Journal of the American Society of Legislative Clerks and Secretaries

Volume 21  Fall 2016

Information for Authors................................................................................................................2

Paul Mason
Parliamentary Procedure........................................................................................................3

Paul C. Smith
Hütchenspiel: Decorum in the Legislature ...........................................................................11

Stran L. Trout, et al.
The Lost Parliamentary Writings of Thomas Jefferson.....................................................18

Professional Journal Index.......................................................................................................27
2016-2017 Committee

Chair: Bernadette McNulty, CA Senate
Chief Assistant Secretary of the Senate

Vice Chair: Ann Krekelberg, AK Senate
Supervisor, Senate Records

Vice Chair: Tammy Wright, NH Senate
Clerk of the Senate

Members

Tamitha M. Jackson (AR)
Martha L. Jarrow (AR)
Jacquelyn Delight (CA)
Brian Ebbert (CA)
Brad Westmoreland (CA)
Heshani Wijemmanne (CA)
Mary Ann Krol (KY)
Steven M. Tilley (LA)
Gail Romanowski (MN)
Adriane Crouse (MO)
Joy Engelby (MO)
Jason Hataway (NV)
Mandi McGowan (OR)
Ginny Edwards (VA)
Geneva Tulasz (VA)
Laura Bell (WA)
Gary Holt (WA)
Sarah E. Burhop (WI)
Erin Gillitzer (WI)
Wendy Harding (WY)
INFORMATION FOR AUTHORS

The editor of the *Journal of the American Society of Legislative Clerks and Secretaries* welcomes manuscripts which would be of interest to our members and legislative staff, including topics such as parliamentary procedures, precedent, management, and technology. Articles must be of a general interest to the overall membership.

Contributions will be accepted for consideration from members of the American Society of Legislative Clerks and Secretaries, members of other National Conference of State Legislatures staff sections, and professionals in related fields.

All articles submitted for consideration will undergo a review process. When the Editorial Board has reviewed a manuscript, the author(s) will be notified of acceptance, rejection or need for revision of work.

STYLE AND FORMAT

Articles should follow a format consistent with professional work, whether it is in the style of the Chicago Manual, the MLA, or APA. Articles should be submitted in MS Word, single spaced with normal margins.

All references should be numbered as footnotes in the order in which they are cited within the text. Accuracy of the content and correct citation is expected of the author. Specialized jargon should be avoided as readers will skip material they do not understand. Charts or graphics which may assist readers in better understanding the article’s content are encouraged for inclusion.

SUBMISSION OF ARTICLES

Articles for the 2017 Journal should be submitted electronically, not later than July 1, to the Chair:

Bernadette McNulty  
Bernadette.McNulty@sen.ca.gov

Inquiries from readers and potential authors are encouraged. You may contact the Chair by telephone at (916) 651-4171 or by email at Bernadette.McNulty@sen.ca.gov.

Letters to the editor are welcomed and may be published at the conclusion of the journal to provide a forum for discussion.
Thank you Mr. Chairman. I am very happy to be here. I’m always happy to be anywhere that parliamentary procedure is discussed and to discuss parliamentary procedure with anyone. We are particularly fortunate at this meeting because we have here the people of the United States who are most closely associated with parliamentary practice and the problems that arise from it. It is a special pleasure to have the opportunity to talk with you.

Perhaps we should start at the beginning. Parliamentary procedure I would define as the rules of group decision making. These rules we call parliamentary procedure because so many of the rules go back to an origin in Parliament. However, these same rules, and the principles on which they rest, are broader in their application. An administrative board or commission is subject to these rules and principles just the same as a legislative body. And a multi-member court is subject to the same rules in reaching its decisions.

It might be a good idea to begin by taking a brief look at the law. Where there is a rule or requirement that is enforced by a penalty, we have a law. The penalty may be stated in terms of dollars or days, or in terms of the invalidity of a legislative action because of failure to comply with constitutional procedure. Our more basic rules of procedure are jurisdictional and failure to comply with them will invalidate actions taken by the body. Many rules are not of this class and are rules only of convenience, which may be followed or disregarded at the will of the body.

Our parliamentary procedure, of course, came originally from England. It was used in our colonial legislative bodies. It largely governed the procedure of Congress and has been adopted by our state and local legislative bodies. However, as pointed out by Cannon, the present rules of Congress have been adopted to meet the special needs of that body and differ widely from the practice of legislatures and local legislative bodies. There are also important differences between official public bodies and voluntary associations. Members of member-owned organizations have broader powers than members of bodies whose members act in a representative capacity.

Let us begin by reviewing what I consider to be the principal laws governing parliamentary procedure. Notice that I am distinguishing between rules, practices and procedures on one hand and law on the other.

The following are what I consider to be the most important laws governing parliamentary procedure. Here are ten indispensable procedural requirements for the validity of legislative actions.
First, there must be an organization with authority to act. And any action must be within that authority. This may appear to be too simple even to mention. Not infrequently, however, organizations undertake to take actions that they have not authority to take.

Second, there must be a meeting. Powers given to a group are to be exercised by the group. There must be a meeting of the minds of the persons making the decisions. There must be a meeting at which the decisions are jointly arrived at.

Third, there must be a notice of meeting. The notice must be such that it will give members an opportunity to attend. It is not required that members attend meetings but it is essential that members have notice of the meetings so that they will have the opportunity to attend.

Fourth, there must be a quorum present at meetings. A quorum is a sufficient number of members to entitle them to act for the entire membership. In public bodies a quorum is a majority of the members. Voluntary associations may designate a quorum of less than a majority. When members are ineligible to vote on certain questions they cannot be counted in making a quorum for voting on those questions.

Fifth, there must be a clear question before the body. Obviously there must be some question before a body before a vote can be taken on it, but that question must be so clear that members can vote intelligently upon it. A member must be able to have a question clearly stated and to know what the effect of the vote will be. This applies even to questions that are not debatable.

Sixth, there must be an opportunity for discussion. A member has the right to hear the opinions of other members and to have an opportunity to persuade other members to his way of thinking before he can be called upon to express his decision by his vote. Members do, of course, have the right to terminate debate when they consider that they have heard enough. Procedural motions are not debatable on the theory that they are in a sense self-explanatory and no debate is required to understand their effect. A member does still have the right to know precisely what the question is and what the effect of the vote will be.

Seventh, a vote must be taken. It cannot be presumed that a member will vote or assumed how he will vote. The only way to determine the judgment of a group on a question is to take a vote on the question.

Eighth, the vote of a majority is necessary to take an action. Sometimes a vote of a majority of all members is required. Sometimes a majority vote of the members present is required. But always a vote of a majority of the legal votes cast is required. About half of the legislatures require a majority vote of all the members to pass a bill, and about half require a majority vote of those members present.

Ninth, fraud, deception or trickery causing injustice or injury to any person may invalidate legislative action. In a number of decisions the courts have decided cases clearly in point of this matter.
Tenth, any legislative action (to be valid) must comply with all applicable provisions of law. This includes the Constitution of the United States and of the states and federal and state statutes and controlling ordinances and orders of local public bodies. It also includes judicial decisions. A substantial denial of the personal rights and privileges of persons may invalidate the actions of legislative bodies. Particularly in recent years the courts have been emphasizing personal rights that have been broadly applying constitutional guarantees.

You will notice that in presenting this list of indispensable requirements for valid legislative action. I have not engaged in any technical discussion of procedure and I have not even mentioned motions. The reason is because I have been discussing legal principles. And by principles I mean the basic logical reasons for the answers we need in order to conduct procedure in legislative bodies with justice, dispatch and efficiency. Notice too how much easier it is to understand, and to remember, the logical cause and effect relationship embodied in legal principles than to remember all of the technical rules that can be drawn from the principles. I will undertake to demonstrate this further later in the discussion when we are considering motions.

The rules that I have set out as indispensable apply to the making of group decisions as provisions of law. They are not dependent, in any way, on the will of the body but apply the same whether they are desired by the body or over the objections of the membership. Over these rules the members have little control.

Beyond these indispensable rules a body has very broad control over its rules of procedure. It can adopt, alter or abolish its rules at will. This does not detract from the importance of such rules. These further rules are essential to the smooth and businesslike operations of an organization. These are some of the purposes of such rules.

The rules serve as a guide to the procedure of the body. They tell a member or others what the procedures are and how to accomplish their purposes. There is an old statement that it is sometimes more important that there be a rule than what the rule is. Much confusion is eliminated by establishing procedures and maintaining them. Much time and effort are saved by establishing simple, uniform practical procedures.

The rules establish and protect the rights of the members. Having a procedure and following it has the effect of treating all members alike and prevents giving more favorable treatment to one than to another. Failure to establish procedures or to apply them without favor to all members permits and practically invites discrimination in favor of certain members.

Procedural rules are not something that are to be imposed on a body. They are something that should be planned with care, adopted with discretion, and followed with enthusiasm as a means of making the organization best serve the interests and purposes of its members.

Not all rules are good rules. Because a rule is old or new does not prove it good or bad. A rule is good or bad as it is helpful to the organization or its members, or as it impedes the
accomplishments of the organization or its members. Every rule which serves a useful purpose is a good rule.

Even in this enlightened age some people still regard certain parliamentary rules as though they were divine revelations. They bow their heads with reverence and seem to expect any one who dares question the rules to be “struck dead.” There is nothing divine or super-human about procedural rules. They are merely frail human-made devices that are intended to help people make group decisions.

We do have a set of parliamentary rules based on practice and to a degree on logic that on the whole serve our purposes well. This, again, does not mean that every rule that can be found in someone’s book is necessarily sound or desirable. Before we can gain the benefits that are available from our parliamentary rules we will have to achieve the mental freedom that will permit us to view such rules with an open mind and judge them on their merit in actual use.

Though our parliamentary procedure came originally from England, there has been a considerable development in this country. In England there was the one legislative body. The executive under the English system was a legislative committee and the chairman of the committee was the Prime Minister. A group of members of the House of Lords constituted their Supreme Court. The courts did not declare legislative acts unconstitutional. Here we have the doctrine of separation of powers. Our legislatures are separate from the executive and our courts freely declare legislative acts unconstitutional or invalid for uncertainty or other causes. We have many legislative bodies and many procedural questions are taken into the courts. We have developed a considerable body of decision-made parliamentary law.

Our legislatures have one advantage. The state constitutions contain the provision that each house shall make the rules of its own proceedings. This gives the legislative procedural rules a status above statutes. Within their own sphere the legislatures are supreme.

Now let me demonstrate the difference between applying principles to a situation and applying the rules drawn from the principles. Let us turn to the yellow pages in the center of Robert’s Rules of Order, Newly Revised, and run through the “Table of Rules relating to Motions.” This is a table of the 82 motions that Robert recognizes and the table shows how six different procedures apply to each of the motions. That is 6 x 82, or a total of 492 answers to questions. Now notice how much easier and how much more accurate it is to apply the principle than to deduce a rule from the principle and then apply the rule.

**First, what is in order when another has the floor?** The answer plainly is: whatever should be taken up before the member relinquishes the floor. This includes whatever cannot wait and those actions that can be taken only at a specific time. An emergency may interrupt because of necessity or an appeal, or demand for a division may interrupt because these represent rights that must be exercised at that time, if at all. And a point of order or point of information may interrupt when it requires immediate attention.
Second, is a second required? Where seconds are required, all motions must be seconded. Appeals, points of order or demands which do not present a question for the decision of the body are not in fact motions and do not require seconds. Seconds are not usually required in legislative bodies.

Third, is the matter debatable? Procedures that present substantive matters for decision are debatable, procedural motions are not. Substantive matters include main motions or other items of business. They apply whether the proposal is in the form of a motion to adopt, to approve, or to concur or whatever form finally disposes of the proposal. It also includes amendments to such matters.

Fourth, is the proposal amendable? If the proposal can be made in more than one form it is amendable. If the proposal is restricted to one form, naturally, it cannot be amended.

Fifth, what is the vote required for adoption? A majority vote is always required. Parliamentary law does not require votes of more than a majority, and the cases also hold that a public body cannot require more than a majority vote unless specifically authorized. Constitutions or laws sometimes do require more than a majority vote.

Sixth, can the action be reconsidered? Any action can be reconsidered so long as the subject of the action remains within the control of the body. If an act has gone into effect or a person appointed or confirmed has taken office it is too late to reconsider. After a bill has passed and gone to the other house it cannot be reconsidered by that house unless it is returned to it. Bodies do frequently make regulations governing who may move to reconsider and when reconsideration may be had. This is one of the situations where Robert does not follow parliamentary law.

This brief list of principles covers the 492 points raised in Robert’s table. I feel sure that most of you clerks and secretaries can arrive at the correct answers to these questions by applying the principle stated above though you would have to look up the answers if you attempted to give the answers on the basis of knowing each individual rule.

One of the things that has caused trouble in applying parliamentary rules to group decision making is that many persons have supposed that Robert’s Rules of Order, and that books that have followed Robert, are parliamentary law. Robert, at least, knew that this was not so and has told us in very clear language. In the foreword of his book entitle Parliamentary Practice published in 1923. Mr. Robert wrote: “Robert’s Rules of Order was published forty-five years ago with a view of furnishing a set of rules that any assembly might adopt, and thus avoid waste of time in constant discussion of what is parliamentary law in particular cases.”

It will be noticed that by this clear statement of Mr. Robert, himself, that his rules were not a statement of parliamentary law but are “a set of rules that any assembly might adopt,” and that their purpose was “to avoid waste of time” and how do they waste time “in constant discussion of what is parliamentary law in particular cases.” This statement makes it clear that Mr. Robert’s rules were not intended to be parliamentary law but were something that could be adopted to avoid the need of determining what was parliamentary law. His demonstrated purpose was to ignore the law. The trouble with that
position is that the law cannot be ignored but applies regardless. This is like ignoring a summons or subpoena; it only delays and adds complications.

Robert would seem to ignore legal principles and rely solely on a set of adopted rules without discretion, on the part of the presiding officer, or house, to apply or to adapt the ruling to particular situations. Situations calling for the application of a particular rule may vary considerably and are never identical so that an exception or change in the rule is often necessary to make it apply accurately to the situation. And the next time the matter comes up a further change is probably necessary. In trying to keep pace with the problems the rules are constantly expanding. Let me illustrate.

Robert’s Rules of Order was published in 1876, and was materially modified in different printings. When the copyright ran out, Robert’s Rules of Order, Revised, was published in 1915. When the copyright in that ran out, Robert’s Rules of Order, Newly Revised, was published in 1970. Here is how Robert’s Rules have expanded with different revisions:

<table>
<thead>
<tr>
<th>Robert’s Rules of Order</th>
<th>Number of Pages</th>
<th>Words per page</th>
<th>Total Words</th>
<th>% of increase</th>
<th>Motions covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original—1876</td>
<td>176</td>
<td>199</td>
<td>35,024</td>
<td>0</td>
<td>34</td>
</tr>
<tr>
<td>Revised—1915</td>
<td>323</td>
<td>263</td>
<td>84,949</td>
<td>242</td>
<td>44</td>
</tr>
<tr>
<td>Newly Revised—1970</td>
<td>636</td>
<td>351</td>
<td>223,236</td>
<td>280</td>
<td>82</td>
</tr>
</tbody>
</table>

At the same rate of increase as between the Revised and Newly Revised editions the total number of words would increase to 625,000 for next revision and to 1,750,000 for second revision. This is just using Robert’s Rules as an example.

The answer to this increase in rules should be to rely more on principles and allow some discretion to the presiding officer and to the houses. The attempt to provide a specific rule for every situation is impossible and must be faced at some point. This is something that legislatures can do.

There are a few questions that I think deserve further consideration. The requirement of a two-thirds vote is one of them. Robert set up a requirement of two-thirds votes on several questions, among them limit debate, change limits on debate and the previous question. Parliamentary law does not require two-thirds votes.

The legal objection to two-thirds votes is that they give to a minority of more than one-third a kind of veto on the vote of less than two-thirds. Let me illustrate how it worked in a recent case in California. We had a reapportionment commission consisting of five elective state officers and since the legislature had not reapportioned their districts it was the duty of the commission to do so. I was acting as parliamentarian. On the commission there were three members of one party and two members of the other. The chairman was
one of the three. You can recognize how serious this was as a political quesiton. One member of the minority, a young fellow who is now Governor, innocently suggested that since reapportionment was such an important matter that any reapportionment should be approved by a two-thirds vote. The chairman immediately voiced agreement, not apparently realizing that two thirds of five is four and that the effect of the proposal would be to give the minority of two a complete veto on the majority. Then what happened? The Attorney General rushed in with a memorandum that quoted some California cases that held that a public board or commission cannot delegate its authority to a minority by requiring a two-thirds vote.

The ten minute limit on speeches contained in *Robert’s Rules of Order* also illustrated some problems concerning parliamentary rules. This simple rule I think illustrates the problem of over-regulation by rules. It is interesting that we have a story of how this rule originated. An old timer back in New York told this story some time ago. His friend Robert cam to visit him and he took him over to Long Islan to a meeting of a jockey club. The club had a rule limiting speeches to ten minutes and Robert was so impressed that he declared, “By Jove, I’m gonna put that rule in my book.” However accurate the story, the rule does appear in Robert’s book. And ever since then the ten minute limit on speeches has been one of Mr. Robert’s rules. As you all well know, ten minutes is much too long for many speeches and much too short for many others. Rarely, if ever, has anyone a ten minute speech, and you will remember that Robert has a rule that it requires a two-thirds vote to set or change limits on speeches. Applying the rule that a speech must be on the subject before the body will in most instances be all that is necessary to limit speeches. In any event a voluntary association or a public body will, in my judgment, do much better to limit speeches in particular instances, when necessary, and cut off debate when they feel they have listened long enough rather than to have arbitrary rules on length of speeches entombed in its rules.

If you have wondered what would happen if a body should disregard a motion to reconsider and have entered on the minutes in order to hold an action over until the next meeting, the answer is clear. It is that nothing would happen. The action in disregard of the motion would be effective just as though the motion had not been made. This was the decision of a court in a Nashville case.

There are many other important and interesting things about parliamentary procedures that I would like to talk about, but my time is about up. This will have been an important occasion if I have persuaded you that parliamentary procedure is something that should be made to serve decision making groups of all kinds in carrying out their responsibilities. And that parliamentary procedure is not something that was made in heaven, or perhaps in hell, and is beyond the powers of mere mortals to shape for their own help. As I pointed out there are certain indispensable requirements but they are so basic and fundamental that no one should wish to change them. Even in implementing these principles there is room for considerable discretion. Beyond these principles there is broad opportunities for the exercise of discretion. I do not believe that our parliamentary procedure calls for any wholesale revision. But there are impediments in the rules where the exercise of a little discretion would materially ease the problems that arise in conducting meetings and reaching group decisions.
If I have persuaded you to take a more open view of procedure and to be more relaxed in its use, I feel that I have done you a real service. I will now be glad to answer your questions.
According to Merriam Webster, decorum is defined as “propriety and good taste in conduct or appearance, orderliness, and the conventions of polite behavior.”¹ Mason’s Manual of Legislative Procedure, the parliamentary guide of many of our legislative bodies throughout the country, has many sections dedicated to decorum.² Most legislative bodies in the United States have sections within their own rules which are dedicated to decorum; whether it refers to decorum in debate or decorum by members in general. These rules of decorum can be specific (such as a member needing to be in their seat with their voting station on)³ or general (such as simply stating in general that the “Speaker shall enforce the observance of order and decorum”).⁴ Despite the existence of rules, of a parliamentary guide and knowing the definition of decorum, why is there so little of it practiced in our daily, legislative lives?

The New Hampshire House of Representatives is the largest state legislative body in the country and in the nearly fifteen years that I have wandered the halls of the State House, its leadership has changed five times, its majority has changed four times and so have many of the outlooks and attitudes.

Long before my election as a member, there was a hotel near the State House (called the Highway Hotel) where members of both parties, after a long day’s session, would retire; whether to stay the night, or to socialize with other members, or participate in sponsored socials of some sorts. The fact is that in those days, political party meant little when Representatives crossed the threshold of the hotel; members may have fought on the House floor like cats and dogs over issues (indeed they did), but the hotel, this shared, sacred place, was almost a sanctuary against partisanship- Democrats and Republicans ate, drank, smoked (and, if rumor is true, may have even done some other things) together. Lobbyists furnished drinks and meals, political parties held their dinners and fundraising events there; it was a common space where members of the House and Senate could talk (and maybe even make some deals) and just be themselves.

This changed when the Highway Hotel closed, and eventually burned, in 1988. Some members, mostly those who live far away from Concord, still stay over during the session week or just a night, but with a plethora of hotels to choose from (most of which offer a greatly reduced legislative room rate), there is no common place for members to relax or dine together (or even make deals). In the wake of corruption in our nation’s capital, many states have enacted stricter ethics standards, cut back on what legislators may accept in terms of gifts, meals and drinks, or eliminated them all together. Here in New

² I direct you to page 659 of Mason’s Manual of Legislative Procedure (2010 Edition) with all the references to decorum listed in the index and encourage reading of said references.
³ Rule 9, New Hampshire House of Representatives (available at gencourt.state.nh.us/house), retrieved October 1, 2016.
⁴ Rule 201.1-D, Maine House of Representatives (available at maine.gov/legis/house), retrieved October 1, 2016.
Hampshire, we have lobbyists, but not nearly the amount as in other states, and with the close relationship of many particular lobbyists to policy committees, they are unwilling to risk violations as their reputation is important in their future dealings. What this means for the average Representative however, is that a lobbyist cannot take the member to lunch or even be treated to a cocktail. Receptions for the whole body are fewer and farther between now, but even then “door prizes” have become lackluster and the hosting party has opted to issue a single “drink ticket.” What does that have to do with anything? I propose that it means that Representatives (who are even less likely to stay in the capitol in the days of the Prius and Tesla) will not go to these receptions nor have the opportunity to mix and mingle with those of differing views and life experiences. Herein lies the beginning of the breakdown of decorum in the New Hampshire legislature, and likely, in many other states as well.

I should like to use a few examples throughout my tenure in the New Hampshire House (both as a member and a staffer) to illustrate the points. The first issue I mention is one that is perennial in our chamber, that being ‘right-to-work.’ In 2002, the voters of New Hampshire had elected the largest Republican majority in the history of the body and so many special interests thought the time was ripe for a conservative agenda and that right-to-work was one of many of the items that should be tackled. Historically, the bill has come up at least once a session over the course of my lifetime, but that seemed like the best chance. The committee heard the bill and despite the partisan divide on the committee of 15-6, the report came from the committee with a recommendation of inexpedient to legislate by a vote of 13-6. When the bill came to the floor for action by the whole body, the gallery of the chamber was filled to the brim with various union workers of every profession. While this phenomenon of stacking the gallery has been used multiple times over the years, this was my first introduction to it as a newly elected, young State Representative. The obvious intention was that of intimidation; however this is not the breakdown of decorum I seek to highlight. Rather, what actually happened on the floor of the House on Tuesday, March 25, 2003. The breakdown came after the voting; the report of the bill being inexpedient to legislate, a chairman of another committee rose to lay the bill on the table. This vote failed on a roll call vote of 105-264. The next vote before the body was the ITL; and this motion passed on a roll call vote of 262-103. Immediately following the vote the gallery erupted in thunderous applause and sustained itself for what seemed like an eternity, especially after the Speaker repeatedly banged his gavel and informed those in the gallery it could be cleared for disrupting the proceedings of the House. Additionally, a newly elected, young State Representative rose from his seat (buried in the middle of the second division of seating), turned to the gallery and yelled at those applauding to “shut up or get out.” While the clapping and interruption of the proceedings certainly breeched decorum, so did the actions of the impassioned young Representative.5

5 I cite this example with the full disclosure that I was that young, 22 year old Representative who breeched the decorum of the chamber. In a recent conversation with the Speaker who presided that term and my mentioning of it as an example for this article, he said he couldn’t hear anyone but the gallery through that vote, and although he was surprised I had done that, he seemed to acknowledge that wasn’t even a remote possibility at this point in my life when he chuckled and called me “an old man.”
In the early 2000s same sex marriage was beginning to become an issue with respect to civil unions, previously adopted in Vermont and Hawaii. In 2004, the second year of my first term as a member came the introduction of SB 427, a bill which would limit the recognition of marriage to only those that were established under New Hampshire law at the time. (Essentially meaning that civil unions performed in other states would not be recognized here in New Hampshire as an equivalent to marriage.) This was certainly a hot button issue back then but was truly indeed the first time I witnessed the breakdown of decorum in the chamber. Members stood up and suggested that those who supported the bill were filled with hate, that essentially it was a party based attack on love, and the worst accusation came in the comparison to Hitler’s Germany. I was appalled, but more than that, I knew that whilst it was a divisive topic, we lost something of our parliamentary excellence that I’d come to love as a freshman legislator.

Fast forward to 2006; due in large part to an unpopular war and president, the New Hampshire House changed its leadership for the first time in nearly a hundred years. The new Democratic majority held control for four years, but in that time saw a push of new policy items which included increased spending, increased taxes and expanded social issues and in 2010 the citizenry, seemingly unhappy with what had happened, elected the biggest Republican majority the NH House had ever seen (298 out of 400 members). While the Republican leadership had felt aggrieved by the treatment they received during the four years prior, interaction between the majority and minority became virtually non-existent and it translated to action on the floor. The response of the new leadership to the prior four years was an expansive repeal of most issues that had been pushed, as well as a barrage of legislation aimed at government deregulation, mixed with an overall conservative agenda of pushing right-to-work, tax cuts, abortion reforms, and election reforms (including the decennial state redistricting). Arguments between leadership teams constantly sprung up during debate on many issues, most notably during a debate on election law reform regarding college students and identification. The ranking minority member on the Election Law committee was told by the Speaker during the floor debate that members are not to use committee deliberations during debate, citing Mason’s Manual of Legislative Procedure. The member went on to finish his debate without incident. However, another member (Representative Vaillancourt) rose to ask a parliamentary inquiry regarding which section of rules covered that ruling that committee deliberations should not be discussed. The Speaker went on to suggest that the citation would be given once found by the Clerk, but that debate would continue. A member of the Speaker’s party rose to speak to the issue and mentioned that the Secretary of State had not been opposed to the bill in committee; which immediately prompted a point of order from another member asking if the rule was selectively applied or consistently applied. The member was told the debate was in order and the Speaker told the member to be seated. The Speaker then cited Mason’s Manual, Section 101, Paragraph 5, as the authority as to restricting debate on committee deliberations. Another member began to speak to the report and while mentioning something not expressly contained in the report, Representative Vaillancourt rose for a point of order that it was not contained in the

6 It is important to note that in that biennium, the rules of the House had been amended such that the order of precedence regarding sources of authority elevated Mason’s above custom, usage, and precedent and that it was very rare, in my prior history with the House, that such a firm decision regarding floor speech and committee deliberations had been made.
report and should not be discussed; the Speaker stated that he had never seen Hütchenspiel referred to in a committee report either, but that he was often allowed to discuss it. Rep. Vaillancourt then exclaimed point of order and began to argue with the Speaker that he had just ruled one way but was acting differently – the Speaker was likewise calling the member to order, and finally ordered that the Sergeant-at-Arms would bring him to order. Rep. Vaillancourt immediately put the question, “are you going to treat everyone fairly or not?” The Speaker then offered that another outburst like that would warrant his removal from the chamber. Rep. Vaillancourt immediately approached the well and stated “Sieg heil” and the Speaker ordered the Sergeant-at-Arms to remove the representative from the chamber. What followed was an interesting series of events that involved a Speaker appointing a bipartisan committee to secure an apology from the member. The committee met with the representative and was told an apology would come. Representative Vaillancourt approached the well and offered “Thank you Mister Speaker, as I was saying before, I cannot apologize for anything I did or did not do, but I do apologize for using two German words which I understand have negative ramifications, perhaps three Latin words would have been better. But I will never use a German word again including hüchenspiel, gnädige Frau, or meine damen und herren, thank you.” The committee then reported they did not feel it was an appropriate apology by Representative Vaillancourt, and that it was not consistent with their discussions with him. Represenative Vaillancourt spoke again and stated “Thank you Mister Speaker, I understand that I did not apologize for the inflammatory German word. I used negative conotation, indeed they are inflammatory, so let’s put the word inflammatory on the record, thank you.” The Speaker informed Representative Vaillancourt that members of the House had fought in World War II, members of the House had family members who died or survived the Holocaust, and that he would follow the direction of the Speaker and apologize to the House. Representative Vaillancourt arose and said that he apologized for the use of inflammatory German words and that he was aware of their conotation and should have chosen different words. The Speaker, not satisfied, demanded an immediate apology or the continued removal from the chamber. Representative Vaillancourt, apologized again, and did not add the proviso of using different words, and the Speaker accepted this apology.

The last example I present came at the beginning of this biennium (January, 2015). As I wrote in last year’s Professional Journal, the race for Speaker in New Hampshire was a contentious one, but at the end of the day, the members decided on a Speaker, and one of the inherent rights of a Speaker is to assign seating within the House chamber. Much to

---

7 Hütchenspiel is a German term which essentially translates to the word “shell-game” and was often discussed during debate by Representative Vaillancourt over his many terms. He was and is an avid lover of history and had lived in Germany and often began his floor speeches with “meine herren und damen” as the way of stating gentlemen and ladies.

8 If you would like to watch the edited version of this exchange during the day, I direct you to https://www.youtube.com/watch?v=pbfgv-eIE_qY. And if you would like to read the article from the Huffington Post with a little more history, you may find it at http://www.huffingtonpost.com/2012/05/15/steve-vaillancourt-new-hampshire-lawmaker-voter-id_n_1518432.html.

9 While Representative Vaillancourt did bring up a point which many would deem both fair and reasonable (equality of enforcement of a ruling, irrespective of party), his manner, complete lack of respect for the chair and the institution ensured that the message he was trying to convey was ultimately lost with his utterance of that German phrase so inextricably linked to Nazism.
my liking, the Speaker assigned random seating throughout the chamber for both parties; meaning that many members were sitting next to someone of the opposite party, with the exception of two rows of two divisions, which were essentially designated as leadership seating. In one case, a member had been assigned a seat in the middle of the second row and was not particularly happy about it; additionally, this member was a very vocal critic of the recently elected Speaker, but beyond that, leadership had been informed that the member was going to be relocating out of her legislative district and would have to resign. The Speaker decided to relocate the member, pending her resignation, and assign a member of leadership to the seat. According to the member’s posts on Facebook, she was planning to not go quietly on the first day of session – she intended to arrive early, sit in the previously-assigned seat, and not remove from it, additionally, she refused to surrender the legislative license plates for said seat. The Speaker and I met and he wanted to be absolutely prepared for any actions the member might seek to undertake, with the appropriate parliamentary authority to deal with any disturbance. What follows is a list that I prepared for the Speaker in the event that the member showed, refused to vacate the seat, and the House needed to take action: the list is a step-by-step handling of what rules to cite, followed by what actions could be taken.

1. The Speaker has the authority to assign seating within the House Chamber (Practice & Precedent; Mason’s)\(^\text{11}\)
2. The member should be reminded that House Rule 9 states “When the House is called to order, members shall take their seats and shall activate their voting stations immediately.”
3. The member should be reminded that House Rule 15 states “If any member transgresses the rules of the House, the Speaker shall, or any member may, call the member to order. The member called to order shall immediately sit down and the question of order shall be distinctly stated by the Speaker.”
4. House Rule number 2 states “The Speaker shall preserve decorum and order.”
5. As the Speaker has the option to put anything before the body, the House may compel the member to take her seat.
6. If the member ignores the will of the House in compelling the member to take her seat, it is in order for the House to vote to remove the member from the chamber.
7. If the member ignores the will of the House in compelling the member to take her seat and ignores the will of the House to vacate the chamber, a motion to expel is in order. Additionally, an order for recess from the chair would be in order as well.

---

\(^{10}\) In New Hampshire, our legislative license plates actually designate the member by the seat in the House chamber: for example, license plate 4-32 means the member sits in division 4 (there are 5 divisions of seating in the chamber), seat 32.

\(^{11}\) Mason’s Manual, Section 575, paragraph 1(m) states in part: The duties of the presiding officer of each house are…to have general charge and supervision of the legislative chamber, galleries, committee rooms, and adjoining and connecting hallways and passages.
While the end result, barring a complete lack of cooperation from the member, may seem draconian, we must remember that the power of the Legislature in determining the qualifications and how a member might sit, as well as punishments within their author, is a constitutional right. In this instance, the issue never came up: the member did not show up for session, and her resignation arrived in my office shortly thereafter. I highlight this example however because something as simple as chamber seating and how a member might act can cause the complete cessation of decorum in an instant.

Now, at the beginning of this article, I cited the destruction of the Highway Hotel as a major reason that members don’t affiliate personally anymore, and that decorum in general has waned. One cannot have this discussion without actively acknowledging the state of the nation at large with respect to partisan politics and the breakdown of civility and decorum throughout government at all levels, especially visible in the US House of Representatives and the US Senate. Many look to the days of divided government under President Reagan, with a Democratically controlled US House under the leadership of Speaker Tip O’Neill; and even though fighting over political policies, both referred to each as great friends “after 6 PM.” And although we cannot look to government these days without attacks of character being the norm, and seeing complete lack of respect for institutional process and civility, this phenomena isn’t as new as I had originally thought.

I am very lucky that my predecessor in this position kept an array of files throughout her 20 years as Clerk of the House, and in going through many of them, I found an article she had saved from 1997. This article appeared in the Keene Sentinel on Monday, March 10, 1997 and has the headline “N.H. House: less decorum, a different kind of politics.” This article, originally written for the Valley News (a smaller paper serving the upper valley along the Vermont border), contained some interesting observations. The article cites that thirty years ago (1967), members would preface their floor debates with niceties like “my friend” or “my esteemed colleague” but that nowadays members weren’t above hissing when they disagree with what someone said on the floor. The author of the article was astounded that members actually booed a tie-breaking vote by the state’s first female Speaker of the House, a month earlier. The author goes on to suggest that shifting demographics, technological innovations (our establishing electronic roll calls in the late 1970s) and our switch to annual sessions in the mid-1980s played a part in this evolution. “The average legislator of today is younger, more likely to be a woman and more likely to be a nonnative than 30 years ago…today’s legislator is more likely to be a real estate agent, a teacher or an attorney, while shopkeepers and contractors predominated in 1967.” Former House Speaker George Roberts (1975-1980) offered for the article: “I think public life and private life are a lot cruder and less civil than they were 30 years ago…I think the legislature’s less civil, I think it’s less tolerant.” The article cited our electronic voting as well as a means for the drop: thirty years before, all roll call votes were taken orally, and with 400 members, could take in the neighborhood of 30-60 minutes (depending on the reading), and often members would prefer to not have such votes for time purposes but also, there was no sense of immediate attack as well; additionally the 1997 article mentioned the soaring of roll call votes to 100 per year (a number which has often doubled in the last 20 years).

I must also suggest something that has contributed to an almost immediate drop of civility or decorum in a modern sense that we have not discussed up to this point as well,
social media. With the advent of social media, the insatiable appetite of 24 hour news coverage and the “got-ya” mentality of political campaigns who consistently employ video trackers for that one line that might make a great negative ad, how could the civility of political discourse ever recover? Decorum in chambers can go down the tubes in 140 characters in an instant, and often does. Who does this hurt? Certainly it hurts our citizenry, but it hurts our institutions. We, the professional staff of legislatures, are the guardians of our institutions; we seek to preserve decorum, assist all members-regardless of party, keep institutional memory alive through accurate and impartial records, and offer our members the best possible advice we can with the understanding that they have similar motives.

The title of this article you see is called Hütchenspiel, the German word for shell game. A shell game is defined as “a deceptive and evasive action or ploy, especially a political one.” I chose this title as it aptly reminded me of the case I cited above regarding Representative Vaillancourt, but it also aptly fits, I am sorry to say into the lexicon of what decorum has seemingly become in our chambers – a political action/ploy which can be deceptive and evasive. Decorum is not political, deceptive, or evasive except when it is interpreted one way for a political cause. Decorum is “behavior in keeping with good taste and propriety” and it is ever incumbent upon us, the guardians of the process and institutions, to do all we can to ensure decorum remains positive within our chambers – even if that means suggesting turning off the devices that can turn decorum upside down in 140 characters.
The Lost Parliamentary Writings of Thomas Jefferson
from the Special Collections Library of the University of Virginia

Stran L. Trout, PRP-R
Mary Loose DeViney, PRP
T. Page Johnson, PRP-R

Submitted by Susan Clarke Schaar
Clerk, Virginia Senate

Thomas Jefferson and the Virginia House of Burgesses

Thomas Jefferson had completed his education at the College of William and Mary and his reading of law under George Wythe of Williamsburg. The writing of the Declaration of Independence, his time in France, the purchase of the Louisiana territory and even the Presidency of a fledgling country were unknown to him. The 26 year old Jefferson had the red hair that he was known for, the erect posture, recreated in his statue in the Jefferson Memorial in Washington; and above all, he had the intelligence and curiosity that would mark him throughout his life.

Thomas Jefferson was elected to the Virginia House of Burgesses in 1768 to represent Albemarle County. The House was soon dissolved by Governor Botetourt, but in August of 1769 the Governor ordered new elections. In November of 1769, a reelected Jefferson was appointed to the Privileges and Elections Committee, which was tasked, among other duties, to “consider of the ancient rules and standing orders of the house, and present such as are fit to be continued, with others which they think ought to be observed”

On December 8, 1769 the Privileges and Elections Committee Chairman Edmund Pendleton made his official report to the Virginia House of Burgesses that included many of the rules in Jefferson’s document.

The Jefferson Document

The paper was first brought to our attention in the spring of 2014 as a part of the Age of Jefferson, a MOOC (Massive Open Online Course) presented by Professor Peter Onuf of the University of Virginia.

In a segment of the course, Professor Onuf visited the Special Collections Library of the University of Virginia and was shown a two part document that the library had acquired. It consisted of one sheet of paper, written on both sides in Thomas Jefferson’s hand, and divided in half horizontally. The two halves had gone their separate ways.

The top half of the document was acquired by the library in 1988 and the bottom half in 2013. Some of the taller letters in the bottom half reached across the tear, demonstrating that the two halve pages had originally been one.
Mary Loose DeViney, and Stran Trout, who were taking the class, contacted the library to obtain copies of the documents, and about the same time, in the August 2014 edition of A Point of Information, T. Page Johnson wrote an article about Jefferson’s work in the House of Burgesses and his appointment to the committee to write rules of legislative procedure.

With the two halves reunited, the significance of the document became clear. It is perhaps the earliest of Thomas Jefferson’s writings on Parliamentary Procedure. Jefferson’s well known A Manual of Parliamentary Procedure was not published until 32 years later in 1801 and is of such significance that it remains today the official procedure manual for the United States Congress, the Virginia Legislature and numerous other governmental bodies.

**Jefferson’s Sources**

We don't know what books Jefferson had access to. It is likely that George Wythe had some relevant materials and that other documents may have been available through William and Mary College or from other colonial legislators.

We have found that in the spring of 1769, Jefferson ordered copies of William Petyt's *Jus Parliamentarium* (This may have been the publication printed in 1739 well after Petyt’s death in 1707.) and William Hakewill's *Modus Tenendi Parliamentum*, printed in 1659. Hakewill's book would have included his *The Manner of How Statutes are Enacted in Parliament by Passing Bills* first published in 1641.

Several other books were in print and known to have been available in the colonies, in particular Sir Thomas Smith’s *De Republica Anglorum* first published in 1583.

Did Jefferson write down the actual procedure of the House of Burgesses based on his observation, or did he write what he thought the procedure should be? Was the work wholly his own, or was it a collaborative effort by the Committee? There are questions still to be answered.

**The Document**

The following is a transcription of the Jefferson document indicating those sections that were included in the report of the Committee of Privileges and Elections presented to the Virginia House of Burgesses on December 8, 1769. The last line of the report read: “Ordered, that the said Orders and Resolutions be standing Orders of the House.”

The numbering and check marks are as in the original. The paper includes words that were added or struck out giving evidence that it was a working document. The first part of each section are Jefferson’s words, followed by an indication as to whether or not the rule was included in the Committee’s final report, plus any changes that were made.

**Top Half - Side One**
A.6. ✓ Resolved that a question being once determined must stand judgment of the house, and cannot again be drawn into debate. [Included in the Committee Report]

A.9. ✓ Ordered that the orders for the business appointed for the day be read by the clerk before any other matter be proceeded on. [Included in the Committee Report with changes] Committee Report: “Ordered, That each Day, before the House proceeded on any other Business, the Clerk do read the Orders for taking any Matters into Consideration that Day.”

A.5. ✓ Ordered that when a question shall arise between the greater and lesser sum or the longer and shorter time the question shall be first put on the least sum and longest time. [NOT included in the Committee Report]

A.10. ✓ Ordered that all bills be read and receive dispatch in priority and order of time as they were brought in. [Included in the Committee Report with changes] Committee Report: “Ordered, That all Bills be read and dispatched in Priority and Order of Time, as they were brought in, unless the House shall direct otherwise in particular Cases.”

D3. ✓ Resolved that any person shall be at liberty to sue out an original writ or subpoena in chancery in order to prevent a bar by the statute of limitations or to file any bill in equity to examine witnesses thereupon in order only to preserve their testimony, against any member of this house notwithstanding his privilege provided that the clerk after having made out and signed such original writ or subpoena shall not deliver the same to the party or to any other during the continuance of that privilege. [Included in the Committee Report]

D.4. ✓ Resolved that all persons who are summoned to attend this house or any committee thereof as witnesses in any matter depending before them be privileged from arrests during their coming to, attending on, or going from the house or committee, and that no such witnesses shall be obligated to attend until the party at whose request they (unintelligible or struck out) shall be summoned do pay or secure to them for their attendance and travelling (sic) the same allowance as is made to witnesses attending the General court. [Included in the Committee Report with changes] Committee Report: “Resolved, That every Person summoned to attend this House, or any Committee thereof, as a Witness in any Matter, depending before them, be privileged from Arrest, during his coming to, attending on, or going from the House or Committee; and that no such Witness shall be obliged to attend, until the
Party at whose request he shall be summoned, do pay, or secure to him, for his Attendance and Travelling (sic), the same Allowance which is made to Witnesses attending the General Court."

A.1a. ✓ Ordered that a committee be appointed to inspect the journals every morning and see that true entries be made, and that thereupon such journals be printed without delay. [NOT included in the Committee Report]

A.11. ✓ Ordered that the clerk of this house (strike out) not (“to” - may be struck out) suffer any records or papers to be taken from the table or out of his custody, by any member or other person. [Included in the Committee Report with changes] Committee Report: “Ordered, That the Clerk of this House suffer not any Records or Papers to be taken from the Table, or out of his Custody, by any Member, or other Person.”

C.2. ✓ Resolved that if any person having a right to vote for two members to serve in the general assembly shall give a single vote such person hath no right to give his second vote during such election. [Included in the Committee Report]

A. ✓ Ordered that no member shall absent himself from the duty of the house unless he have leave or be sick and unable to attend. [Included in the Committee Report]

A.2. ✓ Ordered that when any member is about to speak in debate or deliver any matter to the house he shall rise from his seat, and without advancing from thence shall with due respect address himself to mr speaker, confining himself strictly the point in (Ends in mid-sentence. The remaining part of the sentence from the Committee report reads: “... Debates, and avoiding all indecent and disrespectful Language.”) [Included in the Committee Report]

Top Half - Side Two

A.13. ✓ Ordered that when the house is to rise every member keep his seat till the speaker go out, and then everyone in his course orderly as he sits. [Included in the Committee Report with changes] Committee Report: “Ordered, That when the House is to rise, every Member keep his Seat till the Speaker go out, and then every one to follow in Order, as he sits.”

A.7. ✓ Ordered that no member while another is speaking in the course of debate or while any bill, order, or other matter shall be reading or opening, or while the speaker is putting any question shall entertain private discourse, stand up, walk into, out of, or across the house (“to another” - may be struck out), or read any printed book. [NOT included in the Committee Report]
A.8.b. ✓ Ordered that no member who is not present when any question is put by mr speaker be counted on either side tho’ he happen to be present at the time of the division. [Combination of A.8.b and A.8.?.a. is included in the Committee Report] Committee Report: “Ordered, That no Member shall vote on any Question, in the Event of which he is immediately interested; nor in any other Case, where he was not present when the Question was put by the Speaker, or by the Chairman in any Committee.”

A.8.?.a. ✓ That no member shall vote on any question in the event of which he is immediately interested. [Combination of A.8.b and A.8.?.a. is included in the Committee Report. See A.8.b. above]

(No number) That the orders of the House be drawn up every day and read the next morning before any other business be done, and then ordered in the journal and printed without delay (The entire paragraph may have been crossed out. This unnumbered section may be covered in section A.9) [NOT included in the Committee Report]

D.2 ✓ That the privilege of this house shall not be allowed to any member is cases wherein he is only a trustee. [NOT included in the Committee Report]

D 1. ✓ That any member may waive his privilege in matters of a private nature without the leave of the house and having so done he shall not resume the same. [Included in the Committee Report with changes] Committee Report: “Resolved, That any Member may wave his Privilege in any Matter of a private Nature, without the Leave of the House; and, having so done, he shall not, in that Instance, resume the same.”

?5.b. ✓ [Ordered] That no person be taken into the custody of the serjeant (sic) at arms upon any complaint

Bottom Half - Side Two

of a breach of privilege until the matter of such complaint shall have been examined by the committee of privileges and reported to the house. [Included in the Committee Report with “Ordered” added]

C.3 ✓ Resolved That where the house shall adjudge any petition touching elections to be frivolous and vexatious the house will order satisfaction to be made to the person petitioned against. [Included in the Committee Report]

C.1. ✓ Resolved that if any person hath procured himself to be elected or returned as a member of this house or endeavored so to be by bribery or other corrupt practices this house will proceed with the utmost severity against such person. [Included in the Committee Report]
D.5.a ✓ Resolved that if any person shall tamper with any witnesses in respect of their evidence to be given to this house or any committee thereof or directly or indirectly endeavor to deter or hinder any person from appearing or giving evidence the same is declared to be a high crime and misdemeanor and this house will proceed with the utmost severity against such offenders. [Included in the Committee Report]

A.1. ✓ Ordered that whenever the house is to attend the governor in the Council chamber the several passages be cleared of strangers so that the members may freely pass and that no member shall go into or come out of the council chamber before the speaker. [Included in the Committee report]

Jefferson Fragments, written by Thomas Jefferson in 1769 in his own hand as a member of the Virginia House of Burgesses Privileges and Elections Committee From the Special Collections Library of the University of Virginia, top: MSS 10803, bottom: MSS 10803-a
A. 14. v. Ordered that a committee be appointed to inspect the journals and see that true entries be made, and that thereupon such journals be immediately printed without delay.

A. 11. v. Ordered that the clerk of this house shall not suffer any records or papers to be taken from the table or out of his custody, by any member or other person.

A. 12. v. Provided that if any person having a right to vote for two members to serve in the general assembly shall give a single vote such person hath no right to give his second vote during such election.

A. v. Ordered that no member shall absent himself from the house without leave or permit unless he be sick and unable to attend.

A. 1. v. Ordered that when any member is about to speak in debate or deliver any matter to the house he shall rise from his seat, and without advancing from thence shall with due respect address himself to the speaker, confirming himself strictly the subject in

A. 6. v. Ordered that when the house is to rise every member keep his seat till the speaker go out, and then every one in his course orderly as he rise.

A. 47 a. v. Ordered that no member while another is speaking in the course of debate, or while the speaker is putting any question, shall address private discourse, stand up, walk into, out of, or across the floor, or read any printed book.

A. 66. v. Ordered that no member who is not present when any question is put by the speaker on either side of the house be taken into the division, unless the division be immediately decided.

A. 66 a. v. Ordered that no member shall vote on any question, in the event of which he is immediately interested.

A. 66 b. v. That the orders of the house be read over every day before the house, and if the business be dispended with, the orders be put under the table.

D. v. That the privilege of this house shall not be allowed to any member in cases wherein he is only a trustee.

D. 1. v. That any member may waive his privilege in matters of a private nature and with the leave of the house, and having so done he shall not resume the same.

E. v. That no person be taken into the custody of the sergeant at arms opposed to any person.
References:


Jefferson Fragments, Special Collections Library of the University of Virginia, top: MSS 10803, and bottom: MSS 10803-a


*Journals of the House of Burgesses of Virginia, 1766-1769, Volume II*, pages 228, 232, and 323-325


Whitesell, David, *This Just In: A Happy Reunion*, posted on May 16, 2013 on http://smallnotes.library.virginia.edu
# PROFESSIONAL JOURNAL INDEX
## 1995 – 2016

## Administration

<table>
<thead>
<tr>
<th>Season</th>
<th>Year</th>
<th>Author</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fall</td>
<td>1997</td>
<td>Boulter, David E.</td>
<td>Strategic Planning and Performance Budgeting: A New Approach to Managing Maine State Government</td>
</tr>
<tr>
<td>Spring</td>
<td>2001</td>
<td>Carey, Patti B.</td>
<td>Understanding the Four Generations in Today's Workplace</td>
</tr>
<tr>
<td>Spring</td>
<td>2006</td>
<td>Hedrick, JoAnn</td>
<td>Passage of Bills and Budgets in the United States System – A Small State’s Perspective</td>
</tr>
<tr>
<td>Spring</td>
<td>2001</td>
<td>Henderson, Dave</td>
<td>Personnel Policies in the Legislative Environment</td>
</tr>
<tr>
<td>Summer</td>
<td>2000</td>
<td>Jones, Janet E.</td>
<td>RFP: A Mission Not Impossible</td>
</tr>
<tr>
<td>Spring</td>
<td>1998</td>
<td>Larson, David</td>
<td>Legislative Oversight of Information Systems</td>
</tr>
<tr>
<td>Fall</td>
<td>2008</td>
<td>Leete and Maser</td>
<td>Helping Legislators Legislate</td>
</tr>
<tr>
<td>Fall</td>
<td>2015</td>
<td>Perry, Jarad</td>
<td>Strategic Planning with Term Limits</td>
</tr>
<tr>
<td>Fall</td>
<td>1995</td>
<td>Rudnicki, Barbara</td>
<td>Criticism</td>
</tr>
</tbody>
</table>

## ASLCS

<table>
<thead>
<tr>
<th>Season</th>
<th>Year</th>
<th>Author</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summer</td>
<td>2000</td>
<td>Burdick, Edward A.</td>
<td>A History of ASLCS</td>
</tr>
</tbody>
</table>

## Case Studies

<table>
<thead>
<tr>
<th>Season</th>
<th>Year</th>
<th>Author</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fall</td>
<td>2009</td>
<td>Arp, Don, Jr.</td>
<td>“An institutional ability to evaluate our own programs”: The Concept of Legislative Oversight and the History of Performance Auditing in Nebraska, 1974-2009</td>
</tr>
<tr>
<td>Fall</td>
<td>2003</td>
<td>Bailey, Mathew S.</td>
<td>The Will of the People: Arizona's Legislative Process</td>
</tr>
<tr>
<td>Summer</td>
<td>2000</td>
<td>Clemens and Schuler</td>
<td>The Ohio Joint Select Committee Process</td>
</tr>
<tr>
<td>Fall</td>
<td>2006</td>
<td>Clemens, Laura</td>
<td>Ohio Case Regarding Open Meetings and Legislative Committees</td>
</tr>
<tr>
<td>Spring</td>
<td>2010</td>
<td>Colvin, Ashley</td>
<td>Public-Private Partnerships: Legislative Oversight of Information and Technology</td>
</tr>
<tr>
<td>Fall</td>
<td>2003</td>
<td>Cosgrove, Thomas J.</td>
<td>First-Term Speakers in a Divided Government</td>
</tr>
<tr>
<td>Fall</td>
<td>2005</td>
<td>Garrett, John</td>
<td>The Balance Between Video Conferencing by the Virginia General Assembly and Requirements of Virginia’s Freedom of Information Act</td>
</tr>
<tr>
<td>Spring</td>
<td>1996</td>
<td>Dwyer, John F.</td>
<td>Iowa Senate's Management of Its Telephone Records Is Upheld by State Supreme Court</td>
</tr>
<tr>
<td>Fall</td>
<td>2003</td>
<td>Gray, LaToya</td>
<td>Virginia's Judicial Selection Process</td>
</tr>
<tr>
<td>Fall</td>
<td>2015</td>
<td>Hedges, Jeff</td>
<td>Impeachment Procedure in the Texas Legislature</td>
</tr>
<tr>
<td>Spring</td>
<td>2003</td>
<td>Howe, Jerry</td>
<td>Judicial Selection: An Important Process</td>
</tr>
<tr>
<td>Fall</td>
<td>2002</td>
<td>Jamerson, Bruce F.</td>
<td>Interpreting the Rules: Speaker's Resignation Challenges</td>
</tr>
</tbody>
</table>
Fall 2007  James, Steven T.  Government by Consensus: Restrictions on Formal Business in the Massachusetts Legislature Inspire Innovative Ways to Govern

Fall 2003  Morales, Michelle  I Will Survive: One Bill's Journey Through the Arizona Legislature

Fall 1995  Phelps, John B.  Publishing Procedural Rulings in the Florida House of Representatives

Fall 2006  Phelps, John B.  Florida Association of Professional Lobbyists, Inc. et. al. v. Division of Legislative Information Services of the Florida Office of Legislative Services et. al

Spring 2008  Regan, Patrick  The True Force of Guidance Documents in Virginia's Administrative Agencies

Spring 2009  Rosenberg, David A.  Irony, Insanity, and Chaos

Fall 2016  Smith, Paul C.  Hutchespiel: Decorum in the Legislature

Fall 2006  Speer, Alfred W.  The Establishment Clause & Legislative Session Prayer

Fall 2001  Tedcastle, Tom  High Noon at the Tallahassee Corral

Spring 1998  Todd, Tom  Nebraska's Unicameral Legislature: A Description and Some Comparisons with Minnesota's Bicameral Legislature

Fall 2006  Wattson, Peter S.  Judging Qualifications of a Legislator

**Historic Preservation**

Fall 1995  Mauzy, David B.  Restoration of the Texas Capitol

Fall 2016  Trout, Stran et al.  The Lost Parliamentary Writings of Thomas Jefferson from the Special Collections Library of the University of Virginia

Fall 2001  Wootton, James E.  Preservation and Progress at the Virginia State Capitol

Spring 2008  Wootton, James E.  Restoring Jefferson's Temple to Democracy

**International**

Fall 2000  Grove, Russell D.  The Role of the Clerk in an Australian State Legislature

Fall 2010  Grove, Russell D.  How Do They Do It? Comparative International Legislative Practices

Fall 2000  Law, K.S.  The Role of the Clerk to the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China

Spring 2004  MacMinn, E. George  The Westminster System – Does It Work in Canada?

Spring 2006  Phelps, John B.  A Consultancy in Iraq

Fall 2000  Pretorius, Pieter  The Role of the Secretary of a South African Provincial Legislature

Spring 2002  Schneider, Donald J.  Emerging Democracies
### Miscellaneous

<table>
<thead>
<tr>
<th>Season</th>
<th>Year</th>
<th>Author(s)</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summer</td>
<td>1999</td>
<td>Arinder, Max K.</td>
<td>Planning and Designing Legislatures of the Future</td>
</tr>
<tr>
<td>Fall</td>
<td>2000</td>
<td>Arinder, Max K.</td>
<td>Back to the Future: Final Report on Planning and Designing Legislatures of the Future</td>
</tr>
<tr>
<td>Fall</td>
<td>2013</td>
<td>Crumbliss, D. Adam</td>
<td>The Gergen Proposition: Initiating a Review of State Legislatures to Determine Their Readiness to Lead America in the 21st Century</td>
</tr>
<tr>
<td>Winter</td>
<td>2000</td>
<td>Drage, Jennifer</td>
<td>Initiative, Referendum, and Recall: The Process</td>
</tr>
<tr>
<td>Fall</td>
<td>2005</td>
<td>Hodson, Tim</td>
<td>Judging Legislatures</td>
</tr>
<tr>
<td>Fall</td>
<td>2010</td>
<td>Maddrea, Scott</td>
<td>Tragedy in Richmond</td>
</tr>
<tr>
<td>Fall</td>
<td>2006</td>
<td>Miller, Steve</td>
<td>Where is the Avant-Garde in Parliamentary Procedure?</td>
</tr>
<tr>
<td>Spring</td>
<td>1996</td>
<td>O'Donnell, Patrick J.</td>
<td>The Evolution of Legislative Institutions: An Examination of Recent Developments in State Legislatures and NCSL</td>
</tr>
<tr>
<td>Spring</td>
<td>1998</td>
<td>Pound, William T.</td>
<td>A Unicameral Legislature</td>
</tr>
<tr>
<td>Fall</td>
<td>2009</td>
<td>Robert, Charles</td>
<td>Book Review of Democracy’s Privileged Few: Legislative Privilege and Democratic Norms in the British and American Constitutions</td>
</tr>
<tr>
<td>Fall</td>
<td>2000</td>
<td>Rosenthal, Alan</td>
<td>A New Perspective on Representative Democracy: What Legislatures Have to Do</td>
</tr>
<tr>
<td>Fall</td>
<td>1995</td>
<td>Snow, Willis P.</td>
<td>Democracy as a Decision-Making Process: A Historical Perspective</td>
</tr>
<tr>
<td>Fall</td>
<td>2014</td>
<td>Ward, Bob</td>
<td>Lessons from Abroad</td>
</tr>
</tbody>
</table>

### Process

<table>
<thead>
<tr>
<th>Season</th>
<th>Year</th>
<th>Author(s)</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring</td>
<td>2010</td>
<td>Austin, Robert J.</td>
<td>Too Much Work, Not Enough Time: A Virginia Case Study in Improving the Legislative Process</td>
</tr>
<tr>
<td>Fall</td>
<td>1996</td>
<td>Burdick, Edward A.</td>
<td>Committee of the Whole: What Role Does It Play in Today's State Legislatures?</td>
</tr>
<tr>
<td>Spring</td>
<td>2003</td>
<td>Clapper, Thomas</td>
<td>How State Legislatures Communicate with the Federal Government</td>
</tr>
<tr>
<td>Spring</td>
<td>2008</td>
<td>Clemens, Laura</td>
<td>Ohio’s Constitutional Showdown</td>
</tr>
<tr>
<td>Fall</td>
<td>2006</td>
<td>Clift, Claire J.</td>
<td>Reflections on the Impeachment of a State Officer</td>
</tr>
<tr>
<td>Fall</td>
<td>2008</td>
<td>Clift, Claire J.</td>
<td>Three Minutes</td>
</tr>
<tr>
<td>Spring</td>
<td>2004</td>
<td>Dunlap, Matthew</td>
<td>My Roommate Has a Mohawk and a Spike Collar: Legislative Procedure in the Age of Term Limits</td>
</tr>
<tr>
<td>Spring</td>
<td>2002</td>
<td>Erickson and Barilla</td>
<td>Legislative Powers to Amend a State Constitution</td>
</tr>
<tr>
<td>Spring</td>
<td>2001</td>
<td>Erickson and Brown</td>
<td>Sources of Parliamentary Procedure: A New Precedence for Legislatures</td>
</tr>
<tr>
<td>Summer</td>
<td>1999</td>
<td>Erickson, Brenda</td>
<td>Remote Voting in Legislatures</td>
</tr>
<tr>
<td>Fall</td>
<td>2013</td>
<td>Gehring, Matt</td>
<td>Amending the State Constitution in Minnesota: An Overview of the Constitutional Process</td>
</tr>
</tbody>
</table>
Fall 2010 Gieser, Tisha  Conducting Special Session Outside of the State Capital
Spring 2004 James, Steven T.  The Power of the Executive vs. Legislature – Court Cases and Parliamentary Procedure
Spring 2010 Kintsel, Joel G.  Adoption of Procedural Rules by the Oklahoma House of Representatives: An Examination of the Historical Origins and Practical Methodology Associated with the Constitutional Right of American Legislative Bodies to Adopt Rules of Legislative Procedure
Fall 2002 Maddrea, B. Scott  Committee Restructuring Brings Positive Changes to the Virginia House
Spring 2009 Marchant, Robert J.  Legislative Rules and Operations: In Support of a Principled Legislative Process
Fall 2016 Mason, Paul  Parliamentary Procedure
Fall 1997 Mayo, Joseph W.  Rules Reform
Spring 2011 McComlossy, Megan  Ethics Commissions: Representing the Public Interest
Fall 2014 Miller, Ryan  Voice Voting in the Wisconsin Legislature
Spring 2002 Mina, Eli  Rules of Order versus Principles
Spring 2011 Morgan, Jon C.  Cloture: Its Inception and Usage in the Alabama Senate
Fall 2008 Pidgeon, Norman  Removal by Address in Massachusetts and the Action of the Legislature on the Petition for the Removal of Mr. Justice Pierce
Fall 2007 Robert and Armitage  Perjury, Contempt and Privilege – Oh My! Coercive Powers of Parliamentary Committees
Fall 2015 Smith, Paul C.  Wielding the Gavel: the 2014 NH House Speaker’s Race
Spring 2003 Tucker, Harvey J.  Legislative Logjams Reconsidered
Fall 2005 Tucker, Harvey J.  The Use of Consent Calendars In American State Legislatures
Summer 2000 Vaive, Robert  Comparing the Parliamentary System and the Congressional System
Fall 2001 Whelan, John T.  A New Majority Takes Its Turn At Improving the Process

**Staff**

Spring 2001 Barish, Larry  LSMI: A Unique Resource for State Legislatures
Fall 2001 Best, Judi  Legislative Internships: A Partnership with Higher Education
Spring 1996 Brown, Douglas G.  The Attorney-Client Relationship and Legislative Lawyers: The State Legislature as Organizational Client
Fall 2002 Gallagher and Aro  Avoiding Employment-Related Liabilities: Ten Tips from the Front Lines
Spring 2011  Galvin, Nicholas  Life Through the Eyes of a Senate Intern
Spring 2003  Geiger, Andrew  Performance Evaluations for Legislative Staff
Spring 1997  Gumm, Jay Paul  Tap Dancing in a Minefield: Legislative Staff and the Press
Fall 1997  Miller, Stephen R.  Lexicon of Reporting Objectives for Legislative Oversight
Fall 2014  Norelli, Terie  Building Relationships through NCSL
Winter 2000  Phelps, John B.  Legislative Staff: Toward a New Professional Role
Spring 2004  Phelps, John B.  Notes on the Early History of the Office of Legislative Clerk
Winter 2000  Swords, Susan  NCSL's Newest Staff Section: "LINCS" Communications Professionals
Fall 1996  Turcotte, John  Effective Legislative Presentations
Fall 2005  VanLandingham, Gary R.  When the Equilibrium Breaks, the Staffing Will Fall – Effects of Changes in Party Control of State Legislatures and Imposition of Term Limits on Legislative Staffing

Technology

Spring 1996  Behnk, William E.  California Assembly Installs Laptops for Floor Sessions
Spring 1997  Brown and Ziems  Chamber Automation in the Nebraska Legislature
Fall 2008  Coggins, Timothy L.  Virginia Law: It’s Online, But Should You Use It?
Spring 2002  Crouch, Sharon  NCSSL Technology Projects Working to Help States Share Resources
Spring 1997  Finch, Jeff  Planning for Chamber Automation
Summer 1999  Galligan, Mary  Computer Technology in the Redistricting Process
Summer 1999  Hanson, Linda  Automating the Wisconsin State Assembly
Fall 1995  Larson, David  Emerging Technology
Fall 1996  Pearson, Herman (et al)  Reengineering for Legislative Document Management
Fall 1995  Schneider, Donald J.  Full Automation of the Legislative Process: The Printing Issue
Spring 2006  Steidel, Sharon Crouch  E-Democracy – How Are Legislatures Doing?
Fall 2007  Sullenger, D. Wes  Silencing the Blogosphere: A First Amendment Caution to Legislators Considering Using Blogs to Communicate Directly with Constituents
Fall 2009  Taylor and Miri  The Sweet Path - Your Journey, Your Way: Choices, connections and a guide to the sweet path in government portal modernization.
Fall 1997  Tinkle, Carolyn J.  Chamber Automation Update in the Indiana Senate
Fall 2009  Weeks, Eddie  Data Rot and Rotten Data: The Twin Demons of Electronic Information Storage
Fall 2013  Weeks, Eddie  The Recording of the Tennessee General Assembly by the Tennessee State Library and Archives