15 to 20 minutes until one of his aides could find another member, fellow Texan Jim Chapman, and draw him out of the cloakroom to change his nay vote to aye and pass the bill. Republicans went ballistic, using the example for years as evidence of Democrats' autocratic style and insensitivity to rules and basic fairness.

In 1995, soon after the Republicans gained the majority, Speaker Newt Gingrich declared his intention to make sure that votes would consistently be held in the 15-minute time frame. The "regular practice of the House," he said would be "a policy of closing electronic votes as soon as possible after the guaranteed period of 15 minutes." The policy was reiterated by Speaker Dennis J. Hastert when he assumed the post.

But faced with a series of tough votes and close margins, Republicans have ignored their own standards and adopted a practice that has in fact become frequent during the Bush presidency, of stretching out the vote when they were losing until they could twist

enough arms to prevail. On at least a dozen occasions, they have gone well over the 15 minutes, sometimes up to an hour.

The Medicare prescription drug vote -- three hours instead of 15 minutes, hours after a clear majority of the House had signaled its will -- was the ugliest and most outrageous breach of standards in the modern history of the House. It was made dramatically worse when the speaker violated the longstanding tradition of the House floor's being off limits to lobbying by outsiders (other than former members) by allowing Health and Human Services Secretary Tommy G. Thompson on the floor during the vote to twist arms -- another shameful first.

The speaker of the House is the first government official mentioned in the Constitution. The speaker is selected by a vote of the whole House and represents the whole House. Hastert is a good and decent man who loves the House. But when the choice has been put to him, he has too often opted to abandon that role for partisan gain.

Democracy is a fragile web of laws, rules and norms. The norms are just as important to the legitimacy of the system as the rules. Blatant violations of them on a regular basis corrode the system. The ugliness of this one will linger.