

LNC Executive Committee Meeting

**Teleconference
May 30, 2001**

REVISED DRAFT

Present: Jim Lark, Chair
Dan Fylstra, Vice-Chair
Deryl Martin, Treasurer
Steve Givot, Secretary
Ken Bisson (IN), At Large Representative
Joe Dehn (CA), Region 2 Representative
Michael "MG" Gilson de Lemos (FL), Region 4 Representative (joined the meeting at 12:19 PM)

Also present: Lois Kaneshiki (PA), At Large Representative
Mike Dixon (IL), Region 1 Representative
Ben Scherrey (GA), Region 4 Alternate (joined the meeting at 1:00 PM)
Richard Schwarz (PA), Region 5 Representative

Staff: Steve Dasbach, National Director
Bill Hall, General Counsel

Lark called the meeting to order at 12:10 PM EDT.

Item: Agenda

Lark said that the only item on the agenda is consideration of a proposed resolution offered by Dan Fylstra.

The agenda was adopted without objection.

Dehn asked that the minutes reflect concerns about the short amount of notice given to LNC members prior to the meeting.

Fylstra asked that his email to the LNC relating to notice of this Executive Committee meeting be included in the minutes. (See attachment.)

ITEM: Proposed Resolution

Fylstra moved adoption of the following resolution:
Resolution of the Executive Committee of the Libertarian National Committee

30 May 2001

To clarify the intent of, and expand upon its resolution of May 23 2001, the Executive Committee hereby

- 1) Recommends that the LNC censure Perry Willis for his acknowledged violation of LNC policy in 1995-96 in working for the Browne campaign while being employed by the LNC.
- 2) Recognizes that while Harry Browne was the head of the campaign, it is presently unclear to what extent he or others were involved in Willis' actions or decisions.
- 3) Requests that Harry Browne provide a public statement to the LNC to clarify the circumstances surrounding Willis' actions, and any lessons that may be learned therefrom.
- 4) Requests that all persons having any information relating to Willis' actions, or any other intentional violation of LNC policy by other persons, provide that information to the LNC Chair prior to the LNC's August 25-26, 2001 meeting, or thereafter "hold their peace."
- 5) Recognizes that its resolution of 23 May 2001 cautions the national staff to seek Executive Committee approval before entering into new business dealings with Willis or Browne, but is not per se a blanket prohibition against such dealings.
- 6) Sets a goal that any and all questions related to these matters be resolved to the satisfaction of LNC members by the time of, and be reflected in the minutes of the LNC's August meeting, and asks all LNC members and other persons to work together to achieve resolution by that date.

Bisson seconded.

Fylstra thanked the members of the Executive Committee for meeting on such short notice. He apologized to members of the LNC not on the Executive Committee for the lack of adequate notice.

Fylstra said that he feels that there is an urgent need to clarify the resolution previously adopted by the Executive Committee.

Fylstra said that one purpose for adopting the proposed resolution is to deal with this issue forthrightly in a finite length of time to get the matter behind us. He said that -- while he would prefer to have this resolved in two to four weeks -- he recognizes the

LNC's schedule is such that setting an August time frame for resolution is more reasonable. He said that calling on people to present whatever information they have regarding this matter within a specific time frame will help achieve this.

Fylstra said that another purpose for adopting the proposed resolution is that -- while it is clear that Willis violated LNC policy -- it is not clear who else may have done so. He said that it serves no purpose making statements which suggest that others may have done so until further facts are available.

Fylstra said that the previously-adopted resolution has left many people with the impression that there is a blanket prohibition against doing business with Willis or Browne. He said that this resolution seeks to correct that impression.

Bisson asked for feedback from Dasbach about his perception of how the Executive Committee resolution(s) infringe upon his proper role as National Director. Bisson stated that he believes the portions of the resolutions which require the National Director to submit some of his common activities for the approval of the Executive Committee represent poor management style as a general rule. Bisson allowed that there are some circumstances which could properly require this amount of close oversight, but wanted to understand whether, in Mr. Dasbach's opinion, this was such an occasion.

Dasbach said that it was unclear as to what extent the resolution applied to persons other than Willis or Browne. He said that in asking various Executive Committee members questions, it was clear that there was a lack of clear consensus regarding which requests for list rental, running ads in LP News, or other transactions would require prior approval from the Executive Committee. He asked that the Executive Committee provide a clear policy.

Dasbach said that there have been two cases with some degree of similarity to this one in recent years that could be used to provide guidance to the Executive Committee.

Dasbach said that in 1994 an LNC member provided false information to the LNC and was censured [in 1995]. Later, that individual managed a Presidential campaign (not Browne's) -- the LNC did not impose any restrictions that would have prevented that campaign from renting the LP's mailing list and/or running ads in LP News.

Dasbach said that in 1997, an LNC member improperly retained a copy of the LNC's mailing list and used it on more than one occasion to raise funds for a political action committee that the member controlled. After attempts to reach a negotiated settlement failed, the LNC filed a lawsuit against the then former LNC member. Eventually, the lawsuit was settled -- the former LNC member acknowledged that the mailing list had

been retained and reused in violation of a signed agreement. As part of the settlement, the former LNC member was not permitted to obtain, use, or rent the LNC's list. However, no restrictions were placed on the former member's ability to buy ads in LP News, and other organizations could retain the former member's services and still rent the LNC's list. In that instance, the organization would be required to use a mail house that the LNC had confidence would maintain the security of its mailing list.

Dasbach said that the policy in dealing with the current case should attempt to be consistent with these past cases.

Dehn said that this is significantly different from the past instances. He said that this is not establishing a policy to be applied after the facts had been determined, but rather dealing with circumstances in a time of flux while the matter is being investigated and presented to the LNC.

Kaneshiki said that she does not see the point in setting a deadline when all of the information is not yet known. She said that the first priority is to get all the information possible. She said that she wants to know what other information John Famularo might have. She suggested that there be a formal request to Famularo to provide this information.

Dehn said that the resolution passed the prior week was a formal request.

Lark said that he has been waiting for an opportunity to put together a formal request for information to various people. He said that he intends to contact Famularo directly. He said that there is nothing to stop Famularo from providing more information at this time.

Givot said that he wants all of the information, too. He said that providing an open ended time frame for people to provide information is foolish -- particularly in light of John Famularo's actions in withholding the information already provided for four and a half years. He said that setting a deadline for Famularo or others to provide any information they may have will make it clear that now is the time to provide the information. It will avoid making this an endless process.

MG asked that regarding Famularo's and other's concerns on needing a formal request to bring information to the LNC, that the Chair clarify that it was the LP practice that members bring concerns directly to the Chair, their Regional Rep, or now the recent suggestion process.

Lark said that this is true, and the previous resolution also specifically asked people to come forward on this matter.

Givot suggested publishing this in LP News and allowing sufficient time for people to respond.

Dasbach said that the earliest edition of LP News that could include material about this is the July 2001 issue. He said that the deadline for that issue would be after the next Executive Committee meeting. He said that the issue should be in the hands of all LP members by no later than the end of July.

Dasbach said that the normal deadline for distribution of materials to LNC members is two weeks. He said that this would suggest an August 10 deadline for receipt of information regarding this matter.

Dasbach said that he believes that having a single resolution would be a clearer way to communicate the Executive Committee's actions to the membership if it is to be published in LP News.

Fylstra said that while publication in LP News is one alternative way of proceeding, he said that the Chair needs some flexibility to handle this matter. He said that -- more important than publishing the text of the resolution -- is conveying the content thereof and seeking information from members regarding this matter.

Dasbach asked Fylstra whether the text of the proposed resolution would address the concerns expressed by people about the original resolution.

Fylstra said that he has not shown the language of the resolution to anyone other than Executive Committee members and Dasbach. He said that he feels it would be inappropriate to do so. He said that he has not replied to messages from others about this because he wants to act independently. He said that he believes that this language will be helpful in clarifying the prior resolution.

Givot suggested that the resolution be discussed one part at a time.

Lark proceeded to do so.

Regarding the first item on the list, MG expressed concern that there should be a statement that the LNC expects the policies which it adopts to be adhered to by LNC members and LP employees.

Givot suggested that this could be considered as a separate matter.

MG agreed to work toward that end.

Kaneshiki asked what is meant by censure.

Givot said that a motion of censure constitutes a strong negative statement by the body that the censured person has done something wrong.

Bisson said that his dictionary defines censure as: "to express severe criticism or disapproval."

MG said that a censure tarnishes the good name of the censured person.

Dehn said that he is concerned about this paragraph. He said that the concept of the previous resolution was to do what needed to be done right away. He said that the judgment about an appropriate response should come from the LNC rather than the Executive Committee, after the additional information has been gathered. He said that recommending that Willis be censured might appear to be recommending that this is all that needs to be done.

Fylstra said that censuring Willis is the strongest action that the LNC can take.

Bisson asked Fylstra how he sees adopting this resolution will minimize the damage he thinks will come to the Party if the resolution is not adopted.

Fylstra said that the feedback that he is getting is that by going beyond Willis, and including Browne, in the prior resolution, the Executive Committee has suggested or implied an involvement by Browne that is not supported by currently-known facts. He said that the prior resolution is also being misunderstood to be a blanket prohibition on doing business with either Willis or Browne. He said that he believes that making these clarifications might create a better climate that would increase the chances of getting answer from some people.

Bisson suggest some feedback from Executive Committee members as to whether they are inclined to support the new resolution.

Givot said that he is inclined to support the resolution.

Martin said that he is inclined to support the resolution and does not see a need to go through each part.

MG asked what our purpose is in conducting this investigation. He said that he has a sense that Willis has "fallen on his sword." He wonders what other concerns exist.

Lark said that what he would like to do is to find out what happened. He said the he wants to learn who in the Browne campaign was aware that there was a violation of LNC policy. He said that he wants to clear this whole matter up.

Dehn said that the second point of the resolution is inappropriate and a "step back" from the resolution already adopted. He said that it appears to be an attempt to make it seem we are less certain about the involvement of other people than the impression given by the previous resolution, and that it would thereby "muddy" the situation.

Fylstra said that he feels that the second point does not step back in any way.

Givot said that he shares Dehn's concern about the appearance of back-stepping, but he does not believe that the second point of the resolution does so.

Dasbach said that Hall should comment on the fact that the previously-adopted resolution was cited in an email from David Bergland as possibly giving rise to reconsider whether Bergland should represent the Party in the McDaniels litigation.

Hall said that he sees no conflict with Bergland representing the Party in the McDaniels litigation, as the Executive Committee's prior resolution only required Executive Committee approval for the Party to contract with Browne, Willis, or an organization of which one of them is an officer, director, or employee. He said that while Bergland may be involved in an organization associated with Browne, the Party is not contracting with that organization. He said that the Party is contracting with David Bergland, attorney.

Givot moved to amend the fourth item of the resolution replacing the language "prior to the LNC's August 25-26, 2001 meeting" to "no later than August 18, 2001"

The motion was accepted as friendly.

Dehn expressed concern with regard to item (2) as back-stepping.

Dehn expressed concern with regard to item (4). He said that although he agrees that people should be encouraged to come forward as soon as possible, and although he would take a dim view of people who waited until after the LNC meeting to bring information forward, we should never state as a policy that people should not come forward with information.

Dehn said that item (5) is unnecessary and could be seen as stepping back. He said that if clarification on this point is requested it could be provided through a statement by the Chair.

Bisson moved to delete the words "or thereafter 'hold their peace" from item (4).

The motion was accepted as friendly.

Bisson said that he agrees with Givot that item (2) is not back-stepping and said that he supports the resolution in its current form.

Fylstra moved to change the word "cautions" to "requires" in item (5).

The motion was accepted by the seconder as friendly.

MG said that he is not sure what adoption of this resolution will achieve.

Fylstra said that he feels that it is not appropriate to back off just because some of Browne's supporters would like the Executive Committee to do so. He said that he feels that the prior resolution went beyond clear statements of fact. He said that he believes that this resolution would help remedy this.

MG asked if the Executive Committee is going to point fingers at Harry Browne, where do we stop? He said that Willis was the National Director and that is where the buck must stop. He said that given the evidence, he would not support involving Browne in any negative action.

Dehn said that if the point of this is to put the blame exclusively on Willis to make others more comfortable, then it would be prejudging the outcome of the investigation.

Fylstra said that this does not do what MG suggests.

Scherrey asked whether anyone on the conference call has spoken directly to Harry Browne.

No one indicated that he or she had done so.

Lark said that he does not think it is appropriate to do what might be seen as negotiating the terms of a Executive Committee resolution with Harry Browne. He said that it is his job to inquire about these matters and that he will do so.

Scherrey said that it seems that the Executive Committee is indirectly reacting to feedback expressed by supporters of Browne.

Fylstra said that he has heard from a large number of people. He said that most of these people are quite distant from the Browne campaign but are concerned about what is being done regarding Browne.

Bisson asked whether Fylstra had considered what potential downside might arise were the resolution to pass. Bisson wished to hear from anyone, "perhaps Mr. Schwarz", if they could identify any potential damage caused by passing this second resolution. Bisson expressed that he wanted to consider both Fylstra's expected "damage reduction" and also potential "further damage" which might be expected to result from passing a second resolution

Lark said that he sensed that some people were uneasy about voting for this and asked if Fylstra thought it could be deferred to the regularly scheduled meeting. Fylstra said he would not have asked for this meeting if he thought so.

Dehn said that some of the new language gave the impression that the Executive Committee was not taking seriously evidence that had already been presented. He said that it was important that we not appear to be ignoring existing information, because that might make people with additional information less interested in coming forward.

MG suggested that instead of pursuing this resolution, it might be better for the Chair to produce a letter covering each point and describe how he will proceed with his investigation.

Dehn moved to divide the resolution into three parts: the first part includes items (1), (3), (4), and (6); the second part includes only item (2); the third part includes only item (5).

MG seconded.

MG said that this motion might be more acceptable and realistic as a letter of progress or intent by the Chair.

(Bisson left the meeting at this point.)

Dehn said that he feels comfortable voting for some of the points but not all of the points.

The motion to divide failed by a vote of 2 to 3.

Fylstra moved to divide the question into two parts: the first part includes all items except (2); the second part includes only item (2).

The motion to divide passed by a vote of 3 to 2.

Fylstra moved to amend "Recognizes" to "Clarifies" in item (5).

The motion was accepted as friendly.

The first part of the divided motion -- to adopt points (1), (3), (4), (5), and (6) -- passed by a vote of 5 to 0.

The second part of the divided motion -- to adopt point (2) -- passed by a vote of 3 to 2. Bisson, Givot, and Martin voted for the motion. Dehn and MG voted against the motion.

The adopted resolution reads:

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30 May 2001

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- 1) Recommends that the LNC censure Perry Willis for his acknowledged violation of LNC policy in 1995-96 in working for the Browne campaign while being employed by the LNC.
- 2) Recognizes that while Harry Browne was the head of the campaign, it is presently unclear to what extent he or others were involved in Willis' actions or decisions.
- 3) Requests that Harry Browne provide a public statement to the LNC to clarify the circumstances surrounding Willis' actions, and any lessons that may be learned therefrom.
- 4) Requests that all persons having any information relating to Willis' actions, or any other intentional violation of LNC policy by other persons, provide that information to the LNC Chair no later than August 18, 2001.
- 5) Clarifies that its resolution of 23 May 2001 requires the national staff to seek Executive Committee approval before entering into new business dealings with Willis or Browne, but is not per se a blanket prohibition against such dealings.

6) Sets a goal that any and all questions related to these matters be resolved to the satisfaction of LNC members by the time of, and be reflected in the minutes of the LNC's August meeting, and asks all LNC members and other persons to work together to achieve resolution by that date.

Dasbach said that he would like clarification regarding five specific items to assure that he understands how to apply the two relevant Executive Committee resolutions to possible business dealings that might arise in the coming weeks:

1) Ordering copies of *Libertarianism in One Lesson* or *America's Libertarian Heritage* (books authored by David Bergland).

Lark said that he believes that staff can continue to do so.

No other Executive Committee member commented.

2) Continuing the use of the services of Stuart Reges for accounting and FEC purposes.

Lark said that he believes that staff can continue to do so.

No other Executive Committee member commented.

3) Continuing to have David Bergland represent the Party in the McDaniels litigation.

Lark said that he believes that staff can continue to do so.

No other Executive Committee member commented.

4) Renting the LP mailing list to or selling LP News advertising space to a prospective Carla Howell for Governor campaign

Dasbach said that Michael Cloud's association with such a campaign is the reason that he is seeking clarification about such transactions.

Givot said that this campaign warranted special consideration because its manager, Michael Cloud, was very close to, and may have at some point managed the Browne campaign.

Dehn confirmed that Michael Cloud had, at one point, been Harry Browne's campaign manager in his 1996 campaign.

Two members expressed a sense that this should be brought to the Executive Committee for consideration.

Fylstra asked whether this meant that all Libertarian campaigns whose candidates or campaign managers had ever been active in the Browne campaign were subject to such review.

Dasbach said that requests for mailing list rentals or LP ad purchases generally come up on short notice. He suggested that the matter be discussed at the next Executive Committee meeting.

Givot asked Dasbach what the fifth item was.

Dasbach indicated that there wasn't actually a fifth item, that he had written down the Executive Committee's guidance from the previous meeting regarding a similar issue relating to ordering additional copies of *Why Government Doesn't Work* from Liamworks. He said that such matter would be brought to the Executive Committee for consideration.

(Lark left the meeting at this point.)

Martin asked whether the deadline for LP News comes before or after the next Executive Committee meeting.

Dasbach said that it comes afterward and that there will be an opportunity for the Executive Committee have that issue include information regarding these matters.

The meeting was adjourned at 1:59 PM EDT.

ATTACHMENT

Subject: [LNC-Discuss] EC Meeting today at 12 noon Eastern
Date: Wed, 30 May 2001 08:17:42 -0700
From: "Daniel H. Fylstra" <dfylstra@frontsys.com>
To: "LNC ListServe" <lnc-discuss@hq.lp.org>

Dear LNC Members:

The EC is holding a teleconference at 12 noon today, to follow up on last weeks' meeting. This meeting was called at my request. I'm sorry about the extremely late notice and will take responsibility for it.

This meeting was quite a challenge to arrange. Jim Lark is on the road, visiting LP state organizations, and is somewhere in Illinois or Wisconsin. However, I did reach him and he plans to call in from a pay

phone or activist's home. Steve Dasbach was out sick when I proposed a time for the meeting, and did not learn about it until this morning. The other EC members do plan to participate.

Steve normally arranges these teleconferences, reserves lines with our telecom vendor, and notifies the LNC in case anyone wants to join the call. He's so efficient that normally this "just happens." Yesterday, when I realized that we didn't have a call-in number and I couldn't reach Steve, I managed to contact our telecom vendor, explain who I was, and arrange the teleconference. But I did not think to email the full LNC at that time yesterday, and I asked for enough lines only for the normal participants. I'm sending this now because Ken Bisson pointed out that the LNC should be notified.

It may be possible to add lines at the last minute. Please email or call Steve Dasbach if you wish to do this. Again, I am sorry for the late notice. -- Dan Fylstra