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Sent: Monday, May 26, 2014 11:49 AM
To: Ann Brooks Gould; swalagin@rci.rutgers.edu
Subject: Procedure

Hello Ann and Ken:

When Ann asked me to be Parliamentarian last year, she and I discussed the possibility of revising some of our procedures to be more consistent with Roberts Rules. We've had matters of more substance to attend to, but now seemed like a good time to turn my mind to a couple of issues. My goal here is to reduce occasions in the future when I on Ann's left tell her what Roberts Rules say, and Ken, on her right, tells her what we usually do, and they are not the same advice, and someone always ends up frustrated!

To be clear where this is headed: we are not required to follow Roberts Rules. We are only required to follow Roberts Rules when our own Handbook doesn't tell us what to do. So if we don't want to follow Roberts, the solution is simple: put what we want to do instead specifically into our Handbook. As well as being formally correct, this will have the advantage of not relying on Ken's and my fading memories, and be a clearer guide to those who follow us.

Each of you may have your own thoughts on areas to which we could usefully turn our minds or ask USGC for an investigation. In this email I want to raise two: Senate responses to Committee Reports, and procedure for Motions and Amendments. No hurry: this was hard to write and will be harder to read!

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1. Committee Reports

A committee is charged to work on an issue, and dis-charges that responsibility by reporting to the Senate. We have been working towards a better understanding that the committee reports to the Senate and not EC, so that EC's role is only to docket or not. So far so good, and the committee is done. What does the Senate do with this? Here are some possibilities:

a. an assembly can vote to receive a report - Roberts excoriates this, because a "yes" vote is pointless (it has already been received) and a "no" vote would be meaningless (it has already been received!). We don't do this, so no need to discuss further.

b. an assembly can vote to adopt a report: if we do this, it means that the report of the committee becomes the report of the Senate (to the Administration? BOG?) - it is a vote to agree with every single word and comma; Roberts advises against this most of the time (see below for reasons)

c. an assembly can vote to adopt recommendations made by a committee in a report: this means that the recommendations become those of the Senate as a whole - but the Senate expresses no view on the committee's work, reasons, arguments, etc.

The difference is this: suppose a committee reports that a potential commencement speaker is a possible war criminal, and recommends that this person be dis-invited; a senator who believes that the potential speaker is NOT a war criminal, and that in any case everyone is innocent until proved guilty, might not want to vote to adopt such a report; however, if they

believed that this was an incredibly bad time to become involved in public controversy and that a flawed process had passed over a much better alternative speaker, they might well be willing to vote to adopt a recommendation to dis-invite, without sharing in the committee's reasons. Thus Roberts takes the view that the more you ask members to agree with, the greater the risk that they might disagree with inessentials and the motion be lost. He thus favors adopting recommendations and not voting to adopt reports, except in specific cases where we literally want or need the Senate to adopt every word of a report as it own.

d. an assembly can vote to adopt a resolution recommended in a report; a resolution resolves to DO something. Thus, it is meaningless for Senate to resolve that someone else do something. A resolution to send a telegram of congratulations to Pope Francis on his election would be a decision that the Senate would send such a telegram - thus very doable. Later, we we proceed to send it! Of course, we could resolve to do this - or we could adopt a recommendation that the University as a whole send a telegram; by adopting this, we would not be planning to DO anything, but to ask the University to do it (a recommendation that they might not accept, of course). So one pitfall to avoid is trying to resolve that someone else act. Another is failing to do what we mean: so, we COULD adopt a resolution to recommend that a telegram be sent. Technically, this would NOT be recommending the University to send it; it would be resolving that we would (at some time) recommend. Then we would also later need to recommend. In this case, simpler to adopt a recommendation that the University act, from the get-go.

One circumstance in which we traditionally have taken the circuitous route because it sounds more positive is where we want BOG to change regulations. Consider a recent case: "be it therefore resolved that the Senate recommends . . . substitution for current University Policy 50.2.1 (shown as Appendix A . . .) of a revised University Policy 50.2.1 shown in Appendix B . . ." Here WE can't resolve to change policy. We COULD have recommended that policy be changed. Instead, we (as often before) resolved to recommend that policy be changed - because it sounds more assertive (but it really isn't)!!!

e. an assembly having received a report (so that the committee HAS then dis-charged its responsibility) can choose to do nothing. If a report does not make any recommendations, it is not necessary to adopt the report (with its reasons for not recommending anything) and there are no recommendations to adopt. So Senate can pass on, with no motion being voted on at all. Just occasionally, there may be good reasons for adopting a whole report that makes no recommendations (as opposed to adopting a recommendation of no change, which is not the same thing!) - but usually, not.

So a possibly helpful charge to USGC might be to provide advice on drafting of committee reports in various circumstances so that it is always clear which option we are planning to exercise, and can do so correctly

2. Motions and Amendments

a. generally under Roberts Rules a motion is moved and seconded, then it is stated by the chair¹, it is debated, the chair puts the question², and it is voted on. We have fairly few motions that don't arise from reports, so we don't get into this very often - and when we do, we don't always follow these rules. In particular, we often skip the two actions of the chair. This

may be practical, because our motions can be wordy, and Senators often have them in writing already. The main consideration is being precise about what the Motion IS: neither the proposer moving the motion, nor the seconding of it, actually place the issue before the assembly - it is 1 above that does that. Prior to 1, therefore, the proposer can change his mind, or be persuaded by friends to change the wording of the motion he is asking for. When the Chair formally states the motion it becomes a pending motion (which has implications for what else can be done); it belongs to the assembly now, not to the original proposer; only the assembly can now change the motion that is is discussing, through the familiar process of moving amendments that must be seconded, debated , and voted on before they take effect. In the course of debate, then, the motion may be formally amended, and the purpose of 2 above is chiefly to state the precise wording of the exact form of the motion (following whatever amendments have been adopted) the assembly is being asked in the end to vote on. This is the correct procedure for us to follow in rare cases where we have motions on the agenda.

b. More importantly, though, most of our voting follows as a result of receiving the report of a committee; it is acceptable to waive the formal moving of a motion (as we do) on the grounds that it is implicit in the presenting of the report that contains it; it is correct NOT to require a second (the assumption is that already more than one person on the committee supports the motion in the report). The correct procedure would then be for the Chair to state the motion. We generally skip this - I understand it is practical to skip it, since someone else has just finished talking about it, possibly at great length, and it is usually already available to Senators, and it is often lengthy. However, there are costs. One is, it often leaves ambiguity as to whether the motion is to adopt the recommendations/resolutions, or the report as a whole. See the debate in section 1 earlier. Another is that it obscures the transition from a committee presenting it's report (which belongs to the committee, is the product of its work, and cannot be altered by the Senate) to debating a motion arising from the presentation of the report - a motion that belongs to the Senate, not to the committee, and that can be adopted, amended, rejected, or even tabled, by the Senate. Let's look at a specific imaginary example: a committee recommends a resolution that, because of a lot of things it has considered, including the fact that 12% of our graduate students in Newark are from the Ukraine, we should send a team of three Senators to observe the Presidential election there. The recommendation portion of the report, with three "whereas" clauses, is a page long - so we assume (rather than formally state), that this is the motion. What now follows?

c. Senator Norman M* offers a "friendly amendment" that points out that the report claims that Crimea is part of the Ukraine, whereas historically it never was, suggesting instead a claim that Crimea was for a time part of the Ukraine. Is this in order? No. We are not debating the report. It is not Senate's job to correct the committee's work or change it's views on this historically controversial issue. We are currently debating the motion - in other words the resolution. That this is so is obscured by not having signaled the transition clearly by having the chair formally state the motion when we got there.

d. Senator Peter G* offers a "friendly amendment" observing that as the report claims that 220 of 2000 Newark graduate students are Ukrainian, the "whereas" clause in the resolution should be changed to read 11% not 12%. Is this in order? No. We are clearly debating the motion at this point, and it

belongs to the Senate not to the committee. The committee could possibly earlier have changed its report and asked for a different motion; now that a motion is pending, however, the Senate has to vote to amend what we are debating. We have obscured this by not having the chair formally state the motion. Senator G* must put this as an amendment and it needs a second before the Senate debates and/or votes on the mathematics . . .

e. It is for this reason that Roberts prefers not even to have "whereas" clauses be part of motions. The substantive issue to debate is whether or not to send a team to the Ukraine. Correcting errors in the mathematics of the reasoning is not real progress, and motions can be lost because some Senator s disagree with the whereas clauses even though they accept the "be it resolved" clause . . .

f. If this were a rare case where the (implied) motion was to adopt the report as a whole, with every word becoming part of a report BY the Senate to someone else (e.g., to the President), Senator M*'s amendment would have been in order, though not a "friendly amendment" - the Senate would need to vote on which historical view it preferred to take in ITS report, regardless of what the committee had reported to the Senate.

g. If Senator G* had made his mathematical observation BEFORE Senate took up the motion, the committee might have agreed to amend its report and proposed recommendation before the question was explicitly (or as we currently work, implicitly) stated by the chair.

h. All this explains why I have been telling Ann that in Roberts Rules there is no such thing as a friendly amendment. If we like what we have been doing in the past, we can regularize it by writing such a procedure into our Handbook. If so, we should be careful. It would never be appropriate to get the Senate to change a committee's report - however wrong - and, on the other side, it would never be appropriate to let lack of dissent from those members of a committee who happen to be present at some particular point in time determine the text of a motion already pending before the Senate. A committee makes its own report for better or worse. The Senate has authority over motions it debates, not a committee (not even MY committee!) Part of any charge we adopt, then, has to introduce clarity about how we transition from the presentation of a report to debating an incidental motion arising from it, as well as clarity as to whether that motion is to adopt recommendation/resolutions or the whole report.

i. Senator Ann G* offers an amendment that, to contain costs, the team be reduced to two rather than three. This is also too late to be "friendly", but addresses the resolution itself, and is a Good Amendment in that sense - if it attracts a second and we proceed to debate the substance of saving money versus the team's doing an effective job of covering the whole of the Ukraine, we are not wasting our time . . .

j. Senator Norman M* now proposes an ironic amendment that is clearly not friendly: that instead of a team of observers, we send a gunboat*. This is also not in order, being a different motion altogether, not an amendment to the pending motion!

Another charge for USGC?

Best wishes

Peter

* Historical joke about British imperialism . . .