

**APPEAL TO THE NATIONAL LIBERTARIAN PARTY JUDICIAL COMMITTEE  
(JC)**

**AMICUS OF MIMI ROBSON**

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**Appellant:** Brittany Kosin on behalf of signatories to appeal

**Appellee:** Libertarian National Committee (LNC)

**Date:** January 31, 2025

**Jurisdiction:** LP Bylaws Articles 7.12 and 8.2

**Bylaws Alleged to be Violated:** Articles 7:14, 7:15, and 16 (incorporating  
RONR)

**Relevant RONR Provisions:** Will be cited throughout as needed

**Interested Parties:** LNC and every national Libertarian Party Member

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In reviewing the filings I am struck by how easily this whole issue can simply be remediated by the LNC at little to no cost to them. The most weighty issue is that of shortening the notice period for a trial, and I was disappointed in the dismissal by Mr. Jacobs of the applicability of his own work, *Pascal's Wager and the Continuing Breach*, attached to this Amicus for the JC's review.

As Kosin has argued, the delegates at the 2022 convention rebuked a past JC and LNC for failure to provide full due process and deemed that to be a continuing breach of the Bylaws.<sup>1</sup> Certainly preparation time is part of that due process, and RONR defines what is a minimum reasonable preparation time in fairness to any accused: thirty days. Failure to provide that minimum amount of reasonable preparation time could clearly be construed to be another continuing breach. As Mr. Jacobs himself stated:

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<sup>1</sup> The breach was based on the fact that the removal provision in the Bylaws only changed the vote threshold required and not the trial process required by how the terms of office are described in the Party Bylaws.

The society, and the parliamentarian advising it, are faced with this choice, to take Action X. Action X may create a continuing breach, but it might not. If it is a continuing breach, there will likely be loss (even political loss) to those members taking the action or to the society. If they do not take that action, there is no loss. So, it can be expressed in this chart with “valid” being used to express no problem:

	Take Action X	Reject Action X
It creates a continuing breach	Void	Valid
It does not create a continuing breach	Valid	Valid

In short, rejecting Action X will always lead to a result where there will be no continuing breach.

By Mr. Jacobs’ logic, with which I agree, the LNC should just voluntarily agree to make that change in order to ensure certainty that any potential future actions will not cause a continuing breach (though one hopes this LNC has learned that removal of anyone except for the most serious of offenses is harmful to the Party). The apparent stubbornness<sup>2</sup> on this point is puzzling and indicates an unwillingness of the LNC to concede on reasonable points of member concerns. It could also be that with the pressing concerns of the issues surrounding the former Chair and the filling of vacancies that this appeal is on the backburner. However, the LNC could make quick work of the hearing by asking for a postponement to allow them make this amendment. If such an attempt to amend fails, then the hearing could be rescheduled. If such an attempt is successful, then the appeal is moot.

Sincerely,  
Mimi Robson

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<sup>2</sup> I say apparent as there has been no motion to amend.

## Pascal's Wager and the Continuing Breach

Jonathan M. Jacobs, PRP, CPP

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The logic for believing in God, on the surface, may sound like a strange topic for a journal that publishes articles on parliamentary procedure. It is almost as strange as a wager on the existence of God, made by a mathematician/theologian in Seventeenth Century France. Yet, almost miraculously, the logic for believing in God, and how to rule or to advise on an ambiguous questionable procedural question, corresponds to the same conceptual model.

### The Wager

The eponymous wager was created by Blaise Pascal, in a posthumous collection of notes, published as *Pensées*, in 1670. Pascal wrote, "God is, or He is not," and likened this question to the tossing of a coin, i.e. an equal chance there being a God or of there not being a God. He also postulated that, as a rational living being, every individual had to, effectively, choose one position or the other. Since, in this view, the choice must be made, what is the better choice?

Pascal wrote, "Let us weigh the gain and the loss in wagering that God is. Let us estimate these two chances. If you gain, you gain all; if you lose, you lose nothing. Wager, then, without hesitation that He is. (*Pensées*, 233)." This is not an argument to prove the existence of God, but to encourage the individual's belief in God. If God does not exist, and the individual does believe, there is little loss, he will "lose nothing." There is no eternal life in a paradise if there is no God, no matter how the individual believes; his decision is irrelevant to that. If there is a God, and the individual does believe, he will "gain all," i.e. an eternal life in a paradise.

Belief in God will benefit the individual. If the individual believes and is wrong, he loses nothing; if he believes and is right, he gains eternal life in paradise. If the individual does not believe and there is no God, he loses nothing; if he does not believe, and there is a God, he loses and loses big. This can be seen in this chart:

	God Does Not Exist	God Exists
You believe God exists	No Loss	No Loss
You do not believe God exists	No Loss	Big Loss

The key is not if God exists, but what are the losses from the choice of whether the individual believes in God. The loss will occur only if the *individual* does not believe in God, so it is logical to belief in order limit that loss. That is Pascal's Wager, in a very simplified form; the individual, who must bet, will only lose if he bets that God does not exist.

Pascal recognized that in his world, Seventeenth Century France, a Catholic nation, there were costs associated with belief. These were, ultimately, opportunity costs, e.g. contributing to the church, fasting or attending weekly mass. Someone contributing to the church loses the

opportunity to spend that contribution for other purposes; someone trundling off to mass cannot do something else, even staying in a warm bed. He referred to those as “finite,” loss or gain, effectively costs that were measurable. He treated the loss of an afterlife as an “infinite” loss or gain, one so great that it cannot be measured. These can be explained in a similar chart:

	God Does Not Exist	God Exists
You act as if God exists	Finite Loss	Finite Loss and Infinite Gain
You do not act as if God exists	Finite Gain	Infinite Loss

This illustrates the method for maximizing the minimum loss. A believer will run the risk, at worst, of a slight loss, a finite loss. A nonbeliever will run the risk, at worst, of an infinite loss, one much worse than the finite one.

Pascal’s Wager is not an argument to prove that God exists. It is an argument for the conduct of human affairs, and reducing risk in the conduct of these affairs. It is absolutely applicable in dealing with breaches of rules that are continuing in nature.

### The Potential Continuing Breach

The 12<sup>th</sup> edition of *Robert’s Rules of Order Newly Revised (RONR, 12<sup>th</sup> ed.)* notes that most of the time, a point of order must be raised at the time a violation, or breach, of a rule has occurred (23:5). There is a very narrow category of “breaches of a continuing nature,” or a continuing breach; these are breaches that are so severe that they may be subject to a point of order for as long as they occur. Such actions are null and void (23:6). For example, electing someone to office who was not eligible under the society’s bylaws would create a continuing breach for as long as that person holds office (46:49). Sometimes an action may be clearly seen to be a breach of a continuing nature; sometimes an action might create a continuing breach if taken, or not. It is in the latter case, where there is uncertainty, that Pascal’s Wager is applicable.

The society, and the parliamentarian advising it, are faced with this choice, to take Action X. Action X may create a continuing breach, but it might not. If it is a continuing breach, there will likely be loss (even political loss) to those members taking the action or to the society. If they do not take that action, there is no loss. So, it can be expressed in this chart with “valid” being used to express no problem:

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There are also potential costs for leading a procedurally virtuous life. One interpretation of the bylaws may make it necessary to send out notice of some action, Action Z. There may be

some costs in sending out the notice, certainly an opportunity cost of the secretary’s time, and potentially postage. The costs of not sending out a required notice may be much higher, as the assembly would lose the opportunity to properly take the action. The action would be null and void, and that could have extreme financial costs for the organization; there will be costs to fix it, usually. It might require additional meeting time to fix it. A contractor might decline to do further business with the society, for example, because his contract was voided because it was approved at a meeting without proper notice, even if he does not sue for damages. A chart looking at the costs would be:

	The Breach Does Not Exist	The Breach Exists
The assembly acts as if the breach exists	Cost of sending out the notice	Cost of sending out the notice
The assembly acts as if the breach does not exist	No costs	The cost of fixing the breach (which includes the cost of sending out notice)

From this chart, it should be clear that the maximum cost will be higher than just than taking action to avoid the potential continuing breach.

What are the best practices for the society and for the parliamentarian advising that society, in regard to a potential continuing breach? In general, it is in the best interest of the society to act on the assumption that there is a rule, the violation of which would create a breach. They can avoid the issue. At the very least, the parliamentarian should advise his clients that there may be a continuing breach, i.e., there is at least one reasonable interpretation of the bylaws or rules that will indicate the action is null and void. In almost all cases, the parliamentarian should advise the client society to avoid even a potential for a breach of a continuing nature, as it can have very negative consequences.

#### The Wager in Reality: The Harlos Case

The Libertarian Party is the third largest political party in the United States. It meets, in convention, every two years, and elects officers and members of what is effectively its board, the Libertarian National Committee (LNC). In 2021, one of these officers was the National Secretary, Caryn Ann Harlos, noted for her pink hair, her Statue of Liberty crown, salty vocabulary, and her interests in both parliamentary procedure<sup>1</sup> and history, especially the history of the Libertarian Party; her appearance may have gotten her an animated cameo on the television show *South Park*. She was first elected, as secretary, in 2018, with about 57% of the vote, and was re-elected in 2020 with about 52% of the vote. In 2021, she faced two separate attempts, by the LNC, to remove her from office.

The bylaws stated that an officer “...shall take office immediately upon the close of the convention and shall serve thereafter until the final adjournment of the next regular convention.” However they also state, “The National Committee may, for cause, suspend any officer by a vote of 2/3 of the entire National Committee, excepting the officer that is the subject of the vote who may not participate in that vote.” After the first attempt to remove Harlos, the then chair ruled that there was some due process required.<sup>2</sup> At the second attempt, a different chair ruled that

there needed to be none. Various experts split on whether due process, proper notice and trial, were required. In a previous case with the LNC, several members of the authorship team of RONR opined that Libertarian Party Bylaws provide an officer could be removed by motion, without a trial.<sup>3</sup> Conversely, one of the original framers of the bylaws, determined that a trial was necessary to finally remove an officer.<sup>4</sup> After a hearing by the Judicial Committee, a special general appellate body, the decision to remove Harlos was sustained.

Harlos, ran for reelection at the 2022 biennial Libertarian National Convention in Reno, Nevada; she was reelected with just over 70% of the vote. The announcement of her election was met with a standing ovation and chants of “Caryn Ann.”<sup>5</sup> Later in the convention, a point of order was raised that Harlos’s removal “should have had full due process, including a trial” and that her removal was null and void. The chair ruled the point of order not well taken, (Timestamp: 0:31:00) and immediately entertained an appeal.<sup>6</sup> The chair stated that, on the advice of the parliamentarian, it was solely the ability of the National Committee and stating finally, that the decision should be left to the assembly. The decision of the chair was overruled, overwhelmingly. In response to a parliamentary inquiry, the chair stated, “I think this body just ruled the removal of Caryn Ann Harlos out of order.” (Timestamp: 0:31-46) <sup>6</sup>

The cost, in this case, was more than just the reversal of the removal. A caucus within the Libertarian Party, the Mises Caucus, strongly opposed the removal and supported stronger member rights in general and found that the removal became a rallying cry. At the convention, candidates supported by this caucus won all board seats.<sup>7</sup> This was the third attempt of the Mises Caucus to take a majority of the seats and the failure to provide due process to Harlos soured the support of many non-Mises candidates. Had Harlos been afforded a trial, even one that led to her removal, it is unlikely that opposition would have jelled so strongly against the non-Mises candidates.

The continuing breach in the Harlos case was or was not; the convention determined that it was. This case well illustrates the potential costs of not dealing with a potential breach of a continuing nature. The cost of not preventing the possibility of that was not only to have the action reversed, but to suffer a political defeat. Those opposing it lost and lost big.

Organizations, and those advising them, can learn this lesson from the example of Pascal’s Wager. If there is a reasonable likelihood of a breach of a continuing nature, expend the energy to resolve it prior to the breach occurring.

#### End Notes

<sup>1</sup> Harlos became a Registered Parliamentarian with the National Association of Parliamentarians in 2022 and co-hosts the YouTube series “The Cult of RONR,” which was reviewed in the Summer 2021 *National Parliamentarian*.

<sup>2</sup> <https://groups.google.com/a/lp.org/g/lnc-business/c/E5fbVTGebQU/m/WvsrO5uXBgAJ> Posting of June 20, 2021, 1:22: 24 PM [Accessed 4/21/23] Note that the temporary chair, Ken Moellman, filed an amicus brief with the Judicial Committee in favor of Harlos. He was also the temporary chair who ruled against the point of order at the convention.

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[https://11484554196470929702.googlegroups.com/attach/6910dd399367c/2008\\_11\\_30%20Balch-Robert%20Opinion%20Removal%20LNC%20At%20Large.pdf?part=0.1&view=1&vt=ANaJVrH43GZ2bFq6uLJks5zcuEMd4-QMjGGuKtlMcEGcF0nC3qeU6b3HV3pwXsRMlg0rGSXXV9YAxDadXDiliKN4WK29H9789UyHHf5gBtDHzi8xAK3PjGU](https://11484554196470929702.googlegroups.com/attach/6910dd399367c/2008_11_30%20Balch-Robert%20Opinion%20Removal%20LNC%20At%20Large.pdf?part=0.1&view=1&vt=ANaJVrH43GZ2bFq6uLJks5zcuEMd4-QMjGGuKtlMcEGcF0nC3qeU6b3HV3pwXsRMlg0rGSXXV9YAxDadXDiliKN4WK29H9789UyHHf5gBtDHzi8xAK3PjGU) [Accessed 7/30/23]

<sup>4</sup> Opinion of D. Frank Robinson,  
[https://lpedia.org/w/images/b/b9/JC\\_Opinion\\_in\\_the\\_Matter\\_of\\_the\\_JC\\_Appeal\\_of\\_Secretary\\_Harlos.pdf](https://lpedia.org/w/images/b/b9/JC_Opinion_in_the_Matter_of_the_JC_Appeal_of_Secretary_Harlos.pdf) [Accessed 7/28/23]

<sup>5</sup> <https://www.youtube.com/watch?v=OwGKIRD5Yhs&t=7543s> Timestamp: 2:42:00 – 46

<sup>6</sup> <https://www.youtube.com/watch?v=7OzfcEepE0o&t=2891s> Timestamp: 0:31:30- 0:46:00

<sup>7</sup> <https://reason.com/video/2022/06/15/inside-the-mises-caucus-takeover-of-the-libertarian-party/> [Accessed 4/21/23]

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*Jonathan M. Jacobs, PRP, CPP, served as Caryn Ann Harlos's parliamentary advisor during her attempted removal. He later served as the parliamentary advisor to the Mises Caucus during the Reno Convention. He is not a member of the Libertarian Party.*