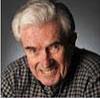


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Ahearn: A power play disguised as politesse
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RECORD COLUMNIST

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It sounds, at first hearing, like a contradiction in terms. What? Politicians are supposed to be courteous? Sez who? When did that start?

THE TRANSITION from Democratic Governor Corzine to Republican Governor-elect Christie has been marred by a dispute over a New Jersey legislative custom called "senatorial courtesy."

It sounds, at first hearing, like a contradiction in terms. What? Politicians are supposed to be courteous? Sez who? When did that start?

I can't tell you when, exactly, but the custom has been recognized for more than half a century, going back to the adoption of the present state Constitution in 1947.

It bestowed immense powers on the governor, including the right to choose judges, Cabinet officials, and members of boards, authorities and commissions "with the advice and consent" of the Senate.

Wide latitude

In practice, the governor was given considerable latitude by the Senate in selection of his Cabinet. But when it came to judges and appointments to independent and advisory panels, home-county senators wielded decisive power.

There were 21 senators then, one per county. Each could block a nomination proposed for any resident of his county. (In that era, all senators were male.) It was a secret blackball.

A senator could assert this authority when he thought the person was not up to the job, or as leverage to obtain other state positions for friends and political allies, or for other reasons, not all of them laudable.

John Weingart, deputy director of the Eagleton Institute of Politics at Rutgers and the outgoing chairman of the New Jersey Highlands Council, says that as currently interpreted, senatorial courtesy can be invoked by a senator representing a single town in the nominee's home county. The challenged nomination never gets a committee hearing, much less a floor vote.

Bergen, the most populous county with 70 towns, is represented in the Senate these days by seven of the current 40 senators. The districts of two of the seven include just one Bergen town each, Glen Rock in one and Fairview in the other. Those senators, based in Passaic and Hudson counties, can block a nominee who lives in, say, Tenafly or Ridgefield.

Two senators whose districts include Bergen, Essex and Passaic towns can invoke senatorial courtesy against a nominee who lives anywhere in the three counties.

Good-government reformers regularly denounce the custom but get nowhere, because it is in the interest of all senators to preserve it. Nor is it subject to judicial review. Senatorial courtesy is not mentioned in the Constitution, nor in any law. The courts have held, therefore, that they have no power to intercede in its workings. It is not justiciable.

All of which is timely information because nine days ago Corzine's office sent to the Senate some 50 lame-duck nominations to paid and unpaid posts. They included seats on the governing boards of the Port Authority of New York and New Jersey and the Sports and Exposition Authority, prestigious appointments.

Other nominations involved important workaday agencies like the North Jersey District Water Supply Commission, the Passaic Valley Sewerage Commission and the Motor Vehicle and Lottery commissions.

Corzine wants the Democratic-majority Senate to act on the nominations before the present Legislature ends Jan. 12. The nominations, if unconfirmed by majority vote, will expire then. Corzine says he is entitled to exercise all his gubernatorial powers up to the minute he leaves office.

Choosing change

That is true, as a matter of law, and some predecessors filled openings on their way out the door. But Christie complains that when the electorate voted for governor last month, they chose change.

"They expected that that change would begin on Jan. 19," Christie says. "But if you put a whole bunch of people on boards and authorities and commissions who are making policies, that change can be thwarted, and that's not what people voted for."

Which brings us to – ta-da! – senatorial courtesy. Christie has no power to block the nominations himself. But he may be able to get Republican senators to do the blocking, and if that deprives some good people of an opportunity for public service, well, that's the breaks. Better luck next time, he can say.

James Ahearn is a former managing editor of The Record. Send comments about this column to Peter Grad, Op-Ed page editor, at grad@northjersey.com.

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