

ITEM INTRO | INTRODUCTION

Parliamentary Law refers originally to the customs and rules for conducting business in the English Parliament; and thence to the usages of deliberative assemblies in general. In England these usages of Parliament form a part of the unwritten law of the land, and in our own legislative bodies they are of authority in all cases where they do not conflict with existing rules or precedents.

But as a people we have not the respect which the English have for customs and precedents, and are always ready for such innovations as we think are improvements; hence changes have been and are constantly being made in the written rules which our legislative bodies have found best to adopt. As each house adopts its own rules, the result is that the two houses of the same legislature do not always agree in their practice; even in Congress the order of precedence of motions is not the same in both houses, and the previous question is admitted in the House of Representatives but not in the Senate. As a consequence of this, the exact method of conducting business in any particular legislative body is to be obtained only from the Legislative Manual of that body.

The vast number of societies -- political, literary, scientific, benevolent, and religious -- formed all over the land, though not legislative, are deliberative in character, and must have some system of conducting business and some rules to govern their proceedings, and are necessarily subject to the common parliamentary law where it does not conflict with their own special rules. But as their knowledge of parliamentary law has been obtained from the usages in this country, rather than from the customs of Parliament, it has resulted that these societies have followed in part the customs of our own legislative bodies, and our people have thus been educated under a system of parliamentary law which is peculiar to this country, and yet so well established as to supersede the English parliamentary law as the common law of ordinary deliberative assemblies.

The practice of the National House of Representatives should have the same force in this country as the usages of the House of Commons have in England, in determining the general principles of the common parliamentary law of the land, were it not for the fact that while the English Parliament has continued to be a strictly deliberative assembly, the business of our House of Representatives has grown so enormously that it has been obliged to make such changes in its rules and practice as will allow the majority to suppress the debate, if there has been previous debate,



and if there has been none, to limit the debate to forty minutes; and also to suppress a question for the session even without any debate. These deviations from the old parliamentary law, while necessary in the House of Representatives, are in violation of the fundamental right of a deliberative assembly to have questions thoroughly discussed before it is called upon to take action upon them, unless a large majority, at least two-thirds, is prepared to act at once. In ordinary deliberative assemblies the right to debate questions before taking final action upon them should never be suppressed by less than a two-thirds vote, and the motion to lay on the table should be used only for its legitimate parliamentary purpose of laying aside a question temporarily.

Where the practice of Congress differs from that of Parliament, the common law of this country usually follows the practice of Congress. Thus, in every American deliberative assembly having no rules for conducting business, the motion to adjourn, when it does not dissolve the assembly, would be decided to be undebatable, as in Congress, the English parliamentary law to the contrary notwithstanding; so if the previous question were negatived, the debate upon the subject would continue, as in Congress, whereas in Parliament the subject would be immediately dismissed; so, too, the previous question could be moved when there was before the assembly a motion either to commit, or to postpone definitely or indefinitely, just as in Congress, notwithstanding that, according to English parliamentary law, the previous question could not be moved under such circumstances.

The old common parliamentary law gives the same rank to the motions for the previous question, to postpone definitely, to commit, and to postpone indefinitely, so that no one of them can be moved while another one of them is pending; the House makes them rank in the order just named; while the Senate does not admit the motion for the previous question, and makes to postpone indefinitely outrank all the others. The practice of the House in this matter establishes the parliamentary law of this country, as it does in all cases where its practice is not due to the great quantity of its business or the necessities of party government. This may be illustrated by the motions to lay on the table and the previous question. The House of Representatives has completely changed the use of the motion to lay on the table from that of merely laying aside a question until the assembly chooses to resume its consideration [see foot note, 28], to a motion to kill the pending proposition. To make it more effective for this purpose, they have allowed it to be made before the member reporting a bill from the



committee is allowed to speak, and when a question is laid upon the table it cannot be taken up except by suspending the rules, which requires a two-thirds vote. For reasons previously given, such rules are necessary in Congress, but in ordinary assemblies they would do more harm than good. The same vote should be required (two-thirds vote) to stop debate and bring the assembly to a vote on the final disposition of the question, whether the intention is to adopt or to reject the proposition. The previous question and the motion to lay on the table require the same vote in Congress, and should in all assemblies where to lay on the table is used for killing propositions.

The modifications made by the House in regard to the previous question have made that motion extremely simple and useful, and its practice establishes the parliamentary law of the country as to the previous question, except in respect to its being ordered by majority vote and forty minutes' debate being allowed after it has been ordered, if the proposition has not been previously debated. It is necessary in Congress for the majority to have the power to close debate, but, such a power being in conflict with the fundamental rights of a deliberative assembly, Congress has modified it so as not to cut off debate entirely. In an ordinary assembly, with sessions not exceeding two or three hours, it should, and it does, have the power by a two-thirds vote to close debate instantly, just as by the same vote it may suspend the rules.

In matters of detail, the rules of the House of Representatives are adapted to the peculiar wants of that body, and are of no authority in any other assembly. No one, for instance, would accept the following House of Representatives rules as common parliamentary law in this country: That the chairman, in case of disorderly conduct, would have the power to order the galleries to be cleared; that any fifteen members would be authorized to compel the attendance of absent members; that each member would be limited in debate upon any question to one hour; and that the motion to suspend the rules can only be entertained on the first and third Mondays of each month. These examples are sufficient to show the absurdity of the Idea that the rules of Congress in all things determine the common parliamentary law.

While some of the rules of Congress are adapted only to legislative assemblies, and others only to the House that adopts them, yet its rules and practice, except where manifestly unsuited to ordinary deliberative assemblies, should, and do determine the



parliamentary law of the country. The people of the United States will never accept the rules and practice of the legislature, or of deliberative assemblies, of any state, or even of any section of the country, as of equal authority with the practice of the National Congress in determining the parliamentary law for the whole country.

Since, however, the sessions of Congress last from three to six months, and at times to nearly a year, whereas the great majority of ordinary deliberative assemblies have sessions lasting not more than two or three hours; and since the quorum in Congress is a majority of the members, while in most societies it is less than one-fifth, and often less than one-tenth, of the members; and since the members of Congress are paid to devote all their time during a session to the business of Congress, and can be compelled to attend, whereas in ordinary assemblies the members have other duties and their attendance is simply voluntary; and as the work of Congress is enormous and is mostly done by standing committees, of which there are fifty-six, or in committee of the whole, while in ordinary assemblies the assembly itself attends to most of its business, the rest is done usually by special committees rather than by standing committees or in committee of the whole -- as these differences exist, it is evident that the rules and practice of Congress require to be modified in some respects to adapt them to ordinary deliberative assemblies. Sometimes the old common parliamentary law is better adapted to ordinary societies, as with the motion to lay on the table. Where the two houses differ, sometimes the Senate practice is better adapted to ordinary assemblies, as in allowing each member to speak twice to the same question each day; while in allowing the previous question and in making the motion to postpone indefinitely the lowest of subsidiary motions, the practice of the House seems better adapted to ordinary assemblies. The House allows a majority to order the previous question, but if there has been no debate on the question, forty minutes' debate is permitted after the previous question has been ordered. This rule is not adapted to assemblies whose entire session may not last two hours. They should have power to close debate instantly by a two-thirds vote. This is in accordance with the general principle that the assembly by a two-thirds vote may suspend the rules, even the rule permitting debate.

As there would naturally be differences of opinion as to the application of the above principles, and it is important that the law should be definite, every deliberative assembly should imitate



our legislative bodies and adopt some Rules of Order for the conduct of its business.¹

PLAN OF THE WORK.

These Rules are prepared to meet partially this want in deliberative assemblies that are not legislative in their character. They have been made sufficiently complete to answer for the rules of an assembly until it sees fit to adopt special rules conflicting with and superseding any of the rules of detail, such as the Order of Business, etc. They are based upon the rules and practice of Congress so far as these are adapted to ordinary deliberative assemblies with short sessions and comparatively small quorums, as has just been explained. In cases where these Rules differ from the practice of Congress, usually the congressional rule will be found in a foot note. The foot notes need not be referred to for any other purpose than to ascertain the practice of Congress.

This Manual contains a Table of Contents, Table of Rules, Part I, Part II, Lesson Outlines, and the Index.

Table of Contents.

This gives a clear, systematic idea of the arrangement of subjects treated in the Manual.

Order of Precedence of Motions and Table of Rules.

A careful study of these tables so as to be able to use them quickly will enable any one in an emergency to ascertain whether a motion is in order, and whether it may be debated, or amended, or reconsidered, or requires a second, or a two-thirds vote, or is in order when another member has the floor.

Part I, comprising the main part of the Manual, contains a set of Rules of Order systematically arranged, as shown in the Table of Contents. It begins with showing how business is introduced in a deliberative assembly, and then follows it step by step until the vote is taken and announced. The next section, 10, shows what is the proper motion to use to accomplish certain objects, referring at the same time to the section where the motion will be found fully treated. Next, the motions are classified as usual into Privileged, Incidental, Subsidiary, and Main, and the general characteristics of each class given.

Then each class is taken up in order, beginning with the highest privileged motion, and a section is devoted to each motion,

including some motions that are not classified. Each of these twenty-six sections is complete in itself, so that one unfamiliar with the work need not be misled in examining any particular subject. Cross-references, in heavy-face type, are used wherever it was thought they would be helpful, the references being to sections, the number of the section being placed at the top of each page. The following is stated in reference to each motion, except some of the incidental ones, the first six points being mentioned at the beginning of each section:

- (1) Of what motions it takes precedence (that is, what motions may be pending and yet it be in order to make and consider this motion).
- (2) To what motions it yields (that is, what motions may be made and considered while this motion is pending).
- (3) Whether it is debatable or not (all motions being debatable unless the contrary is stated).
- (4) Whether it can be amended or not.
- (5) In case the motion can have no subsidiary motion applied to it, the fact is stated [see Adjourn, 17, for an example: the meaning is, that the particular motion, to adjourn, cannot be laid on the table, postponed, committed, or amended, &c.].
- (6) The vote required for its adoption, when it is not a majority.
- (7) The form of making the motion when peculiar.
- (8) The form of stating and putting the question when peculiar.
- (9) The object of the motion when not apparent.
- (10) The effect of the motion if adopted, whenever it could possibly be misunderstood.

Part II contains an explanation of the methods of organizing and conducting different kinds of meetings, giving the words used by the chairman and speakers in making and putting various motions; and also a few pages devoted to the legal rights of deliberative assemblies and ecclesiastical tribunals, and to the trial of members of such societies. The beginner especially, will find it useful to read sections 69-71 in connection with sections 1-10, thus obtaining correct ideas as to the methods of conducting business in deliberative assemblies.

The Plan for the Study of Parliamentary Law gives some helpful suggestions to clubs and individuals wishing to study parliamentary law together with a series of eighteen Lesson Outlines.

The Index refers to pages, not sections, and at the beginning are given some suggestions as to the best method of finding anything in these Rules.

DEFINITIONS.

In addition to the terms defined above (taking precedence of, yielding to, and applying to [see above]), there are other terms that are liable to be misunderstood, to which attention is called.

Accepting a report is the same as adopting it, and must be decided before the pending question, should not be confused with receiving a report, which is allowing it to be presented to the assembly.

Assembly. This term is used for the deliberative assembly, and should be replaced in motions, etc., by the proper name of the body, as society, club, church, board, convention, etc.

The Chair means the presiding officer, whether temporary or permanent.

The terms Congress and H.R., when used in this Manual, refer to the U.S. House of Representatives.

Meeting and Session. Meeting is used in this Manual for an assembling of the members of a deliberative body for any length of time during which they do not separate for longer than a few minutes, as the morning meeting, or the evening meeting, of a convention. In a society with rules providing for regular meetings every week, or month, etc., each of these regular meetings is a separate session. A called or special meeting is a distinct session. Should a regular or special meeting adjourn to meet at another time, the adjourned meeting is a continuation of the session, not a separate one; the two meetings constitute one session. In the case of a convention holding a meeting every year or two, or rather a series of meetings lasting several days, the entire series of meetings constitute one session. [See 63.]

Pending and Immediately Pending. A question is said to be pending when it has been stated by the chair and has not yet disposed of either permanently or temporarily. When several questions are pending, the one last stated by the chair, and therefore the one

to be first disposed of, is said to be the immediately pending question.

A Main motion is one that is made to bring before the assembly any particular subject. No main motion can be made when another motion is pending.

A Subsidiary motion is one that may be applied to a main motion, and to certain other motions, for the purpose of modifying them, delaying action upon them or otherwise disposing of them.

Privileged motions are such that, while having no relation to the pending question, are of such urgency or importance as to require them to take precedence of all other motions.

An Incidental motion is one that arises out of another question which is pending or has just been pending, and must be decided before the pending question, or before other business is taken up. Incidental motions have no fixed rank but take precedence of the questions out of which they arise, whether those questions are main or subsidiary or privileged.

The Previous Question does not refer, as its name would imply, to the previous question, but is the name given to the motion to close debate and at once to take the vote on the immediately pending question and such other questions as are specified in the motion.

A Substitute is an amendment where an entire resolution, or section, or one or more paragraphs, is struck out and another resolution, or section, or one or more paragraphs, is inserted in its place.

Plurality, Majority, and Two-thirds Vote. In an election a candidate has a plurality when he has a larger vote than any other candidate; he has a majority when he has more than half the votes cast, ignoring blanks. In an assembly a plurality never elects except by virtue of a rule to that effect. A majority vote when used in these rules means a majority of the votes cast, ignoring blanks, at a legal meeting, a quorum being present. A two-thirds vote is two-thirds of the votes just described. For an illustration of the difference between a two-thirds vote, a vote of two-thirds of the members present, and a vote of two-thirds of the members, see 48:4.



Footnotes

¹ Any society adopting these Rules of Order should be governed by them in all cases to which they are applicable, and in which they are not inconsistent with the by-laws and rules of order of that society. [See 67:7 for the form of a rule covering this case.] Its own rules should include all of the cases where it is desirable to vary from the rules in the Manual, and especially should provide for a Quorum [64] and an Order of Business [65], as suggested in this Manual.

