

Spring 1978

The Power Within, Part Two: Procedural Rules Reform to Improve Florida's Legislative Process

Tom R. Moore

Follow this and additional works at: <http://ir.law.fsu.edu/lr>



Part of the [State and Local Government Law Commons](#)

Recommended Citation

Tom R. Moore, *The Power Within, Part Two: Procedural Rules Reform to Improve Florida's Legislative Process*, 6 Fla. St. U. L. Rev. 357 (2014).

<http://ir.law.fsu.edu/lr/vol6/iss2/2>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Florida State University Law Review by an authorized editor of Scholarship Repository. For more information, please contact bkaplan@law.fsu.edu.

THE POWER WITHIN

REPRESENTATIVE TOM R. MOORE*

PART TWO: PROCEDURAL RULES REFORM TO IMPROVE FLORIDA'S LEGISLATIVE PROCESS

It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members.

—Thomas Jefferson¹

I. INTRODUCTION

Part One of this two-part article, published in a recent issue of this review, introduced the subject of legislative reform.² That part presented an overview of the present powers of various Florida legislative leaders and the need for change. The author reviewed the existing system of checks and balances on the exercise of power by Florida's presiding legislative officers and concluded that this system is notable primarily for the absence of constraints on the exercise of power. The author also made specific proposals in Part One for reform through constitutional revision. This part picks up from that point and enters a different arena—the legislature itself.

As explained in Part One, much power is concentrated in the hands of the presiding officers in the Florida Legislature. On the positive side, this helps the legislature deal quickly and effectively with mounting budgets and increasingly complicated problems. The Florida Legislature's relationship with the executive branch is one which pits two strong legislative presiding officers against the state's Governor and six elected Cabinet officers.³ With an executive run

* Member, Florida House of Representatives, elected 1974. B.S.B.A., University of Florida, 1963; J.D., University of Florida, 1966.

1. T. Jefferson, *Manual of Parliamentary Practice* § 1, reprinted in H.R. Doc. No. 416, 93d Cong., 2d Sess. 117 (1975) [hereinafter cited as *Jefferson's Manual*]. Thomas Jefferson prepared this manual for his own guidance as President of the Senate in the years of his Vice-Presidency, 1797-1801. The first footnote in the Rules of the House of Representatives of the United States explains that the United States House adopted a rule in 1837 providing that Jefferson's Manual should "govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House." U.S.H.R. Rule XLII, H.R. Doc. No. 416, 93d Cong., 2d Sess. 643 (1974). The Florida House, in turn, has provided by rule that the parliamentary practice of the United States House will govern in all cases not covered by its own rules. Fla. H.R. Rule 15.1 (1976).

2. See Moore, *The Power Within* (pt. 1), 5 FLA. ST. U.L. REV. 603 (1977).

3. The executive branch in Florida is characterized by a unique cabinet system. This

by committee—i.e., the Cabinet and Governor—in many subject areas,⁴ it is no wonder that a recent study ranked the Florida Legislature first in the nation in “independence.”⁵

At this point in Florida’s history, several major questions arise: To what extent, if any, should Florida lawmakers provide internal legislative checks and balances on their strong presiding officers? In what manner should legislators define or redefine their individual power and influence over the legislative process, from bill drafting to final passage? And to what extent should the legislature assert its power of the purse in dealing with the executive branch?

In addressing these questions, this final section covers four areas of needed legislative reform.⁶ Section II directly attacks the problem of overly concentrated and unchecked power in the hands of Florida’s presiding officers. Section III suggests methods for improving the present calendaring process. Section IV considers the legislative committee system vis-a-vis avenues which would more adequately fulfill the function of a committee. And section V focuses on the organization of the chamber, including the election of the presiding officer and the adoption of procedural rules.

Reform of legislative procedural rules can effectively democratize

system rests in part upon article IV, § 4 of the Florida Constitution, which provides for six constitutional Cabinet officers with specific areas of authority and responsibility. These Cabinet officers possess constitutionally conferred powers as well as prescribed duties and also “shall exercise such powers and perform such duties as may be prescribed by law.” Article IV, § 5 provides for their statewide election. Article IV, § 6 serves as the constitutional basis for further grants of power to individual Cabinet members to either head executive departments, collectively serve with the Governor as head of executive departments, or vote with three other Cabinet members on “appointment to or removal from any designated statutory office.”

While only the Governor possesses power to veto legislation, conferred by article III, § 8, legislative relationships with the executive branch are indeed plural in Florida and involve various power combinations between Cabinet and legislative leaders.

4. Chapter 20, Florida Statutes (1977), delineates the basic organization of Florida’s state government. The “head of the department” of the various major state agencies varies from individual Cabinet members themselves—five such departments—or individuals appointed by the Governor, to the Governor and Cabinet as a seven-member body or to a board appointed by either the Governor or by the Governor and the Cabinet. The following departments have the Governor and Cabinet as a seven-member department head: the Department of Education, the Department of Criminal Law Enforcement, the Department of Revenue, the Department of General Services, the Department of Highway Safety and Motor Vehicles, and the Department of Natural Resources.

5. CITIZENS CONFERENCE OF STATE LEGISLATURES, *THE SOMETIME GOVERNMENTS: A CRITICAL STUDY OF THE 50 AMERICAN LEGISLATURES* 52 (1973) [hereinafter cited as *THE SOMETIME GOVERNMENTS*].

6. At the same time, any other relevant areas and issues remain unexamined—such as the hiring and firing of legislative employees, waiver of legislative rules, circumventing the “order of business” through “special order,” appointing and controlling conference committees, and putting questions to a vote. These omissions exist not from avoidance but rather from limitations of time and space.

the Florida legislative process. Although the "captiousness of the members,"⁷ to borrow Jefferson's phrase, is under generally effective control through present rules, the potential for the exercise of caprice by the presiding officers is not. The extent to which this will change in the future is up to lawmakers themselves—and perhaps to their constituents, who can be expected to make increased demands for a fairer system. Certainly at any given organization session of the Florida Legislature a simple majority of the members of a legislative chamber can rewrite its procedural rules, subject only to a few constitutional constraints.⁸ The means for change, therefore, are readily available and within the reach of legislators themselves.

Without legislative reform, citizen complaints about the lawmaking process and resultant laws will grow louder each year. The hectic, practiced confusion of the present legislative process demands immediate attention. As the volume of proposed legislation grows and as the role of state government expands, citizens will rightfully demand a more understandable and fairer system.

II. PROVIDING CHECKS & BALANCES ON THE EXERCISE OF POWER BY THE PRESIDING OFFICER

By the end of March, 1976, Florida lawmakers had proposed nearly 300 pages of specific suggestions for rules reform for the house of representatives.⁹ Of these, several dealt with the various power

7. Captiousness is defined as "calculated to confuse, entrap or entangle in argument." WEBSTER'S SEVENTH NEW COLLEGIATE DICTIONARY 124 (1st ed. 1970). This definition connotes active deception. But the real problem in the Florida legislative process is the passive half-truth that omits discussion or even mention of the controversial portion of a legislative proposal. Section III of this article addresses this problem, particularly as to the end-of-the-session logjam of bills. To this extent, the "captiousness of the members" is coupled with legislative nature: one is not inclined to volunteer information that may kill his legislative proposal.

8. Article III, § 4 of the Florida Constitution authorizes each house to determine its own procedural rules. By custom, each house adopts its rules at the organization session constitutionally required to be held on the fourteenth day following each general election. To the author's knowledge, no challenge has ever been raised as to the right of a simple majority to establish the rules for each biennium. The rules themselves state that: "Unless otherwise indicated by these Rules, all action by the House shall be by majority vote of those Members present." Fla. H.R. Rule 15.4 (1976); Fla. S. Rule 11.4 (1976). There is no reason to believe that the constitutional language of article III, § 4 would fail to secure the right of a majority of each new house to adopt its own rules, even if the membership of its predecessor house in the prior biennium attempted to impose its rules upon the newly elected body by a provision for automatic readoption of old rules.

9. During the summer and fall of 1975, a group of first-term house members, including the author, who were keenly interested in legislative reform, worked and pushed for procedural rules reform. Joined by veteran house members also interested in reform, the effort resulted in a substantial rewriting of the Florida House Rules at the outset of the 1976 session.

functions of the speaker. This discussion focuses on the most important of those suggestions.

Little consensus exists among legislators on ways to check and balance the power of a presiding officer. About the only matters on which lawmakers generally agree are that: (1) the presiding officer must be "strong," and (2) reform of the rules to provide some checks and balances on a strong presiding officer is probably not a bad idea.

Within this broad framework, one could proceed to analyze each of the proposals for new ways to assign members to committees, to select committee chairmen, to refer bills to committee, to hire and fire legislative employees, and so forth. Such a task, however, is not only awesome but of dubious value, at least for the immediate present. More important at this time is an analysis of conflicting philosophies on basic approaches. Although this section examines some very specific proposals, they are only examples for which variations already exist. This section is intended to show simply that a legislative chamber can retain a "strong" presiding officer while simultaneously providing for itself and for its individual members the power to assure fairness on the part of the individual holding that top legislative post.

A. *How strong is "too strong"?*

Part One listed and briefly discussed the major powers of Florida's presiding officers. The checks and balances on the exercise of these powers in the Florida Legislature are remarkable for their absence. Without repeating any of that discussion, suffice it to say as an introduction here that a number of changes can be made either: (1) to distribute the responsibility and authority for performing certain functions or (2) to check a presiding officer who unfairly exercises, or is contemplating the unfair exercise of, one of his powers. A third approach is a combination of the two. It has been said that "[a] legislature . . . cannot be genuinely representative if its leaders have too much power; neither can it function very well if leaders do not have enough power."¹⁰

That quotation is of particular interest in the light of the critical evaluation in 1970 of the nation's fifty legislatures. As stated, Florida ranked first in "independence."¹¹ However, the glaring downfall

A special subcommittee of the House Rules Committee met several times in early 1976 to sort through the numerous specific proposals submitted to the clerk of the house. The subcommittee did not favorably report to the full rules committee any of the proposals dealing with checks and balances on the power of the presiding officer or other issues which this article discusses.

10. *THE SOMETIME GOVERNMENTS*, *supra* note 5, at 75.

11. *Id.* at 52.

of the Florida Legislature was, and perhaps remains, its lack of "representativeness." Florida ranked thirtieth in this category.¹² Before deciding that a legislature cannot be both "functional" with strong leadership and "representative" with leaders who must heed wishes of others, one must consider the rating for the 1970 California Legislature—ranking first in the nation in the "functional" category and second in the "representative" category. So it can be done.

B. Checks on power

Aside from removal from office—the ultimate check on abuse of power—several approaches exist to provide checks on powers now exercised by Florida's presiding officers. These would involve absolutely no change in the designation of the presiding officer as the person to exercise the particular power function. For example, the assignment of members to committees is totally within the power of the presiding officer. This in itself hardly seems like "too much" power. However, the absence of any procedure for review of those committee assignments is an invitation to abuse.

A realistic check on this power would be the creation of an appeal or review procedure by which a member could seek a committee assignment other than the one given him by the presiding officer. If a member has two or three special areas of interest and expertise, but he received assignments to committees in which he has little or no interest or background, an appeals committee could review the fairness of the original assignments. The review committee could consist of any combination of legislators—from the membership of the entire chamber to a special committee established for that purpose. At least in the 120-member house, review by the entire membership would be cumbersome, not to mention an unwise use of legislative time.

An existing committee, or a new committee created for review purposes, would obviously have less meaning and significance as a review board if appointed by the presiding officer as opposed to being elected by the membership. Thus, an elected Committee on Committees would be preferred. The election process for such a committee could be established to assure that the Committee on Committees would itself be a cross section of the full membership. House Bill 656, filed during the 1977 session, used language that provides such a mechanism for creating a Committee on Committees.¹³

12. *Id.*

13. House Bill 656 suggested the following language for selection of a cross section of members to the Committee on Committees:

Some lawmakers have expressed fear of an elected Committee on Committees. This fear is usually couched in terms of the old bugaboo of the "seniority system." This opposition misses the point. Such a committee can be limited in its power to that of a review board. It need not assume any authority and power other than review functions. It may serve to "check" power yet possess no power to exercise any function initially.

Second, the history of rapid membership turnover in the Florida Legislature¹⁴ would have to change considerably before an elected Committee on Committees posed a serious threat as a seniority system. Even if Florida lawmakers allowed an eventual evolution of increasing power in the membership of an elected Committee on Committees, the threat of abuse would be less than in the present system—which concentrates full powers in *one* individual.

The potential review of decisions of a presiding officer by whatever method is indeed attractive as a viable alternative to the present system. Such a process could also be used to review other decisions, such as bill referrals or even staff hiring and firing.

(c) The full membership of the House of Representatives shall elect the membership of the Committee on Committees at the organizational session following each general election. The Committee on Committees shall be composed of those 12 members of the House of Representatives receiving the greatest number of votes in the organizational session balloting for membership on the committee. Each member of the House of Representatives shall be entitled to cast 12 votes in such balloting. Cumulative voting shall be permitted to assure opportunity for representation of minority interests on the committee. In the event of a tie vote, a runoff election shall immediately follow, each member being entitled to a number of votes equal to the number of positions remaining to be filled on the committee, cumulative voting permitted, until all positions are filled.

(d) The Committee on Committees shall meet as soon after the adjournment of the organizational session as is practical and elect its chairman.

14. The offices of the clerk of the house and the secretary of the senate provided the following statistics on election of new members to their respective chambers in the general elections of the 1970s:

<u>Election Year</u>	<u>New Representatives</u>	<u>New Senators</u>
1970	32	9
1972	48	16
1974	41	12
1976	31	6

Thus, the percentage of new members in the 120-member house ranged from 24% to 40% with each election. In the 40-member senate, the percentage of new members ranged from 15% to 40%. Ordinarily only half of the senators face reelection each general election since they have four-year terms. In 1972, however, all senators stood for reelection as part of the decennial reapportionment of the legislature.

C. *Redistribution of power*

Certain powers of the presiding officer could very well be exercised by someone else and yet leave Florida's presiding officers strong. For example, the legislature should consider eliminating the power of the presiding officer to remove a member from one or all of his committees or from his position as chairman of a committee. An alternative approach would allow review by the entire chamber or by a Committee on Committees of all removals by the presiding officer.

This latter approach, however, responds too weakly to the seriousness of this particular problem. At present, a committee chairman cannot comfortably afford to cross the presiding officer on any subject of importance to the presiding officer. The presiding officer, should he desire, can substantially dictate the final legislative product on each and every matter. The lurking threat of significant power loss to the chairman of each committee looms with each directive or request of the presiding officer. Some involvement of a third party is needed *before* removal.

This is not to suggest that the presiding officer should no longer play a role in the process of transferring a member from a committee or from the chairmanship of a committee. To the contrary, the presiding officer's role should remain a major one. What is suggested is that the removal or addition of a member from or to a committee or from a committee chairmanship should not be possible without action of the membership of the chamber or some other person or entity. The affected committee or a Committee on Committees might perform this function. Or an elected majority or minority leader might share the removal power with the presiding officer as to members of the majority or minority party respectively.

Several specific proposals on this issue have emerged from the reform movement begun in the summer of 1975. The most practical and politically possible reform for removal from and addition to committees is the following simple addition to the rules: "During any session, no Member shall be added to or removed from any standing committee unless and until such additional assignment or removal is taken up for consideration on the floor and approved by majority vote."¹⁵ This proposal poses a significant change from the status quo, but it is relatively modest compared with other possibilities.¹⁶ Such a rule would provide the membership with the means

15. Fla. HB 604 (1977).

16. Another proposal would be the creation of a year-round elected Committee on Committees to approve or reject changes in committee assignments and committee chairmanships. Without a permanent committee operational throughout the year, a presiding officer

to prevent the stacking of a committee during a session to pass or kill particular legislation,¹⁷ yet it would maintain the present power of the presiding officer for most of each calendar year, including interim committee meeting periods.

As for a removal process for committee chairmen, the following proposed rule is likewise practical and politically possible:

Standing or select committees; power to remove chairman.—Upon recommendation of the Speaker [or President of the Senate], each standing or select committee may remove its chairman from the chairmanship of the committee by a majority vote of the total membership of the committee. By a vote of two-thirds of the total membership of a committee, a committee may remove its chairman from the chairmanship of the committee without recommendation of the Speaker [or President of the Senate]. A chairman may not be removed from the chairmanship of a committee except by one of the above procedures or by two-thirds vote of the full membership.¹⁸

This proposal is also significant. It would maintain the dominant role of the presiding officer in the removal process. To that extent, it is a modest reform. It would, however, make a committee chairman vulnerable to removal by his committee even if the presiding officer opposed or refused to recommend the removal—but this removal would only be possible by an extraordinary two-thirds vote of the total committee membership. At the same time, and perhaps more importantly, it would protect a popular and competent committee chairman from removal by a capricious presiding officer.

These two reforms alone would foster a considerable democratization of the Florida legislative process. At the same time, though, the presiding officer would remain both strong and important in the removal process. He would continue to have his own appointees in the various committees and chairmanships, and he could substantially influence any effort to remove a committee chairman, either in favor of or against removal.

Some reformers urge the election of each committee chairman—either by the whole chamber or by the committee members. Certainly this reform would tend to increase the “representativeness” of persons chosen to lead. At the same time it would substantially dilute the power of the presiding officer.

could remove or add members as he chose at any time other than when the legislature is in session—that is, for nine to ten months of each year.

17. See Moore, *supra* note 2, at 614.

18. This is essentially the text of HB 603 from the 1977 session.

If one had to choose the one power of the presiding officer most crucial to a program-oriented administration, it would be the power to name the chairman of each committee.¹⁹ The presiding officer with a legislative program must have the ability to place persons in leadership positions who will support that program.²⁰ So long as Florida lawmakers view their presiding officer as one who legitimately should not only have, but promote, a legislative program, the power to appoint committee chairmen should remain with the presiding officer. At such time as Florida lawmakers come to view their presiding officer as one who should be process-oriented and not program-oriented, the members themselves should elect the committee chairmen.

This view prevails quite strongly among majority party members in both chambers. It assumes the desirability of a system with a very strong presiding officer who can forcefully achieve his legislative program. This assumption seems dangerously undemocratic. Majority party lawmakers tend to mislead themselves as to the degree to which their chosen leader agrees with their own ideas of what the legislative program should be. They also tend to concede issues to the presiding officer to protect their own place in the pecking order. Such dynamics thus tend to deny democratic representation to the people of Florida. That is, the collective will of Floridians can be sacrificed to the will of the presiding officer.

The legislative program goals of the majority party might be better achieved—and certainly would be more democratically achieved—through greater use of the majority party caucus. The election of a majority leader, for example—rather than his appointment by the presiding officer in the house or his nonexistence in the senate—could substantially alter the role of the presiding officer in pushing for a legislative program. It might well be that an elected majority leader could assess the views of the membership of the majority party far more effectively than is presently done by the presiding officer. Indeed, the presiding officer at present is hampered by his dual role as leader of the majority party and leader of the whole chamber. Somehow the presiding officer is supposed to promote a legislative program of the majority party and also fairly allow the minority party a voice in opposing that legislative program.

19. The next most important power is probably the power to control the flow of legislation to the floor.

20. For a discussion of the power of each committee chairman to shape the legislative product on the jurisdictional subject matter of the committee chaired, see Moore, *supra* note 2, at 614.

It is politically unlikely that Florida lawmakers in either chamber will move toward a process-oriented presiding officer in the foreseeable future. Some support for that objective is nevertheless apparent. In any event, Florida's present legislative process and practices would have to change significantly before they would become process-oriented. Thus stated, it is likely that appointed committee chairmen will remain a part of the legislative process in Florida for the foreseeable future.

III. IMPROVING THE CALENDARING PROCESS

A settled order of business is . . . necessary for the government of the presiding person, and to restrain individual Members from calling up favorite measures, or matters under their special patronage, out of their just turn.

—Thomas Jefferson²¹

Even in Jefferson's time, fairness in the calendaring process was a serious concern. According to Jefferson's manual on legislative procedure, the Speaker decided "what bills or other matter shall be first taken up . . ." ²² This power was left to the Speaker's "own discretion, *unless* the House on a question [decided] to take up a particular subject." ²³ It would seem that a simple majority of the House, in Jefferson's time, established the order in which bills were considered. The present United States House rule on priority of business states that such matters "shall be decided by a majority without debate." ²⁴ The historical note indicates that the rule was adopted in 1803 "to prevent obstructive debate." ²⁵

During the evolution of the legislative procedural rules, the concept of ultimate control of the flow of legislation by a simple majority vote of members was lost. In Florida, the "Special Order Calendar" (or list of bills) evolved in both the house and the senate as virtually the exclusive vehicle by which a bill may reach the floor. ²⁶

21. Jefferson's Manual, *supra* note 1, at § 14.

22. Jefferson's Manual, *supra* note 1, at § 14. Jefferson said lawmakers should "clear the House of business gradatim as it is brought on, and prevent, to a certain degree, its immense accumulation toward the close of the session." *Id.*

23. *Id.* (emphasis added).

24. U.S.H.R. Rule XXV, H.R. Doc. No. 416, *supra* note 1, at 599.

25. *Id.*

26. See Moore, *supra* note 2, at 612; T. Moore, The "Special Order Calendar" in Historical Perspective (Sept. 1975) (a five-page analysis of the subject, prepared from the author's research and study of all published Florida House Rules dating back to 1907).

This calendar is prepared daily during the session. Today the respective chairmen of the Committee on Rules and Calendar in both house and senate effectively control the list. These chairmen—not the full committee, and much less the full membership—determine which bills will be taken up on the floor.²⁷

Such control over the legislative agenda is obviously a major source of power. There were 3,791 bills introduced during the 1977 regular session.²⁸ Of these, 1,883 received favorable reports from all of their committees of reference.²⁹ Nevertheless, only 1,139 bills received consideration on the floor of at least one chamber. The rest of the favorably reported bills—744 of them—died “on the regular calendar”; that is, in the bosom of the Committee on Rules and Calendar.³⁰

What can be done to limit this power, which is vested in so few legislators?³¹ Several alternative rule proposals, any one of which could be adopted, suggest the solution. The underlying philosophy, as expressed by the Council of State Governments, is that the “rules should make clear that the duty of the calendar committee is to determine *when*, not *if*, a bill is calendared.”³² More specifically:

Each house of the legislative body should have a “calendar committee” and the function of such a committee should be to channel the bills flowing from subject matter committees, to the floor of the

27. The situation is apparently no better in the U.S. House of Representatives. See, e.g., Sachs, *Who Rules the House?*, ENV'T'L ACT., Oct. 11, 1975, at 4. In that article, Sachs wrote: “The Rules Committee is in a crucial position. Except for special bills originating from the Ways and Means or Appropriations Committees, all legislation must pass through the Rules Committee before it may proceed to the House floor for debate. * * * [T]he Rules Committee essentially becomes its own ‘minilegislature.’” *Id.* at 4. Sachs noted that:

[t]he Rules Committee was not always a powerhouse in Congress. In fact, when it was created by the first Congress in 1789, the committee had little to do. . . . Gradually, however, the leadership of the House began to look to the Rules Committee as a means through which it could control legislation coming up on the House floor. . . .

Reform of the Rules Committee will not come easily. Right now, legislation may bypass the Rules Committee only if it can muster a two-thirds vote of the House under a suspension of the rules.

Id. at 5-8.

28. LEGISLATIVE INFORMATION DIVISION, JOINT LEGISLATIVE MANAGEMENT COMMITTEE, HISTORY OF LEGISLATION, 1977 REGULAR SESSION, FLORIDA LEGISLATURE 1 (1977) (Statistics).

29. *Id.* Interestingly, of the remaining bills which failed to pass out of committee, only 158 received unfavorable votes. The remaining 1,725 bills simply died in committee. No final action was ever taken. *Id.*

30. *Id.*

31. See Moore, *supra* note 2, at 613.

32. COUNCIL OF STATE GOVERNMENTS, KEY POINTS IN LEGISLATIVE PROCEDURE, TWENTY WAYS TO EXPEDITE THE LEGISLATIVE PROCESS 18 (1970) (emphasis in original).

parent body for public debate, in an orderly fashion. Provision should be made in the rules of the parent body to prevent such a calendar committee from becoming a sifting committee, with powers to overrule the report of a subject matter committee, *e.g.*, all bills must be reported to the full body from the calendar committee within ten legislative days or be re-referred to the committee of origin which may then order it placed on the regular floor calendar without regard to the calendar committee.³³

Another organization, the Citizens Conference on State Legislatures, has suggested:

When a bill is favorably reported out of committee to the floor, it should go automatically onto the calendar in the order reported out. It should require a vote of an extraordinary majority to move a bill from its position on calendar or to bypass it. *The rules committee should have no part in the scheduling of bills.* No session should adjourn until all bills on calendar have been voted up or down or, by the vote of an extraordinary majority, have been removed from the calendar.³⁴

In its earliest published rules, the Florida House provided for similar automatic calendaring with very limited ability of the leaders or members to deviate from it.³⁵ Today, however, new problems arise because of the considerable power to determine the life or death of a bill within the Committee on Rules and Calendar. This power greatly undermines the effectiveness of the committee system in the Florida Legislature. There is almost no incentive to members of any standing committee to vote "no" on a bill in committee. The power to kill a bad bill is easily, and too often, abdicated to the rules committee. Lawmakers find that the system encourages them to vote "yes" on every bill within a standing committee in order to aid their colleagues. After all, the argument goes, each standing committee is just the first and easiest of several steps through which each bill must ultimately progress.

33. *Id.* at 17-18.

34. THE SOMETIME GOVERNMENTS, *supra* note 5, at 161-62 (emphasis added).

35. The rules of the Florida House in 1907 provided that "no bill shall be taken up for consideration from the calendar out of its regular order, except by unanimous consent, unless the bill shall be one of public importance and its consideration asked for by a committee." Fla. H.R. Rule 32 (1907). These are the earliest set of published rules in the files of the clerk of the Florida House of Representatives.

The form of present Fla. H.R. Rule 8.14, adopted in April, 1976, finally eliminated its reference to the regular calendar as something distinct from the Special Order Calendar. As late as 1975, Fla. H.R. Rule 8.14 at least gave the appearance of an automatic calendaring that meant something in terms of when a bill would be considered. Now the Rules and Calendar Committee clearly holds the calendaring power.

Thus, the present committee system intensifies the end-of-session logjam by encouraging a refusal to cull out legislative proposals that would not be acceptable in the full chamber. Until the standing committees secure the authority and responsibility by procedural rule to determine or substantially affect the floor calendaring process, they will not fulfill their major purpose. The rules reforms suggested by the Council of State Governments and by the Citizens Conference on State Legislatures deserve serious attention as a means of returning that power to committee members and establishing both authority and responsibility for committee actions.

The suggestion by the Citizens Conference that "no session should adjourn until all bills have been voted up or down or . . . removed from the calendar" places considerable responsibility on committees to kill bills before they reach the floor. If all bills which passed out of committee were mandatorily calendared for consideration on the floor, members would more willingly defeat or delay bad bills within standing committees. A procedural rule on the proposition suggested by the Citizens Conference could work if accompanied by changes in the present procedural rules pertaining to the consent calendar. For example, Florida House rule 8.17 already provides for a consent calendar on noncontroversial bills. Under this rule, bills which generate little or no discussion are quickly voted on favorably. If they cause debate, then they are removed from the consent calendar before a vote can be taken. Bills on the consent calendar may also be removed by a raising of hands by any five members or by the chairman of the Committee on Rules and Calendar.³⁶

The consent calendar could be made even more effective by revising the rule to either (1) require a larger number of members—perhaps 20—to oppose a bill before it is removed from the consent calendar, or (2) limit the amendatory process on all bills considered on a consent basis. In any event, discretion should not

36. During the 1977 session, the Florida House moved through many bills on the regular calendar on a consent basis. For the first time, the clerk published bills on the regular calendar in numerical order, rather than in the order in which they were reported favorably out of all committees of reference. Since the latter had come to have no meaning, the numerical order served as a convenience for members in locating bills in their "bill boxes" (kept at the members' desks in the chamber) and allowed the "consent calendar" approach to move smoothly.

The house called each bill for floor consideration in numerical order. If fewer than five members raised their hands, then the full membership voted on the bill. If the bill generated debate, then the hands usually would go up, causing the bill to be temporarily deferred. Usually this meant the death of the bill, though, on occasion, a member might talk to members who raised their hands, overcome their objections, and successfully secure final passage of a bill once deferred.

lie with so few as five members, or with the chairman of the Committee on Rules and Calendar, to kill bills reported favorably to the regular calendar. Each bill reported favorably to the calendar deserves floor consideration. If it does not, the standing committee should not have acted favorably on it.³⁷

Another proposal to ease the logjam would be that suggested in Part One of this article as a revision to article III of the Florida Constitution: all bills should be published and furnished to members in final form at least three days prior to final passage. This in effect would require all bills considered on the fifty-eighth, fifty-ninth, and sixtieth days of the legislative session to be treated as though they were conference committee reports.³⁸ They would have to be voted up or down without amendment.³⁹

Last-minute amendments in the final week of the session have frequently produced bad law. There is little or no scrutiny of such amendments in the hectic last days. The answer is to outlaw them by rule. Lawmakers could then use that time to examine amendments placed on bills earlier than the fifty-seventh day and to study bills passed in the other chamber. Potential legislation would thus receive the full scrutiny deserved and required for good lawmaking.

Any reform in the near future which diminishes the power of the Committee on Rules and Calendar to dominate the flow of legislation will have a positive effect. Automatic calendaring and a return of calendaring power to individual members of the whole chamber will assure a more representative legislative product. Automatic calendaring is fair. It would add efficiency to the process. Committees would better perform their necessary functions: amending bills to make them acceptable and killing bills that are clearly unacceptable.

IV. IMPROVING THE ROLE AND FUNCTION OF LEGISLATIVE COMMITTEES

Legislative evaluation groups have expressed rather definite ideas about what the legislative committee system should and should not be and do. This section considers those opinions and examines them in the light of the present committee system in the Florida Legislature.

The most important trend in the use of legislative committees is

37. Interestingly, the removal from floor consideration may be subject to a recorded roll call vote, as opposed to a show of hands, under article III, § 4 of the Florida Constitution.

38. See Fla. H.R. Rule 6.14 (1977); Fla. S. Rule 4.5 (1977).

39. This has considerable merit. It would result in the constructive transfer of much legislative energy. Lawmakers would be precluded from laboring over their own last-minute amendments in hopes of amending a bill of approximately the same subject.

that of greater oversight of executive branch operations and programs. The post-Watergate political era has produced an awareness that the legislative branch may unwittingly permit executive branch domination of the politics of state and nation by allowing too much executive control over treasuries, policies, and programs. Use of legislative standing committees to oversee the operations of the executive branch can sufficiently check and control this potential executive domination.⁴⁰

As the state budget grows, it becomes increasingly more apparent that the appropriations committee in each chamber cannot handle oversight functions by itself. Although these committees are traditionally among the largest in each chamber,⁴¹ the oversight function is better distributed among all lawmakers through standing committees for several reasons. Standing committees ease the work load, which is now too great a burden for one committee alone. Furthermore, placing oversight responsibility with the appropriate committee enables that committee to react more wisely and more responsibly to proposals for new programs or expansion of existing ones. Expansion of the oversight function similarly avoids duplication of effort and research already performed in most cases by the standing committee.

As the Commission for Legislative Modernization of the Pennsylvania General Assembly stated:

The oversight function of the legislature is really a continuation of the law-making function. * * * One of the great trends in twentieth century government has been the growth in the size and decision making powers of the executive branch as contrasted with the legislative branch. * * * A second reason why oversight is a basic legislative job is that only the legislature may be in a position to evaluate from a public standpoint the activities of government. * * * A third and final reason . . . is that it helps to maintain citizen support for the state government. * * * Legislative oversight in this respect provides a crucial and continuing link between the citizen and state administrative agencies, and helps in overcoming suspicion or overt hostility on the part of people affected by these agencies.⁴²

40. See, e.g., PENNSYLVANIA COMMISSION FOR LEGISLATIVE MODERNIZATION, TOWARD TOMORROW'S LEGISLATURE 42 (1969) [hereinafter cited as TOWARD TOMORROW'S LEGISLATURE]. See also Jefferson's Manual, *supra* note 1; RULES OF THE HOUSE OF REPRESENTATIVES, H.R. DOC. No. 416, *supra* note 1, at 391-407.

41. The Senate Appropriations Committee includes 19 of the 40 senators. Fla. S. Rule 6.7 (1976). The House Appropriations Committee includes 29 of the 120 house members. Fla. H.R. Rule 5.3 (1977). The house actually had one larger committee at this same time: the Committee on Rules and Calendar, with 32 members.

42. TOWARD TOMORROW'S LEGISLATURE, *supra* note 40, at 40-41.

Following this policy, the Florida Legislature could, for example, provide by rule in each chamber that:

Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the [State] agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the [Legislature] and whether such programs should be continued, curtailed, or eliminated [E]ach such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of that committee.⁴³

Such a rule, perhaps combined with a description of committee jurisdiction in the rules,⁴⁴ would formalize the framework for more effective oversight by the legislature of executive branch operations.

The committee system could also be improved with a reduction in the number of committees. The Citizens Conference on State Legislatures recommended ten to fifteen committees in each house, parallel in jurisdiction. According to the conference, such a measure would reduce the general complexity of the legislature and permit a reduction in the number of committee assignments per member.⁴⁵ The Council of State Governments recommended an even sharper reduction.⁴⁶ As for the Florida House, the Citizens Conference recommended it "reduce the number of its committees to 12, as in the Senate, making them parallel in jurisdiction."⁴⁷ The house failed to

43. This language is the same as U.S.H.R. Rule X 2.b, except for substituting "state" and "legislature" for "federal" and "congress," respectively. See Jefferson's Manual, *supra* note 1; RULES OF THE HOUSE OF REPRESENTATIVES, H.R. DOC. NO. 416, *supra* note 1, at 391-94.

44. The Citizens Conference on State Legislatures expressly recommended that Florida specify by rule the jurisdiction of committees. See THE SOMETIME GOVERNMENTS, *supra* note 5, at 157-58, 195.

45. *Id.* at 157.

46. The Council recommended that "[t]he number of substantive committees should be limited to ten to twelve or less and these should be parallel in each house." COUNCIL OF STATE GOVERNMENTS, *supra* note 32, at 13.

47. THE SOMETIME GOVERNMENTS, *supra* note 5, at 195.

go that far, and the recommendation became outdated as the number of senate committees grew to sixteen by the 1977 session.⁴⁸

Reduction in the number of committees and establishment of parallel jurisdiction of committees are difficult because the leadership selection process in Florida encourages numerous committees. Candidates for presiding officer can, however subtly or directly, dangle before majority party members the prospect that each might chair a committee in exchange for his support. While this practice has been criticized as "unacceptable,"⁴⁹ it appears likely to remain a political reality under Florida's present system of very strong presiding officers.

Moreover, any significant reduction in the number of committees which may result from a particular presiding officer's commitment to reform provides no guarantee that the next presiding officer will not expand the number of committees. However, specifying the jurisdiction of some committees by rule, as in the United States House Rules,⁵⁰ might add permanency to at least those standing committees.

Limited committee assignments per member is another proposal of the Citizens Conference on State Legislatures and the Council of State Governments. The Citizens Conference stated that "[m]ultiplicity of assignments introduces problems of scheduling, strains the focus of attention on the part of members, and creates an inordinately heavy work load for members if committees are as active as they should be."⁵¹ The Council said that committee assignments "should be limited to two committees."⁵² The Citizens Conference suggested "no more than three committee assignments for each member of the lower house"⁵³ On this score the Florida House and Florida Senate do quite well. The number of committees per member is within the recommendation of the Citizens Conference.⁵⁴

Another topic relevant to legislative reform is that of committee power relationships. One particularly meritorious proposal of the Council of State Governments pertains to prerogatives of the committee chairman to control the committee agenda. Florida legisla-

48. Fla. S. Rule 2.1 (1977). Also, the number of house committees grew to twenty-two in 1977. Fla. H.R. Rule 6.1 (1977).

49. COUNCIL OF STATE GOVERNMENTS, *supra* note 32, at 15.

50. See Jefferson's Manual, *supra* note 1; RULES OF THE HOUSE OF REPRESENTATIVES, H.R. Doc No. 416, *supra* note 1, at 344-91.

51. THE SOMETIME GOVERNMENTS, *supra* note 5, at 157.

52. COUNCIL OF STATE GOVERNMENTS, *supra* note 32, at 4.

53. THE SOMETIME GOVERNMENTS, *supra* note 5, at 157.

54. See Fla. H.R. Rules (1977); Fla. S. Rules (1977).

tive procedures grant a committee chairman the ability to suppress permanently any consideration of a bill referred to his committee.⁵⁵ This too easily frustrates the will of even a majority of lawmakers. The committee chairman will prevail until the intervention of the presiding officer, or some political trade-off, frees the bill.

The Council of State Governments suggests that "[a] majority of [a] committee should be able to get consideration of a bill after seven days from referral."⁵⁶ This rule would allow a legislator to lobby committee members for their support in considering the bill in committee. Once the bill has been taken up in committee and reported favorably, it will be sent to the floor for consideration by the full membership.

While the Council's proposed rule has merit, it would be meaningless in Florida without simultaneous reform of the calendaring process. At present, the substantial influence of a committee chairman to prevent the floor calendaring of a bill reported favorably by his committee is rather awesome. With both reforms, however, there could be substantive meaning to rules which allow and even encourage an individual member to join forces with colleagues on a committee to agenda a bill that the committee chairman opposes.

V. TOWARD BROADER PARTICIPATION IN THE ORGANIZATION OF THE CHAMBER

Under article III, section 3(d) of the Florida Constitution, the Florida Legislature must meet on "the fourteenth day following each general election . . . for the exclusive purpose of organization and selection of officers." Each chamber at that time formally selects its presiding officer, and, by custom and tradition, determines its rules of procedure. This section considers proposals to democratize the organization process by involving more lawmakers in it and to inform both lawmakers and citizens better on these legislative procedures.

A. Selection of the Presiding Officer

Part One of this article included a limited discussion of the process now used in Florida for selecting presiding officers. In short, the current procedure is characterized by long, intense, and costly campaigns for the two top positions, with both being won or lost far in advance of the term of the office sought. The process ultimately delineates individual lawmakers as either "ins" or "outs" within the

55. See Moore, *supra* note 2, at 613-14.

56. COUNCIL OF STATE GOVERNMENTS, *supra* note 32, at 14.

majority party—those who supported the victorious candidate are “in” while those on the losing side are “out.” The degree to which one is “in” or “out” simply depends upon the extent of his involvement in the campaign for speaker-designate or president-designate.

1. *Secret ballot versus open ballot*—Part One discussed in detail the issue of a secret ballot versus an open ballot and concluded by proposing a constitutional amendment to mandate secret balloting in selecting presiding officers. Legislative procedural rules are inadequate to ensure a secret ballot election, as the discussion in this part will show. Thus, the constitutional amendment appears both desirable and necessary.

The use of a secret ballot to select presiding officers cannot be accomplished at present through either procedural rules or majority party caucus rules. Procedurally, the constitution itself authorizes five members of a chamber to require any vote of its members to be entered upon the journal.⁵⁷ In the case of caucus rules, the majority in each new caucus has demonstrated its prerogative to abandon any rules on the selection process that the previous caucus purported to impose upon its successors.⁵⁸ Further, caucus rules on such a potent political subject are much less likely than rules of the full chamber to achieve any permanency through custom and tradition. Thus, while a majority of the party in power may from time to time favor the secret ballot for designation of its candidate for a future election before the full chamber, it is likely that only a constitutional amendment requiring a secret ballot election at the organization session will be effective.

2. *Disclosure of campaign finances and expenditures by candidates for presiding officer*—There has been little discussion to date on this subject. Until 1978, both leftover legislative campaign funds and net proceeds from political testimonials could supplement personal wealth to form the financial base for campaigns for the house speakership or senate presidency. Disclosure of the sources of funds, although not of expenditures, existed indirectly through the laws pertaining both to contributions to a candidate during a legislative election campaign and to funds for testimonials. In 1977, however,

57. FLA. CONST. art. III, § 4(c).

58. The author participated in the naming of a new speaker-designate for the 1979-80 legislative biennium at a majority party caucus during the 1977 legislative session. The issue openly debated at that caucus was whether to change the caucus rule that set the date for selection of the speaker-designate in early 1978. The “new majority” rejected the 1978 selection date because it was established by a different caucus (the majority party members of the previous biennium) and because it was politically advantageous to the new group in control to name the future leader at that time. In fact, the election brought an immediate shift of power.

the Florida Legislature enacted a new elections law.⁵⁹ As a result, a candidate may no longer keep more than \$3,000 of post-election campaign funds,⁶⁰ nor any sum from political testimonials.⁶¹

The new elections law raises previously unanticipated questions about the reporting of contributions and expenditures in campaigns for the legislative leadership posts. Now a candidate or a potential candidate for presiding officer, especially one without considerable personal wealth, may well be concerned about the legal and moral responsibility to disclose financial details of the campaign for the post. What disclosures must be made and to whom? Should there be a formal declaration of candidacy, complete with the establishment of a campaign account and a campaign treasurer?

At present, neither the house nor the senate has such requirements covering the race for presiding officer. Yet, philosophically, little reason exists to exempt these campaigns from Florida's strong "who-gave-it, who-got-it" laws. The fact that legislators themselves cast the votes determining the outcome of these campaigns is hardly sufficient justification for exemption from disclosure. The leadership elections visibly and significantly affect all Floridians, more so undoubtedly than do the popular elections for some individual legislative seats.

Provision should be made, either by statute⁶² or by rule, to require disclosure of campaign financing for Florida's two legislative presiding officer posts. The quality of the judgments of lawmakers cannot be hurt by such disclosure and may indeed even be improved. The opening-up of records of campaign financing and spending would help to dispel distrust which is generated when citizens do not know either the sources of funds in such campaign treasuries or the precise way in which such money is spent.

3. *Reelectability*—Part One discussed the choice between a legislative system permitting reelectable presiding officers and a system limiting the number of terms to one or two.⁶³ Absent a constitutional amendment on the subject, a newly elected membership could simply set aside any procedural rule from previous legislatures

59. Act of June 9, 1977, ch. 77-175, 1977 Fla. Laws 903 (codified in scattered sections of FLA. STAT. (1977)).

60. FLA. STAT. § 106.141(5)(b) (1977).

61. FLA. STAT. § 106.025(2)(c) (1977) requires all funds to go through the campaign treasury.

62. Representative William Sadowski, Dem.—Miami, introduced HB 802 for the 1978 session, proposing amendments to the statutes on campaign financing and spending to include campaigns for the posts of speaker of the house and president of the senate. The bill was reported unfavorably from the elections committee and tabled.

63. See Moore, *supra* note 2, at 626.

purporting to limit the number of terms of a presiding officer. Thus, the author believes it would be a serious misunderstanding of political reality to oppose a constitutional amendment remedy simply on the basis of support for a legislative rule limiting the number of terms of the presiding officer.

Adoption of specific rule proposals for checks and balances on a strong presiding officer not only would help democratize the Florida Legislature, but also it would reduce existing fears of a re-electable presiding officer. The Citizens Conferences on State Legislatures has suggested that Florida's rotation of presiding officers should be abandoned in favor of a reelected presiding officer.⁶⁴

B. *Removal of the Presiding Officer*

This section discusses the accountability of the top legislative official of each chamber to the members.⁶⁵ An express provision for removal, whether in the constitution or in the rules of the chamber, would serve as a reminder to the presiding officer that he is accountable to the full membership and not simply to the majority party.

The vote count for removal suggested by most reformers is either a three-fourths or a two-thirds extraordinary majority.⁶⁶ As noted in Part One, however, under current law only a simple majority is required.⁶⁷ With a more fully developed analysis of the role of the presiding officer as a leader of the entire legislative chamber—and not just of the majority party—removal by simple majority vote seems quite appropriate. The possibility of removing the presiding officer by a simple majority vote would force responsiveness to minority desires and, thus, is preferable to either an extraordinary two-thirds or three-fourths vote requirement.

Some majority party members believe that a simple majority removal process would result in frequent challenges to the presiding officer, creating chaos in the legislative process. However, these fears seem overstated in the light of the experience of the United States House of Representatives, which theoretically allows removal of its Speaker by simple majority vote. In the nearly two hundred year history of Congress, no Speaker has ever been removed.⁶⁸ While disenchanting majority party members might on rare occasions join with minority party members to challenge a presiding officer's right to the chair, the political consequences to participants in an unsuc-

64. THE SOMETIME GOVERNMENTS, *supra* note 5, at 162, 195.

65. See Moore, *supra* note 2, at 625.

66. See THE SOMETIME GOVERNMENTS, *supra* note 5, at 151.

67. See Moore, *supra* note 2, at 625.

68. Jefferson's Manual, *supra* note 1, at 142.

cessful coup would be great. One might expect the development of a minority party faction which would view itself as "the loyal opposition." As such it would represent the minority party's philosophy, yet be loyal to the presiding officer who treats the minority party fairly from that faction's perspective.

C. *First-term Representatives and the Adoption of Rules*

Following the general election in November of each even-numbered year, there are a substantial number of first-term representatives.⁶⁹ These freshmen find themselves thrust into an unfamiliar and confusing setting. The choice of a presiding officer, they are informed, was made for them by the veteran majority party members in a caucus months earlier.⁷⁰

This process tends to consolidate the majority party behind its chosen leader, albeit a leader who has been chosen by a different group of majority party members. On the merits, the continuity provided by this process arguably outweighs the lack of opportunity allowed "first-termers" to participate in choosing their presiding officer. Insiders, particularly veteran legislators, generally hold this view.

While it may seem clear that this selection process provides needed leadership continuity under a rotating leadership system, it is not so clear that the adoption of permanent procedural rules for the new biennium should occur at the very first meeting of the new house or senate. Continuity does not demand that permanent procedural rules be adopted and made effective at the November organization session before first-termers know what the rules mean or how they work.⁷¹

There is no apparent reason why procedural rules adopted at the organization session should be anything other than interim rules, subject to alteration by simple majority vote on the opening day of the regular session. First-termers often want to participate, yet typically they lack knowledge and expertise at that early date. A fairer system would allow first-termers the opportunity to learn something about legislative procedures and controlling rules before being required to vote on a permanent body of rules to govern their legisla-

69. See statistics in note 14 *supra*.

70. Each October before a November general election, the 120 Democratic candidates for membership in the house hold a caucus to reconfirm the choice of speaker-designate by an earlier majority party caucus. At that time, not only do not-yet-elected, first-term representatives vote, but also voting with them are party candidates who will not survive the general election.

71. A "permanent" rule is one which can be waived or changed only by two-thirds vote.

tive actions for the next two years.

Two alternative approaches would satisfy the need for more knowledgeable participation by first-termers. First, the rules presented at each organization session could provide for amendment, alteration, or change by a simple majority vote on the first day of the first regular session of the biennium.⁷² Or, second, each chamber could by rule require formal adoption of the interim rules (established in November immediately after the election) as the permanent rules on the first day of the first regular session of each biennium.

VI. CONCLUSION

This article has only one purpose: to provide helpful information and suggestions as part of the ongoing process of improvement of the legislative branch of Florida government. Part One provided an historical background and introduction to the inner workings of the Florida legislative process, reported specific examples of current practices to illustrate the need for legislative reform, and analyzed the powers of Florida's legislative leaders and the remarkable absence of checks and balances on those powers. It also included proposals for revision of the Florida Constitution to improve the legislative process.

Part Two discussed procedural rules reforms and supplemented much of the discussion in Part One. The author believes the reforms suggested could do much to democratize Florida's legislative process and would improve the Florida Legislature's national ranking of thirtieth in "representativeness." Florida has the potential of becoming the nation's best state legislature. From a ranking of fourth best overall in 1970 to a position of first in the 1980's is certainly possible.

But to achieve such preeminence, Florida's legislative process must respond to the need for greater fairness by mandating specific reforms. There must be restrictions on the absolute power of a presiding officer to remove committee chairmen from their positions of power. One sensible reform would provide committee members with a guaranteed voice in the removal of the chairman of their committee. This might be done by their vote, coupled with the ability of the presiding officer to determine the number of votes needed in the removal process. The specific approach discussed in this article requires only a simple majority vote for removal if the presiding officer

72. In the house, for example, this could only be done by changing Fla. H.R. Rules 15.2 and 15.3 (1977).

recommends removal of the chairman to the committee members but requires a two-thirds vote of the members of the committee to oust a committee chairman supported by the presiding officer.

Individual members should have some method of appeal from undesired committee assignments. In the senate, the entire chamber membership could conduct this review. In the house, a better approach would be through an elected committee on committees. Such a committee on committees should be selected by a process which assures a high degree of probability that its membership will consist of a cross section of the membership of the whole house.

During a session, no member should be added to or removed from any standing committee without the express consent of the membership of the chamber. Such a rule would prevent a presiding officer from stacking a committee during a session to pass or kill particular legislation contrary to the wishes of the majority of the chamber. It also would help eliminate vindictive action toward a member by a presiding officer.

The calendaring of bills for floor consideration demands reform. If the Florida Legislature is to treat all members fairly and equally in considering legislative proposals, reforming the present calendaring rules is a necessity. This reform would also help to minimize the usual logjam of bills at the end of the session and lessen the risk of misinformed or uninformed legislators that the logjam produces. A return to automatic calendaring for floor consideration, with limited exceptions for taking bills out of order, would suffice. By rule, the consent calendar can be made more effective. Reform of the calendaring process would assist the Florida Legislature in using its committee system to full advantage.

Committee numbers and jurisdiction need to be defined with more specificity in the rules. Greater permanency in standing committees, with parallel jurisdiction in the two chambers, would improve the efficiency of the legislative process and make it more understandable to citizens and legislators alike. Joint house-senate committee meetings should be possible and practical. The appropriations and budget processes need to include all lawmakers, not just members of the fiscal impact committees. Each standing committee should, by rule, review and study on a continuing basis the application, administration, execution, and effectiveness of laws related to subject matter within the jurisdiction of that committee.

By rule, each standing committee should exercise continuous oversight of executive branch operations and programs. Each standing committee should, again by rule, be heavily involved in the appropriations process. A majority of committee members should be able to secure consideration of any bill within the com-

mittee after seven days from referral. The rules should assure an individual member a hearing for his bill in the committee and, if favorably reported by the committee, consideration of the bill on the floor, even if the committee chairman dislikes the particular legislative proposal.

A secret ballot is preferable to an open ballot in the majority party caucus to select a speaker-designate or president-designate. However, a "secret ballot" in the selection process probably can be secured only through constitutional amendment of article III, section 2.

There should be requirements by rule, if not by statute, for disclosure of campaign financing and spending by candidates for the legislature's two top posts. Florida's strong elections law should apply as well to the races for house speaker and senate president.

The adoption of any new procedural rule pertaining to nonre-electability of a presiding officer would have little if any effect on a subsequent legislature inclined to reelect its presiding officer. This subject is best left to constitutional revision. A procedural requirement on removal of a presiding officer, however, while best achieved through constitutional revision, could be included in procedural rules with some beneficial effect on the process.

Procedural rules adopted at each organization session should not become permanent rules for the biennium until after the first day of the regular session. A simple majority, rather than two-thirds of the members, should be able to modify these interim rules on the opening day of the session. This would allow meaningful participation by first-termers in establishing the rules.

These proposals are by no means exhaustive of the list of reforms discussed during the past three years. However, they cover the most important ones, with the exception of single-member legislative districts.⁷³ In the author's opinion, adoption of the rules reforms suggested by this article would contribute greatly to improving the legislative process. These proposed reforms reflect a continuing commitment to Florida's very open legislative system, to faith in the judgments of individual lawmakers to decide the important issues of our time collectively, and to a healthy distrust of accumulated power at the top.

73. See Moore, *supra* note 2, at 603.

