

Executing U.S. Health Care with a "Self-Executing Rule"

By **Justin Quinn** March 16, 2010

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Regardless of your political persuasion -- Republican, Democrat, conservative, liberal -- it is time for our nation to face facts: America is at a political crossroads.

After failing to nail down the necessary 216 votes for ObamaCare, House Speaker Nancy Pelosi announced a plan today that would slip the \$2.5 trillion measure through Congress using an obscure procedural device called the "self-executing rule," which allows squeamish politicians to bury their votes for controversial legislation in a complex layer of technical jargon. It's also called a "deem-and-pass" rule.

As political sleight-of-hand goes, this makes [reconciliation](#) look like ramshackle three-card monty set up on a street-corner card table.

From About.com's [U.S. Government Info](#) Guide Robert Longley:

The self-executing rule allows the House to adopt -- if approved by a vote -- a rule that also agrees to "dispose of a separate matter" - like the Senate health care bill - by "deeming" it to have passed as if the full House had actually voted on it.

Liberals are already arguing that Republicans used the little-known process when they held the majority. This may be true, but the context is completely different. The measures for which the process was used under Republicans were mild and didn't affect health care for millions of Americans. Nor did they constitute an entire fifth of the U.S. economy. Instead, Republicans used the self-extracting rule for bills that enacted voluntary employee verification programs (to guard against employers hiring illegal immigrants) and lobby and ethics reforms. The reason Democrats didn't yell about it from the mountaintops is because the laws passed with "deem and pass" were not significant enough to raise alarm.

If Democrats go through with Pelosi's half-baked plan, expect the level of public outrage to reach a fever pitch. Simply by *mentioning* the possibility that ObamaCare could be passed this way, Pelosi has enraged many Americans and added fuel to an previously-ignited fire that now threatens to burn out of control for Democrats in November.

But, then, these are desperate times, folks, and the Dems have promised to pass this unpopular bill "by any means necessary."

Even if those means include circumventing the Constitution.



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Comments

(1) **Ross says:**

March 17, 2010 at 6:37 am

Who'd a thought...

(2) **RealTime53 says:**

March 17, 2010 at 11:12 am

"Even if those means include circumventing the Constitution."

Republicans used the 'deem and pass' rule over three dozen times during the last Congress that they controlled, 2005 and 2006. They defended the rule in court against a Democratic challenge and were upheld.

To now argue that the use of 'deem and pass' is unconstitutional because of the magnitude of the bill involved is risible.

(3) **usconservatives says:**

March 17, 2010 at 3:38 pm

Most (if not all) of the bills passed by Republicans using the "deem and pass" were technical variations of legislation that passed the House using the traditional voting method. It's fairly clear from the constitutional scholar I've spoken with that to use the procedure to basically rewrite the entire health care system clearly violates the U.S. constitution. Not only that, but there's very little dispute that it would fall in court. Article I, Sec. 7 is pretty clear.

"Every Bill **which shall have passed the House of Representatives and the Senate**, shall, before it become a Law, be presented to the President of the United States." Democrats will argue that the bill did pass both houses, but the fact is the bill currently under debate looks vastly different than the one originally approved in the House. The original House bill had a public option, for goodness sake!

We'll see who's laughing in November.

(4) RealTime53 says:

March 17, 2010 at 4:09 pm

Justin -

"Most (if not all) of the bills passed by Republicans using the "deem and pass" were technical variations of legislation that passed the House using the traditional voting method."

Most, tis true. However, there was that \$40B deficit reduction package that avoided an embarrassing vote on immigration.

"It's fairly clear from the constitutional scholar I've spoken with that to use the procedure to basically rewrite the entire health care system clearly violates the U.S. constitution."

And yet, this maneuver past muster with the House Parliamentarian.

FTR, I would prefer that this bill were approved by traditional means. However, if it is really unconstitutional, as you contend, there should be a court challenge, if this thing goes through.

My guess is that there won't be.

"We'll see who's laughing in November."

Could be. Politics is a cyclical business, fueled by irony. I do see the irony. FTR, I am not laughing.

(5) RealTime53 says:

March 22, 2010 at 4:39 pm

"FTR, I would prefer that this bill were approved by traditional means."

I got my preference. They didn't use 'deem and pass'. Remarkable.

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