

Liberty for America

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Good News

Disgraced Congressman Wu of Oregon has resigned. The LP of Oregon will run a candidate to replace him. LPO Chair Wagner writes "We will call a convention per state law, and only libertarian electors in that district will be able to vote. We no longer have none of the above as an option, so there can be no funny business...under the new bylaws even one libertarian receiving only 1 vote will beat a republican who gets 8000. 8)"

Video tapes of the LAMA/LPNH National Conference "Future of the Libertarian Political Movement" are now up on YouTube. You can find them at YouTube.Com by searching "LibPartyMA National Conference 2011".

Ohio Vice Chair Michael Johnston announced his candidacy for chair of the Libertarian State Leadership Alliance. He announced his intent to merge the 2012 LSLA meeting with the 2012 Libertarian National Convention, meaning that the major opportunity in 2012 for national-level pre-NatCon politicking would be eliminated. LSLA Members are the state chairs. LSLA Bylaws do not actually require that officers be members of the LSLA.

The LNC ExComm has appropriated \$22,000 for a ballot access drive in South Dakota. The LNC has approved money for a ballot access drive in New Hampshire. This will be a full party petition, not a candidate petition, to give LPNH Party status in NH in 2012.

Randy Eshelman asked the LNC to add to its agenda for the August meeting a motion to spend \$50,000 to help an Indiana local official, who changed his party registration to Libertarian, to gain re-election to the Indianapolis City-County Council.

Oregon Disaffiliated?

LNC ExComm Intervenes in Oregon
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This is a complicated story. This article gives a summary of events. Extended messages and text appear in other articles. Black/brown colorcoding separates LfA remarks and quotes, the dominant color being black to save me money.

On July 15, 2011, LNC Secretary Mattson sent a message to the LNC Executive Committee calling a meeting for the following Sunday. The schedule included discussion with the Oregon Party's officers and their competitors. Mattson said motions were anticipated, but no text was provided (critical detail).

The Committee met on two consecutive days, finally passing three motions:

- 1) Based upon the available evidence, the Executive Committee of the Libertarian National Committee finds that the Bylaws of the Libertarian Party of Oregon (as amended March 14-15, 2009) are the Bylaws of the Libertarian Party of Oregon, and that these bylaws have been in effect since March 15, 2009. (Vote was 6-1. Hinkle, Rutherford, Mattson, Redpath, Knedlar Lark in favor; Ruwart opposed)
- 2) Based upon the available evidence, the Executive Committee of the Libertarian National Committee recognizes as the officers of the Libertarian Party of Oregon those people elected by the State Committee during its meeting on May 21, 2011. They are: Chair: Tim Reeves; Vice chair: Eric B. Saub Secretary: Carla J. Pealer ; Treasurer: Gregory Burnett (Motion passed 6-1, same votes as previous motion.)
- 3) The Executive Committee of the Libertarian National Committee urges the members of the Libertarian Party of Oregon to work together to resolve their disagreements. The third motion passed 7-0.)

During the meeting, Mary Ruwart moved to refer the matter to the full LNC. She could not obtain a second for her motion. Her sentiment that the full LNC should have acted was later supported by Doug Craig and David Blau.

It is of interest to note that already in June NLPUS.org was registered as a URL, via a domain-ownership anonymizer. The corresponding site is titled The National Libertarian

Party of the United States. This newsletter had good reason to believe that the site was registered by opponents, not us, of the LNC actions on Oregon.

The Libertarian Party of Oregon, Wes Wagner, Chair, took poorly to the LNC action, which had no effect on the LP-Oregon's web page, treasury, or control of Libertarian ballot access in Oregon. Indeed, one prominent Oregon Libertarian reportedly said "The LNC ExComm declared war on the LPO, and all the State Parties as well....This is war ...the LNC started it and we will finish it."

The LP of Oregon has now released the first of its videos treating the LNC's actions. The videos, which we gather will eventually be shipped to individual LPUS members and donors, are seen beginning with <http://www.youtube.com/watch?v=hnX40iDjA40>; YouTube permits reader comments.

The Oregon State Committee promptly directed State Chair Wagner to send a response to the LNC, and to file an appeal of the National Committee decisions seen in Motions 1 and 2 to the LNC Judicial Committee. The Judicial Committee has agreed to hear the Appeal; the hearing is presently expected for August 23. The appeal appears below.

The LNC and its ExComm did not vote to file a defense of the motions. However, several LNC members wrote a defense, which fourteen of the eighteen members of the LNC signed. Individual statements were filed to the Judicial Committee by LNC members Mary Ruwart and Daniel Wiener, LNC Alternate Brad Ploeger, and Massachusetts State Treasurer George Phillis. The response from 14 LNC members appears on pages 7, 8, and 9 of this issue.

The LNC's Attorney sent the Libertarian Party of Oregon a cease-and-desist email demanding that the Oregonites comply with the LNC motions. The email appears on pages 6 and 7. The existence of the cease and desist email was promptly critiqued by Mary Ruwart, who noted that the Executive Committee knew nothing about the cease and desist email. Chair Hinkle confessed to having ordered that it be sent. He also made the first of several increasingly defensive claims that the action against Oregon was not a disaffiliation.

LNC Alternate Brad Ploeger submitted to the Judicial Committee a carefully crafted brief agreeing with Hinkle that the ExComm motions were not a disaffiliation. Ploeger maintained that one intent of the motions was to persuade the Oregon Secretary of State to recognize the Reeves faction as the Oregon state party, so the ExComm motions were public policy question motions. Under LNC Bylaws, Public Policy motions not circulated in advance require a unanimous vote to pass. They were not circulated, the critical detail above. The vote was not unanimous, so Ploeger maintained that LNC motions 1 and 2 had actually been defeated by the Executive Committee.

The defense of the motions was signed by 14 of the 18 LNC members, including Mark Hinkle (Chair), Mark Rutherford (Vice-Chair), Alicia Mattson (Secretary), Bill Redpath (Treasurer), Kevin Knedler, James Lark, Randy Eshelman,

Stewart Flood, Dan Karlan, Wayne Root, Rebecca Sink-Burris, Dianna Visek, Dan Wiener, and Andy Wolf. Not signing the defense were LNC members Doug Craig, Vicki Kirkland, Norm Olsen, and Mary Ruwart.

Your Editor, wearing his hat as Treasurer of his State Party, submitted a short statement, saying that the ExComm actions violate Article 3 of the Party Bylaws. See page 7.

Some members and Alternates on the LNC were perturbed by the emerging state of affairs. State Chair and LNC Alternate David Blau wrote an extended message, answered by LNC Chair Hinkle. Blau suggested that the LNC actions set a precedent that was susceptible to misuse. Hinkle responded to Blau, claiming that the LNC ExComm action was undertaken because "LP Oregon Chair Wes Wagner had threatened to disaffiliate his state party from the LNC and take all 13,000 Oregon registered voters with him."

Readers will note that Hinkle's explanation for the action contradicts the claims he and 13 co-signers advance in their defense of the ExComm motion. Also, the LNC ExComm claims that the LPO is operating under the Reeves faction bylaws, under which LPO has under two hundred members, not the 13,000 of the Wagner faction under their Bylaws. Finally, readers may recognize that by taking the Reeves faction as the LNC's Oregon affiliate, and disaffiliating the Wagner faction, the LNC stopped Wagner from disaffiliating by disaffiliating him first.

In answering Blau in a message cced to the LNC, Hinkle also claimed "I have no idea what the URL discussion is all about, but no one is trying to take anyone's URL or domain name." Hinkle's own email of a week earlier, proposing an LNC lawsuit to take the LP-Oregon's main URL, appears to show that Hinkle was now prevaricating to the entire LNC.

Hinkle also engaged in an exchange with LNC member Doug Craig, advancing a third, completely different, explanation of the LNC actions.

The Oregon Appeal

The LP-Oregon appeal to the Judicial Committee, from Wes Wagner, reads:

The following facts and arguments are alleged:

- 1) As a matter of law within the State of Oregon, the officers of the legal entity The Libertarian Party of Oregon (a domestic non-profit corporation chartered under Oregon law, henceforth referred to as LPO), as established by the official registration of

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the Oregon Secretary of State which can be found at <http://www.sos.state.or.us/elections/doc/polparty.pdf> are as follows:

- a. Wes Wagner – Chairperson
 - b. Harry Joe Tabor – Vice-Chairperson
 - c. Mark Vetanen – Treasurer
 - d. Bruce A. Knight – Secretary
- 2) The current bylaws of the LPO, as adopted on March 31st, 2011, received and processed by the Elections Division of the Oregon Secretary of State's office on April 8th, 2011, and can be located under a link here http://www.sos.state.or.us/elections/pages/cand/cand_parties.html, have not been successfully challenged in any proper venue of authority within the State of Oregon.
- 3) The Libertarian National Committee, Inc. is not an Oregon corporation. The LPO, established prior to the formation of the Libertarian National Committee, Inc., is an independent entity and has no formal corporate relationship with the Libertarian National Committee, Inc.; the LPO is neither a parent, nor subsidiary of the Libertarian National Committee, Inc.
- 4) There exists an affiliation agreement between the LPO and the Libertarian National Committee, Inc. This amounts to a gentleman's agreement and has been longstanding between the LPO and the Libertarian National Committee, Inc.
- 5) The LPO has sent a delegation to the National Convention hosted by the Libertarian National Committee, Inc. at each event that has occurred and reasonably believes that as a founding member of the national movement, the LPO has had representation at every convention.
- 6) On July 18th, the LNC Secretary, Alicia Mattson sent the

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following notice:

Mr. Reeves and Mr. Wagner,

First let me extend to each of you thanks for joining the LNC Executive Committee's meeting yesterday regarding the status of the Oregon affiliate of the Libertarian Party. The meeting was adjourned yesterday before concluding our discussion of that topic, and we took up the subject again in a meeting earlier this evening.

I am writing to convey to you the text of three motions that we adopted: [ED: Text of the three motions is on Page 1.]

- 7) The LPO, and specifically Mr. Wagner who is the chairperson of record in the State of Oregon, received this notice of revocation.
- 8) The LPO stipulates to being served proper notice of revocation of our affiliate status.
- 9) The LPO, therefore is asserting our rights under Articles 6.6 and 9.2.a to appeal this revocation.
- 10) With regards to motion 1, The LNC Executive Committee does not have the authority to arbitrate the lawful disposition of the bylaws in force within a political party chartered by the State of Oregon.
- 11) With regards to motion 1, The LPO disagrees with the LNC Executive Committee's opinion on the matter.
- 12) With regards to motion 1, there are proper venues within the State of Oregon for such disagreements to be lawfully resolved.
- 13) With regards to motion 1, we stipulate that the opinions held by the Libertarian National Committee Executive Committee may be valid for the standards and norms of conduct they wish to abide and if they wish to revoke the affiliate status of the LPO over such matters, they have the right to ask the entire LNC to do so, for cause, pursuant to party bylaws (6.6). The affiliate association between our two entities is voluntary and the Libertarian National Committee Inc has set standards for how they will conduct themselves. Such opinions held by the LNC Executive Committee have no legal bearing within the State of Oregon but may be cause for the LNC to terminate the relationship if they feel inclined to do so.
- 14) With regards to motion 1, the bylaws of the Libertarian National Committee, Inc. Article 6.5 reads, "The autonomy of the affiliate and sub-affiliate parties shall not be abridged by the National Committee or any other committee of the Party, except as provided by these Bylaws."
- 15) The LNC Executive Committee, being a committee of the Party, is thus constrained.
- 16) The LNC Executive Committee is in violation of the bylaws of the Libertarian National Committee Inc. by making declaratory judgments about the disposition of the bylaws of a legal organization with which they have an affiliation agreement.
- 17) The individuals mentioned in Item 6, Motion 2 do not have lawful possession of any formal legal organization within the State of Oregon of which we are aware, nor do they have lawful possession of the offices the LNC Executive Committee declares.
- 18) For the same reasons and facts in 10-16, the declaration

in Motion 2 is likewise a violation of the bylaws of the Libertarian National Committee, Inc.

19) Due to these declarations, the LNC Executive Committee has performed an effective and administrative revocation of the LPO, and thus severed the relationship (a gentleman's agreement) between this lawful body and the Libertarian National Committee, Inc.

20) The Libertarian National Committee, Inc.'s bylaws require a process for such revocation and cancellation of such an agreement. It is required that it be for cause and be conducted by 3/4ths of the entire National Committee (Article 6.6).

21) The LNC Executive Committee did not satisfy the requirements of the LNC bylaws, to wit, the LNC Executive Committee is not the full committee. On this issue, the LNC Executive Committee cannot act on behalf of the full LNC because the bylaws preclude this explicitly (6.5 and 6.6), therefore the LNC motions 1 and 2 being substantively a revocation of affiliate status should be ordered as reversed.

22) We propose that the persons affected by such a ruling to be: The LNC Executive Committee, The LNC committee as a whole, Timothy Reeves, Eric Saub, Carla Peeler, and Greg Burnett.

We are preparing a cease and desist letter of our own for Mr. Reeves, Mr. Saub, Ms. Peeler, and Mr. Burnett for unlawful representation. The Libertarian National Committee Inc., nor its executive committee, are not a parent organization of the Libertarian Party of Oregon and holds no lawful possession or right to any of our corporate assets, the ballot access in Oregon, the political PAC bank account, nor the rights to represent over 12,000 registered voters within the State of Oregon with regards to administering the process for the selection of candidates.

Further your organizational bylaws recognize this fact in both their structure and language. I refer you to the LP national bylaws <http://www.lp.org/files/bylaws-2010-1207.pdf> Article 6 Section 5: "The autonomy of the affiliate and sub-affiliate parties shall not be abridged by the National Committee or any other committee of the Party, except as provided by these By-laws." No place in your client's bylaws do you assert the power to unilaterally replace the officers of a sovereign independent state-chartered organization, and they would be unenforceable even if you did.

There does exist an informal relationship between the Libertarian Party of Oregon and the National Party, structured as an affiliate agreement, which is non-binding by law and amounts to a gentleman's agreement. We have exercised our rights under that agreement as the due and registered officers of the legal entity known as the Libertarian Party of Oregon with whom the Libertarian National Party/Committee to maintain our privileges under that agreement.

Please inform your client that they would be well-advised to clean up the rogue agents within their organization rather than to persecute an affiliate over which they have no authority or jurisdiction just because their factional plan to take possession

Welcome to Liberty for America!

A magazine. A web site. An organization. **Liberty for America** has had several inquiries on launching **Liberty for America** Chapters across America. A draft set of state/regional By-Laws appears on the **LibertyforAmerica.Com** web site.

of the Libertarian Party of Oregon went awry.

We are a legal entity under Oregon law with due registration, assets and political non-profit-corporate structure and are not subject to your jurisdiction and intend to pursue legal remedies of our own. The actions of the people you represent to attempt to covertly obtain custody of this organization under the circumstances claimed is nigh criminal, if not so in fact since they knowingly filed false documents with the Oregon Secretary of State's office.

I have attached a copy of the appeal that was made to your judicial committee so you can understand how your client is in violation of their own corporate rules of governance and copied the chairperson of that committee.

Wes Wagner, Chairperson, Libertarian Party of Oregon

Blau-Hinkle Exchange

Hinkle denies his own correspondence, totally contradicts Mattson's claims to Judicial Committee

LNC Alternate and Massachusetts State Chair David Blau wrote to the LNC : 8/1/2011 4:07:12 PM

"For the record, this is the first I'm hearing about this. [ED: *The context is my message to the LNC Judicial Committee*] Perhaps Mr. Phillies is trying to protect me? In any event, I generally agree with his argument, if not his approach.

My concern here is more with the process by which things were handled. I am much less concerned with the actual outcome, for other reasons that I won't go into here.

Speaking in my capacity as a state chair, the recent EC actions are quite troubling. Despite the fact that Massachusetts has no "succession crisis" or "quorum crisis" and none is remotely foreseeable, I have to wonder what other reasons might be conjured up to act in this manner should a cadre of LNC or EC members decide that my particular state committee (or any other state leadership group) aren't being "good Libertarians". It seems to me that the power of the LNC to "recognize" one faction over another is a vast one indeed, and susceptible to misuse, as has been alleged by others on this list.

Speaking as an LNC alternate, following the recent motions, what assurances do our affiliates have that we won't come in

and (for whatever reason) replace their leadership with others of the LNC's choosing? Or even, of the choosing of a hastily-called session of a small subset of the LNC? We have a provision in our bylaws to disaffiliate, and based on my reading of the traffic on this list, a motion to disaffiliate the Oregon party (led by Mr. Wagner) for cause likely would have passed. It would then have been a simple matter for Mr. Reeves and his group to apply as the new Oregon affiliate, an application that would likely have been accepted, and we would have avoided quite a bit of wailing and gnashing of teeth. Is there a reason this wasn't done?"

We quote Hinkle's alleged response: of August 1, 2011. Note the section in red, which contradicts the claims of 14 LNC members, pages 7-9:

David,

George Phillies should check his facts.

As usual, George is totally wrong on all of them.

The situation in Oregon does not involve disaffiliation. Period!

The LNC EC does not have that authority. And none of the resolutions that were passed even mentioned disaffiliation.

I have no idea what the URL discussion is all about, but no one is trying to take anyone's URL or domain name.

The Wagner group can keep any domain names they own. They just can't fraudulently claim to be the Libertarian Party of Oregon on any of them. Any other content is none of our business, just don't claim to be the duly recognized affiliate of the LNC.

The LNC Executive Committee didn't replace any leadership in Oregon, we simply recognized the leadership duly elected or appointed per their Bylaws.

Neither the LNC nor the Executive Committee has any interest in overturning leadership in any state affiliates that are functioning entities.

However, it should be clear to anyone even remotely knowledgeable with Oregon, that it was in trouble.

Somebody needed to step in and be an adult and separate the two squabbling factions.

The troubles confronting Oregon started in Oregon.

And the reason the LNC EC took action was because Wes Wagner threatened disaffiliation of the Oregon Party from the LNC and to take the 13K+ registered libertarians with them. I have a voice mail message from Wes Wagner threatening to do this. He said that would cause the LNC to spend \$300-500 thousand to regain ballot status in Oregon. He's wrong of course, but that's been par for the course with Wes Wagner.

At some point, the LNC was going to have to decide which faction to recognize. Even LSLA potentially was going to have to decide who, from Oregon, to recognize as the duly elected Chair. The LNC EC just saved them the trouble. Later on, the LP's Credentials Committee would also have to decide on who, from Oregon, are the duly elected delegates to the Presidential Nomination Convention next year in Vegas.

So, sooner or later, the LNC was going to have to make the decision. And since the Bylaws give that authority to the

LNC and since the LNC has delegated, between meeting, such authority to the EC, we acted.

And let it be known, that most members of the entire LNC backed the decision of the EC even before the decision was rendered by the EC.

BTW, everyone on the entire LNC was invited to call into both LNC EC tele-conference calls. Did you not get that invitation?

Since 10/27/10 of last year, I count 264+ email notes to/from various people concerning the problems in Oregon in my LNC email folder. This is NOT a new problem.

Unlike Congress, the LNC EC wasn't going to kick the can down the road.

Lastly, I would ask why do you think George Phillies and/or Wes Wagner want to avoid "wailing and gnashing of teeth"? They seem to live for it.

And for George in particular, his publication would be practically void without it.

And here is Mark Hinkle's prior email to the LNC Attorney, showing that Hinkle's claim 'no one is trying to take anyone's URL' is false. Hinkle was doing it himself at the time he wrote Blau.

From: Mark Hinkle <mark@garlic.com>

Date: July 24, 2011 6:00:23 PM EDT

To: Gary Sinawski,

Cc: Inc discuss <inc-discuss@hq.lp.org>

RE: <http://www.lporegon.org/>

It appears that the Wagner faction is continuing to use the name Libertarian Party of Oregon in spite of the cease and desist notice below.

Do you recommend we bring a lawsuit against Wagner and company? And if so, would you handle that or should we seek an Oregon attorney?

The link from the www.lp.org to the www.lporegon.org has been removed pending the transfer of that web site to the Reese group. We will restore that link, once the transfer to the Reese group of www.lpooregon.org is completed.

Craig-Hinkle-Ruwart Correspondence

Observe that Hinkle gives LNC Member Craig a completely different set of reasons for the intervention than he gave LNC Member Blau.

Doug Craig wrote the LNC:

You guys cause a lot of this when yall first showed up in OR. OR believe we the LNC was interfering with their state party and I tend to agree. I do believe states have more to worry about now than a year ago when it comes to a individual state controlling their own problems. Also it appeared to me that the LNC had it in for OR from the get go.

Mark Hinkle responded on August 2, 2011

Doug,

Sorry, but that just is not true.

Do you really think for no reason at all, that Alicia Mattson and I traveled to Portland, OR to attend their special election last November?

The reason there was a special election was because the LPO had major problems. In addition to their Bylaws problems that is causing quorum problems, they had factional problems. And addition to that, they broke contracts with several life members who were told they were no longer members, and they were holding something like 12 or 13 membership in limbo for "approval" by the LPO Executive Committee. Those are pretty systemic problems.

Yes, Alica Mattson and I could have ignored the LPO and they would have continued down the path of self-destruction. A path, btw, they have traveled before back in 1995.

Do you really think that would be the best course of action for all concerned?

Someone had to be an adult there. Sooner or later, the LNC was going to be involved.

Why not deal with problems sooner?

Please explain your statement that the "LNC had it in for OR from the get go". I see no evidence of that at all.

This mess with the LPO has been a major distraction from my plans for the LP. It's taken my time, my energy, and my money to deal with it. It has consumed a major amount of email bandwidth for 8 months now. Ditto for Alicia Mattson and for every member of the LNC EC and several additional LNC members, such as Dan Karland and Dan Wiener.

I think I can safely say, we all would much rather have been dealing with projects to grow the LP. But, instead we had to deal with unruly factions in the LPO.

The problem was initiated by the LPO and someone had to step in to try and end the internal war.

It's time to put this behind us and move on.

Mary Ruwart wrote the LNC:

Mark,

When you say something is "not true" in matters like these, it is not a statement of fact, but a matter of opinion.

IMO, had Ms. Mattson not attended the pre-convention meeting with the LPO officers, they likely would have held their meeting, fixed their bylaws, and in that or subsequent meetings, selected new officers. The OR factions would have kept squabbling, but the LNC would not have been drawn into it and wasted its time and money.

You have accused the Wagner faction of holding memberships in limbo; I was contacted yesterday by a member who says that he gave Mr. Burke his membership check and was informed shortly before the convention by Mr. Burke that he wasn't able to turn it in. The member in question felt like Mr. Burke had done this purposely so he couldn't vote.

Whenever there is a squabble like this, both sides are often guilty of some conduct unbecoming. If we are going to police OR, we will have to police other states too, where such things undoubtedly occur on occasion. As soon as we step in, we make matters worse and waste our time too.

Even if the majority LNC opinion prevails in the JC appeal, this and the next LNC will likely continue to throw time and money at OR. BECAUSE of your presence in Portland, Wagner et al. feel you are setting the LNC against them. Consequently, they are unlikely to go quietly into the night.

I know you well enough to be sure that you meant well. However, unless and until you are willing to look at this situa-

tion from the other side's perspective, you will keep proposing "solutions" that only aggravate the problem. Solving the OR "problem" by doing things that endanger affiliate autonomy (as Motion #1 does) only insures more discord in the future.

For the sake of those who do not recall, Motion #1 reads: "Based upon the available evidence, the Executive Committee of the Libertarian National Committee finds that the Bylaws of the Libertarian Party of Oregon (as amended March 14-15, 2009) are the Bylaws of the Libertarian Party of Oregon, and that these bylaws have been in effect since March 15, 2009."

The LNC's bylaws forbid this violation of affiliate autonomy, IMO. Every state chair should be quivering in their figurative boots with the recognition that the EC feels it can rule on how an affiliate has followed their own bylaws and select officers from two competing slates as a consequence.

The Cease and Desist Letter

The LNC Letter to Oregon as furnished to us:

Dear Mr. Wagner, Mr. Tabor, Mr. Knight and Mr. Vetanen:

I am general counsel to the Libertarian National Committee. This is a demand that you cease and desist from any actions or omissions that are inconsistent with (1) the determination of the Executive Committee of the Libertarian National Committee that the bylaws of the Libertarian Party of Oregon as amended March 14-15, 2009 are the bylaws of the Libertarian Party of Oregon and have been in effect since March 15, 2009 or (2) the determination of the Executive Committee that the officers of the Libertarian Party of Oregon are the individuals elected by the State Committee on May 21, 2011, namely, Tim Reeves, Chair; Eric B. Saub, Vice Chair; Carla J. Pealer, Secretary; and Gregory Burnett, Treasurer. As you were previously notified, the Executive Committee made these determinations on July 18, 2011.

...Gary Sinawski

Ruwart's letter criticizing the sending of the letter, and Hinkle's defense, as furnished to us, read

Recently, the following e-mail from LNC attorney, Gary Sinawski, came to my attention (I am copying the entirety of what I received):

Since Mr. Wagner et al. filed an appeal with the JC prior to this e-mail, I'd like to know who authorized this action on the part of Mr. Sinawski. I am a member of the Ex-Comm and knew nothing about it.

Mr. Wagner et al. are within their rights to file their appeal to the JC. Indeed, they are working "within the system," rather than acting in a way that could be more damaging to the LP.

An e-mail like this one makes it seem that we are not willing to follow our own bylaws---the very thing that the Ex-Comm presumably based their decision on.

All such correspondence should be distributed to the entire Ex-Comm, if not the entire LNC. Mr. Hinkle, can you explain your rationale for having this sent and not notifying us?"

While Hinkle's response was

"Dear LNC,

I requested and authorized the note below from Gary Sinawski.

In order to protect our copyright, I felt it necessary to request that folks associated with the Wagner faction cease using the name Libertarian as we no longer recognize them as the official leadership of the LPO.

The LNC EC recognized the Reese faction as the duly elected leadership of the Libertarian Party of Oregon and thus any other group is prohibited from using our name.

And, as an aside, the action taken by the LNC Executive Committee was in no way a "dis-affiliation" by any stretch of the imagination."

Readers are left to decide for themselves if Hinkle's defense of his actions corresponds well with the actual letter .

Phillies Tells JudComm: Reject Parliamentarianism!

I am George Phillies, Treasurer for the Libertarian Association of Massachusetts and custodian of our URLs. My responsibilities to our State Association are directly impacted by the recent LNC decision on the Oregon State Party, a decision currently under appeal by the State Party as a de facto disaffiliation.

Hopefully it can be resolved on this basis, without concerned parties having to generate the signatures of an adequate number of convention delegates to ask for a fresh Judicial Committee hearing.

The LNC has effectively claimed it can come into my state, decide what our bylaws are, decide who our officers are, and try to walk off with our URLs and by implication other property such as out membership records, archives, and Treasury. How can we raise money if I cannot assure members that they control who is on their state committee and what our Constitution and Bylaws are?

I urge the Judicial Committee to overturn the recent LNC Executive Committee decision on Oregon as a violation of Article 3 of our Party Bylaws, which reads

"ARTICLE 3: PURPOSES

The Party is organized to implement and give voice to the principles embodied in the Statement of Principles by: functioning as a libertarian political entity separate and distinct from all other political parties or movements; moving public policy in a libertarian direction by building a political party that elects Libertarians to public office; chartering affiliate parties throughout the United States and promoting their growth and activities; nominating candidates for President and Vice-President of the United States, and supporting Party and affiliate party candidates for political office; and, entering into public information activities."

The violation arises because the Executive Committee did not insist on rationales as to whether their actions would

- *promote the growth and activity of affiliates,
- *build a political party that elects Libertarians, or
- *support affiliate candidates,

to name three purposes most directly related to this case. The Executive Committee instead considered legalistic rationales deriving from Roberts' Rules of Order and related dogma, as

witness the near-50 pages from LNC Secretary Mattson.

That is, the decision was wrongly decided, because it was a substantive decision being made on the basis of Robertsonian legalisms, not on whether the decision would advance the purposes of our party, as is implicitly mandated by Article 3 of the Bylaws.

14 LNC Members Write JudComm

We have prepared the following response regarding the July 19, 2011 appeal to the Libertarian Party Judicial Committee under the jurisdiction of Libertarian Party Bylaws Article 9.2.a (suspension of affiliate parties) using the procedure described in Libertarian Party Bylaws Article 6.6. This is not submitted on behalf of the LNC as a whole, but rather on behalf of those individual consenting LNC members whose names are herein listed.

We believe that even a cursory review of the relevant details of the matter will demonstrate the Appellant is not the Libertarian Party of Oregon (LPO), and Mr. Wagner is not an officer of the Libertarian Party of Oregon. Mr. Wagner's claim to serve as a legitimate officer of the Libertarian Party of Oregon as of July 18, 2011 is based upon (a) actions that violated the bylaws of the Libertarian Party of Oregon in such a way that those actions are null and void, and (b) misuse of Oregon law to justify those violations. The appeal must be denied because Mr. Wagner did not have a legitimate claim to the office of Chairperson in the Libertarian Party of Oregon as of the time of the LNC's Executive Committee's actions on July 18, 2011. Thus he is an improper party to petition the Judicial Committee on behalf of the Libertarian Party of Oregon.

Additionally, the actions by the LNC's Executive Committee on July 18, 2011 did not involve disaffiliation of the Libertarian Party of Oregon, nor did those actions have the effect of disaffiliating the Libertarian Party of Oregon. Nor is there any Libertarian Party rule which requires that a dispute over the identity of officers of an affiliate be "treated as" a disaffiliation. Thus, it is improper for anyone to appeal the actions of the LNC's Executive Committee based upon Article 6.6 and Article 9.2.a of the Libertarian Party Bylaws. Judicial Committee Rule of Appellate Procedure 1 provides that a request for a ruling may be acted upon only when it is "on a matter identified in the Party's Bylaws as being within the Committee's jurisdiction." Since no disaffiliation occurred, the Judicial Committee has no subject matter jurisdiction to hear this particular appeal.

When the Libertarian Party Secretary conveyed the July 18 decisions of the LNC's Executive Committee to Mr. Wagner (see draft minutes in Appendix A and email in Appendix B), he transmitted the following graphic as his organization's official response:

The accompanying email (see Appendix C) included a statement by the Appellant that they did not recognize the LNC as having any authority in this matter. Since the Appellant knew (and has acknowledged) that the LNC does have disaffiliation

authority under the Bylaws, the e-mail response may be reasonably viewed as tacit admission that they understand no actual disaffiliation occurred. Yet a few hours after such an admission, the Appellant appealed that same decision to the Judicial Committee alleging that a disaffiliation did happen, for which the LNC had authority but used improper procedure.

We further note that the Appellant's argument repeatedly cites Libertarian Party Bylaws Article 6.5 concerning the autonomy of affiliates. Mr. Wagner does this in the email transmitting the appeal, and the Appellant mentions it twice in its numbered list of facts and arguments. Though the direct initial statement of the appeal is regarding alleged disaffiliation, the Appellant later inserts other alleged bylaw violations into the arguments. Though we deny that there were any bylaw violations in the LNC's Executive Committee's actions of July 18, 2011, we note that the Appellant may not procedurally get a foot in the door using the process in Article 6.6 which can be used only for the subject of disaffiliation, and then broaden the scope to include other subjects which can only be appealed following the very different process specified in Article 8.13. Should the Judicial Committee accept the appeal and have a hearing on it, we note that Libertarian Party Bylaws Article 6.6 requires that "the burden of persuasion shall rest upon the appellant."

The LNC's Executive Committee's Actions of July 18th do not constitute a Disaffiliation of the Libertarian Party of Oregon.

Most notably, the wording of the motions approved by the LNC's Executive Committee on July 18 says nothing of a disaffiliation of the Libertarian Party of Oregon, nor does the wording imply that the Libertarian Party of Oregon has been disaffiliated. There is nothing in the transmission of the motions to Mr. Wagner and Mr. Reeves that indicates the communication was notice of revocation of the LPO's affiliate status with the Libertarian Party. Rather, the wording of the motions acknowledges the continuing affiliate status of the LPO under the same bylaws in use by the LPO for the past two years and with the officers elected by LPO members in accordance with those bylaws.

It is undisputed that on March 31, 2011 there was one and only one affiliate in the state of Oregon, that Mr. Wagner was the Chairperson of that affiliate, and its bylaws were those last amended in 2009. On March 31, Mr. Wagner, along with other incumbent members of LPO State Committee purported to adopt a new set of governing documents. (See Appendix D for minutes of this LPO State Committee meeting.) These purported governing documents are significantly different from the bylaws of the Oregon affiliate, with a different membership from the Oregon affiliate. These documents were not approved by the membership of the Oregon affiliate in accordance with their bylaws.

In effect, the Appellant attempted to create a successor organization and absorb the assets of the predecessor organization without the consent of those in the predecessor organization empowered to make such a decision.

While Mr. Wagner and his associates are free to create a new organization that advances libertarianism, the new organization is not entitled to the assets of the original organization (such assets include the right to use the name Libertarian Party), nor can they claim to hold positions as officers of the original organization once they have been replaced in accordance with the original organization's bylaws.

At no time did this new organization with its new bylaws and new set of members petition the LNC under Libertarian Party Bylaws Article 6.2 to be recognized as the Oregon affiliate. At no time did the LNC vote to create a second affiliate in the state of Oregon (which would violate the Libertarian Party Bylaws).

On May 21, LPO members who denied the legitimacy of the March 31 actions of the LPO State Committee met in accordance with their 2009 bylaws and elected new officers. Mr. Wagner was not elected to any officer position. Rather, Tim Reeves was elected as Chairperson. Beginning at that point in time, there were two groups claiming to be the leadership of the same affiliate.

This story began with one Oregon affiliate on March 31, 2011. The LNC is the only entity which can add Libertarian Party affiliates, but since that date the LNC has not voted to charter any new Oregon affiliates. So with only one Oregon affiliate in existence, had we disaffiliated anyone in Oregon, we would have been left with zero Oregon affiliates. Instead at the end of the story we have acknowledged the same affiliate remaining in Oregon, still operating under the same bylaws and with the same membership definition as at the beginning of the story.

The LNC's Executive Committee has not disaffiliated the LPO. The LPO continues to be an affiliate of the Libertarian Party in good standing.

There is a distinction between the officers of an organization and the organization itself. The organization is made up of the membership operating under the rules described in governing documents to which the members have voluntarily subscribed. The officers are merely those who temporarily hold positions of leadership of the organization and make decisions on the organization's behalf, subject to the rules of that organization.

The argument advanced by the Appellant implicitly seeks to blur this important distinction, and effectively equates Mr. Wagner's claim to the leadership as being the equivalent of being the organization itself - and that the LNC's failure to recognize his claim to the position is equivalent to our not recognizing the organization.

Indeed, following the Appellant's argument to its logical conclusion would imply that any incumbent officer of a state affiliate who fails to be re-elected to his position could appeal to the Judicial Committee of the national Libertarian Party and claim that the new officers cannot assume their rightful positions unless the LNC first "disaffiliates" the old officers with a ¾ vote.

The implications of this novel theory are very different from the

clear design of the Libertarian Party Bylaws. It allows the possibility that both action and lack of action by the LNC in this realm constitute "disaffiliation." It allows a super-minority of just over ¼ of the LNC to effect a similar "constructive disaffiliation" of the other Oregon group. These implications are discussed in the other material submitted with this response.

We believe that logic requires a conclusion that no disaffiliation took place. Because no disaffiliation took place, no appeal can be brought to the Judicial Committee under Article 9.2a, subject to the process spelled out in Article 6.6.

Other Materials Submitted

We recognize the difficult position in which the Judicial Committee finds itself, in that it must to some degree evaluate the merits of the case to determine whether the Appellant is the proper party to submit this appeal, or to determine whether there was a disaffiliation. Thus we are providing a substantial amount of additional relevant detail to demonstrate thoroughly that the Appellant has no legitimate claim to be the Libertarian Party of Oregon and to address other questions raised in the appeal. This material explains the collective reasoning behind the LNC's Executive Committee decisions of July 18. In addition, the material demonstrates clearly that an LNC decision about the dispute was not only reasonable, it was necessary for bylaw compliance.

Statement of Appreciation

Allow us to express our appreciation for your service to the Libertarian Party, and for your consideration of our response. We welcome the opportunity to answer whatever questions you may have about this situation.

Respectfully Submitted by

LNC Executive Committee Members: Mark Hinkle (Chair), Mark Rutherford (Vice-Chair), Alicia Mattson (Secretary), Bill Redpath (Treasurer), Kevin Knedler, Dr. James Lark

Other LNC Members: Randy Eshelman, Stewart Flood, Dan Karlan, Wayne Root, Rebecca Sink-Burris, Dianna Visek, Dan Wiener, Andy Wolf

There is No Libertarian Here

And now a new topic: R. J. Harris of Oklahoma has announced he will run for our Party's Presidential nomination. In 2010, Harris was on the ballot, as a Republican. He now says he is a Libertarian. 1 out of 2 isn't bad. We quote his web pages:

"Abortion

The due process and equal protection provided by the fifth and fourteenth amendments to all persons, including unborn persons, makes abortion unconstitutional. What is in order then is not an activist court ruling, but a Constitutional Amendment defining the beginning of personhood. Thus, as President, I will request from the Fifty States that a Convention of Women,

made up of two non-partisan elected Delegates from each state, be called in accordance with Article V of the United States Constitution, to propose, debate and present an Amendment which establishes the beginning of Person-hood, as that applies to the 5th and 14th Amendments, thereby vacating the judicial tyranny of the Abortion Rulings and finally establishing the consent of Women to be governed on this issue. Upon completion of the Amendment, it would be presented by the Convention of Women to the State Legislatures for ratification and inclusion into our Supreme Law. Until such time as this well overdue legislation is passed, I will use the full power of my office to protect the lives of the unborn Citizens of this Republic.

The following is included in my position on Life so that women running as these eventual delegates will be equipped with the Philosophy of both Life and Liberty when they engage in their campaigns should I succeed in my own and be able to bring about this solution to the past forty years of judicial tyranny on the issue.

If you truly believe in the Ethics of Liberty which holds that our Human Rights are established by Nature and that the Constitution merely codifies those rights thereby protecting them from government tyranny then you MUST believe that a person's Right to Life uptakes without need of governmental recognition of it otherwise you would then also have to believe that the government could sanction and carry out the torture or murder of any person falling outside the jurisdiction of the Constitution. We as Libertarians would then have to condone the government's actions at GITMO and in foreign based/run detention facilities and in the unjust treatment of non-citizens just for starters. If the government can grant us our rights, it can take them away. So you see, if we allow for the de-personification of ANY Human Life, the ENTIRE PHILOSOPHY OF LIBERTY FAILS.

Given then that what defines personhood and the Natural Rights inherent to that status, in accordance with both the Philosophy and Ethics of Liberty, is Human Life itself, a women killing her innocent child to protect her Liberty is no more right than a slave owner keeping an innocent person in bondage to protect his Property. Killing another person for any reason other than self Defense or the common Defense is WRONG. The Congresses of the 19th Century had a Supreme Court ruling to hide behind which stripped the personhood of the Republic's Black Citizens so as to keep them in bondage. The Supreme Court rulings we have today allowing the murder of the Republic's Unborn Citizens are no better and neither is our Congress for hiding behind them."

Readers will note that Harris's position is diametrically opposed to our Party Platform position, namely that government should have no role in this matter.

Harris also supports far-right claims that states have sovereignty and that there is a Constitutional as opposed to economic argument for limiting currency to gold and silver.

Liberty for America

Liberty for America is not currently a political party.
But we would not be astonished if this changed.

But you can join — \$15 per year.

<http://LibertyForAmerica.com>

Liberty for America has a Federal PAC —we actually support
real Libertarians when they run for Federal office.

In this issue:

Now with News Color Coding: Good News Other News News from the World

Good News

but on the other hand:

Oregon Disaffiliated

Oregon Appeals to JudComm

The Blau-Hinkle Exchange

Craig-Hinkle-Ruwart Correspondence

The Cease and Desist Letter

Phillies Tells JudComm:

Reject Parliamentarianism!

14 LNC Members Write JudComm

There is No Libertarian Here

First Class Mail

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