

Majority Opinion in the Matter of the Appeal of R. Lee Wrights  
21 June 2009

**Mr. Wrights Has Standing to Appeal His Removal From the LNC.**

The Judicial Committee is empowered by the LP Bylaws to hear appeals of the "suspension of National Committee members-at-large." (LP Bylaws 9.2 (c)). The argument has been advanced that since Mr. Wrights was not suspended from the LNC through the procedures described in LP Bylaws 8.5, his removal is not actually a suspension and thus is not appealable to the Judicial Committee. We are not persuaded that removing an at-large committee member is not a suspension merely because it was done outside the established bylaws procedures. Following that argument would result in a situation where a suspension done according to established procedures can be appealed and potentially overturned, but one done without following established procedures would be unreviewable. Rather, we are persuaded that Mr. Wrights was suspended from the LNC, regardless of the words used by Mssrs. Sullentrup and Redpath to describe it, and thus has standing to appeal his suspension to the Judicial Committee.

**There is Some Ambiguity in the Language of the Bylaws Regarding When a Sustaining Member's Dues Lapse.**

LP Bylaws 5.3 defines "Sustaining member as "any Party member who haas given at least \$25 to the Party in the prior twelve months, or who is a life member." There is a dispute over whether "prior twelve months" indicates the twelve calendar months prior to the month where the dues are checked for a lapse or if it indicates the twelve months prior to the date of the alleged lapse. This question becomes important as Mr. Wrights sustaining membership had lapsed as of the date of Mr. Sullentrup's letter to him under the latter formulation, but not under the former. While it is not necessary to resolve this question here, since we conclude that the Secretary exceeded his discretion in removing Mr. Wrights regardless, there is a general principle in law that ambiguities should be resolved in favor of the accused, and under that principle, the former construction would be preferred.

**There Are Situations in the Bylaws that Require the LNC Secretary to Recognize a Vacancy on the LNC.**

LP Bylaws 8.5 says that "A National Committee member who fails to attend two consecutive regular meetings of the National Committee shall be deemed to have vacated his or her seat." This "shall be deemed" language can be read to mean that the LNC Secretary is required to recognize the vacancy of the National Committee member who missed the two consecutive meetings; recognizing the vacancy is not left to the discretion of the LNC Secretary. This specific mandatory language is the proverbial exception that proves the rule, i.e. if there is not specific mandatory language, the LNC Secretary retains some level of discretion in carrying out his/her duties.

### **The Eligibility Requirements of LP Bylaws 8.4 do not Contain Specific Enforcement Language.**

LP Bylaws 8.4 reads, "A National Committee member shall be a sustaining member of the Party, and shall not be the candidate of any party except the Party or an affiliate." While there is dispute about whether this language specifically requires continuing sustaining membership and the effect of a lapse in that membership, there is no dispute about whether the Bylaw contains specific enforcement language. It does not.

It is clear from other sections of the Bylaws that when the delegates intend to make a provision mandatory, they are capable of enacting clear language to that effect. (See, e.g., the third paragraph of LP Bylaws 8.5 (requiring a member who misses two consecutive meetings to be removed)). It is also clear that the delegates are capable of writing language prohibiting action, such as LP Bylaws 8.7, which reads in part, "A National Committee Regional Representative may be removed and replaced only by the act of the affiliate parties which constitute the subject region."

### **In Absence of a Specific Enforcement Procedure, Suspension of an At-Large Member Must be Done Through the General Procedures Contained in the LP Bylaws.**

Given the lack of either kind of language in LP Bylaws 8.4, two possibilities exist. Either the Secretary and Chair are empowered to enforce the language as they see fit or the LNC has to act as a whole under the process given for suspension of an LNC member. We are not persuaded that the Secretary or Chair can suspend an at-large member of the LNC without a 2/3 vote of the LNC.

This is not to say that the Secretary is required to allow an At-Large member who is lapsed all of the rights and privileges of a member in good standing. The Secretary could refuse to acknowledge the votes of an At-Large member he/she believes to be ineligible to hold the office. The Secretary and Chair could refuse to seat an At-Large member they determine to be ineligible. What they cannot do is suspend an At-Large member from the National Committee without following the procedures in the Bylaws. When, in this case, the Bylaws do not contain specific enforcement procedures related to a particular provision, the ambiguity is resolved in favor of the existing default procedures (those described in LP Bylaws 8.5), rather than allowing an ad hoc procedure to be undertaken by one or two officers of the National Committee.

### **Mr. Wrights Suspension Was Improper and Hereby Reversed.**

After reviewing all of the facts in light of the LP Bylaws, we conclude that Mr. Wrights was improperly suspended from his position on the LNC. We reverse that suspension, effective as of the date of the original communication from Mr. Sullentrup to Mr. Wrights regarding his removal. We also recommend that the current LP Bylaws Committee consider changes that would bring greater clarity to these provisions.

Majority opinion written by Nick Sarwark and joined by Ruth E. Bennett, Joe Cobb and Travis Nicks