

Continuous Breach

Lorenzo Cuesta
Professional Registered Parliamentarian
National Association of Parliamentarians
District 8 Conference
<http://www.roberts-rules.com>
May 14, 2011



Breach of a Rule

- It is the right of every member who notices a breach of a rule to insist on its enforcement.
- A ruling by the chair may decide that the point is not well taken. No breach exists.
- The members may appeal and vote so that their decision will stand.
- If the assembly chooses to permit the breach, no one can keep the assembly from being in error.

Timely Point of Order

- If the chair states a motion that is not in order, a Point of Order must be made before the time when debate starts.
- If the chair conducts an incorrect voting practice, a Point of Order must be made before the next question is introduced.
- A Point of Order must be raised at the time the breach occurs.
- Otherwise, the Point of Order is too late, and the breach will be allowed in a continuing nature.

Three Options on Point of Order

1. Point well taken

Breach is corrected, graciously.

2. Point not well taken

Appeal is possible, begrudgingly.

3. Point not in a timely manner

Breach continues.

However, for some violations there is no time limit to correct.



But I always followed Robert's Rules of Order.
Who are you to question Robert's Rules?

No Time Limit to Correct if...

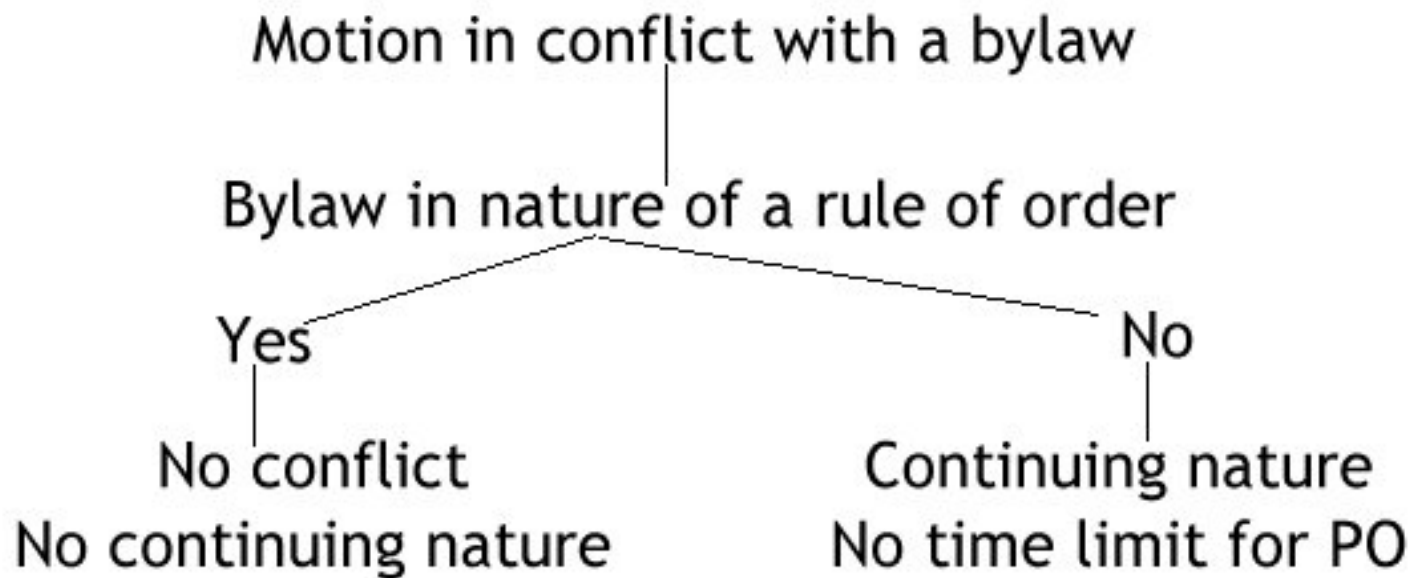
A main motion is adopted that conflicts with...

1. The society's charter, constitution or bylaws;
2. A previously adopted motion that is still in force;
3. An applicable rule (federal, state, local, etc.);
(Procedural not substantive)
4. Fundamental principles of parliamentary law;
5. A rule that protects absentees;
6. A basic right of an individual member (p.255).
(p.244)

1. Motions that Conflict

- Motion A conflicts with a bylaw.
- That bylaw is not in the nature of a rule of order (meaning not RONR type of rule).
- Result: A Point of Order on a conflict with this kind of a bylaw has no time limit.

1. Motions that Conflict



1. Continuing Breach?

Bylaw 1: President shall chair all special committees. (p.433)

Bylaw 2: Debate by committee members will be limited to 2 minutes each. (p.375)

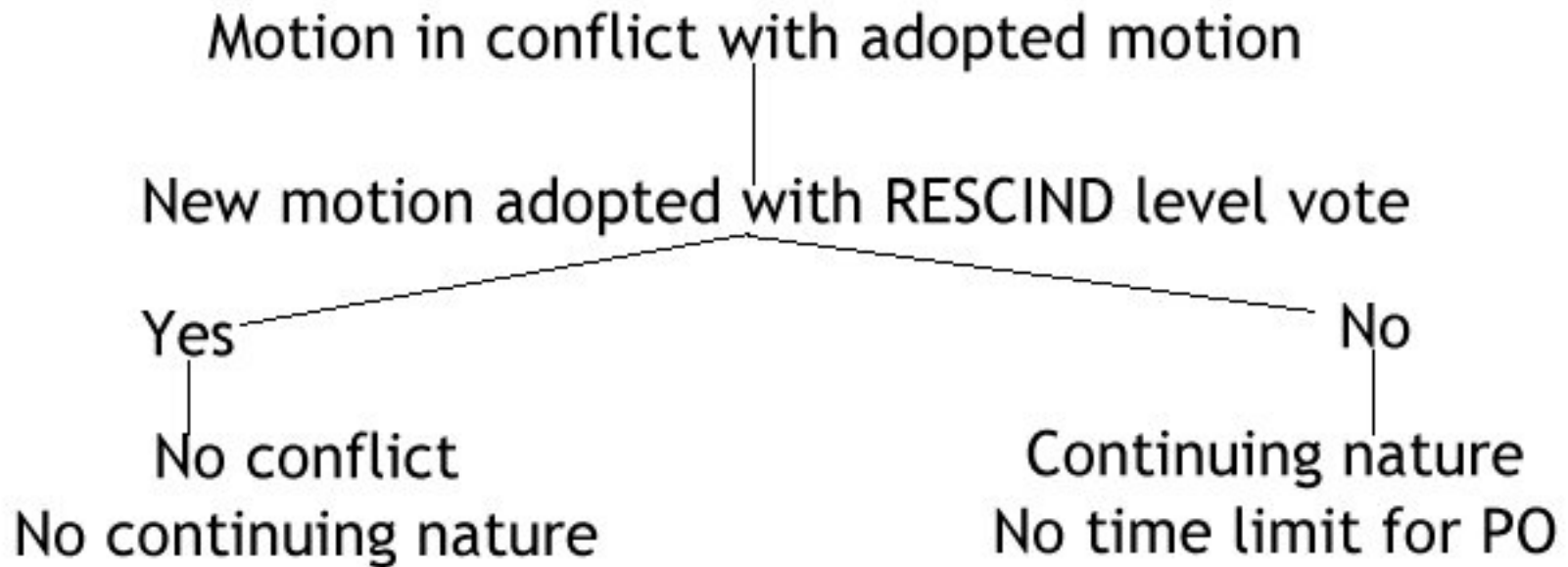
Motion: VP shall chair the research committee and determine committee members' debate limits.

If a Point of Order is raised at next meeting, is it in order?

2. Motions that Conflict

- Motion A conflicts with a previously adopted main motion.
- Motion A was adopted but not by the vote required to rescind the original motion.
- Result: A Point of Order on a conflict with a motion adopted without the vote required to rescind has no time limit.

2. Motions that Conflict



2. Continuing Breach?

Old Motion: Secretary will send out the meeting notice by US postal mail.

New Motion: Secretary will send out the meeting notice by email.

New motion was adopted with a quorum of 20 members present, 9 'aye', 6 'no'.

If a Point of Order is raised at next meeting, is it in order?

3. Motions that Conflict

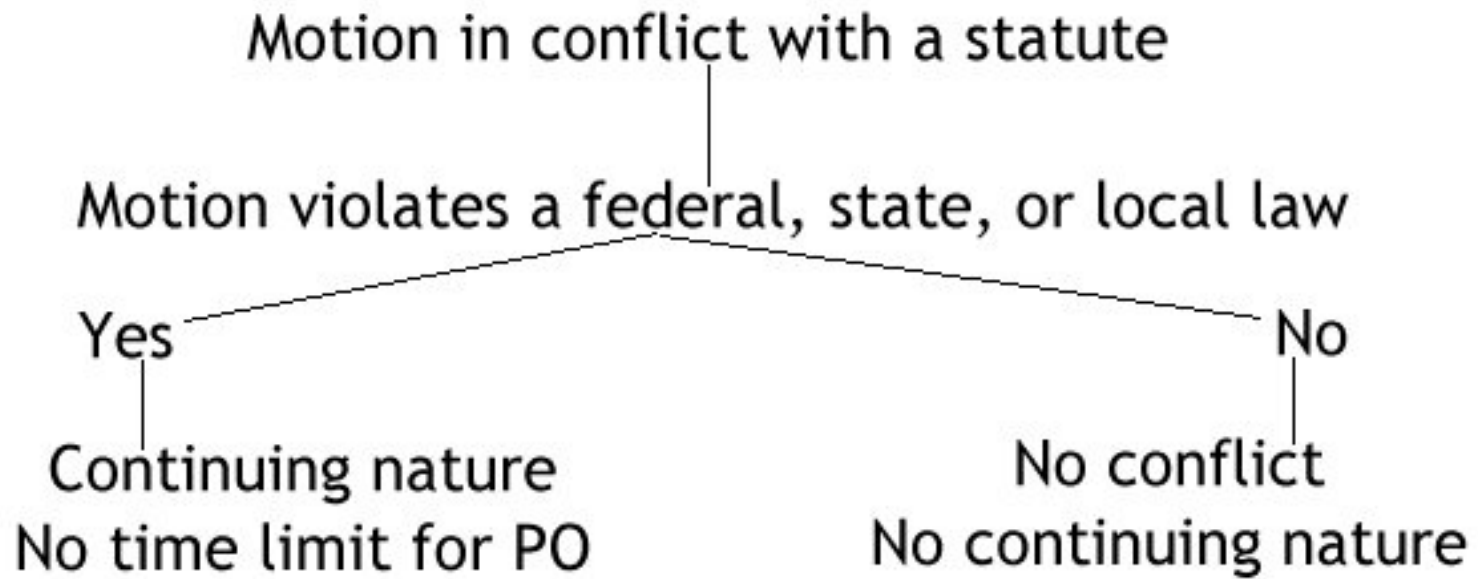
California corporate code requires

1. quorum to be a majority of the authorized positions,
2. business adopted by a board must receive a majority of votes cast, and
3. enough votes to equal the required quorum.

Motion A was adopted in presence of a quorum, by a majority vote, but fewer than the required quorum.

Result: A Point of Order on this conflict has no time limit.

3. Motions that Conflict



3. Continuing Breach?

An incorporated association's board of 12 members adopted a motion in the presence of a quorum with 6 'aye', 1 'no'.

If a Point of Order is raised at next meeting, is it in order?

4. Motions that Conflict

- Motion A conflicts with a fundamental principle of parliamentary law – there is no time limit on a Point of Order (p.255). For example:
 - Consideration of one question at a time;
 - Only members may vote;
 - Must be present to vote;
 - Cumulative voting prohibited (p.429).

4. Continuing Breach?

An association is preparing for an officer election, but cannot attract a quorum to the meetings.

As a result, the board adopts these motions:

1. to serve free pizza;
2. to allow proxies; and
3. to instruct the members to elect the president by awarding 2 points for their #1 choice, and 1 point for their #2 choice.

If a Point of Order is raised at next meeting, is it in order?

5. Motions that Conflict

- Motion A conflicts with a rule that protects absentees – there is no time limit on a Point of Order (p.255). For example:
 - Rules requiring the presence of a quorum;
 - Rules requiring a previous notice of a proposed amendment to the bylaws.

5. Continuing Breach?

An association sent out a notice by postal mail that included the new wording for the upcoming bylaw amendments.

By accident, the secretary used an old mailing list and reached only 90 of the 100 members.

At the meeting, all 100 members showed up.

If a Point of Order is raised at next meeting, is it in order?

6. Motions that Conflict

- Motion A conflicts with the rights of the individual member – there is no time limit on a Point of Order (p.255) .
- Elect officers by secret ballot;
- Dispense with the Order of Business;
- Deny a member the right...
 - To attend meetings;
 - To make motions;
 - To speak in debate;
 - To vote.

6. Continuing Breach?

During a ballot-required election, one officer ran unopposed. The chair instructed the secretary to cast one vote for the candidate. The chair declared the candidate elected (p.399) .

A Point of Order was ruled not well take.

If a Point of Order is raised at next meeting, is it in order?

6. Continuing Breach?

Bylaw: New members must be voted in.

Polls were opened throughout the meeting for voting. Towards the end of the meeting, the chair asked if anybody else needed to vote before declaring the polls closed.

A Point of Order was ruled not well take.

If a Point of Order is raised at next meeting, is it in order?

6. Continuing Breach?

A society cannot get a quorum at its meetings. It has not been able to conduct any business in three monthly meetings. It decides to mail a ballot to all its members to adopt a smaller quorum. The bylaws do not allow vote by mail.

A Point of Order was ruled not well take.

If a Point of Order is raised at next meeting, is it in order?

Comments?



parliam@roberts-rules.com

<http://www.roberts-rules.com>