

Town Meeting Time

*A Handbook of
Parliamentary Law*

RICHARD B. JOHNSON
BENJAMIN A. TRUSMAN
CHARLES Y. WALSWORTH

to fix a method of voting or to divide the question, and who failed to make the motion before the debate, is to make his or her wishes known during the discussion and ask to be recognized by the moderator for this purpose at the close of debate.

§47. Point of Order

Basic Points: *A point of order does not require a second or a vote and may not be debated, amended or reconsidered, but may interrupt the speaker.*

Form of Motion: *"I rise to a point of order."*

The first thing to be said is that a point of order is not really a motion at all, but a question. (The question is often put in the form of an assertion.) This being the case, it escapes the interdiction of a by-law based on House Rule XVI, 4.¹ What sets it and the question of personal privilege (see §57) apart from any other questions which may be introduced into the debate is that they raise a question so important as to justify the interruption of a speaker. For this reason, it needs to be carefully defined, since some have the erroneous impression that it is merely a label which, by being prefixed to whatever the interrupter has to say, gives uninhibited license to break in and seize the floor. On a point of order, a voter may raise one or more of the following questions and no others:

1. Is the speaker entitled to the floor (for example, is the person a nonvoter, or a voter who has overstayed the time allotted by by-law)?
2. Is what the speaker is saying or proposing indecorous, frivolous, irrelevant, illegal or contrary to proper procedure?
3. Is any pending action frivolous, irrelevant, illegal or contrary to proper procedure?

A point of order may be a tactful hint from one who can see a point the moderator has missed, or it may be a bona fide inquiry.

§47 ¹See §38 *supra*.

Any attempt to use it as a device to usurp the floor should be dealt with firmly.

The proper way to raise a point of order is to rise and address the chair as follows: "Mr. Moderator, I rise to a point of order." It is imperative then to remain silent until the moderator says, "Please state your point of order."

A point of order resembles other motions in that it states a question, but, not being a motion, it need not be seconded; and whereas other questions are put to the meeting by the moderator, a point of order is decided by the moderator alone, without debate. There is no reason for the moderator to be rushed into a hasty decision. It is fine to be able to give the impression of having all the nice points of procedure at one's fingertips, but the effect is ruined if the quick answer is erroneous, and the meeting will usually follow more willingly the moderator who takes time to be right, rather than the hasty and erratic one. Furthermore, there are instances of august presiding officers who take time to look up the precedents.² The point should be decided, however, before proceeding further.

If the moderator needs factual information to decide a point of order (for example, if the point is whether or not a proposed bond issue is within the town's debt limit), he or she should inquire of the appropriate officials, or of others. If the information is not available, the moderator should recess the meeting or ask that the matter be postponed until the information can be obtained.

If the point raised is that the speaker is indulging in personalities, it may also be a question of privilege (see §57 *infra*), but there is no need to be overly particular about the label.

² Deschler 306; Jefferson 172; Manual for the Massachusetts General Court, Note to House Rule 73.

Chapter 8

Privileged Motions

§56. In General

Privileged motions relate to the conduct of the meeting, regardless of whatever particular question, if any, may be pending, and so have priority over all other motions. There are only five privileged motions which are appropriate to town meetings, and they rank among themselves, from highest to lowest, in the following order:

- To dissolve or "to adjourn sine die"
- To adjourn to a fixed time, or to recess
- A point of no quorum
- To fix the time to (or at) which to adjourn
- A question of privilege

§57. A Question of Privilege

Basic Points: *A question of privilege does not require a second or a vote and may not be debated, amended¹ or reconsidered, but may interrupt the speaker.*

Form of Motion: *"I rise to a question of privilege."*

Questions of privilege relate first to the rights and privileges of the meeting collectively, its safety, dignity and the integrity of its proceedings; and second to the rights, reputation and conduct of the voters or town meeting members individually, in their capacity as voters or members.²

By the manuals, a question of privilege is the lowest ranking of the privileged motions,³ but in Congress, and therefore presumably in those towns which follow House Rule XVI, 4,⁴ a question of privilege is not a motion but a question (like a point of order)⁵ and so escapes the bar of that rule. In Congress it takes precedence of all other questions except

§57 ¹Cushing 128; Demeter 101. Robert 67 contra.

² See House Rule IX.

³ Bolton 25-28; Cushing 128; Demeter 101; Robert 66.

⁴ See §38 *supra*.

⁵ See §47 *supra*.

motions to adjourn.⁶

In Congress, questions of privilege range from matters of high constitutional prerogative, such as immunity from arrest and freedom of debate,⁷ to the comfort and convenience of the members.⁸ In town meetings, questions of privilege are usually limited to the latter.⁹ If it is a mere matter of the temperature or ventilation of the room, a voter should refrain, within reason, from raising the question in the middle of debate,¹⁰ but if it is a matter of noise, which prevents the speaker from being heard, the voter should speak up. A discreet call of "Louder, please" will usually suffice if the speaker's voice is too low, but if the problem is one of conversation or other disturbance nearby, the voter should rise, even interrupting the speaker if necessary,¹¹ say, "Mr. Moderator, I rise to a question of privilege," wait until the moderator directs him or her to state it, and then do so. Since it is not a motion, it need not be seconded.

In most cases, no vote is necessary. The matter can be dealt with by a simple request from the chair. To vote on whether or not to open or close a window does not greatly enhance the dignity of the meeting, but if necessary it is better than a squabble over it.

If a speaker indulges in personalities, the person attacked or any other person may rise to a question of personal privilege. The moderator should make it unnecessary by promptly calling the speaker to order. Occasionally the person raising the question of personalities may characterize the objection as a point of order. Strictly speaking, it is a question of privilege, and the moderator should simply treat it as such.

More serious questions of privilege are fortunately rare. In case of threats or attempted bribes, the meeting can do no

⁶ House Rule IX.

⁷ Art. I, §6.

⁸ Deschler 321.

⁹ Proposals to blow up the assembly, whether real, as in Parliament on the first Guy Fawkes's Day, or feigned, as in Lynnfield town meeting on November 20, 1961, raise fundamental questions of privilege.

¹⁰ Bolton 28.

¹¹ Robert 66.

more than express its opinion, so other proceedings are required to produce concrete results, but an expression of opinion by the meeting is not insignificant. A voter or member should always have the right to bring such matters to the attention of the town.