

## RESPONSE TO THE APPEAL OF R. LEE WRIGHTS

This document addresses solely the merits of the question before the Judicial Committee. The submission of this document does not constitute a waiver of any rights and duties that exist under our organization's bylaws. As such, we reserve all of our rights.

The Judicial Committee has decided to hear the appeal of R. Lee Wrights concerning the following question:

"Does a lapse in dues require a 'for cause' removal described in Article 8, section 5?"

We assert that the questions which more appropriately address the situation are as follows:

- Must a member of the LNC maintain eligibility requirements specified in Bylaw Article 5.6 in order to continue service on the LNC?
- May the LNC through any act (or failure to act) ignore the eligibility requirements specified in Bylaw Article 5.6?

### ELIGIBILITY REQUIREMENTS

Regarding the first question, the language of Bylaw Article 5.6 unambiguously states that one must be eligible to "hold" the office.

Bylaw Article 5.6: "Only sustaining members shall be counted for delegate apportionment and National Committee representation. Only sustaining members shall be eligible to hold National Party office or be a candidate for President or Vice-President." (Relevant language underlined for emphasis.)

The delegates could have limited the language to being elected or selected, but evidently believed that the requirement to be a sustaining member should be ongoing throughout the term of office.

One of the duties of the Secretary is to "to keep the organization's official membership roll (unless another officer or staff member has this duty) ...." – RONR (10<sup>th</sup> ed.), p. 442, lines 29-30. In the particular case at hand, the Secretary was obligated to notify the LNC of the vacancy created by Mr. Wrights' failure to maintain the eligibility requirements.

No one, including Mr. Wrights, contests whether his sustaining membership lapsed. Mr. Wrights has made public comments acknowledging his failure to meet the dues requirement, most recently at the LP Tennessee convention on April 25. These comments have been audio-taped and are publicly available.

The facts are not in dispute and the answer to the first question is self-evident. Mr. Wrights failed to meet the eligibility requirements of Bylaw Article 5.6 in order to continue to hold the office.

The following future imaginary news story illustrates the consequences of the opposing viewpoint:

#### California Libertarians Appoint Republican to National Committee

In what some will inevitably call a confirmation of reports that the Libertarian Party of California is under the influence of Republicans, the LPCA Executive Committee today voted by email to replace its representative to the Libertarian National Committee with former congressman Tom Campbell (R).

Campbell will reportedly not be formally joining the LP as a dues-payer. He apparently is not yet giving up on his long-shot bid for the CAGOP gubernatorial nomination, and a recent opinion from the LP Judicial Committee cleared the way for a Republican like Campbell to attempt a fusion strategy, keeping a foot in each of the LP and GOP. Campbell might be hoping that if by chance he wins the nomination, the LPCA would not run a candidate against him and cost him a crucial percentage point or two.

The LP Judicial Committee issued a ruling that the LP Bylaw about LNC qualifications is merely a guideline, and that enforcement of this guideline is subject to a discretionary vote of whatever body has authority to replace an LNC representative.

Bylaw Article 5.6 cannot require a vote of the LNC to remove someone for being ineligible to serve -- it is simply a matter of refusing to credential him, and that task is lodged with the Secretary. Being ineligible is not a 'cause' for removal. Simply being ineligible means the position is not filled. A formal declaration of the fact is all that is necessary.

#### **THE RIGHT OF THE LNC TO IGNORE THE BYLAWS**

Regarding the second question, some individuals assert that the LNC is required to conduct a vote to uphold the bylaws. And that somehow, by not voting, the LNC is free to ignore any requirement imposed on them by the delegates in convention.

No vote, even if unanimous, can suspend the Bylaws. The inability to override the bylaws is discussed throughout RONR.

“The term bylaws ... which includes all rules that the society considers so important they (a) cannot be changed without previous notice to the members and

the vote of a specified large majority (such as a two-thirds vote), and (b) cannot be suspended ....” – RONR (10th ed.), p. 12, lines 11-30.

“... bylaws cannot be suspended.” – RONR (10th ed.), p. 86, lines 16-17.

“The incidental motion to Suspend the Rules ... can be applied to any rule of the assembly except bylaws (or rules contained in a constitution or corporate charter).” – RONR (10th ed.), p. 252, lines 18 through 253, line 1.

“Rules contained in the bylaws (or constitution) cannot be suspended – no matter how large the vote in favor of doing so or how inconvenient the rule in question may be – unless the particular rule specifically provides for its own suspension ....” – RONR (10th ed.), p. 254, lines 28-32.

Given the above, would the LNC have the right to enact the following motion?

“Shall the LNC maintain that Mr. Wrights is a member of the LNC even though he does not meet the eligibility requirements under our bylaws?”

Of course not. The LNC had no option to keep Mr. Wrights in his office once he became ineligible. To even consider such a motion would be considered improper.

“Motions that conflict with the corporate charter, constitution or bylaws of a society, or with procedural rules prescribed by national, state or local laws, are out of order, and if any motion of this kind is adopted, it is null and void.” – RONR (10th ed.), p. 322, lines 15-18.

## **THE QUESTION BEING CONSIDERED BY THE JUDICIAL COMMITTEE**

The question being considered by the Judicial Committee ("Does a lapse in dues require a 'for cause' removal described in Article 8, section 5?") is identical to the theoretical motion ("Shall the LNC maintain that Mr. Wrights is a member of the LNC even though he does not meet the eligibility requirements under our bylaws?"), except it is stated in the negative.

To demonstrate the reductio ad absurdum consequence of this line of thinking, imagine that Bylaw Article 8.5 does apply, and a vote was needed to 'remove' Mr. Wrights for being ineligible. Not having such a vote would allow the LNC to violate Bylaw Article 5.6 by simple neglect. And having such a vote would allow a minority of the LNC to suspend the requirement of Bylaw Article 5.6 (bylaws cannot be suspended even with unanimous consent).

Therefore, allowing the LNC even the opportunity to vote an ineligible person off the LNC is illogical and it CANNOT be a requirement that the LNC vote to remove somebody who is ineligible to serve.

Bylaw Article 8.5 clearly refers to requiring cause for suspension of an LNC member. "Cause" is defined by RONR as "misconduct or neglect of duty in office . . ." – RONR (10th ed.), p. 642, lines 31-32. Descriptions of misconduct or neglect of duty are further described on p. 642. Ineligibility is clearly not such a "cause" for which the LNC must vote a person off, and Bylaw Article 8.5 does not apply.

The consequence of a Judicial Committee finding that a vote of the LNC is a pre-requisite to enforcing this bylaw (or any bylaw) opens the door to a future LNC being able to ignore any other requirement by simply not conducting a vote. This would be ill advised.

### **THE PROPER APPROACH FOR HANDLING VACANCIES CAUSED BY INELIGIBILITY**

The ONLY available method for the LNC to reseat Mr. Wrights was to recognize the vacancy caused by Mr. Wrights' failure to maintain his eligibility, require that he reestablish his eligibility and then vote to appoint him to the vacancy that he created.

This has been done, with the vacancy being filled by a twelve-to-zero vote of the LNC.

### **SIGNATORS (alphabetically by last name):**

Patrick Dixon  
Stewart Flood  
Dan Karlan  
Alicia Mattson

Bill Redpath  
Rebecca Sink-Burris  
Aaron Starr  
Bob Sullentrup