

Liberty for America

Journal of the Libertarian Political Movement

Volume 5 Number 1

May/June 2012

National Convention Meets

New National Committee Elected
Much of Old LNC Ejected

The Libertarian National Convention met in Las Vegas the weekend of May 3-6. I will have full details so soon as the convention minutes are circulated. There will be extended coverage in future issues. Some current news will be covered, too.

In the past issue I warned against a variety of Bylaws changes that appeared calculated to enshrine a particular faction in control of the National Party. Those changes all appear to have been rejected. The platform was not greatly changed, though supporters and opponents of proposed changes undoubtedly view their changes to be important.

Gary Johnson and James Gray were chosen as the Presidential and Vice Presidential candidates. Lee Wrights finished second for President. Other Presidential nominees were Jim Burns and Carl Person. The Presidential and Vice Presidential elections each finished on the first ballot.

We then reached the LNC elections, which were bizarre. There was in my opinion a significant effort to rig the results. The Gang of Ten was routed. Mark Hinkle was ejected from the LNC. He ran for Chair and lost to NOTA. Mark Rutherford ran for LNC. He lost to NOTA twice, while running for the same office. Bill Redpath ran for Vice Chair. He lost to Lee Wrights, but is on as an At-Large Member. Alicia Mattson ran for re-election as Secretary. She lost to Ruth Bennett. Aaron Starr ran for Treasurer. He lost to Tim Hagan.

The new At-Large members are Bill Redpath, Michael Cloud, John Jay Myers, Starchild, and Wayne Root. Yes, Starchild. He of the conservative dress styles. The validity of Cloud's election has been contested; see separate article. Rebecca Sink-Burris, Kevin Knedler, and Brett Pojunis failed to be re-elected; Pojunis is now a Regional representative. Root was barely re-elected after being nominated by Gary Johnson himself. Johnson was loudly booed on the floor of the convention and lost donors. Literature supporting Emily Salvette for At-Large was circulated; she did not run. Mary Ruwart did not run for LNC again.

There are a bunch of new Regions. Regional Representatives Dan Wiener, Mark Olsen, Dianna Visek, Vicki Kirkland, and Jim Lark came back. New Regional Representatives are Brett Pojunis, Jillian Mack, and Rich Tomasso.

There was considerable turnover on the Judicial Committee. Most of the unfortunate people are not there any more. I had superb support from the Red Rock Resort, but the convention search did a terrible job of choosing a convention site.

Editor's Note

The 2012 Libertarian Party National Convention conflicted with our May publishing schedule, so we skipped an issue. There has been an enormous outpouring of news, on which we will gradually catch up. Returning to pre-convention events, Chuck Moulton's detailed statistical analysis revealed how tight the clustering in voting by the Gang of Ten actually was. Stewart Flood has now revealed the presence of a secret conspiracy among many (some now former) LNC members.

Starchild Launches Reflector List

You, too, can now read everything the LNC is doing, because Starchild is forwarding LNC-Discuss to a Yahoo Group LNCDiscussPublic. LNC-Discuss is the main discussion email list of the Libertarian National Committee. It features

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A Conspiracy Unmasked

Former LNC Member Stewart Flood writes on independentpoliticalreport.com/2012/05/lnc-elections-thread/ the comments currently numbered 525, 532-535 [Ed: here are only short bits from much longer posts. Emphasis added here.]

“Now that I [Ed: Stewart Flood] am not on the LNC, I believe it is time to set some of the record straight, and blow the lid off several of the greatest conspiracies the Libertarian Party has seen... **The Starr Chamber is not gone. They have quite a few members on the LNC** and they will do their best to follow the marching orders they have been given.

Yes, they actually hold secret meetings... I am no longer on the LNC, so I have no reason to not admit that there are secret meetings **where a majority of the LNC decide in advance how to vote and where motions are written and given to members on cue cards.**

Mr Starr was usually the chair of the meetings that I attended. He continued to do this (over my objection) after he was defeated in his re-election bid for office...

Remember, I know the real plan. A few other people have figured it out on their own without being told. It is really quite clever, but this convention was a major setback for them. I have never supported or agreed with what they want to do to the party... **The major hooded key holders of the inner circle are gone, leaving only five or six of their pawns on the LNC.**

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all manner of discussion by current Libertarian National Committee members on our national party. The list has now been split into several separate pieces, including one carrying only motions and votes and another on the Executive Committee. Some of these messages include attachments with large amounts of statistical data.

Starchild and assistants are forwarding to his Yahoo group every single message passed through the LNC last. Attachments are being stripped off and inserted as files associated with the Yahoo Group.

What is in all these messages? Your Editor is reading all of them and is putting a one-sentence summary of each message on his Yahoo Group LPUSMISC <http://groups.yahoo.com/group/lpusmisc/>. These summaries, covering 50 or a hundred messages at a time, include identifiers of particularly important or significant messages.

LPUSMISC was founded by your editor as a backup to lpusmisc@dehnbase.org, an email list founded by Joe Dehn of California for the discussion of LP business. The dehnbase.org mailing list was closed in 2004.

LPUSMISC is open to the Libertarian public for discussion of LNC and Libertarian political movement activities.

Starchild Explains His List

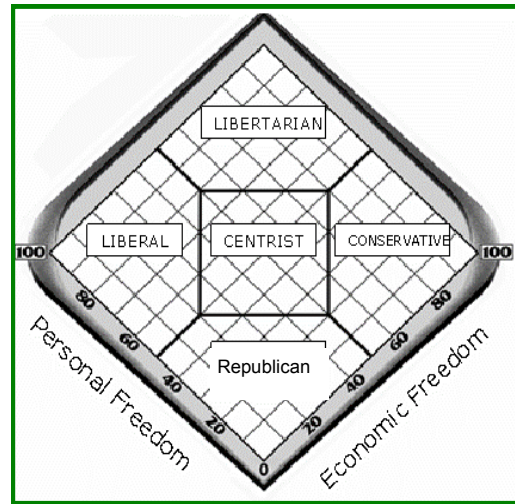
The Starchild message announcing his group reads:

Dear freedom lovers,

One of my stated goals in running for a seat on the Libertarian National Committee at our recent convention was to promote bottom-up governance in our party (see www.groups.yahoo.com/groups/grassrootslibertarians). Openness/transparency is a key element of this agenda, since an organization's members cannot hold their elected leaders accountable or maintain ultimate power in the organization, as is right and proper in a grassroots political party challenging top-down government control, if they don't know what those leaders are saying and doing.

Unfortunately there is currently no way for ordinary Libertarian Party members to post to, or even read, the email list used by LNC members to conduct and discuss the party's business. LNC members have been reminded (see message from LP Operations Director Robert Kraus, below) that "the practice with past LNC's has been that this is a private list", however material from the list has often been leaked and posted publicly without negative repercussions, and presumably in recognition of this, Kraus states that "if you intend for something to be confidential" that "it is always best to mark your email in that manner."

It is my view, and I believe this view is supported by many Libertarians and reflected in the spirit of our bylaws, that the only time it is proper for the LNC to keep information secret from its members, if ever, is when it has duly convened a secret meeting (traditionally referred to using the euphemism



A Redesigned Nolan Chart—matching contemporary American political reality.

"executive session").

Therefore it is my intention to publish here all LNC materials which the body has not specifically voted to make secret, unless they clearly refer to something discussed during a duly convened secret session which was improperly disclosed, or to something which clearly should have only been revealed in such a context. The email below which I received welcoming myself and other members of the Libertarian National Committee to the LNC list is the first of these forwarded messages.

Sadly, I anticipate that not everyone will be happy with this level of sunshine. Therefore I urge you, if you support bottom-up governance, to loudly and publicly support this list and the right of LNC members to publish LNC doings here, as well as the right of those in our party and movement to read, discuss and share them, until such time as the LNC discussion list itself is fully open and this secondary list rendered unnecessary. Please let your elected party leaders and office staff know that you demand greater openness and accountability, and that you will hold accountable anyone who attempts to improperly keep what party leaders write and do secret from the membership.

As Mahatma Gandhi said, we must be the change we want to see in the world. If the Libertarian Party is to have credibility as a force in society for bottom-up governance and real change, we must serve as a model and example of the policies we seek. This means adhering to standards of sunshine for our own elected and appointed leadership which are at least as transparent as those we would require of elected and appointed government officials and agencies.

Love & Liberty, (((starchild)))

Liberty for America is edited by George Phillies, 48 Hancock Hill Drive, Worcester MA 01609 (508 754 1859). To Subscribe, go to LibertyForAmerica.com and click on the 'subscribe' button. Subscriptions, sent by email to your computer, are free. Back issues of **Liberty for America** magazine are available on the web at <http://LibertyForAmerica.com/LFAMagazine.htm>.

Wiener Launches Counterlist

According to the LNC Reflector, California Regional Rep Dan Wiener circulated to LNC members an announcement:

For the convenience of any LNC members and alternates (and Carla Howell if she chooses) who wish to communicate with each other outside of the official LNC-Discuss list, I am setting up an email reflector utility. This will perform the same function as sending an email to a set of addresses in the CC line, but without having to cut and paste a collection of addresses each time. Note that the set of email addresses I am using are people's personal addresses, and not their LP.ORG addresses.

I am establishing the following conditions for those who wish to be included: You must agree that you will not disseminate any email distributed via this reflector utility to anyone who is not a participant, unless you first receive the explicit permission of the author of that particular email. And if an email includes quotes or referenced comments or other emails being replied to, you may not include those quotes or referenced comments or other emails unless you have also first received the explicit permission of their authors.

I consider this a good "free market" solution to the controversy we've been having over the LNC-Discuss list. I have no idea to what extent I or anyone else will choose to employ this new reflector utility, but it will be available for those who want it.

If you desire to be a participant, please let me know and indicate that you agree to the above conditions. If at any point you

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wish to cease participating or you do not want to be bound by the above conditions going forward, just let me know and I will then delete you from the set of email addresses.

Those who choose to participate will be sent further information in the near future.

Dan Wiener

P.S. I do not intend to debate the merits of this reflector utility, and I especially will NOT comment on it on the official LNC-Discuss list. If you disagree with its value, you are free not to participate.

Goldstein Discusses Expulsion from LNC

According to Starchild's LNC Reflector, Midwest regional Rep Sam Goldstein called discussed the virtue of action against list leakers, reportedly saying:

I would actually go beyond that and suggest censure for anyone violating an express desire for confidentiality on this list or any other. A serious enough violation should lead to expulsion from the LNC. If someone is incapable of understanding how important this is to the running of a political party then they have no business on this committee.

The Johnson Campaign

Johnson Endorses Republican Candidate

Libertarian Presidential Candidate Gary Johnson has endorsed a Republican Party candidate for Congress. Will McVey of Delaware is also an officer of the Libertarian Party of Delaware.

Suit Dismissed; Wrong Court

In a previous issue, we reported that Johnson had been sued by one of his fund raisers. The Federal District Court for Eastern Virginia rules that the suit had been brought in the wrong court and dismissed the suit. The issues were that the amounts of money involved were too small for Federal Jurisdiction, and the defendants were not all located in the District.

Johnson Campaign Claims Huge Debts

In its legal filings asking that the suit by Jonathan Bydlak against the Johnson campaign be dismissed, the Johnson campaign specified some of Johnson's debts. The amounts claimed are staggering.

In a signed affidavit presented to the United States District Court for Eastern Virginia, Ronald Nielson specified under penalty of perjury some of the Johnson campaign debts. Nielson owns NSoN, which manages Johnson's Presidential campaign. We quote in part from a much longer affidavit:

"...At present OAI [Ed: Our America Initiative, Johnson's political advocacy committee] is indebted to NSoN for services rendered and expenses advanced in the approximate amount of

\$1.8 million. At present GJ2012 is indebted to NSoN for services rendered and expenses advanced in the approximate amount of \$676,000. The amounts that NSoN is owed by OAI and GJ2012 are by far the largest debts owed by OAI and GJ2012...GJ2012 assumed responsibility for the debts it owed Mr. Bydlak and another fundraiser, Elizabeth Hepworth.”

Nielson denied that Bydlak was told that he would be paid first out of campaign income. Instead, Nielson claims in the affidavit that Bydlak was told “...the campaign would try to get its accounting procedures working more smoothly so that checks could be cut at the first of the month for the entire fundraising team..”

Two-thirds of a million dollars in debts is an astonishing amount, far larger than the amount reasonably expected from Federal campaign welfare.

Controversy Over Johnson Staffer

The Johnson campaign has been hiding its staff expenses by channeling all its money through consulting operations. As a result, you cannot tell who is actually being paid for what, or how much money they are being paid. This policy is the inverse of that followed by our 1996, 2000, 2004, and 2008 campaigns. As a result no one outside the campaign is vetting the Johnson campaign’s staffers, or commenting on issues that may arise as a result of particular staffing choices.

Recently, a fundraising email went out from the Johnson Campaign. It had on it the name of a staff member. For unclear reasons, one of the recipients, a long-time donor of great repute, did a search, scored seven different hits on a public list of persons accused of crimes, and generated a list of interesting alleged acts. According to a message on the Starchild Reflector site, National Chair Geoff Neale reports that the record included a conviction. He emphasized that the LNC had not as of that date shared its database with Johnson. See also Starchild group message 578, in which Neale reports speaking to Johnson Chair Nielson, who states he makes a practice of employing ex-prisoner convicted felons, though not many of them, and that these people created fewer difficulties as his employees than non-convicts do. Neale spoke positively of a private policy of helping convicts reintegrate into society.

NatCon Seats Reeves Faction

The National Convention Credentials Committee voted 4-3 to seat the Reeves faction at NatCon. Voting to seat the Reeves faction were Gary Johnson [Ed: A Texan not to be confused with the Presidential candidate], Scott Lieberman, Jo Coleman, and M Carling. Voting against seating the Reeves faction were Steve Linnabary, Vicki Kirkland, and Emily Salvette. Mark Bodenhausen abstained.

Delegates later voted not to overturn the decision. Our observers at the convention thought that opposition to seating the legitimate Wagner faction was loudest from states that heavily supported Johnson for President, and speculate that the Johnson campaign was involved.

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.

Is Oregon Ballot Access Gone?

The NatCon actions may have made it legally impossible or at least unacceptably legally hazardous to the LP of Oregon to use its ballot access to place Johnson on the Oregon:

We quote a message reportedly from Wes Wagner as supplied to the public (his list, in message 489) by Starchild. The message shows that the LPOregon is sympathetic with getting Johnson on the Oregon ballot, but the Credentials and Delegate action may have made this step inadvisable, so that direct petitioning may be needed. Wagner reportedly wrote:

I would like to preface this by saying that our party is supportive of placing Gary on the ballot and are willing to cooperate in every practical manner to do so, specifically as the Libertarian candidate who has our party's nomination (and not as an independent).

There is however, a potential issue and I will be making an inquiry with the Oregon Secretary of State in order to clarify this. One of the requirements of Oregon law is that all nominations are only valid if party rules are followed. Although the Secretary of State does not enforce the interpretation of internal party rules, were we to just file paperwork for the nomination of Gary Johnson and James Gray, we could potentially leave ourselves in a position where the Republican or Democratic Party could challenge such nomination in court and remove him from the ballot. Ironically, his Oregon employee, Mr. Burke, would be likely the person to inform others that such a challenge was possible in order to try to extract political revenge. This challenge may not come in a timely manner that would allow us to place Gary on the ballot via alternative means because Mr. Burke would time such a challenge to cause maximum damage. As you are probably aware, the activities of Mr. Burke and his allies are the reason we have this issue in the first place.

I had a preliminary conversation with the Oregon Secretary of State's office. She informed me that Bob Johnston had called earlier today to make inquiries about the Oregon nominating process as well. I have left him a voice mail to contact me in an attempt to coordinate efforts. I have also attempted to reach out to Mr. Johnson's campaign through their website but would prefer to have a more direct method of communication if possible.

We have not made any decisions on this matter, but I have spoken with almost all our board members, and in general the attitude and outcome of our internal decision making process

will probably be something along these lines:

- 1) Attempt to work cooperatively with the national party to place Gary on the ballot
- 2) Provide any support, testimony, etc. to reach a favorable resolution that results in Gary being placed on the ballot
- 3) We should not be responsible for any expenses that must be incurred due to the failure of our delegation to be seated and this should be the responsibility of the National Party or Johnson's campaign and our donor funds will be spent on Oregon campaigns only.

It is my personal responsibility to sign such paperwork, and I may wish to discuss the solicitation of a legal opinion and indemnification by the LNC Inc. as a prerequisite to signing the paperwork.

FYI, we also have potentially the same problem as Michigan:

249.048¹ Unsuccessful candidate not eligible as candidate

A candidate for nomination of a major political party to a public office who fails to receive the nomination may not be the candidate of any other political party or a nonaffiliated candidate for the same office at the succeeding general election. The filing officer may not certify the name of the candidate. [Formerly 249.420; 2005 c.797 §62]

There is an attorney general opinion on the matter from 1972 though that we could possibly hang our hat on that states that this law only applies to people who asked for the nomination AND seek placement for election. Since Gary Johnson never participated in a primary process in Oregon, this sore loser law may not apply.

Either way, we need to get all our ducks in a row and be prepared to answer a challenge. I am willing to do research to find legal counsel here in Oregon who can represent the LNC and the Gary Johnson campaign on this matter who has no conflict of interest and has never represented any of the parties involved in the past if you would like me to do so.

-Wes Wagner

In related Oregon news, we gather that the lawsuit of the Reeves faction against our party's affiliate is continuing.

National Convention to Orlando

It appears that the new LNC is voting overwhelmingly to hold the 2016 National Convention in Orlando at the Rosen Center over the 2016 Memorial Day weekend.

Chuck Moulton Analyzes LNC Votes

Once again Libertarian Chuck Moulton has analyzed the voting patterns for the Libertarian National Committee. He identified with massive evidence the Gang of Ten, the cabal so pointedly identified by former LNC chair Mark Hinkle.

You can read his original measurements and some analysis at chuckmoulton.org/libertarian/2012/voting/. His new analysis covers the 2012-2012 term, starting with a record of all individual votes. Look at the bottom of these pages for links to all his tables.

Moulton identified a group of LNC members and alternates who voted with each other 85, 90, or 100% of the time. Bloc members were Mark Rutherford, Alicia Mattson, Randy Eshelman, Kevin Knedler, Brett Pojunis, Wayne Allyn Root, Rebecca Sink-Burris, Andy Wolf, and Dianna Visek, and Regional Alternates Scott Lieberman, Sam Goldstein, and Audrey Capozzi. In addition, California Representative Dan Wiener voted with the bloc, but not quite so consistently. This group massively overlaps with the group Mark Hinkle identified as the Gang of Ten.

Thanks to the revelations of Stewart Flood, we need not wonder if this voting pattern was a coincidence, because Flood has unmasked the conspiracy. Of the twelve core members of the bloc, six have now departed the LNC.

The bloc was identified by cluster analysis, asking who voted with whom most of the time. Moulton's statistical data, a reduction of the huge voting tables, is visible at chuckmoulton.org/libertarian/2012/documents/percentage/lnc_votes_percentage_vote_block.pdf

The chart shows the percentage of time that each pair of members voted with each other. Your editor did a similar analysis, using a somewhat different scoring scheme to analyze 'voted together', and got much the same results.

Moulton also identified two additional voting blocs, with Mark Hinkle as the one member in common. The first bloc included LNC members Hinkle, Oaksun (resigned from LNC), Nolan (died in office), Ruwart, Craig, Hawkridge (resigned from LNC), and Kirkland, and LNC alternate Brad Ploeger. The second bloc was LNC members Hinkle, Redpath, Flood, Lark, and Karlan. Neither bloc was nearly as coherent as the Gang of Ten; the second bloc was less coherent than the first. You can see the corresponding numerical tables at

chuckmoulton.org/libertarian/2012/documents/percentage/lnc_votes_percentage_vote_block2.pdf

Floor Fees

Contrary to all precedent in living memory, National Convention Director Ruth Bennett imposed a poll tax, floor fees, on delegates who wanted the privilege of voting at our National Convention. That's right, an extra \$94 was charged on the people who had already laid out to travel to Las Vegas, eat away rather than at home, and sleep in a resort hotel.

After some discussion, Brad Ploeger organized a petitioning effort to take the question to the National Party Judicial Committee. Bennett had imposed additional conditions, beyond those in the Party Bylaws, on being a voting delegate. The simple and direct analogy with our Federal Constitution, which prevents states from imposing additional requirements on candidates for Federal office, indicates that the National Committee and its agents can do no such thing.

Ploeger, counting signatures not yet submitted, managed to obtain the signatures both of 10% of the registered delegates at the 2010 convention, and also the signatures of 1% of all Sustaining members of our party. There have been few Judicial Committee appeals in party history, and none have ever followed the signature route to gaining the Committee's attention.

An extended series of briefs on floor fees were submitted to the Judicial Committee. Attached with the electronic edition of this newspaper is the brilliant analysis and refutation by Chuck Moulton of the Convention Committee's defense of the charges.

Unfortunately, the Judicial Committee voted 4-3 to sustain the floor fees. Voting to sustain floor fees were Hall, Holtz, Gray and Sullentrup. Voting against floor fees were Latham, Sarwark and Wrights. Gray and Sullentrup are gone from the Judicial Committee. Lee Wrights moved over to be Vice Chair, hopefully to keep the LNC from making bad decisions that result in members dragging its misgoverning body to the Judicial Committee.

New York Kidnapped by Capozzi

The New York Libertarian Party had seemingly promised to join a Region with New England. It did not do so.

Readers puzzled by the attachment of New York to the LNC Region including Nevada should note that the translocation had the end result of returning Brett Pojunis to the LNC. Pojunis was defeated for At-Large. Why did the New Yorkers do this? Was it a sudden tiff with New England?

No, the actual reason was the activity of delegation chair (and, as Chuck Moulton seems in our opinion to have demonstrated, Gang of Ten member) Audrey Capozzi. Contrary to the promises of the New York State Party, Capozzi moved New York out of Region 5 and moved it across country, thus saving LNC positions for two (counting her) Gang of Ten members. Response of the New York Party to her actions was extremely pointed. I quote an email I was forwarded from the New York State Chair:

Audrey--

I called you twice yesterday and you did not return my calls.

New York should not leave Region 5. I promised many people that we would not turn our backs on our friends in Region 5. I convinced other state chairs to stay (or to re-join us).

Please sign the agreement Jim Lark has right away on behalf of New York.

You and I agreed that we would welcome Nevada into Region 5 (in place of Oregon) if it wanted, not that we would abandon our region.

I do not want to be part of another region and you do not have the authority to place New York in another region.

This decision is NOT up to the Nevadan members whom we are accommodating by letting them be part of our delegation. They do not have the right to vote on this. The vote yesterday was a nullity.

This is up to the New York State officers. Please get together with Chris P. and call me right away. It is up to three of us, not people we are accommodating.

Please call me ASAP.

Mark Axinn

It remains to be seen if New York will undertake significant corrective action about this situation.

Cloud LNC Election Questioned

In a widely-circulated message LNC Chair Geoff Neale broached with the LNC a 'situation' involving possible alleged election irregularities and the LNC, saying"

"I have been asked several times about a "situation". If you read the Policy Manual, it could, without further investigation, appear that Michael Cloud was elected to

the LNC contrary to an established policy. That policy is:

Article 2.09 Other Matters

7) Convention Speakers

No person shall be scheduled as a convention speaker unless that person has signed this statement: "As a condition of my being scheduled to speak, I agree to neither seek nor accept nomination for any office to be selected by delegates at the upcoming Libertarian Party convention."

This policy shall not apply to participation in a scheduled candidate debate. This policy shall not apply in the case where someone is exercising official duties (e.g., such as when the Treasurer presents his official report).

The facts:

This policy was passed by the LNC in March of this year.

Michael Cloud's agreement to speak at the convention was finalized in January of this year, and did not contain the above statement. His agreement predates the above policy, and supersedes it (look up "ex post facto"). While this policy was passed by the LNC, and five members of the COC were on the LNC, this information was NOT passed along in any COC meeting to the non-LNC members of the committee. The non-LNC members of the COC were the ones who arranged and contracted with the speakers. I would appreciate it if this message is forwarded to any of the public who would benefit.

Geoffrey Neale

Chair, Libertarian Party

The convention rule was passed by the LNC

Voting "aye": Eshelman, Flood, Knedler, Mattson, Root, Rutherford, Sink-Burris, Visek, Wolf

Voting "nay": Blau, Craig, Karlan, Lark, Olsen, Redpath, Ruwart, Wiener

The motion was adopted by a vote of 9-8."

There has been an extended debate over the issue on LNC -Discuss.

Wayne Root has vigorously condemned the entire process leading to Cloud's election. In a magnificently-crafted letter (seen as message 304 on the Starchild reflector) Root condemned the process. We quote only a few choice segments; the entire letter is definitely worth reading:

"This smells to high heaven.

"This was a set-up. The game was so clearly "fixed" to make sure one person was elected to LNC...to the detriment of every other person running for LNC.

One person was elected unfairly...with the deck stacked in his favor...and the rules everyone else had to play by...suspended for "the one."

Everyone else ...was forced to run for LNC under totally different rules...that allowed the rest of us ZERO exposure to the voting delegates on that floor.

This was so wrong it can only be described as a gross abuse of power. It has tainted the entire LNC election...

This kind of favoritism, ethical violation, and suspension of rules cannot be tolerated.

But in politics it goes on all the time...isn't this exactly what the LP complains about?

Isn't this "business as usual" for the GOP and Democrats?

You mean the "Party of Principle" thinks principles weren't terribly violated by this "situation?"

Some would call it fraud, by the way. Others would certainly say it was "force"- something this party stands very clearly against. Any outside observer would call it "abuse of power."

It is clearly wrong. Any party that tolerates it cannot claim to be "the Party of Principle."...

Let's put the shoe on another foot.

Can any of you...Tony included...even imagine if Wayne Root was elected under these circumstances?

What John Jay Meyers would say? What Mary Ruwart would say? What the entire Texas delegation would say?

Can you even imagine if my ex-wife or live-in girlfriend was ED of the LP...and my friends and ex-wife conspired to make me THE star speaker of the entire convention...

Gave me every high profile plum role that put me in front of virtually every delegate...

Told every other LNC member that they could not have a role...unless they agreed they would not even consider running for any office...

And if nominated, they would agree in writing to turn it down.

And then I ran and won.

Can you even imagine the loud calls for my resignation?"

Trying to Rig the National Convention Outcome?

I have been attending National Conventions since 1998. More often than not the party establishment has worked very hard in more or less subtle ways to optimize the likelihood that their friends would win elections. However, in all that time the superficial process was usually mostly honest. The 2012 Convention stands out as an exception to that generality. Unprecedented steps were taken to maximize the likelihood that the governing clique would retain control of the party.

The most dramatic abuse of power was, of course, barring the delegation appointed by our Oregon affiliate from the convention floor. One of their would-be delegates was Wes Wagner, who was a National Chair candidate. Readers may look for a comparison with 2000 and the Arizona state party, but in 2000 there had actually been an LNC vote not appealed to the Judicial Committee determining who our Arizona affiliate was. The recognized affiliate was seated. The recognition decision made no sense, but it had been made. In 2012, the recognized affiliate was not seated.

Floor fees were another substantial mechanic for tilting the convention in favor of the Gang of Ten. Various Californians have been well known for their snide comments about party radicals as 'povertarians'. What better way to discourage libertarians of limited means from voting than charging them for the privilege?

The convention site, an expensive hotel on the outskirts of Las Vegas, did nothing to incent attendance by the same povertarians. After the convention I took my tax accountant, who had just saved me a considerable sum of money, to a restaurant near the Vegas Strip for dinner. Cab fare each way was \$60; a first rate dinner for two was \$80. That was *still* cheaper than a dinner for two in one of the hotel's quality restaurants.

Readers who have never attended an LP National convention will not have seen the massive leafletting, in which various candidates and positions try to sell their views to the delegates by distributing fliers, trifolds, and on at least one occasion CD disks. Those leaflets are how you reach voters.

Friday evening, in an unprecedented attack on our voter outreach, the Convention Committee had the tables stripped bare of fliers. I had soon before put out my Treasurer literature. Chuck Moulton had his literature on voting patterns. The Wagner campaign had put out its literature. Wes Wagner's five fliers were there. All gone!

All that literature vanished. Post facto, the Convention committee generously gave people a chance to sort the literature out of the trash. Of course, there had been cups of coffee, etc., dumped on some of it.

Come Saturday morning, the folks advocating for the election of Rutherford, Redpath, Mattson, Gary Johnson, Brett Pojunis, Jillian Mack, etc., showed up with their very impressive, very glossy flier. Somehow, the unprecedented great literature purge had happened before they distributed.

We now reach the LNC elections. On the third ballot, Mark Rutherford visibly lost to NOTA. Rather than eliminating Rutherford, acting convention chair Bill Redpath claimed that the candidate eliminated was the one write-in vote. The effect of this absurd decision, contrary to all precedent, was a vain attempt to save Mark Rutherford from defeat.

Now knedlerization enters the English language. After ballots two and three had found Rutherford losing to NOTA, Ohio State Chair Kevin Knedler started screaming, claiming that there was extensive vote fraud, and demanding that the Secretary poll individually the members of several delegations. His performance, analyzed as a theatric display, was spectacular. In my state delegation, there was feeling that he had just eliminated his chances for re-election to the LNC, and had likely taken down everyone associated with him.

Polling individually is a very slow process; the delegates had to line up in alphabetical order so that the Secretary could ask each of them how they voted. It was apparent to some respected people within the California delegation that during the poll the people voting were not the same as the people who had actually voted earlier, and we were seeing a re-vote rather than a re-count. There was a poll of California, the largest delegation on the floor, after the second ballot. Further calls were ruled out of order as dilatory.

However, polling had its effect. It postponed most officer elections until Sunday, when it might have been hoped by the Gang of Ten that the povertarians would have left early. They didn't.

In officer elections, candidates and their nominators have always spoken from the podium, so that everyone could see who was speaking and who was supporting them. Not this year. This year, candidates spoke from the floor, so that voices boomed out across the room, and no one could tell who was speaking. Except, in a futile act of favoritism (she lost) Alicia Mattson was allowed to speak from the podium in support of her candidacy, while every other candidate had had to speak from the floor.

You are seeing here massive corruption to rig the convention, and it was our good fortune that massive corruption was defeated.

Why I Ran for Vice Chair

Some readers will have noticed that your editor, having campaigned for Treasurer, switched at the last minute and ran for Vice Chair. What happened? A few days before the nomination, I was in a two man race against Aaron Starr, a race that appeared winnable with some luck and effort. At this point, the effort to rig the Convention cut in, leading to an extended series of incremental disadvantages. The previous article describes all the crooked paths used to rig the convention outcomes.

In addition, some of the Texas people duplicated their 2010 effort of recruiting people to run for Treasurer, again to split the vote in my race. The treasurer race became Buchman—Hagan—Phillies—Starr.

The path to winning a majority became very narrow indeed. It seemed unlikely that I had overwhelming support, and after the Convention committee trashed my campaign literature on day two getting that support looked impossible. Not only did I have to have enough votes to be in the last round, but the winner of the Hagan/Buchman match for 'eliminated first' had to have fewer votes than Starr, because if they had more votes, Starr would be eliminated and the Starr votes would shift over to them.

As it turned out, there were a number of people I knew nothing about working their delegations and nearby delegations for me, arguing that 'Treasurer' was a natural slot for me to fill on the LNC, or alternatively that the LNC would be happier with me on the LNC than off the LNC. I know these were their rationales for supporting me because they were kind enough to tell me when everything was over. Alas, I heard from them only after the officer elections were over.

The evening before, I and my supporters—the ones I knew about - caucused. Bill Redpath was running unopposed for Vice Chair, the Treasurer situation required that the votes break just right, and therefore it appeared that Vice Chair was the more likely route to success. As it turned out, Lee Wrights, who had been defeated for President, defeated for Vice President, and declined nomination for Chair, jumped in for Vice Chair. By this time, we were committed in the direction I was going, though once Lee entered there was almost no possibility of victory. Flopping back to run for Treasurer would have led to a complete farce, so I didn't go back to Treasurer. Lee won on the first ballot.

LNC Income and Membership in 2012

LNC Financials for March and April have done poorly. according to reports reaching this newspaper, at the end of March 2012 the LNC had \$369,823 cash on hand, including \$188,187 in unrestricted funds. Convention income, which is actual cash on hand, will be recognized as Revenue in May.

Unrestricted Revenue in March 2012 was \$72,726, corresponding to a yearly income of under \$900,000. At the May 2 LNC meeting, according to the Starchild reflector pages message 398, Treasurer Redpath reported "April had revenues of approximately \$75,000 and expenses of approximately \$145,000. Our unrestricted cash is down to \$75,000." Revenue of \$750,000 again corresponds to a yearly income of approximately \$900,000.

Furthermore, it would appear to me that the people associated with the Saratoga Project now want payment in full in advance for the project. Starchild Reflector message 354 from LNC member (and Saratoga champion) Brett Pojunis reads in part:

"...I do not want to develop or spend any more time on Saratoga if we cannot receive the last payment. The money which has been sent to the LSLA was intended to start the development and prepay for servers for the first year. As you know working in IT, you are extended tremendous discounts when you prepay for hosting, upwards of 25%-30%. The last payment was to be sent to the developers when completed. I cannot in good conscience have developers start working on this, pay for servers and then wait to see what this LNC will do pertaining to the last payment...In short, I am not comfortable starting the development without the last payment as I fear it will not come in..."

Membership numbers are also quite gloomy. As seen in the May 2012 membership report, Starchild Reflector Message Number 538, the numbers of members at the end of the past five months were

Jan 2012	13492
Feb 2012	13528
Mar 2012	13406
Apr 2012	13179
May 2012	12923

When was membership last down below 13,000? Back in 2006, the year that the LNC moved dues between \$25, \$50, and \$0, ending back at \$25. That's the price the party is paying for the machinations of the secret cabal that has been running our party for the past half-decade.

Liberty for America

Liberty for America is not currently a political party.

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Floor Fees—New York Stolen by Capozzi—Cloud LNC Election Challenged

Trying to Rig the National Convention Outcome—Why I Ran for Vice Chair

LNC Membership and Income in 2012

Electronic Edition Only: Chuck Moulton's Brilliant Statement Opposing Floor Fees

First Class Mail

Liberty for America
c/o George Phillies
48 Hancock Hill Drive
Worcester MA 01609

Liberty for America has had supplied to it the following brilliantly-pointed remarks from Chuck Moulton, explaining glaring errors in the Convention Oversight Committee's defense of its floor fee. We quote from what we were supplied by our sources:

Chuck Moulton writes:

I had not planned to write anything to the Judicial Committee. However, I was forwarded some briefs by Brad Ploeger and it makes me shake in anger at how filled with non sequiturs they are.

I realize it is past the deadline for submitting briefs to be considered by the JC. However, I'm going to give my 2 cents and any JC member who wants to read it can do so.

I'll respond point by point to each brief.

Brief from the Convention Oversight Committee

The Convention Oversight Committee brief presents practically no bylaws arguments and thus seems totally irrelevant to this case. However, it was so filled with egregious errors about policy that I felt compelled to respond to its nonsense.

Convention Oversight Committee brief (p. 1):

*This basic principle-that no one has a claim on the Life, Liberty or Property of another-is the basis for our Party and our philosophy. However, the Petitioners seem to have forgotten this basic Principle. They are demanding that others be forced to subsidize their attendance and participation in our Convention. In any dispute involving the interpretation of our Bylaws, we must never contravene our basic Principle: **No one may demand the unwilling support of another.***

A decision by the Judicial Committee that Delegates are not responsible for their share of the costs of a Convention would put that burden on others who have not agreed to accept it. That violates the fundamental Libertarian Principle. For that reason alone this Petition must be denied.

The subsidization canard is pervasive in this brief. They have the direction of subsidization reversed. The delegates are providing a service to the members by doing the party's required business. By providing their time and paying for their travel, lodging, etc. any so-called free delegates are subsidizing the membership that did not make it to the convention. What the convention oversight committee wants is for delegates conducting party business to subsidize the wishes of others to have a big party at a fancy hotel with expensive speakers and meals. In fact a convention could be run much more cheaply at a less expensive venue in a less expensive city.

The idea that some misapplied principle about subsidization should trump the bylaws is absurd.

Convention Oversight Committee brief (p. 1):

Few, if any, of the petitioners are aware of the costs involved in running a national convention, and mistakenly believe that the cost per person should be what they might expect for a state convention.

Five individuals signing this brief have experience running nine national conventions, and can tell you from experience that common costs are significant at a national convention. For example, a state convention with 50 people may not require the use of any audio-visual equipment. When you have a convention with over 500 in attendance, it's mandatory to have big screen monitors and sound systems, otherwise the people in the back half of the room will not be able to see or hear what's going on. In some years we have spent as much as \$40,000 on A/V alone!

Here are the common costs that we estimate are currently required for the 2012 Convention

The list makes two things abundantly clear:

The Convention Oversight Committee has overpaid for many things, and wishes to pawn those expenses off on delegates who merely want to do party business.

The Convention Oversight Committee is classifying items as common cost which in fact are not, subsidizing those who want a fancy convention with money from those who wish to conduct party business.

The following expenses have nothing to do with the business session:

Awards 1,800

Speakers 6,000

Nothing in the bylaws or the convention rules necessitates “awards”. Awards may be nice, but they are not a common cost that should be paid for by anyone who attends the business session. It is unclear whether “speakers” refers to fees for people who speak (which are not appropriate for the business session) or for devices that you plug in to project sound (which presumably should be included under “audio-visual costs”).

The following expenses are only party related to the business session:

Staff Lodging 2,932

Staff Meals 2,750

Staff Travel 3,200

Staff helps with both the business session and the other events. Thus staff cost is only a common cost pro-rated to the percentage of time they spend on the business session relative to all of their work hours.

The following expenses are outrageously expensive for what we need:

Audio-Visual Costs 23,000

Decorations, Balloons and Draping 5,000

Parliamentarian 1,100

Printed Materials 1,500

Shipping 3,000

Signage for Seating 1,000

Website 1,500

For \$23,000 the LP ought to be able to buy AV equipment rather than renting it every convention. If some want fancy decorations, then they should pay for those themselves. Those who simply want to attend the business session should not be forced to finance the ambiance others want. A volunteer parliamentarian (or several switching off) could be found. In this day and age materials could be made available online for delegates to access from their laptops or iPads rather than forcing delegates to pay for printed materials. I don't know what needed to be shipped. Signage can be made much more cheaply, though less fancy. A website should not cost that much.

These choices of purchases all could be reasonable if people voluntarily choose to pay for that type of convention. But here the Convention Oversight Committee has demanded that it be able to force anyone who wants to participate in the business session to pay the costs, so ensuring the spending is not profligate becomes more important.

Convention Oversight Committee brief (p. 2):

It all adds up to a lot of money, and most of these costs would exist even if we held the event in a public park!

With close to \$60,000 in common costs – and that figure does not include the \$40,000 for food and beverage and the 1,125 hotel room nights required to get the convention hall for “free” – we need to be fiscally responsible to the Party and all our members.

The most legitimate common expense is AV costs. That expense is ridiculously inflated. We are a volunteer organization. With 2 years of planning we should be able to find LP members who can loan AV equipment. Or just

buy it once instead of renting it every year. Most of these other expenses in fact are not necessary and would not accrue in a public park. Though of course a public park would be vulnerable to bad weather (rain) or require large tents, which is a big net negative.

Convention Oversight Committee brief (p. 2):

Some may believe that holding a national convention is the Libertarian Party's main purpose. However, of the eight purposes described in Bylaw Article 3, nominating a candidate for President is only one – and there are insufficient funds for the LNC to fund all of the party's purposes. While there is an obligation to hold a convention, there is nothing in the Bylaws stating who is required to pay for it or prohibiting those attending from paying a share of the costs.

The Convention Oversight Committee is confusing party purposes (nice things we would like the LP to do) with bylaws required activities (things the party must do). See bylaw 11.1. There do not need to be enough funds to cover all of the party's purposes. There do need to be enough funds to cover its required activities mandated by the bylaws.

Libertarian Party Bylaws:

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.

ARTICLE 11: CONVENTIONS

1. Regular Conventions:

The Party shall hold a Regular Convention every two years, at a time and place selected by the National Committee. Regular Conventions shall be held sometime during the period of July of an odd-numbered year through August of an even-numbered year. All business required to be conducted at Regular Conventions shall be conducted at Regular Conventions only.

Convention Oversight Committee brief (p. 2):

Some argue that membership dues ought to be sufficient to cover the cost of a convention, but there are two problems with that position.

First, we only have around 12,000 non-life members who are each required to pay \$25 annually (set in the bylaws) to sustain membership in the LP. It's not possible to cover even the basic overhead of an office on \$300,000 per year let alone absorb the costs of a national convention every other year.

The bylaws do not require an office and staff. The bylaws do require a convention. An office comes second to a convention.

Convention Oversight Committee brief (p. 2):

Second, there is no requirement in the bylaws for a delegate to be a dues-paying member of the Party. It is theoretically possible for all the delegates at a national convention to be only members of affiliate parties, not the National Party. So why should only sustaining members of the National Party be asked to shoulder the entire burden?

The delegates conduct party business for the benefit of the membership. A conscious decision was made in crafting the bylaws to allow non-members of national to conduct that business. That doesn't make it any less for the benefit of the members.

Convention Oversight Committee brief (p. 2):

Delegates, Alternates and other attendees incur costs for their transportation to the Convention site. They pay for their accommodations. They pay for their meals. Are the Petitioners suggesting that someone else pay for these costs, too?

No. This is a straw man argument.

Convention Oversight Committee brief (p. 2):

Shall we require those that can afford to fly to pay into a fund to pay for the bus tickets of others?

No. This is a straw man argument.

Convention Oversight Committee brief (p. 2):

Should those who can afford a hotel suite be forced to pay for standard rooms for others?

No. This is a straw man argument.

Convention Oversight Committee brief (p. 2):

If we start calling the cost of an airline ticket a fee or the nightly rate at a hotel a fee, does that make it no longer allowable to charge the Delegates for those costs?

No. This is a straw man argument.

Convention Oversight Committee brief (p. 2):

Just calling the costs a "fee" does not absolve the Delegates the responsibility to pay their share of the overhead and common costs.

The term "their share" is loaded and falsely conveys that they owe something here. They don't. They are providing a service to the membership.

The Convention Oversight Committee basically provided a laundry list of things people pay for, then gave the implication "why not spend money on this one other thing too?" They could have just as easily said at the end "Why is it then wrong to require them to each donate \$500 to the presidential campaign?" Just because delegates pay a bunch of money for other things doesn't mean they have an obligation to pay for another thing on top of that.

Convention Oversight Committee brief (p. 3):

There are five basic approaches for how to pay for convention costs:

- 1) Require that some delegates pay more so that others may pay less or not at all.*
- 2) Require that non-attending members pay for those who are attending.*
- 3) Require taxpayers to pay for our events, as do the Republicans and Democrats.*
- 4) Request that others voluntarily contribute to pay for those who can't or won't pay.*
- 5) Require that all attendees pay for their share of the costs.*

The last two options are permissible under our Principles. The first three are not.

False. Only option 3 is not permissible under our principles. We've been doing option 1 for 40 years. Option 2 makes the most logical sense for a normal corporation or non-profit or political party. Option 4 glosses over the fact that it is permissible under the law for conventions to seek corporate sponsors – only laziness on the part of the Convention Oversight Committee has prevented this from happening. Many Libertarian businesses that can't donate to the LP would be happy to donate to its convention. Option 5 of course contains the usual loaded, incorrect language: "their share" implies delegates owe something, which of course they do not.

The delegates are attending the convention for the benefit of the organization and the membership, not for their own benefit. This is the key point that those who throw around diminutive, loaded phrases seem to be missing.

In my opinion the best analogy to drive the point home is a wedding.

Weddings can be very expensive (depending on the venue). When I attend a friend's wedding, not only does he pay for the facility, flowers, and photography; but also for alcohol, catering, and cake consumed by the wedding guests. Cost per person has a wide range (\$20/person at the low end, \$500/person at the high end).

I have never been sent a bill for my "share" of the wedding costs. Why is that? I must pay to get there, pay for accommodations, pay for electronic gadgets, pay for pet sitting, pay for clothes, and so forth. Why then is it wrong to expect me to pay "my share" of the basic overhead to run the wedding?

The simple answer is even though I am attending the wedding, the wedding is not for my benefit. The wedding is for the benefit of the bride and the groom; thus the bride and the groom bear the cost of the wedding.

Similarly, it is a mistake to assume that just because delegates attend a convention, the delegates should necessarily be responsible for a "fair share" of convention costs.

Could a wedding be arranged at which cost is distributed among the guests? Yes. Could a convention be arranged at which cost is distributed among the delegates? Yes.

But it is insulting to jump to the conclusion that those who believe delegates should not be assessed for the cost of facilities for the business session are somehow irresponsible or un-libertarian. If floor fee advocates would stop talking down to those who have a different perspective on who ought to bear the cost, then we can start to have an adult conversation about the best way to budget for conventions.

Another similar analogy: we don't expect paid LP staffers to cover the cost of office rent out of their own pockets simply because they work in the building. Nor apparently does the convention committee think LP staffers should pay for the costs of them attending the LP convention. Just because they are physically there does not mean they are morally responsible for the cost of the room.

Convention Oversight Committee brief (p. 3):

In many past Conventions much of these basic costs were borne by those who bought more expensive packages. Losses from these events were borne by those who didn't attend. After discussing the philosophical underpinnings of how we operate conventions, this Convention Oversight Committee (which has a broad spectrum of members) came to the unanimous conclusion that this was an involuntary transfer of assets from one group to another and that the basic overhead should be apportioned among everyone who attends.

That conclusion was in error. And it is not allowed under the bylaws.

LP convention organizers have been trying to charge a floor fee for decades. Saner minds from the LNC and the membership have prevailed up until this point. Of course organizers would like forced revenue. You can get a lot more money when you mandate things. It's not allowed under the bylaws though.

Convention Oversight Committee brief (p. 3):

We did not believe it to be fair or principled for some package purchasers to be required to subsidize those unwilling to pay their share of the costs, so we developed the There Ain't No Such Thing As A Free Lunch package. A pro rata share of the convention costs is built into the price of every package, not just the TANSTAAFL package. To say that no one attending should pay for the overhead costs means removing that \$94 cost from every package. Currently we have sold 427 packages of all kinds. Requiring us to refund that \$94 from every package sold leaves a \$40,000 hole in our budget right now. How would the Judicial Committee suggest that hole be filled?

Lack of planning on your part does not constitute an emergency on the part of the Judicial Committee.

Those who want to force through a fee that violates the bylaws have engineered this “emergency” situation from the beginning. The LNC picked an expensive city. The LNC picked an expensive venue. The LNC signed a bad contract, which subsequently had to be re-negotiated not to lose even more money. The convention oversight committee wildly overspent on the convention. The convention oversight committee chose high fees and mediocre crowd draws rather than marketing the convention well to potential attendees in order to expand attendance. And now the convention oversight committee says it could lose a lot of money without the fee. All of these decisions were made by people who have publicly said for years that they want to impose a mandatory floor fee. They have engineered a bad situation to try to back the JC into a corner to rule their way.

Don't be bullied.

There will likely be record attendance due to Gary Johnson's wave of supporters. Many state delegations are full. If this convention can't find a way to make money with record attendance, then they are simply incompetent morons. Sorry, there is no way to sugar coat that.

I suggest that the \$40,000 hole be filled by the sanctimonious bullshit of the Convention Oversight Committee and the Libertarian National Committee. They seem to have quite a lot of that.

Convention Oversight Committee brief (p. 3):

There have been some concerns that charging everyone attending the 2012 Convention will be an excuse to start charging delegates excessive amounts in order to limit attendance at future conventions. We know of no reason not to limit, in our Bylaws, the amount that can be charged. At least most of us on the Convention Oversight Committee would support a limit of \$100 per attendee to cover the reasonable and customary overhead costs and will vote in favor of such a limit if proposed.

The Libertarian Party of California started out with a floor fee of \$25. Its business session cost \$220 last year. When package purchase becomes mandatory the convention committee loses all incentive to contain costs.

You can be sure that assurances that the fee will remain low will be brushed aside in the future if the door is opened for a floor fee. Once it is deemed allowed by the bylaws, nothing limits the LNC from charging \$10,000 per delegate. It may be argued that the solution to this is the ballot box: vote a LNC that does something stupid like that out of office to deter them from making such a decision. However, this misses the fact that voting them out of office may be impossible when they get to decide who can vote with their fee. There is no political check when the LNC can restrict access to the floor.

Convention Oversight Committee brief (p. 3):

But if Principle alone is not enough to convince this Judicial Committee to deny this Petition, then please consider the submission included as part of our brief authored by Thomas Balch, one of the authors of Robert's Rules of Order Newly Revised (RONR). Mr. Balch is one of the world's leading authorities on parliamentary law. His analysis of our Bylaws and RONR lead him to the conclusion that a registration fee is allowed. (Please see attached document)

In addition, the Party's attorney, Gary Sinawski, wrote a memo as to the legal implications of charging attendees the share of the costs and concludes that there are no legal barriers and a second memo about the unique conditions in Florida. Even should you decide that Florida law precludes charging those delegates, a position not wholly supported by Mr. Sinawski, there is no reason to allow everyone else to be a "free-rider!" (Both memos attached)

We believe you'll conclude as we have that the only reasonable and principled position is that the people who incur the costs be responsible to pay them. Those costs are incurred by every attendee at this Convention by attending, just as costs are borne by every passenger on an airplane or every guest sleeping in a hotel room.

To find otherwise is to negate the very Principle this Party is based on.

We urge the Judicial Committee to deny the Petitioner's claim and rule that collecting each person's portion of the costs of the Convention is not a violation of our Bylaws and is, instead, an affirmation of our basic Principles.

I find no foundation for the so-called "principle" the Convention Oversight Committee has tried to inflict on the Libertarian Party.

Their central point seemed summed up by this excerpt.

Convention Oversight Committee brief (p. 3):

There are five basic approaches for how to pay for convention costs:

- 1) Require that some delegates pay more so that others may pay less or not at all.*
- 2) Require that non-attending members pay for those who are attending.*
- 3) Require taxpayers to pay for our events, as do the Republicans and Democrats.*
- 4) Request that others voluntarily contribute to pay for those who can't or won't pay.*
- 5) Require that all attendees pay for their share of the costs.*

The last two options are permissible under our Principles. The first three are not.

They claim requiring that "some delegates pay more so that others may pay less or not at all" violates basic libertarian principles. But for 40 years many libertarians have assembled together. Not once did they as a body find fault with this setup and pass a resolution or a bylaws amendment to change the practice. The Convention Oversight Committee claims to have a better command of libertarian principles than 40 years of our most dedicated activists in convention. I disagree.

In fact, libertarians have decided the opposite. They have decided that it violates our principles to demand a fee to participate in the business session. I served on the 2010 Bylaws Committee. In that capacity I submitted the following proposal, which was adopted by the Committee.

2010 Bylaws Committee Report (p. 44):

Prohibit a Convention Registration Fee (Recommended 5-3)

Problem: Our bylaws neither explicitly prohibit nor explicitly allow charging convention delegates a registration fee.

Solution: Explicitly prohibit charging delegates a mandatory registration fee to participate in Convention business.

ARTICLE 11: CONVENTIONS

3. Delegates

c. Delegates shall not be required to pay a registration fee to be credentialed or to access the floor for business sessions.

Proviso: This amendment shall take effect upon the close of the convention at which it is adopted.

Unfortunately the Bylaws Committee report was so long that the delegates did not get a chance to vote on this amendment. However, we do have evidence on their preferences from the Bylaws Committee survey electronically distributed to the membership before the convention.

2010 Bylaws Committee survey (p. 1):

41.0 Prohibit a Convention Registration Fee (5-3)

686 people responded to the survey

592 of the respondents were LP sustaining members

85.8% of survey respondents who were LP members were in favor

86.7% of survey respondents were in favor

Not only have 40 years of Libertarian Party convention delegates decided not to pass a resolution or bylaws change in favor of a floor fee, but additionally as recently as 2010 a broad spectrum of libertarians overwhelmingly indicated they want a fee to be prohibited.

This directly contradicts the assertions of the Convention Oversight Committee that not charging a floor fee would violate libertarian principles. In fact I find their views embarrassingly out of touch with the membership.

Memos from Gary Sinawski on Florida Poll Taxes and *Morse*

I think the poll tax argument is the weakest. I don't want to respond to this without doing a lot of legal research, and I don't have sufficient time to conduct such legal research. So I will leave these memos unaddressed.

Brief from Thomas Balch

The brief from Balch reads like many of his other briefs and parliamentary opinions commissioned by the LNC, allowing the LNC to do pretty much whatever it wants. He seems to come from the perspective of a government of unlimited powers, which libertarians by principle reject.

II.A. The Bylaws Requirement That a Delegate Must “Have Registered at the Convention,” Together With the Description of Registration In the Parliamentary Authority Adopted By the Bylaws, Authorizes a Convention Registration Fee (*Balch heading*)

Balch brief (p. 4):

RONR's statement that the various elements it lists are “normally” part of registration of course admits of the possibility that some organizations, during registration at some conventions, might not include all of those items. But petitioners seek to turn the possibility of omission of some elements of what the parliamentary authority describes as constituting registration into a prohibition of those elements unless they are separately specifically listed in the bylaws. They claim, “RONR is silent on whether a registration fee or floor fee is required—as it should be since not all organizations charge such fees; and as such it defers back to Bylaws, where it is usually specified.” Petitioners' Brief at 14.

Just because registration “normally includes” paying a fee doesn't mean a fee is thereby authorized.

Balch and others basically assert that authorization can be found by the Libertarian Party bylaws pointing to RONR and RONR pointing to what the majority of organizations have in their bylaws and do by custom. There are many things that are normally done which are contradicted by bylaws in general and the LP bylaws specifically. The bylaws take precedence.

I don't believe our bylaws explicitly allow a fee or explicitly forbid it; however, the bylaws do implicitly forbid a fee by listing qualifications and not listing payment of fee as one of those qualifications.

This is clearly a gray area because it is not made explicit. In interpreting, the implicit arguments have to be weighed against one another. In this case I would look at principles of interpretation and custom.

Custom is straightforward. We have never charged a mandatory registration fee or a floor fee for business sessions in the Libertarian Party's 40 year history. This leads me to the conclusion that for the purposes of our organization, registration does not "normally include" a fee.

A principle of interpretation is on point. "If the bylaws authorize certain things specifically, other things of the same class are thereby prohibited." RONR (11th ed.), p. 589, l. 33-34. In this case the bylaws list qualifications for being a delegate. Imposing other qualifications that are not listed in the bylaws is therefore prohibited.

The word "normally" is important.

What I have been alluding to with the phrase "Registration — which *normally* includes these steps" [emphasis added] is a canon of statutory construction called the rule against surplusage (alternatively, the presumption against statutory surplusage or the superfluous language canon).

Here is one expression of that principle from the CRS's Statutory Interpretation: General Principles and Recent Trends (page 12):

<http://www.fas.org/sgp/crs/misc/97-589.pdf>

A basic principle of statutory interpretation is that courts should "give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed." The modern variant is that statutes should be construed "so as to avoid rendering superfluous" any statutory language.

In this case the phrase "Registration — which normally includes these steps" is interpreted by me so it doesn't mean the exact same thing as "Registration — which normally includes these steps".

Robert and Balch routinely do not employ generally accepted principles of statutory construction to bylaws and to RONR (which are common sense and logical ways of resolving ambiguities) when they write professional opinions for the Libertarian National Committee. This is the main reason I have found their opinions unpersuasive.

Balch brief (p. 4):

Petitioners cite no authority for the proposition that a registration fee is "usually specified" in the bylaws.

In fact, in the section of the LP's parliamentary authority dealing with "Conventions of Delegates", the very first subsection is entitled "Basic Provisions in Bylaws," RONR (11th ed.), pp. 601-602. In it, RONR very specifically describes the provisions that it states should be included in the bylaws of an organization that conducts conventions. That list does not include any provision explicitly mentioning a convention registration fee for organizations charging one

For example, the National Association of Parliamentarians charges a fee to attend their convention. That fee, and the right to charge it, is defined in their bylaws.

National Association of Parliamentarians bylaws (p. 7, l. 337-340):

<http://parliamentarians.org/getdocument.php?id=29>

B. Criteria.

1. A member of NAP, who is registered as in attendance, has paid the appropriate registration fee, and meets either of the following requirements may vote at the district conference:

National Association of Parliamentarians bylaws (p. 10, l. 491-493):

<http://parliamentarians.org/getdocument.php?id=29>

B. Voting Body. The voting body of the convention shall be comprised of the following NAP members who are delegates registered as in attendance and who have paid the appropriate registration fee:

National Association of Parliamentarians bylaws (p. 12, l. 568, 592-594):

<http://parliamentarians.org/getdocument.php?id=29>

B. Duties of the NAP Board of Directors. The NAP Board of Directors shall:

10. determine the place, date, time, and registration fee for the biennial convention, the NAP Training Conference, membership meetings, and the Leadership Conference;

Balch criticizes petitioners for providing no authority that a registration fee is usually specified in bylaws. Here I have quoted from the bylaws of the National Association of Parliamentarians, which awards the Professional Registered Parliamentarian title both Thomas Balch and I hold. Balch apparently thinks an organization composed entirely of parliamentarians opted to authorize a registration fee in its bylaws even though RONR does not list this as a provision that should be included in bylaws and Balch believes mention of it is superfluous.

II.B. Rules In the Parliamentary Authority Relating to Members May Not Be Improperly Applied to Delegates (*Balch heading*)

Balch brief (p. 5):

As support for their claim that convention registration fees may not be charged, Petitioners' Brief at 12 claims:

The adopted parliamentary authority of the Party . . . appears to limit the ability of the COC and LNC to impose a floor fee, "Members cannot be assessed any additional payment aside from their dues unless it is provided for in the by-laws." RONR (11th ed.), p. 572, ll. 2-4. A fee on members after their membership dues are paid to exercise the duties of that membership as a Convention delegate definitely qualifies as prohibited under this rule. They have already paid for that right through their membership dues, to either the Party or an affiliate.

However, being a member of the LP or of a state affiliate does not, of course, by itself entitle one to be a delegate to any LP Regular Convention. At most, such membership qualifies one for being selected as a delegate. Serving as a convention delegate is certainly not a "duty" of membership.

The petitioners' claim is simply inapplicable, because it misapplies to delegates a rule relating to members.

I agree with Balch that this is a weak argument by petitioners and should be discarded.

III. The Authority of State Affiliate Parties To Select Their National Convention Delegates Is Not Infringed by a Uniform Convention Registration Fee Applied To All Delegates (*Balch heading*)

Balch brief (pp. 5-6):

In no way does the setting of the fee seek to alter or supersede whatever process a state affiliate adopts to select its delegates. Nor does the fee differ depending on any factor that might affect that selection, such as by charging more or less depending upon what faction within the LP a delegate might support. It is entirely neutral in application and thus in no way can be construed as "infringing upon the authority of the state affiliates" to select their delegates, Petitioners' Brief at 11.

Neutrality in application is irrelevant.

Delegates are selected by state affiliates. We have this system of representation rather than an "any member who shows up votes" system partly to guarantee state affiliates representation of their interests in proportion to their level of activity (as judged by membership and presidential vote totals).

If the credentials committee refuses to seat delegates elected by the commonwealth of Virginia consistent with the national bylaws, then Virginia has been denied part of its representation to the national convention.

IV.A. The Bylaws Grant Plenary Authority to the National Committee But Only Enumerated Powers to the Convention (*Balch heading*)

Balch brief (p. 6):

Petitioners maintain that “Delegates while assembled in a National Convention represent the ultimate authority within the Libertarian Party. Said authority may be only restricted by provisions listed in the Bylaws, Convention Special Rules of Order, parliamentary authority or applicable law.” Petition, ¶ 4. That statement, however, does not accurately reflect the provisions of the Libertarian Party Bylaws.

Article 8 (1) provides, “The National Committee shall have control and management of all the affairs, properties and funds of the Party consistent with these Bylaws.” Article 7 (4) refers to the “National Committee’s plenary control and management of Party affairs, properties and funds.”

Petitioners’ point was that only convention delegates may amend the bylaws, which makes them the ultimate authority.

The “plenary control” of the Libertarian National Committee is subject to the bylaws, which is plainly evident from LP Bylaw 8.1.

B. The Plenary Authority Granted by the Bylaws to the National Committee Includes the Authority to Set Fees (*Balch heading*)

Balch brief (p. 7):

Petitioners argue that because the Bylaws do not specifically grant the National Committee the authority to set a convention registration fee, it has no authority to do so. Brief of Petitioners, pp. 12-13. But this argument proves too much. Petitioners implicitly concede that the National Committee may set fees for “seminars, workshops, and meals” associated with the convention but which are “optional,” id. at 11, yet no specific authority for its setting such fees is found in the bylaws. The Bylaws contain no specific authority for the National Committee to pursue ballot access measures, maintain an LP website, or have a national office. They do not need to, because all of these things logically fall under the National Committee’s “control and management of all the affairs, properties and funds of the Party consistent with these Bylaws.” Article 8 (1).

This is a straw man. No one has argued that the LNC cannot set fees for seminars, workshops, and meals associated with the convention; pursue ballot access measures; maintain an LP website; or have a national office. The difference is none of these things infringe on the fundamental right to vote, imposing an additional qualification for delegates that is not listed in the bylaws. The LNC has plenary control consistent with the bylaws. From that it does not follow that the LNC has the authority to impose additional qualifications on delegates not listed in the bylaws, thereby de-facto amending the bylaws.

C. Recognizing the National Committee’s Plenary Authority Does Not Dangerously Accept That It Has Unlimited Authority (*Balch heading*)

Balch brief (pp. 7-8):

A decision by the Judicial Committee in this case that the National Committee was within its authority in setting a registration fee that is unquestionably reasonably related to recouping the costs of conducting the convention would by no means foreordain its conclusion in very different fact conditions – to take an absurd example, such a decision would not preclude the Judicial Committee from considering whether a convention registration fee set at \$100,000 was inconsistent with the Bylaws, based on a claim that, by preventing the attendance of all but a handful of extremely wealthy delegates, it was intentionally designed to deter most delegates from attending the convention.

The Judicial Committee is being asked to decide whether the Libertarian National Committee is authorized under the bylaws to impose a mandatory registration fee (or floor fee). I clearly see how the JC could determine that a mandatory registration fee is prohibited by the bylaws. I do not think it is correct to interpret the bylaws as allowing a mandatory registration fee, but for the sake of argument let's say such an interpretation is possible. I do not see any possible interpretation of the bylaws and/or RONR that would allow a mandatory registration fee but confine it to a certain amount. If the LNC has the authority to set a fee, then it has the authority to set any fee. Making the Judicial Committee a biannual arbiter of what is a "reasonable fee" would be a perversion of the JC's duties.

If the LNC is authorized to set a mandatory registration fee, then it is authorized to set a mandatory registration fee of \$100,000. You can bet that if a fee of \$94 is allowed by the JC, next convention it will be \$200. And the convention after that it will be \$500. The Libertarian Party of California started out with a floor fee of \$25. Its business session cost \$220 last year. When package purchase becomes mandatory the convention committee loses all incentive to contain costs.

I'm skeptical the LNC will set a fee of \$10,000, but a particularly unscrupulous future LNC could do so. The Libertarian National Congressional Committee has set a membership fee of \$1,000, which is wildly different from the LP's membership fee of \$25. Different libertarian leaders have vastly different conceptions of how the organization should be structured.

Balch brief (pp. 7-8):

Petitioners acknowledge that the convention registration fee set by the National Committee is "only ninety-four (\$94)," Petitioners' Brief, p. 15, implicitly conceding its reasonableness.

[...]

by preventing the attendance of all but a handful of extremely wealthy delegates, it was intentionally designed to deter most delegates from attending the convention.

At the Orlando LNC meeting during the discussion for the vote on striking down the floor fee, Wayne Root was rumored to have said that he liked the California fee because it encouraged "high quality people" and discouraged "low quality people" from attending (multiple people reported this to me, but I was not at the LNC meeting and was not watching the live stream). I reject the presumption that the \$94 fee wasn't already designed "to deter [...] delegates from attending the convention." It was put in place because certain members of the LNC wanted to price people they didn't like out of the ability to participate in the business session and vote on the future of the Libertarian Party. And I reject the claim that it was reasonable or was based on common costs, as I outlined earlier in this response.

If Balch has conceded that a fee intentionally designed to deter delegates from attending the convention is inconsistent with the bylaws, then by Balch's own logic you ought to strike down this fee.

It may be argued that the solution to this is the ballot box: vote a LNC that does something stupid like that out of office to deter them from making such a decision. However, this misses the fact that voting them out of office may be impossible when they get to decide who can vote with their fee. There is no political check when the LNC can restrict access to the floor.

D. Setting a Convention Registration Fee Did Not "Amend" the Convention Special Rules of Order (Balch heading)

Balch brief (p. 8):

The petition contends that the National Committee's setting a convention registration fee "constitutes an amendment by the National Committee to the Convention Special Rules of Order." Petition, ¶ 5. It is quite unreasonable, however, to assume that a registration fee would be the sort of thing included in the LP Convention Special Rules of Order. Their content wholly concerns procedure at the convention, not the conditions precedent for attending it.

I agree with Balch that the LNC imposing a mandatory registration fee (or floor fee) would not implicitly amend the Convention Special Rules of Order. However, unlike Balch I believe that the LNC imposing a mandatory registration fee (or floor fee) would implicitly (de-facto) amend the Libertarian Party bylaws.

Conclusion

I am not persuaded by the Convention Oversight Committee brief or by Thomas Balch's brief. I find them both to be riddled with faulty logic. In contrast I was very pleased when I read petitioners' brief and am proud I signed my name to it. Brad Ploeger did an immensely thorough job laying out the issues.

Although I am a Professional Registered Parliamentarian and a licensed attorney in CA, PA, and NJ, I don't consider this document to be either a parliamentary opinion or a legal brief. I did not have time to be that thorough given the deadline of JC deliberations and the deadline for briefs which I already missed. This is simply my stream of consciousness reaction to the briefs as I read them. I hope my opinions will be helpful to you in your deliberations. The JC ought to strike down the floor fee.

-Chuck Moulton