

Libertarian National Judicial Committee

Petitioner: Mimi Robson

VS

Respondent: Libertarian National

Committee

Re: Conducting of Electronic LNC Business
in Secret and Deletion of Past LNC Business
List

Libertarian National Committee

Respondent Brief

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LNC Region 1 Representative

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Introduction

The petitioners seek to overturn two decisions / actions of the LNC. The first is regarding the removal of a previously public archive of emails that were hosted at <https://groups.google.com/g/lnc-business-list-public>, and the second is to reverse a policy amendment passed by the LNC and documented here (Ballot 20241006-12): https://docs.google.com/spreadsheets/d/180BYWUfauzh_fix1ADNEL5R6ULM-HU6p/edit?gid=884511494#gid=884511494

As I will demonstrate, neither of these appeals have merit.

For the first issue, the petitioners have not presented any rule from the Bylaws or elsewhere that the unavailable information creates a violation of. However, because this issue is over content that had been previously posted publicly, it was judged that there is not a good reason to fight this issue, and therefore on Thursday Feb 20th I moved to make the contents of the list public again. That motion is pending a vote currently, as documented here: <https://groups.google.com/g/lnc-public/c/vsX7aseEfig>. Additionally, the Chair decided to make a ruling immediately that the content be restored and have the pending motion ratify that decision with the full authority of the LNC. This is documented in the Secretary's note on the email referenced above. With the ruling of the chair already in place, and with the ratification vote in progress as well (and passing by a large margin), this claim is moot and there is no need for any action by the JC.

Regarding the second claim, contesting the policy manual change that abolished the public email list, this claim is frivolous and essentially a case that the petitioners are seeking to use the JC to overturn the legitimate action of the LNC that they don't agree with. The policy manual change was properly voted on and adopted, as documented in the petition and its link to the ballot tracking spreadsheet.

Bylaws Overview and Analysis

We should first examine the bylaw in question that authorizes electronic mail ballots:

ARTICLE 13: ELECTRONIC MAIL BALLOTS

Boards and committees may transact business by electronic mail. The Chair or Secretary shall send out electronic mail ballots on any question submitted by the Chair or co-sponsored by at least 1/5 of the members of the board or committee. The period for voting on a question shall remain open for seven days, unless all members have cast votes, or have stated an intention to abstain or be absent during the voting period, by electronic mail to the entire board or committee. Votes from alternates will be counted, in accordance with previously defined ranked order, in the absence of the corresponding committee member(s). The outcome of each motion shall be announced promptly and recorded in the minutes of the next meeting. The number of votes required for passage of any motion shall be the same as that required during a meeting. Motions dispensed through electronic mail ballots satisfy the requirement of giving previous notice.

I will assess each provision of the bylaw line by line.

- Boards and committees may transact business by electronic mail.
 - This provision establishes a clear distinction between business conducted in meetings (a session of the LNC) which is described under Article 7 of the Bylaws, vs business conducted by electronic mail that is completely defined in Article 13.
- The Chair or Secretary shall send out electronic mail ballots on any question submitted by the Chair or co-sponsored by at least 1/5 of the members of the board or committee.
 - This provision is met under the new policy. The secretary sends all properly cosponsored motions to the new public list at <https://groups.google.com/g/lnc-public>. An example of a specific occurrence can be seen with the announcement of the ballot initiated to restore the prior email list:
<https://groups.google.com/g/lnc-public/c/vsX7aseEfig>.
- The period for voting on a question shall remain open for seven days, unless all members have cast votes, or have stated an intention to abstain or be absent during the voting period, by electronic mail to the entire board or committee.
 - This provision is met under the new policy and the spreadsheet tracking votes in progress is public, such as the example here:
<https://docs.google.com/spreadsheets/d/1OMLmOstNc1IE2fMrdFZxFVwaz29jzhmn/edit?gid=973441466#gid=973441466>. Each ballot tracking sheet is updated regularly, usually multiple times a day when votes are cast on the internal email list.
- Votes from alternates will be counted, in accordance with previously defined ranked order, in the absence of the corresponding committee member(s).
 - This provision is met under the new policy, and not relevant to this appeal.
- The outcome of each motion shall be announced promptly and recorded in the minutes of the next meeting.
 - This provision is met under the new policy. The spreadsheet used for tracking votes is updated upon completion of the ballot with a note, such as seen in the

example linked below “With a vote of 9-5-1-1 the Motion PASSED.”

<https://docs.google.com/spreadsheets/d/1OMLmOstNc1IE2fMrdFZxFVwaz29jzhmn/edit?gid=633305992#gid=633305992>.

- The number of votes required for passage of any motion shall be the same as that required during a meeting.
 - This provision further distinguishes electronic mail ballots from business conducted in an LNC meeting, by referencing vote thresholds used for meetings as applying to email votes. Such reference would be unnecessary if the rules for meetings were intended to apply to email ballots implicitly.
- Motions dispensed through electronic mail ballots satisfy the requirement of giving previous notice.
 - This provision further distinguishes electronic mail ballots from business conducted in a session of the LNC, which requires explicit notice in most cases.

As is demonstrated above, the policy manual amendment adopted by the LNC is completely within the LP Bylaws. The claim should be dismissed for the fact that the petitioners have not shown any of these provisions to be violated.

I will however continue by addressing the claims made by the petitioners and refute them on their merits.

Response to Petitioners’ Arguments

In section 4 of the appeal, the petitioners raise the claim that the history and implications of the Bylaws demand that business done by electronic mail should be conducted in the open, similarly to the obligation that business be done in open session except for the items provided for being conducted in executive session. These claims are without merit for numerous reasons.

Section 4.A of the petitioners’ appeal focuses on the baseless assertion that because the LNC must conduct most meeting business in open session, that corresponding aspects of email business must be public.

LP Bylaws (2020) 7:14-15

14. The Secretary or a designee shall promptly post notice for each session of the National Committee; any National Committee proposed agendas; and approved minutes of each convention and open National Committee session to a permanent archive section on the Party's website. Any person may record the National Committee's proceedings while in open session, or subscribe to a read-only email list on which National Committee votes are recorded.

*15. The National Committee and all of its committees shall conduct all votes **and actions** in open session; executive session may only be used for discussion of personnel matters, contractual negotiations, pending or potential litigation, or political strategy requiring confidentiality.*

Petitioners specifically cite Article 7 Sections 14 and 15 as their basis for this claim. However, both sections of the Bylaws specifically apply to sessions (effectively, meetings) of the LNC. RONR defines a session as follows:

8:2 - In parliamentary law and as understood in this book, the terms defined below have distinct meanings:

- 1) A meeting of an assembly is a single official gathering of its members in one room or area to transact business for a length of time during which there is no cessation of proceedings and the members do not separate, unless for a short recess, as defined below. (For modification of the "one-room-or-area" requirement when the bylaws authorize electronic meetings, see 9:30–36.) Depending on the business to be transacted, a meeting may last from a few minutes to several hours.*
- 2) A session of an assembly, unless otherwise defined by the bylaws or governing rules of the particular organization or body, is a meeting or series of connected meetings devoted to a single order of business, program, agenda, or announced purpose, in which—when there is more than one meeting—each succeeding meeting is scheduled with a view to continuing business at the point where it was left off at the previous meeting (see also discussion of distinction between recess and adjournment, 8:7).*

As Electronic Mail Ballots are defined separately in Article 13 of the Bylaws, there is no reasonable interpretation that would consider an email ballot as part of a "session". Email ballots are not "a meeting or series of connected meetings" and are specifically in place to allow the LNC to conduct business asynchronously while not in the same place or in same electronic meeting. This is fundamentally distinct from the definition of a session or meeting. It is therefore absurd to attempt to apply bylaws relating to open session vs executive session to consideration of rules relating to electronic ballots. RONR 56:68 #2 states "When a provision of

the bylaws is susceptible to two meanings, one of which conflicts with or renders absurd another bylaw provision, and the other meaning does not, the latter must be taken as the true meaning. [...]”.

Petitioners also make an appeal to the precedent from past bylaws. This claim also fails on its merits, as RONR 56:68 #1 states “[...]. *An ambiguity must exist before there is any occasion for interpretation. If a bylaw is ambiguous, it must be interpreted, if possible, in harmony with the other bylaws. The interpretation should be in accordance with the intention of the society at the time the bylaw was adopted, as far as this can be determined. Again, **intent plays no role unless the meaning is unclear or uncertain**, but where an ambiguity exists, a majority vote is all that is required to decide the question. [...]*”. All aspects governing electronic mail ballots are clearly and unambiguously specified in Article 13 of the Bylaws.

In section 4.B, petitioners raise claims regarding the definition of “actions” and its distinction from “votes” as referenced in Bylaws Article 7 Section 15. While this claim is already refuted based on its applicability to sessions of the LNC, it also fails on its own merits. They cite 3 examples from the Bylaws in which actions are mentioned, and none have any applicability to this case. Among those, they cite the action of deciding to meet which is already shared publicly, such as this example from the most recent special meeting:

https://groups.google.com/g/lnc-public/c/fPOGraJa_LA. Petitioners claim that actions such as sponsoring a motion, asking for sponsors, and asking the chair for clarification should be included in the publicly shared content. It should be noted that the relevant bylaw starts with the statement “The **National Committee and all of its committees shall** conduct all votes and actions in open session; [...]”. RONR 1:1 describes any generic deliberative assembly, and its basic characteristics, with the LNC and its committees being examples of deliberative assemblies. That introduction continues in RONR 1:4, which states “*A member of an assembly, in the parliamentary sense, as mentioned above, is a person entitled to full participation in its proceedings, that is, as explained in 3 and 4, the right to attend meetings, **to make motions, to speak in debate, and to vote.***” The actions described by the petitioners are actions of members of the LNC, not actions of the LNC itself, and therefore there is no bylaw requirement for those actions to be publicly announced. RONR 4:58 expands a little more and discusses circumstances in which actions can be taken without a vote and refers to action taken in a meeting without a motion. This is conducted with unanimous or general consent. The specific language of 4:58 is “*In cases where there seems to be no opposition in routine business or on questions of little importance, time can often be saved by the procedure of unanimous consent, or as it was formerly also called, general consent. Action in this manner is in accord with the principle that rules are designed for the protection of the minority and generally need not be strictly enforced when there is no minority to protect. Under these conditions, the method of unanimous consent can be used either to adopt a motion without the steps of stating the question and putting the*

motion to a formal vote, or it can be used to take action without even the formality of a motion.” There is no analogous means of conducting business via email ballot.

Lastly, petitioners present citations of DC Non-Profit Corporation Code related to record keeping, attempting to justify their claim to overturn the legitimate actions of the LNC. Article 7 Section 12 of the Bylaws states: *“Upon appeal by ten percent of the delegates credentialed at the most recent regular convention or one percent of the Party sustaining members **the Judicial Committee shall consider the question of whether or not a decision of the National Committee contravenes specified sections of the bylaws. If the decision is vetoed by the Judicial Committee, it shall be declared null and void.**”* Since the Bylaws specifically direct that the JC can examine actions of the LNC for “whether or not a decision [...] contravenes specified sections of the bylaws”, it is improper to the JC to consider any aspect of statute in reviewing the decisions in question.

Conclusion

As has been demonstrated throughout this response, this appeal to the JC is without merit. Petitioners attempt to stretch or redefine the meaning of bylaws and clearly are attempting to relitigate a legitimate and proper action of the LNC because they don't like it. The policy manual amendment was properly introduced and adopted by the LNC, and it complies with all relevant provisions of the bylaws. Since the JC is only empowered to assess decisions of the LNC based on “whether or not the decision contravenes specified sections of the bylaws”, the JC must reject this appeal.