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November 30, 2022

Angela Thornton Canny

Judicial Committee

Libertarian Party of Michigan

PO Box 27065

Lansing, MI 48909

Members of the Judicial Committee:

I wrote the accompanying parliamentary opinion in answer to the questions posed on November 24, 2022. Thank you for selecting me as your parliamentarian and giving me the opportunity to prepare this opinion. It was a pleasure preparing this opinion for you, and I hope it meets your needs.

If the Libertarian Party of Michigan is in need of a parliamentarian in the future please let me know of the dates at your earliest convenience so we can arrange a schedule. If you have any questions about my services or wish to arrange a schedule please telephone or e-mail me.

Sincerely yours,

Josh Martin



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Statement of Inquiry

The organization would like clarification on the following questions:

1. Was the removal of the Chair valid?
2. Were the elections to fill vacancies in various officer positions valid?
3. If the answer to either of the above questions is "no," what next steps should be taken by the society?
4. What recommendation(s), if any, would you suggest to clarify the society's rules to avoid similar issues in the future?

Background Information

The Libertarian Party of Michigan held its "Candidate Nominating Convention" on July 9, 2022. In addition to other business which is not the subject of this opinion, the convention removed from office the party's Chair, Andrew Chadderdon. The party also elected persons to various vacant officer positions. One of these vacancies was caused by the removal of Mr. Chadderdon, while the other vacancies were caused by resignations submitted on June 14-15, 2022.

[Note: Both the party and Mr. Chadderdon appear to have been under the understanding that he remained the 2nd Vice Chair, notwithstanding the vacancies in the positions of Chair and 1st Vice Chair. Under the rules in RONR, however, when there is a vacancy in the positions of Chair and 1st Vice Chair, the 2nd Vice Chair automatically becomes Chair unless the organization's bylaws explicitly provide otherwise (which they do not). (RONR, 12th ed., 47:29)]



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On November 18, 2022, Mr. Chadderdon submitted an appeal the Judicial Committee (which is authorized under the party's bylaws to address such matters) alleging, for various reasons, that the party violated its bylaws by removing him from office and by electing persons to fill vacancies and that, as a result, these actions are invalid.

On November 24, 2022, my services were retained and I was provided a copy of the party's bylaws and the appeal. The views expressed in the opinion reflect my independent judgment as a professional parliamentarian and my best interpretation of the rules at issue, without regard to the preferences of the client.

Resources Referenced

- *Robert's Rules of Order Newly Revised*, 12th ed. (cited as RONR, 12th ed.)
- Bylaws of the Libertarian Party of Michigan (cited as Bylaws)
- Appeal to the Judicial Committee by Andrew Chadderdon (cited as Appeal)

Discussion

There are two separate issues involved. The first is the removal of Mr. Chadderdon as Chair. The second is the election of various persons for elected officers. I shall first discuss the rules and allegations which are applicable to both issues, and then discuss the issues which are specific to one issue or the other.

Was the convention a regular or special convention?

Most of the allegations raised in the appeal are relevant to both issues and revolve around the distinction between regular meetings and special meetings.



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- “1. The Candidate Nominating Convention that occurred on July 9, 2022 was a special convention as defined in the LPMI Bylaws.” (Appeal, pg. 2)
- “2. LPMI Bylaws, as amended in convention June 26, 2021, require that notice for ALL conventions is given with AT LEAST 30-day notice to all members of the Libertarian Party of Michigan and members of the national Libertarian Party that reside in Michigan.” (Appeal, pg. 2)
- “4. RONR states that for a special meeting, all substantive business must be designated in the call of the meeting.” (Appeal, pg. 2)
- “6. The first attempt to make a motion of no confidence to remove an officer from the LEC was sent to members of the LEC on June 19, 2022.” (Appeal, pg. 2)
- “7. Details of these violations were provided at convention, prior to the actions being carried out by the convention body. The information was willfully ignored.” (Appeal, pg. 2)

Claim 6 and the first sentence of Claim 7 are statements of fact. The parliamentarian’s understanding is that neither of these claims are in dispute. It is difficult to say whether “The information was willfully ignored” is correct because it involves an analysis of motives, but whether this claim is correct ultimately makes no difference in answering the questions raised in this opinion. Claims 2 and 4 both relate to the rules. Both claims are clearly correct and are not in dispute. Claims 3 and 5 do not relate to the issue of whether the convention was a special meeting, and are discussed later.

The issue arises with Claim 1, and this is particularly important because if Claim 1 is not correct, then many of the other facts are moot. Claim 1 states that the convention in question is a “special convention.” Mr. Chadderdon provides the following reasoning for this claim:



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“• In Article III, Section 1, the classification of conventions is independently referenced to establish that officers elected in the odd-numbered year regular convention are elected to a two-year term and serve until the end of the NEXT regular convention (2 years later). This implies that there is no regular convention held on even-numbered years.

- RONR established 2 main types of meeting, or conventions, which are Regular meetings, defined in RONR 9:1-12, and Special meetings, defined in RONR 9:13-16. Additional types of meetings are defined in RONR Ch 9, but do not apply.

- Through the references in Article VI Section 1, the LPMI bylaws reference Regular conventions on odd-numbered years, and Candidate Nominating Conventions (and National Delegate Nomination Conventions) on even-numbered years.

- By implication of Article III Section 1, the even-numbered year conventions must be Special Conventions (they are shown to not be regular conventions).” (Appeal, pgs. 2-3)

Mr. Chadderdon’s statements concerning RONR are correct. We must then turn to the analysis regarding the organization’s bylaws. Mr. Chadderdon’s argument is that the bylaws explicitly provide that the odd-numbered year conventions are “regular conventions” and, by implication, all other conventions are special conventions.

The claim that the use of the term “regular convention” to refer to the odd-numbered year conventions means that all other conventions are special meetings does not seem unreasonable on its face, and may well be a reasonable interpretation if the section of the bylaws in question is read in isolation. But there is another provision in the organization’s bylaws which may be relevant to this question.



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“The Party shall hold a **special convention** within 45 days upon the call of the Executive Committee or when petitions are submitted by 10% of the current membership, specifying the purpose for the special convention.” (Bylaws, Art. VI, Sec. 3, emphasis added)

This seems to undermine Mr. Chadderdon’s claim, which was that, because the bylaws explicitly use the term “regular convention” in Section 1, this means all other conventions are “special conventions.” But it would be equally reasonable to assert that because the bylaws use the term “special convention” in Section 3, that means all other conventions are regular conventions. Based upon these rules alone, there does not appear to be any reason to favor one interpretation over the other. So further research is needed.

There appears to be nothing else in the bylaws which is germane to this question, so we turn to the parliamentary authority. RONR provides “The term regular meeting (or stated meeting) refers to the periodic business meeting of a permanent society, local branch, or board, held at weekly, monthly, quarterly, or similar intervals, for which the day (as, “the first Tuesday of each month”) should be prescribed by the bylaws and the hour and place should be fixed by a standing rule” and also provides “A special meeting (or called meeting) is a separate session of a society held at a time different from that of any regular meeting, and convened only to consider one or more items of business specified in the call of the meeting. Notice of the time, place, and purpose of the meeting, clearly and specifically describing the subject matter of the motions or items of business to be brought up, must be sent to all members a reasonable number of days in advance. The reason for special meetings is to deal with matters that may arise between regular meetings and that require action by the society before the next regular meeting, or to dedicate an entire session to one or more particular matters.” (RONR (12th ed.) 9:1; 9:13)



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The bylaws provide “During even-numbered years in which a Libertarian Party primary election is not required by state law, the Party shall hold a candidate nominating convention after the filing deadline for candidates to appear on Michigan’s primary ballot and before the date of the primary.” (Bylaws, Art. VI, Sec. 1) Since this convention is held on a “periodic” basis at regular intervals, this appears to match the definition in RONR of a “regular” meeting. Conversely, what is defined in Article VI, Section 3 quite clearly matches the definition of a “special” meeting. Based upon these facts, it appears to be a reasonable conclusion that the convention held on July 9, 2022 is a “regular convention.”

RONR provides that “Any business that falls within the objects of the society as defined in its bylaws (or, in the case of a board, any business within the authority of the board) can be transacted at any regular meeting (provided that the parliamentary rules relating to action already taken, or to matters not finally disposed of and remaining within the control of the assembly, are complied with in cases where they apply; compare 10:26–27; see also 35 and 38).” (RONR (12th ed.) 9:12) As a result, notice is not required for business, unless a particular rule requires notice for particular items of business.

Was the removal of Mr. Chadderdon valid?

We then turn to the issue of the removal of Mr. Chadderdon. Other than the “special convention” claim (and related claims), no other claims are raised by Mr. Chadderdon in regard to this issue. The bylaws provide that “A member of the Executive Committee who misses three consecutive meetings of the Executive Committee or fails to perform his or her fiduciary duties may be removed from the Executive Committee and replaced by a two-thirds vote at a regular meeting of the Executive



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Committee or a majority vote at convention following a motion for a vote of no confidence. All Executive Committee members must be notified of the intent to remove at least 14 days prior to the meeting.” (Bylaws, Art. III, Sec. 10) Notice was provided of the motion of no confidence on June 19, 2022, which was more than 14 days before the convention. As a result, it would appear that sufficient notice was provided of this motion, and that the removal of Mr. Chadderdon from the position of Chair is valid.

Was the election of officers valid?

We then turn to the issue of the election of officers. Mr. Chadderdon raises two claims (apart from the special meeting claims) which are relevant to this issue.

- “3. Robert’s Rules of Order Newly Revised, 12th edition (RONR) states that notice must be given to members for filling vacancies.” (Appeal, pg. 2)
- “5. Resignations of the Chair and 1st Vice Chair occurred on June 15, 2022. Resignations of other officers occurred (District Representatives) on June 14, 2022.” (Appeal, pg. 2)

Claim 5 is a statement of fact and, to the best of my knowledge, is not in dispute. Claim 3 is correct. The organization’s bylaws are silent concerning filling vacancies and, as a result, the rules in RONR are controlling.

RONR provides “The power to appoint or elect persons to any office or board carries with it the power to accept their resignations, and also the power to fill any vacancy occurring in it, unless the bylaws expressly provide otherwise. In the case of a society whose bylaws confer upon its executive board full power and authority over the society's affairs between meetings of the society's assembly (as in the example in 56:43) without reserving to the society itself the exclusive right to fill vacancies, the



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executive board is empowered to accept resignations and fill vacancies between meetings of the society's assembly. For particular vacancies, see 47:22 (president-elect), and 47:28–30 and 56:32 (president and vice-presidents). See also 13:23 (vacancies in a committee).” (RONR (12th ed.) 47:57)

The question then arises over *how much* notice is required, and RONR does have an answer to this question. “The term previous notice (or notice), as applied to necessary conditions for the adoption of certain motions, has a particular meaning in parliamentary law. A requirement of previous notice means that announcement that the motion will be introduced—indicating its exact content as described below—must be included in the call of the meeting (1:7, 9:2–5) at which the motion will be brought up, or, as a permissible alternative, if no more than a quarterly time interval (see 9:7) will have elapsed since the preceding meeting, the announcement must be made at the preceding meeting.” RONR (12th ed.)

10:44

Since conventions are held less frequently than quarterly, this means as a practical matter that only including the notice in the call of the meeting is a practical option for a convention. This is actually somewhat complicated as the bylaws appear to have *two* calls to convention – one which is sent to affiliates 60 days in advance and one which is sent to all members of the party 30 days in advance. (Bylaws, Art. VI, Sec. 2, 4) It is somewhat unclear which of these should be considered the “call” for purposes of previous notice deadlines. In this instance, however, the resignations were submitted less than 30 days before the convention (and therefore any notice to fill vacancies would have also been submitted less than 30 days before the convention), which means that notice was certainly insufficient in this instance.



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After circulating an earlier draft of this opinion, the parliamentarian was informed that “the replacement / selection of District Reps is IMO 100% consistent with our bylaws and past practice whereas the election of the vice chair is admittedly ambiguous. The parliamentarian may not have realized we routinely replace District Reps at even-year conventions.”

The statement that the “replacement/selection of District Reps is... 100% consistent with our bylaws whereas the election of the vice chair is admittedly ambiguous” is not, in my opinion, a correct interpretation of the rules, for the following reasons.

The bylaws provide one sentence pertaining to this matter, which is “A Congressional district representative may be replaced by a majority vote of a congressional district caucus at any state convention.” (Bylaws, Art. III, Sec. 10) This sentence, however, appears in the context of a rule relating to removal of members of the Executive Committee. As such, it is unclear whether this rule refers to replacing a district representative in all cases, or only that the convention may replace a district representative which has just been removed by the convention. In the latter case, the rule would not be applicable in these circumstances. The parliamentarian is inclined to favor the latter interpretation, since it would seem odd that a rule applying to filling all district rep vacancies would appear in a section regarding removal. Even to the extent the rule is applicable here, it is not entirely clear that this rule means that no notice is required for filling such vacancies.

There may also be a conception that the rules in RONR for filling officer vacancies are not applicable to the election of district representatives, but the bylaws are clear that “The officers of the Party shall be a chair, a first vice chair, a second vice chair, a secretary, a treasurer, **and the Congressional district representatives described below**” (Bylaws, Art. III, Sec. 1)



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The parliamentarian has no reason to doubt the statement that “replacement/selection of District Reps is... 100% consistent with... past practice”, however, this fact is immaterial. “However, if a customary practice is or becomes in conflict with the parliamentary authority or any written rule, and a Point of Order citing the conflict is raised at any time, the custom falls to the ground, and the conflicting provision in the parliamentary authority or written rule must thereafter be complied with. If it is then desired to follow the former practice, a special rule of order (or, in appropriate circumstances, a standing rule or a bylaw provision) can be added or amended to incorporate it.” (RONR (12th ed.) 2:25)

The email does raise another issue which may be relevant to the opinion. The section pertaining to removal also provides “If the chair is so removed, the first vice chair shall assume the chair and a new first vice chair elected.” (Bylaws, Art. III, Sec. 10) This would appear to suggest that, in the event that the Chair is properly removed, then the resulting election in the office of First Vice Chair may be immediately conducted, without notice. But it is questionable whether this rule is applicable in the present circumstances, since the office of First Vice Chair was vacant at the time of the removal.

Based upon these facts, the parliamentarian’s view is that the election of the District Representatives *and* the First Vice Chair are ambiguous, however, the parliamentarian leans toward the interpretation that these elections are not valid, for the reasons described above. The parliamentarian notes that the organization’s past practice of filling vacancies of district director positions at the conventions in question is acceptable *so long as notice is given*, however, that did not occur in this instance. If the organization wishes to adopt rules providing for election of district representatives (or even all officers) at these conventions without notice, it is free to do so, but that does not appear to be what the bylaws presently provide.



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As a general matter, violations of the rules must be addressed “promptly at the time the breach occurs.” (RONR (12th ed.) 23:3) Apparently, an attempt was made to address these matters at the convention, but the attempt was unsuccessful. Nonetheless, further attempts after the fact would ordinarily not be in order. But RONR provides an exception “breaches that are of a continuing nature, whereby the action taken in violation of the rules is null and void. In such cases, a point of order can be made at any time during the continuance of the breach—that is, at any time that the action has continuing force and effect—regardless of how much time has elapsed.” (RONR (12th ed.) 23:6) Because the officers elected at the convention are still serving, there is no doubt that this action still has “continuing force and effect.” One of the reasons that a breach may be of a continuing nature is if “any action has been taken in violation of a rule protecting absentees.” (RONR (12th ed.) 23:7) Rules requiring previous notice are rules protecting absentees. (RONR (12th ed.) 23:10) Therefore, this violation constitutes a continuing breach and may be pursued, notwithstanding that several months have passed since the violation occurred. Based upon these facts, the election of officers is not valid.

What are the next steps for the organization?

Ordinarily, the proper body to address a complaint is the electing body itself. “Because the voting body itself is the ultimate judge of election disputes, only that body has the authority to resolve them in the absence of a bylaw or special rule of order that specifically grants another body that authority.” (RONR (12th ed.) 46:49) But the organization does have its own rules on this matter, providing in its bylaws that “The Judicial Committee shall decide cases involving alleged violations of these bylaws or resolutions.” (Bylaws, Art. V, Sec. 2) The appeal regarding this matter is presently being considered by the Judicial Committee. Based upon the foregoing, it appears that the Judicial Committee should hold that the removal of Andrew Chadderdon was valid, but the election of officers was not.



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The consequence of this holding will be that many positions on the Executive Committee will be vacant – including the Chair and both Vice Chairs. Certainly, these vacancies should be filled promptly. The bylaws are silent on filling vacancies. RONR provides that “The power to appoint or elect persons to any office or board carries with it the power to accept their resignations, and also the power to fill any vacancy occurring in it, unless the bylaws expressly provide otherwise. In the case of a society whose bylaws confer upon its executive board full power and authority over the society's affairs between meetings of the society's assembly (as in the example in 56:43) without reserving to the society itself the exclusive right to fill vacancies, the executive board is empowered to accept resignations and fill vacancies between meetings of the society's assembly.” (RONR (12th ed.) 47:57)

The bylaws provide that the Executive Committee “shall govern all the affairs of the Party”. (Bylaws, Art. III, Sec. 9) While not an exact match to the wording in RONR, it seems reasonable to conclude that this wording is equivalent to “full power and authority over the society's affairs between meetings of the society's assembly”. As a result, the Executive Committee has the authority to fill vacancies. As previously noted, notice must be given at the previous regular meeting (if within a quarterly interval) or in the call of the meeting. The bylaws do not provide how far in advance the call of the Executive Committee must be sent. RONR provides only that such notice must be “reasonable” and leaves the details to a particular organization's rules. (RONR (12th ed.) 9:2)

Another complication is the fact that the offices of Chair and both Vice Chairs are vacant, which raises the question of who shall preside until one or more of those vacancies are filled. Thankfully, RONR has a solution to this. “If neither the president nor any vice-president is present, the secretary—or in the secretary's absence some other member—calls the meeting to order, and the assembly immediately elects a chairman pro tem to preside during that session.” (RONR (12th ed.) 47:11)



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The parliamentarian notes that when the Executive Committee chooses to fill the vacancies, the committee may well choose to elect some or all of the same persons that were elected (albeit improperly) by the convention. This is not intended to be any reflection on the merits of this suggestion and it is provided for information only.

What recommendations do you have to avoid these issues in the future?

I would recommend that the organization consult a professional parliamentarian to assist the organization in a thorough review of its bylaws in their entirety. But to provide more specific recommendations relevant to the issues raised here, I would suggest addressing the following matters:

- Add a sentence at the end of Article VI, Section 1 providing that “All conventions described in this section are considered to be regular meetings in the sense that term is used in the parliamentary authority.” Add the same sentence at the end of Article VI, Section 2. This will clean up the regular/special meeting issue without needing to change the organization’s customary terminology distinguishing the different types of regular conventions.
- In Article III, Section 10, there is a sentence which provides “All Executive Committee members must be notified of the intent to remove at least 14 days prior to the meeting.” It does not seem terribly logical that notice is provided only to the Executive Committee if the removal will take place at a convention. It may be advisable to provide a different notice procedure for removal at a convention, which presumably would involve notice to all affiliates (or all members of the party). At the organization’s



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discretion, it may be desirable to require more notice for a convention than for an Executive Committee meeting.

- The organization should adopt rules clearly providing the manner in which vacancies are to be filled. The organization may adopt such rules on this manner as it wishes. It may be advisable to ensure that the notice requirement for filling vacancies is consistent with the notice requirement for removal.

Opinion

Based on the background information provided, the sources referenced, and the foregoing discussion, it is my opinion that:

1. Yes, the removal of Mr. Chadderdon as chair is valid.
2. No, the elections of officers are not valid.
3. The Judicial Committee should grant the appeal of Mr. Chadderon in part and deny it in part, holding that the removal is valid, but the elections are not. The Executive Committee should then proceed to promptly fill the resulting vacancies.
4. The society should make several amendments to its bylaws to clarify matters regarding classification of meetings, rules concerning removal, and rules concerning filling vacancies. It may also be advisable to conduct a thorough review of the bylaws in their entirety.

Disclaimer



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The discussion and opinion above are based upon Robert's Rules of Order, the common parliamentary law, and the background information and documents provided. Nothing in this opinion should be construed as legal advice.