

THE CLAYTON E. MONEYMAKER AMERICAN LEGION POST 237

DEPARTMENT OF ALABAMA

STANDARD OPERATING PROCEDURES

JUDGE ADVOCATE

August 12, 2024

Purpose: Provide Post 237 Executive Committee and the membership knowledge of the duties and responsibilities of the Post Judge Advocate of The Clayton E. Moneymaker American Legion Post 237, Department of Alabama.

Scope: This SOP applies to **most** of the facets of the duties and responsibilities of the Post Judge Advocate of The Clayton E. Moneymaker American Legion Post 237, Department of Alabama. However; it is not all encompassing as there may be situations and emergencies that arise that require immediate attention that are not spelled out in the American Legion Officers Guide, Robert's Rules of Order, or the Constitution and By-laws of the Clayton E. Moneymaker American Legion Post 237, Department of Alabama.

Authority: Robert's Rules of Order (current editions dated as revised to apply), American Legion Officers Guide, and the Constitution and By-Laws of the Clayton E. Moneymaker American Legion Post 237, Department of Alabama, dated November 21, 2022.

IF AT ANYTIME THIS DOCUMENT CONFLICTS WITH THE CONSTITUTION AND BY-LAWS, THEN THE CONSTITUTION AND BY-LAWS TAKE PRECEDENCE.

References:

The American Legion 2024 Officer's Guide

The Constitution and By-Laws of the Clayton E. Moneymaker American Legion Post 237, Department of Alabama, dated November 21, 2022,

Robert's Rules of Order. New Edition, Copyright and dated September 2020

SECTION 1: INTRODUCTION

The Post Judge Advocate supplies professional advice on the conduct of Post business or to procure proper counsel. This officer is the guardian of the constitutional form of Post government. The Judge Advocate can also supply valuable assistance to other Post committees and officers, and should maintain contact with local government officials.

The Judge Advocate commonly has the duty, with others, of auditing Post financial accounts. This is done annually, usually before the election of officers, or more frequently at their discretion.

The Judge Advocate is the interpreter of the Constitution and Bylaws of the Post, Region, or District and at any time may be called upon by the Commander and other officers and members to rule on the legality of their actions and decisions in so far as they affect the good of The American Legion.

The Judge Advocate must protect the integrity of The American Legion and keep alight the torch of truth and fidelity that symbolizes the high and ennobling ideals

under which The American Legion was founded. The Judge Advocate is charged with protecting this proud heritage with wise counsel and fairness in all actions and advice.

The Judge Advocate can supply valuable assistance to other Post, Region, or District committees and officers; and should be available to the Service Officer for advice and to the Americanism Committee on matters relating to education and naturalization laws. Any committee can benefit from the Judge Advocate's contacts with local government.

Note: Should a Judge Advocate ever be in doubt, or not sure, of the legality of his/her decision, contact the Department Judge Advocate for clarification.

A Judge Advocate should never answer questions or render a decision based on personal beliefs or opinions.

A Judge Advocate must be familiar with the Post Constitution and By-Laws, and be reminded that they are the governing documents for Post operations. Should you encounter a problem not covered by the Post Constitution and by-Laws, contact Department Headquarters.

SECTION 2: CONSTITUTION AND BY-LAWS

Each Post in the Department of Alabama shall have its own Post Constitution and By-Laws, and they cannot conflict with the Constitution and By-Laws of The American Legion and/or the Department of Alabama.

Judge Advocates should familiarize themselves with The American Legion and Department of Alabama Constitution and By-Laws to successfully perform their duties.

SECTION 3: PARLIAMENTARY PROCEDURE (Roberts Rules of Order)

Parliamentary procedure is the application of parliamentary law to the conduct of an organization. It is wise for all leaders to familiarize themselves with the accustomed technique of conducting a meeting. While it is important the members understand the fundamental rules of parliamentary procedure, this knowledge should be used only to ensure order, to expedite business and to develop an organization that will adhere to the objects for which it was organized. For a member to constantly raise points of order and to insist upon the strict observance of every rule in peaceable assembly, where there are members ignorant of those rules and customs, is but to defeat the opportunity of gradually accustoming the membership of the proper observance of parliamentary procedure.

It is important for an American Legion Post to adopt some authority on parliamentary law, and for the members to be familiar with both the specific and the general rules of the organization. A copy of the Post By-Laws should always be on the Commander's desk.

Most all Alabama Post's Constitution and Bylaws contain a reference to Roberts Rules of Order as the parliamentary procedure for use in meetings of the Post. But what does this really mean? What are Roberts Rules? Why do we need a set of parliamentary procedures?

To be honest the following was taken from a website <http://www.robertsrules.org/rulesintro.htm>. These explanations, along with the Cheat Sheet are good references to keep on hand.

What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings, which allows everyone to be heard and to make decisions without confusion.

Why is Parliamentary Procedure Important?

Because it's a time-tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So, it's important that everyone know these basic rules!

Posts using Roberts Rules usually follow a fixed order of business. Below is a typical example:

1. Call to order.
2. Roll call of members present (or Officers).
3. Reading of minutes of last meeting.
4. Officers' reports.
5. Committee reports.
6. Old Business --- Important business from previous sessions designated for consideration at this meeting.
7. Unfinished business.
8. New business.
9. Good of The American Legion.
10. Adjournment.

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to order.
 2. Second motions.
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3. Debate motions.

4. Vote on motion

SECTION 4: THERE ARE FOUR BASIC TYPES OF MOTIONS:

Main Motions: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.

1. **Subsidiary Motions:** Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
2. **Privileged Motions:** Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
3. **Incidental Motions:** Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

How are Motions Presented?

1. **Obtaining the floor:**
 - a. Wait until the last speaker has finished.
 - b. Rise and address the Commander by saying, "Mr. Commander, or Madame Commander."
 - c. Wait until the Commander recognizes you.
 2. **Make your motion:**
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on your subject.
 3. Wait for someone to second your motion
 4. Another member will second your motion or the Commander will call for a second.
 5. If there is no second to your motion it is lost. (If someone begins debate on the motion without a second; the need for a second is immaterial and debate should proceed)
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6. The Commander states your motion:

- a. The Commander will say, "It has been moved and seconded that we ..." Thus, placing your motion before the membership for consideration and action.
- b. The membership then either debates your motion, or may move directly to a vote.
- c. Once your motion is presented to the membership by the Commander it becomes "assembly property", and cannot be changed by you without the consent of the members.

7. Expanding on your motion

- a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
- b. The mover is always allowed to speak first.
- c. All comments and debate must be directed to the Commander.
- d. Keep to the time limit for speaking that has been established.
- e. The mover may speak again only after other speakers are finished, unless called upon by the Commander.

8. Putting the question to the membership

- a. The Commander asks, "Are you ready to vote on the question?"
- b. If there is no more discussion, a vote is taken.
- c. On a motion to move the previous question may be adapted.

Voting on a Motion:

The method of vote on any motion depends on the situation and the By-Laws of policy of your organization. There are five methods used to vote by most organizations, they are:

1. By Voice -- The Commander asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.

2. By Roll Call -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. By General Consent -- When a motion is not likely to be opposed, the Commander says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division -- This is a slight verification of a voice vote. It does not require a count unless the Commander so desires. Members raise their hands or stand.
5. By Ballot -- Members write their vote on a slip of paper, this method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting:

1. Motion to Table -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. Motion to Postpone Indefinitely -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But it will only work if you use it properly.

1. Allow motions that are in order.
2. Have members obtain the floor properly.
3. Speak clearly and concisely.
4. Obey the rules of debate.

Most importantly, BE COURTEOUS.

NO MOTIONS NECESSARY ON MATTERS THAT REQUIRE AN AUDIT

In the case of the Post Finance Report, Club Room Report, Lounge Report they should be referred to an auditing committee, as the vote to accept the report does not endorse the accuracy of the figures, for the assembly can only be sure of that by having the report audited. Whenever such a financial report is made, the chair, without any motion, should say it is referred to the auditing committee or auditors, if there are any. If there are none, then the proper motion is to refer it to an auditing committee to be appointed by the chair. When the auditing committee reports, this report should be accepted, or adopted, which carries with it the endorsement of the financial report. If the motion passes to refer the report is approved, it must be made available for audit in accordance with the audit procedures contained in the Constitution and By-Laws.

APPENDIX A

ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something for a more pressing issue	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

APPENDIX B

PROCEDURES FOR HANDLING A MAIN MOTION

NOTE: Nothing goes to discussion without a motion being on the floor.

Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

How the Motion is Brought Before the Assembly

- The member makes the motion: I move that (or "to") ... and resumes his seat.
- Another member seconds the motion: I second the motion or I second it or second.
- The chair states the motion: It is moved and seconded that ... Are you ready for the question?

Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

The chair puts the motion to a vote

1. The chair asks: Are you ready for the question? If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'. (Pause for response.) Those opposed, say 'Nay'. (Pause for response.) Those abstained please say 'Aye'.

The chair announces the result of the vote.

1. The ayes have it, the motion carries, and ... (indicating the effect of the vote) or
2. The nays have it and the motion fails

WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities; only address the Chair; never someone else
3. Avoid questioning motives
4. Be polite

HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Commander, I move that _____."

AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Commander, I move that the motion be amended by adding the following words _____."
- After recognition, "Commander, I move that the motion be amended by striking out the following words _____."
- After recognition, "Commander, I move that the motion be amended by striking out the following words, _____, and adding in their place the following words _____."

REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Commander, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration. Many times, a motion to Lay on the Table is improperly used in this instance.

- After recognition, "Commander, I move to postpone the question until _____."

LAY ON THE TABLE

The subsidiary motion to lay on the table is properly used only when it is necessary to suspend consideration of a main motion in order to deal with another matter that has come up unexpectedly and which must be dealt with before the pending motion can be properly addressed. It has, however, become common to misuse this motion to end consideration of the pending main

motion without debate, or to mistakenly assume that its adoption prevents further consideration of the main motion at all, or until a specified time. The use of the motion to lay on the table to kill a motion is improper; instead, a motion to postpone indefinitely should be used.

- After recognition, "Commander, I move to lay the pending question on the table."

QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote. • After recognition, "Commander, I move the previous question."

LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Commander, I move to limit discussion to two minutes per speaker."

POSTPONE INDEFINITELY

You want to kill a motion that is being discussed without voting on the merits of the motion.

- After recognition, "Commander, I move to postpone the question indefinitely."

POSTPONE INDEFINITELY

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Commander, I move to postpone the motion indefinitely."

RECESS

You want to take a break for a while.

- After recognition, "Commander, I move to recess for ten minutes."

ADJOURNMENT

You want the meeting to end.

- After recognition, "Commander, I move to adjourn."

PERMISSION TO WITHDRAW A MOTION

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Commander, I ask permission to withdraw my motion."

CALL FOR ORDERS OF THE DAY

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

SUSPENDING THE RULES

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Commander, I move to suspend the rules and move item 5 to position 2."

POINT OF PERSONAL PRIVILEGE

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."

- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."

COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also, you want to keep out visitors and the press.

- After recognition, "Commander, I move that we go into a committee of the whole."

POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

APPENDIX C

Rule Classification and Requirements (Order of Precedence in Governing Documents)		
Class of Rule	Requirements to Adopt	Requirements to Suspend
Charter	Adopted by majority vote or as approved by law or governing authority	Cannot be suspended
Constitution and Bylaws	Adopted by membership	Cannot be suspended
Special Rules of Order	Previous notice & 2/3 vote, or a majority of entire membership	2/3 Vote
Standing Rules	Majority vote	Can be suspended for session by majority vote during a meeting
Modified Roberts Rules of Order	Adopted in bylaws	2/3 vote