



# Lifelong Learning COLLABORATIVE

## *Rhode Island Secrets & Scandals*

Coordinators: Dave Hansen and Phil West

<https://www.lifelonglearningcollaborative.org/courses.html>

Sep. 16 Overview and introduction to  
***SECRETS & SCANDALS: Reforming Rhode Island, 1986-2006***  
H. Philip West Jr.

**Assigned Reading:** Author's Notes and online

<http://www.golocalprov.com/politics/is-rhode-island-Corrupt>

<http://ethics.harvard.edu/blog/measuring-illegal-and-legal-corruption-american-states-some-results-safra>

<https://web.archive.org/web/20140402153827/http://www.uic.edu/depts/pols/ChicagoPolitics/leadingthepack.pdf>

**Introductory PowerPoint:** "Why did Gordon Fox fall?"

**Questions for Consideration:**

1. How do you think Rhode Island compares with other states for government corruption?
2. What evidence do you see of corruption?
3. What do you think are the costs to you as a taxpayer? To the society at-large?

Sep. 23 **Pay-to-play contracting is easy to hide, hard to prove.**  
Guest: Former Attorney General James E. O'Neil

**Assigned Reading:** Chapters 1-4, 9-10, 18

**Questions for Consideration:**

1. What do you make of "pay-to-play" in the DiPrete administration?
2. What do you find particularly memorable in the Ethics Commission's investigation and adjudication of the complaint against Gov. DiPrete?
3. What lessons would you draw from problems with the criminal prosecution of Edward and Dennis DiPrete?

**Hour 2 Presentation Topics – Discussion**

1. Describe the role of Judith Benedict in the Olney Pond case.
2. What other whistleblowers can you identify? What happened to them?
3. What can citizens do when an official announces a public process but then hides the ball?

Sept. 30 **How scandal at the Supreme Court led to Merit Selection of judges.**

Guest: Dean Michael Yelnosky, Roger Williams School of Law

**Assigned Reading:** Chapters 20-26

**Questions for Consideration**

1. Did “THE MAKING OF AN EMPIRE” exaggerate the amount of patronage and insider dealing at the Supreme Court?
2. What was problematic about having “the Grand Committee” elect Supreme Court justices?
3. Did changing the Grand Committee system with the 1994 Question 1, Merit Selection of All Rhode Island judges, solve the problem of political deals in judicial selection?

**Hour 2 Presentation Topics – Discussion**

1. Evaluate Rhode Island’s Merit Selection System in comparison with methods used in other states and the federal government.  
[http://www.judicialselection.us/judicial\\_selection/reform\\_efforts/formal\\_changes\\_since\\_inception.cfm?state=](http://www.judicialselection.us/judicial_selection/reform_efforts/formal_changes_since_inception.cfm?state=)
2. What lessons should we take from Chief Justice Joseph Bevilacqua? Or from Chief Justice Thomas Fay?
3. What’s happened to Merit Selection since its creation? What further changes might make the process work better? (See John Marion’s RWU Law Review article in DropBox. See also Afterword, 679-682.)
4. What were the impacts of the “look-back window” and proliferation of magistrates?

Oct. 7 **Could the RISDIC collapse have been prevented? Why wasn’t it?**

Guest: Former Rep. Frank Gaschen, member of the RISDIC Investigating Commission

**Assigned Reading:** Chapters 5-8, 11-17

**Questions for Consideration**

1. What caused the 1991 RISDIC collapse, and how could it have been prevented?
2. Why did Speaker Matty Smith ignore the Stitt Report in 1986?
3. Why did Gov. Edward DiPrete ignore five warnings?
4. Did reforms enacted in 1992 with the RIght Now! Coalition address real causes of the scandal, or not?

**Hour 2 Presentation Topics – Discussion**

Many original documents are available at the state archives.

<http://sos.ri.gov/archon/?p=collections/controlcard&id=907>

1. How well did the Gregorian Commission analyze the crisis in “Carved in Sand”?
2. What did the RISDIC Investigating Commission conclude caused the collapse?
3. Did the model of a special investigating commission serve Rhode Island well?

Oct. 14      **The Quest for Constitutional Separation of Powers.**  
Guest:      Robert G. Flanders Jr., Former Justice, Rhode Island Supreme Court

**Assigned Reading:** Chapters 27-30, 32-34

**Watch online slides on the Struggle for Separation of Powers**

<http://www.secretsandscandals.com/overview.html>

(Click top right corner of slides to go forward or back, top left to pause.)

**Questions for Consideration**

1. What problems do you see with Rhode Island's historic practice of appointing legislators to executive boards and commissions?
2. Why was the lack of separation between legislative, executive, and judicial powers considered by some "the deep root" of Rhode Island's corruption?
3. How did the Supreme Court's 1999 advisory opinion and 2000 Lottery commission force changes in advocates' strategy?
4. How effectively did the 2004 Separation of Powers Amendment address the problem?

**Hour 2 Presentation Topics – Discussion**

1. Did the Royal Charter of 1663 become an albatross in the 19th Century? How and why?
2. Did separation of powers advocates make a mistake in seeking an advisory opinion from the Rhode Island Supreme Court?
3. How did the Supreme Court's 1999 advisory opinion and 2000 Lottery commission force changes in advocates' strategy?

Oct. 21      **Rebuilding boards to comply with Separation of Powers.**  
Guest:      Michael R. Egan, Counsel to the House Separation of Powers Committee

**Assigned Reading:** Chapters 38, 42-45, 50-51. Study the 2004 Separation of Powers Amendment (final page of this syllabus).

**Questions for Consideration**

1. What unintended consequences flowed from passage of the 2004 amendment?
2. Look up public laws enacted in 2005 and 2006. Search for "separation of powers."  
<http://webserver.rilin.state.ri.us/Lawrevision/plshort/pl2005nu.htm>  
<http://webserver.rilin.state.ri.us/Lawrevision/plshort/pl2006nu.htm>  
What changes in law did the new Article IX/Section 5 of the Constitution require?

**Hour 2 Presentation Topics – Discussion**

1. How effectively did the 2004 Separation of Powers Amendment address the problem?
2. What unintended consequences flowed from passage of the 2004 amendment?

Oct. 28 **Rhode Island Ethics Commission: Powerful but often under siege.**  
Guest: Dr. Timothy Murphy, Member of the Rhode Island Ethics Commission

**Assigned Reading:** Chapters 35, 39, 46-47, 50.

**Questions for Consideration:**

1. Was an appointed Ethics Commission with power to adopt and enforce a code of ethics for all public officials too powerful to be sustained?
2. How did the Ethics Commission's "zero-tolerance" gift rule precipitate the commission's meltdown? Who bears responsibility?
3. Will Question 2 finally resolve the struggle over jurisdiction of the Rhode Island Ethics Commission?
4. Do you agree with the commission's decision to approve a "moratorium" on ethics complaints during 90 days before an election?
5. What further rules for public officials would you like to see adopted by the commission?

**Hour 2 Presentation Topics – Discussion**

1. Is it an illusion to think ethics can be codified in law?
2. What role does character play in making government ethical?
3. Why do some leaders start out as reformers but later get entangled in scandals?

Nov. 4 **Why such a struggle for open government?**  
Guest: M. Charles Bakst, retired political columnist for The Providence Journal

**Assigned Reading:** Chapters 24, 31-41

**Questions for Consideration**

1. What role do investigative reporters play in government accountability?
2. What was the impact of Katherine Gregg's 1991 series "Set for Life" and the Providence Journal investigative team's 1993 "Making of an Empire" reports?
3. How effective were the "public records audits" performed by students from Brown and URI?

**Hour 2 Presentation Topics – Discussion**

1. What happened to investigative reporting by the Providence Journal during the last 20 years?
2. What challenges do reporters face in today's fractured media markets?
3. How do you know whether to trust investigations reported by GoLocalProv, bloggers, talk radio?

Nov. 18 **How do Citizen Campaigns Improve Government?**  
Guests: Margaret Kane, President of Operation Clean Government  
Jane Koster, President of the RI League of Women Voters

**Assigned Reading:** Review chapters 7-8, 11-12, 14-17, 31, 41-44 for

coalitions.

**Questions for Consideration**

1. How did Operation Clean Sweep evolve into Operation Clean Government?
2. What problems did the League of Women Voters and Common Cause encounter in joining the RIght Now! Coalition?
3. Can you describe the dynamic of coalitions? During the decades, what coalitions were most effective and why?

**Hour 2 Presentation Topics – Discussion**

Questions for Consideration

1. Analyze the effects of ethics complaints filed by Operation Clean Government and Common Cause.
2. Some people argue that the “good government” groups should all merge. What do you think? Why?
3. Analyze the mission and operations of one or more coalitions described in the book: ACCESS/RI, Fair Redistricting Coalition, Question 5 Coalition, Question 6 Coalition, RIght Now! Coalition, Right to Vote Coalition, SLAPP-suit advocates, Separation of Powers (Task Force, Coalition, Committee), Voter Initiative Alliance, Vote Rhode Island Coalition.

Dec. 2      **How can citizens change the system and make government better?**

Tour of State House led by Phil West  
Lunch together.

Two-hour sessions will include first-hour conversations with guest presenters who played key roles or have special expertise. After a break, volunteers may present studies or questions related to the week’s topic for group discussion.

Participation requires registration and payment of \$50 tuition. Participants will need copies of the book. Primary readings will cover most of the class book, typically 80-90 pages per week.

## SEPARATION OF POWERS AMENDMENT

*Approved by 78.3 % of Rhode Island voters on November 2, 2004*

Words that were deleted are marked with ~~red strikethrough~~.  
Words that were added are marked with blue underline.

### ARTICLE III OF QUALIFICATION FOR OFFICE

**Section 6. Holding of offices under other governments. -- Senators and representatives not to hold other appointed offices under state government.** -- No person holding any office under the government of the United States, or of any other state or country, shall act as a general officer or as a member of the general assembly, unless at the time of taking such engagement that person shall have resigned the office under such government; and if any general officer, senator, representative, or judge shall, after election and engagement, accept any appointment under any other government, the office under this shall be immediately vacated; but this restriction shall not apply to any person appointed to take deposition or acknowledgment of deeds, or other legal instruments, by the authority of any other state or country.

No senator or representative shall, during the time for which he or she was elected, be appointed to any state office, board, commission or other state or quasi-public entity exercising executive power under the laws of this state, and no person holding any executive office or serving as a member of any board, commission or other state or quasi-public entity exercising executive power under the laws of this state shall be a member of the senate or the house of representatives during his or her continuance in such office.

### ARTICLE V OF THE DISTRIBUTION OF POWERS

The powers of the government shall be distributed into three (3) separate and distinct departments: the legislative, the executive and the judicial.

### ARTICLE VI OF THE LEGISLATIVE POWER

~~**Section 10. Continuation of previous powers.** -- The general assembly shall continue to exercise the powers it has heretofore exercised, unless prohibited in this Constitution.~~

### ARTICLE IX OF THE EXECUTIVE POWER

~~**Section 5. Authority to fill vacancies.** -- The governor may fill vacancies in office not otherwise provided for by this Constitution or by law, until the same shall be filled by the general assembly, or by the people.~~

**Section 5. Powers of appointment.** -- The governor shall, by and with the advice and consent of the senate, appoint all officers of the state whose appointment is not herein otherwise provided for and all members of any board, commission or other state or quasi-public entity which exercises executive power under the laws of this state; but the general assembly may by law vest the appointment of such inferior officers, as they deem proper, in the governor, or within their respective departments in the other general officers, the judiciary or in the heads of departments.

**RHODE ISLAND ETHICS COMMISSION**  
 Regulation approved unanimously on July 19, 2016

**Regulation 1001.2 – Limitation on Complaints During a Campaign Period.**

The ethics commission shall not accept any complaint against an individual who has filed a valid declaration of candidacy for elective office, during the period of time beginning ninety (90) days prior to the general or special election in which the individual is a candidate, and ending the day after the election. Provided, however, that this restriction shall not apply to investigations or complaints initiated by the ethics commission.

Comment:

*This regulation establishes a moratorium on the filing of ethics complaints against candidates for elective office during a 90-day period leading up to a general or special election. The purpose of the regulation is to prevent the filing of complaints that are politically timed to influence elections. Any valid complaint may be filed and investigated following the moratorium period. This limitation does not apply to the ethics commission itself, who may continue to investigate potential violations of the Code of Ethics and to initiate its own complaints.*

Prepared by: Jason Gramitt, Staff Attorney/Education Coordinator

**Ethics complaints**

<b>Year</b>	<b>Total complaints</b>	<b>Complaints against elected officials, candidates</b>	<b>Complaints during election season</b>	<b>Complaints related to Financial disclosure</b>	<b>Complaints resulting in violation</b>
2014	21	19	12	7	5
2012	2	2	0	0	NA
2010	12	6	4	2	3
2008	7	6	3	2	2
2006	11	7	4	0	1

NA = Not Applicable

SOURCE: Rhode Island Ethics Commission staff