The Petition

We, the undersigned, appeal to the Judicial Committee the question of whether or not certain decisions of the National Committee contravene specified sections of the bylaws, as provided for in party bylaws Article 7, Section 12.

Some of the decisions here fall under the standard exception to the mootness doctrine, namely they are capable of repetition yet elsewise will evade review. Supporting quotes from our own bylaws follow our petition.

First, in conducting its business, a decision of the Chair is a decision of the LNC in the sense of the bylaws. The Chair advanced [Parliamentarian Opinions, page 7], as part of his decisions, certain claims by outside persons, namely

a. "In adopting Robert's as its parliamentary authority, ...

b. the Libertarian Party bylaws incorporated that authority's interpretation of the meaning and effect of language used in its bylaws provisions."

c. "Consequently, upon a vacancy in the office of Chair, the Vice Chair automatically assumed the office of Chair, in turn creating a vacancy..."

The following requests are separable:

1. The Judicial Committee is asked to rule that the claim (b) above is false, because it allows the meaning of our bylaws to be changed by outside parties, in violation of the authority of the National Convention, and therefore may not be a basis for past or future LNC decisions.

2. The Judicial Committee is asked to rule that the claim (c) above is false, because it violates our bylaws Article 6 and 16, in that on this point Robert's is inconsistent with our bylaws and is therefore inapplicable, and therefore may not be a basis for past or future LNC actions.

3. The Judicial Committee is asked to rule that the claim (a) above, which is widely invoked, is false as a violation of our bylaws Article 16, in that Robert's is only applicable at points where it does not conflict with our bylaws, so therefore our own bylaws are the primary authority.

4. Noting repeated use of persons familiar with Robert's Rules of Order to generate opinions, the Judicial Committee is asked to rule, contrary to the decision of the Chair and others, that the right of the Chair to refer questions to 'persons of experience' refers to persons experienced with us, namely persons who are long-term party members, have chaired our meetings or conventions, or sat on the Judicial Committee, and can if need be cite precedents.

5. The Judicial Committee is asked to rule that the decision to allow prolonged parliamentary delays, as opposed to the Chair making an immediate decision or immediately asking the opinion of the body, is a violation of our bylaws, Article 2, in that it prevents carrying out the purposes of our party.

Our party's bylaws provide

ARTICLE 16: PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order, Newly Revised shall govern the Party in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order adopted by the Party.

and

ARTICLE 6: OFFICERS

1) The officers of the Party shall be:

Chair

Vice-Chair

Secretary

Treasurer

8) The National Committee shall appoint new officers if vacancies occur, such officers to complete the term of the office vacated

Article 6 thus clearly and unambiguously provides that when the Chair resigns, the National Committee elects a replacement.

Article 16 thus clearly and unambiguously provides that Robert's Rules of Order only governs the party when Robert's is consistent with the bylaws and any special rules of order adopted by the party.

Said differently, our party's primary governing rules are our bylaws, our secondary governing rules are any special rules of order, and Robert's Rules of Order are only the tertiary and least important of our governing rules.

Capable of repetition, yet evading review

Here we quote from

https://www.projectjurisprudence.com/2020/10/capable-of-repetition-yet-evading-review.html

Capable of repetition, yet evading review

The "capable of repetition, yet evading review" exception to the mootness doctrine was first laid down by the United States (US) Supreme Court in the 1911 case of *Southern Pacific Terminal Co. v. Interstate Commerce Commission* (219 U.S. 498, 1911). There, a challenge was made against an order of the Interstate Commerce Commission (ICC) prohibiting the terminal from granting a particular shipper preferential wharfage charges. By the time the US Supreme Court was ready to decide the case, the cease and desist order, which had a validity period of only two years, had already expired. In rejecting the motion to dismiss the case on the ground of mootness, the Court held that:

In the case at bar the order of the Commission may to some extent (the exact extent it is unnecessary to define) be the basis of further proceedings. But there is a broader consideration. The question involved in the orders of the Interstate Commerce Commission are usually continuing (as are manifestly those in the case at bar), and these considerations ought not to be, as they might be, **defeated, by short-term orders, capable of repetition, yet evading review**, and at one time the government, and at another time the carriers, have their rights determined by the Commission without a chance of redress.

Southern Pacific Terminal Co. was first cited in Our jurisdiction in the 1997 case of *Alunan III v. Mirasol* (G.R. No. 108399, July 31, 1997). There, the Court held that the question of "whether the COMELEC can validly vest in the DILG the control and supervision of SK (Sangguniang Kabataan) elections is likely to arise in connection with every SK election and yet the question may not be decided before the date of such elections." Alunan cited, among other cases, *Roe v. Wade* (410 U.S. 113, 1973), where the petitioner, a pregnant woman, brought suit in 1970 to challenge the anti-abortion statutes of Texas and Georgia on the ground that she had a constitutional right to terminate her pregnancy. Though the case was not decided until three years later, long after the termination of petitioner's 1970 pregnancy, the US Supreme Court refused to dismiss the case as moot:

[W]hen, as here, pregnancy is a significant fact in the litigation, the normal 266-day human gestation period is so short that the pregnancy will come to term before the usual appellate process is complete. If that termination makes a case moot, pregnancy litigation seldom will survive much beyond the trial stage, and appellate review will be effectively denied. Our law should not be that rigid. Pregnancy often comes more than once to the same woman, and in the general population, if man is to survive, it will always be with us. Pregnancy provides a classic justification for a conclusion of non-mootness. It truly could be "capable of repetition, yet evading review."

Also cited were *Moore v. Ogilvie*, 394 U.S. 814 (1969), which involved a challenge to signature requirement on nominating petitions which the US Supreme Court had yet to decide before the election was held, and *Dunn v. Blumstein*, 405 U.S. 330 (1972), where the US Supreme Court decided merits of a challenge to durational residency requirements for voting even though Blumstein had in the meantime satisfied that requirement.

Over the years, however, the US Supreme Court has increasingly limited the application of the "capable of repetition, yet evading review" exception. Beginning in the 1975 case of *Sosna v. Iowa*, 419 U.S. 393 (1975), a class action challenging the Iowa durational residency requirement for divorce, the US Supreme Court held:

In Southern Pacific Terminal Co. v. ICC, 219 U. S. 498 (1911), where a challenged ICC order had expired, and in Moore v. Ogilvie, 394 U. S. 814 (1969), where petitioners sought to be certified as candidates in an election that had already been held, the Court expressed its concern that the defendants in those cases could be expected again to act contrary to the rights asserted by the particular named plaintiffs involved, and in each case the controversy was held not to be moot because the questions presented were "capable of repetition, yet evading review.'' That situation is not presented in appellant's case, for the durational residency requirement enforced by Iowa does not at this time bar her from the Iowa courts. Unless we were to speculate that she may move from Iowa, only to return and later seek a divorce within one year from her return, the concerns that prompted this Court's holdings in Southern Pacific and Moore do not govern appellant's situation. But even though appellees in this proceeding might not again enforce the Iowa durational residency requirement against appellant, it is clear that they will enforce it against those persons in the class that appellant sought to represent and that the District Court certified. In this sense the case before us is one in which state officials will undoubtedly continue to enforce the challenged statute and yet, because of the passage of time, no single challenger will remain subject to its restrictions for the period necessary to see such a lawsuit to its conclusion.

In the subsequent case of *Weinstein, et al. v. Bradford*, 423 U.S. 147 (1975), the US Supreme Court rejected a plea to resolve an issue alleged to be "capable of repetition, yet evading review." Bradford sued the members of the Parole Board claiming that he was constitutionally entitled to certain procedural rights in connection with the latter's consideration of his eligibility for parole. Petitioners Weinstein, et al. brought the case before the Supreme Court after the Court of Appeals ruled in Bradford's favor. At the time, however, Bradford had already been granted parole.

The Court found that the suit did not involve a class action—as in fact the District Court refused Bradford's earlier motion to have it declared as such—and that there is no demonstrated probability that Bradford will again be subjected to the parole system. Thus, following *Sosna*, "the capable of repetition, yet evading review" exception was limited to the situation where two elements must concur:

(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.