



ROBERT RULES OF ORDER
ARTICLE XIII: LEGAL RIGHTS OF ASSEMBLIES AND TRIAL OF
THEIR MEMBERS
(ALL-IN-ONE)

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ARTICLE XIII
LEGAL RIGHTS OF ASSEMBLIES AND TRIAL OF THEIR MEMBERS

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TABLE OF CONTENTS | FL | BROWARD COUNTY | PART 2 | ARTICLE 13

Rule	Caption	Page
72	Right of an Assembly to Punish its Members	4
73	Right of an Assembly to Eject any one from its...	5
74	Rights of Ecclesiastical Tribunals	6
75	Trial of Members of Societies	8
-	Appendix	10



ROBERT RULES OF ORDER

PART: II

ARTICLE: XIII

TITLE: Legal Rights of Assemblies and Trial of Their
Members

ITEMS: 72 through 75



ITEM 72 | RIGHT OF AN ASSEMBLY TO PUNISH ITS MEMBERS

A deliberative assembly has the inherent right to make and enforce its own laws and punish an offender, the extreme penalty, however, being expulsion from its own body. When expelled, if the assembly is a permanent society, it has the right, for its own protection, to give public notice that the person has ceased to be a member of that society.

But it has no right to go beyond what is necessary for self-protection and publish the charges against the member. In a case where a member of a society was expelled, and an officer of the society published, by its order, a statement of the grave charges upon which he had been found guilty, the expelled member recovered damages from the officer in a suit for libel, the court holding that the truth of the charges did not affect the case.



ITEM 73 | RIGHT OF AN ASSEMBLY TO EJECT ANY ONE FROM ITS PLACE OF MEETING

Every deliberative assembly has the right to decide who may be present during its session; and when the assembly, either by a rule or by a vote, decides that a certain person shall not remain in the room, it is the duty of the chairman to enforce the rule of order, using whatever force is necessary to eject the party.

The chairman can detail members to remove the person, without calling upon the police. If, however, in enforcing the order, any one uses harsher measures than is necessary to remove the person, the courts have held that he, and he alone, is liable for damages, just the same as a policeman would be under similar circumstances. However badly the man may be abused while being removed from the room, neither the chairman nor the society is liable for damages, as, in ordering his removal, they did not exceed their legal rights.



ITEM 74 | RIGHTS OF ECCLESIASTICAL TRIBUNALS

Many of our deliberative assemblies are ecclesiastical bodies, and it is important to know how much respect will be paid to their decisions by the civil courts.

A church became divided, and each party claimed to be the church, and therefore entitled to the church property. The case was taken into the civil courts, and finally, on appeal, to the U.S. Supreme Court, which, after holding the case under advisement for a year, sustained the decision of the U.S. Circuit Court. The Supreme Court, in rendering its decision, laid down the broad principle that when a local church is but a part of a large and more general organization or denomination, the court will accept as final the decision of the highest ecclesiastical tribunal to which the case has been carried within that general church organization, on all questions of discipline, faith, or ecclesiastical rule, custom, or law, and will not inquire into the justice or injustice of its decree as between the parties before it. The officers, the ministers, the members, or the church body which the highest judiciary of the denomination recognizes, the court will recognize. Whom that body expels or cuts off, the court will hold to be no longer members of that church. The court laid down the following principles:¹

"Where a church is of a strictly congregational or independent organization, and the property held by it has no trust attached to it, its right to the use of the property must be determined by the ordinary principles which govern ordinary associations.

"Where the local congregation is itself a member of a much larger and more important religious organization and is under its government and control and is bound by its orders and judgments, its decisions are final and binding on legal tribunals.

"Courts having no ecclesiastical jurisdiction, cannot revise or question ordinary acts of church discipline; their only judicial power arises from the conflicting claims of the parties to the church property and the use of it."

But while the civil courts have no ecclesiastical jurisdiction, and cannot revise or question ordinary acts of church discipline, they do have jurisdiction where there are conflicting claims to



church property. An independent church by an almost unanimous vote decided to unite with another independent church. A very small minority, less than ten per cent, did not wish to unite with the other church, so they were voted letters of dismission to any other church of like faith and order, against their protest. The majority then directed the trustees to transfer their property to the other church and voted themselves a letter of dismission to unite with that church. The church then voted to disband. The majority presented their letters and were received into the other church. The minority would not use their letters, but took the matter into the courts, which, of course, decided that they were the church and owned the property. According to the practice of churches of the same denomination, no member can be forced out of the church unless for neglect of his duties as a member. Letters of dismission are granted only on the request of members, and as a general rule the membership does not terminate until the letter has been used. The church could not terminate the membership of the minority, against whom there were no charges, by voting them letters without their consent. By not using their letters they soon constituted the entire membership and rescinded the order to the trustees to transfer the property to the other church. By the hasty, ill-advised action of almost the entire church the majority lost their property. In cases where property is involved, churches cannot be too careful, and it is usually best to act under legal advice.

Footnotes

¹ Watson Vs. Jones, 13 Wallace U.S. Supreme Court Reports, p. 679. This case was decided April 15, 1872.



ITEM 75 | TRIAL OF MEMBERS OF SOCIETIES

Every deliberative assembly, having the right to purify its own body, must therefore have the right to investigate the character of its members. It can require any of them to testify in the case, under pain of expulsion if they refuse.

When the charge is against the member's character, it is usually referred to a committee of investigation or discipline, or to some standing committee, to report upon. Some societies have standing committees whose duty it is to report cases for discipline whenever any are known to them.

In either case, the committee investigates the matter and reports to the society. This report need not go into details, but should contain its recommendations as to what action the society should take, and should usually close with resolutions covering the case, so that there is no need for any one to offer any additional resolutions upon it. The ordinary resolutions, where the member is recommended to be expelled, are (1) to fix the time to which the society shall adjourn; and (2) to instruct the clerk to cite the member to appear before the society at this adjourned meeting to show cause why he should not be expelled, upon the following charges which should then be given.

After charges are preferred against a member, and the assembly has ordered that he be cited to appear for trial, he is theoretically under arrest, and is deprived of all the rights of membership until his case is disposed of. Without his consent no member should be tried at the same meeting at which the charges are preferred, excepting when the charges relate to something done at that meeting.

The clerk should send the accused a written notice to appear before the society at the time appointed, and should at the same time furnish him with a copy of the charges. A failure to obey the summons is generally cause enough for summary expulsion.

At the appointed meeting what may be called the trial takes place. Frequently the only evidence required against the member is the report of the committee. After it has been read and any additional evidence offered that the committee may see fit to introduce, the accused should be allowed to make an explanation and introduce witnesses, if he so desires. Either party should be allowed to cross-examine the other's witnesses and introduce rebutting testimony. When the evidence is all in, the accused should retire

from the room, and the society deliberate upon the question, and finally act by a vote upon the question of expulsion, or other punishment proposed. No member should be expelled by less than a two-thirds¹ vote, a quorum voting. The vote should be by ballot, except by general consent. The members of the committee preferring the charges vote the same as other members.

In acting upon the case, it must be borne in mind that there is a vast distinction between the evidence necessary to convict in a civil court and that required to convict in an ordinary society or ecclesiastical body. A notorious pickpocket could not even be arrested, much less convicted by a civil court, simply on the ground of being commonly known as a pickpocket; while such evidence would convict and expel him from any ordinary society.

The moral conviction of the truth of the charge is all that is necessary in an ecclesiastical or other deliberative body to find the accused guilty of the charges.

If the trial is liable to be long and troublesome, or of a very delicate nature, the member is frequently cited to appear before a committee, instead of the society, for trial. In this case the committee reports to the society the result of its trial of the case, with resolutions covering the punishment which it recommends the society to adopt. When the committee's report is read, the accused should be permitted to make his statement of the case, the committee being allowed to reply. The accused then retires from the room, and the society acts upon the resolutions submitted by the committee. The members of the committee should vote upon the case the same as other members.

If the accused wishes counsel at his trial, it is usual to allow it, provided the counsel is a member of the society in good standing. Should the counsel be guilty of improper conduct during the trial, the society can refuse to hear him, and can also punish him.

Footnotes

¹ The U.S. Constitution [Art. I, Sec. 5] provides that each House of Congress may "with the concurrence of two-thirds, expel a member."

APPENDIX



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