

# JONATHAN M. JACOBS, PRP-R, CPP

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### **Parliamentary Opinion**

On October 10, 2023, Paul Bracco, a member of the Libertarian Party of Virginia (LPVA), contacted the parliamentarian regarding a "General State Convention" of the LPVA called by the membership. Mr. Bracco asked "...what, if anything, is required of either the SCC [State Central Committee] in general or the Secretary in particular when properly calling a General State Convention, as well as anything else that you find to be germane." The "spokesman" for the members calling this meeting is Jason Bruce<sup>1</sup>; the process is specified in the Constitution of the LPVA. The date of this General Convention is set for December 3, 2022

The LPVA Chair has not been cooperative in calling a meeting of the State Central Committee (SCC) nor has the Secretary been willing to perform any official function. The Chair has claimed to have dissolved the LPVA<sup>2</sup>. However, this claim has been contested by members and by the Libertarian National Committee<sup>3</sup>.

#### Works Cited

The Constitution of the LPVA shall be cited as "Constitution," with article and section citation as appropriate. The Bylaws of the LPVA shall be cited as "Bylaws" with section citation as appropriate.

The Constitution, Article VIII provides that "the Party and all its bodies shall be governed by a current, SCC approved, copy of 'Robert's Rules of Order'." The Bylaws are amended by the SCC (Article IV, Section 1, C, 6), and the Bylaw's provide that the 10<sup>th</sup> edition of *Robert's Rules of Order Newly Revised* is the parliamentary authority<sup>4</sup>. It will be cited as RONR.

Any other citations shall be included in the end notes.

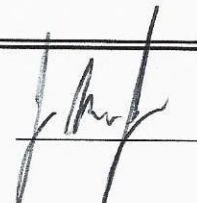
#### Commentary

The Constitution (Article V) provides for three types of conventions, a "regular" state convention held prior to the Libertarian National Convention (Section 5), a "special" convention called by the SCC (Section 6), and a "general" convention, called by a petition of the members (Section 7). The petition for the General State Convention was circulated by Mr. Bruce, and received the required number of signatures, in this case, more than one fifth of the members. He has submitted it to the members of the SCC. He has mailed the notices<sup>5</sup>. Mr. Bruce becomes fully responsible for this meeting, including paying for the costs associated with it.

The Constitution (Article V, Section 7) states that the Secretary "shall provide for mailing services within 30 days to solicit petition signatures." This specifically refers to the collection of signatures on the petition to call the meeting. While the Secretary did not forward these names, Mr. Bruce was still able to collect more than the required number of signatures. The Secretary's failure to perform a duty of office in no way invalidates the signatures collected by Mr. Bruce; he need not rely on the information coming from the Secretary. The Secretary has no power to approve or disallow a signature under the Constitution. A valid signature of a member of the LPVA is still a valid signature, whether the name of the signer was on a list sent to Mr. Bruce by the Secretary or not.

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The SCC has the responsibility to "notify all members of the Party in writing at least twenty one days prior to the date of the General State Convention (Constitution, Article V, Section 7)," but there is no mechanism for this process expressed in the Constitution. A literal, and ludicrous, application would for the SCC to get together, outside of a meeting, address the notices, and trundle off to the post office to collectively put the notices into the appropriate mail slot. A more reasonable interpretation of this clause would be that the SCC has some oversight of the process. They are required to be informed, and to receive the petition, in order to perform this oversight role; Mr. Bruce has informed the parliamentarian that all members of the SCC have been sent copies of the petitions with the signatures.

At no point, however, is the SCC granted the authority to regulate a general convention called by member petition; the SCC may neither authorize, cancel, nor modify the notice of the meeting. The SCC, as noted, may call special conventions on its own (Article V, Section 6). This would limit any interference in the general convention under the principle that the expression of one thing in the Constitution prohibits things of the same class (RONR, p. 571, ll. 24-25). The SCC, in theory, could meet and call a meeting for the same time and same location to consider things not listed in the petition; additional notice would be needed. The SCC members, collectively within a meeting, or as an individual member, may offer advice to the spokesman, and may indicate that, as a Party member, he will raise a point of order at a meeting as to some alleged impropriety. Even if there would be a properly called and quorate meeting of the SCC, it could not invalidate the notice. Doing so would violate absentee rights and be null and void (p. 244, ll. 21-23).

As should be obvious from the preceding paragraphs, the SCC need not take any action with regard to a general convention called by the members. Attempting to do so would amount to veto of the action, giving the SCC a power well beyond the scope of the Constitution. Further, because the Chair currently has sole authority to call special meetings of the SCC (Article IV, Section 1, B), it would give her a de facto veto over the petition.

Interestingly, an example of this occurs with a proposed resolution included within the notice of the General Convention. The resolution orders the Secretary to release a recording of the September 11, 2022 meeting of the SCC. As of the writing of this opinion, a recording of the meeting has been published on Youtube. If the resolution is moved within the General Convention, the resolution would be out of order as being dilatory (RONR, p. 331, ll. 15-17).<sup>6</sup> However, because the requisite number of members petitioned for its inclusion in the meeting, the resolution still must be noticed and it will be up to the General Convention determine that it is dilatory.

Ironically, the parliamentarian has just published an article on the subject of meeting notices for special meetings.<sup>7</sup> He noted that, if notice had been sent for a special meeting to consider buying a building, and that, in interim, the building burnt down before the meeting, that the meeting would still have to be held, though it could be adjourned immediately.

A member of the SCC who legitimately feels that there is some problem with the process, as a party member, may raise a point of order regarding it at the general convention of December 3, 2022. Likewise, a member of the SCC may, again as a party member, raise a point of order as to the any perceived rule violation occurring within the convention. This is a right shared with all LPVA members.

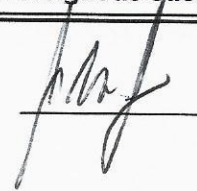
While it may be unlikely for the current SCC to hold a proper meeting, a future SCC could meet and adopt a resolution expressing an opinion of the actions proposed for this convention. It may also express an opinion on if the process used to call a General Convention was proper, but it could interfere with such a meeting before the fact.

### Opinion

**1. The Secretary's failure to provide "mailing services" to "solicit petition signatures," in no way prohibited Mr. Bruce, the "spokesman," from collecting valid signatures.**

**2. The role of the SCC in regard to general conventions is to provide oversight as such:**

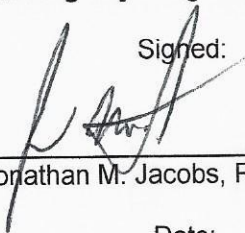
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- A. The SCC must be sent the petition.
- B. The SCC has no role in approving or modifying the petition.

3. In common with other members of the LPVA, the members of the SCC, may, as party members, raise points of order regarding any alleged impropriety in the petition or notice.

Signed:

  
Jonathan M. Jacobs, PRP-R, CPP

Date:

10/27/22

This is based on general principles of parliamentary procedure, the bylaws of this organization, and the cited parliamentary authorities; nothing in this opinion should be construed as an interpretation of statutory or case law.

#### End Notes

<sup>1</sup> The parliamentarian has been working with Mr. Bruce on this matter, along with others, to make sure that the process is followed. His first involvement with the LPVA as a whole came from James RePass on 9/12/22.

<sup>2</sup> <https://apnews.com/article/virginia-government-and-politics-a7866ee08b0fa21d2bb15cc914c58093> Accessed 10/24/22

<sup>3</sup> <https://groups.google.com/a/lp.org/g/Inc-business/c/IEqhJOnHTVA> Accessed 10/26/22

<sup>4</sup> Robert, Henry M., *Robert's Rules of Order Newly Revised*, 10th Edition. Eds. Henry M. Robert, III, William J. Evans, Daniel H. Honemann, Thomas J. Balch, Cambridge, Massachusetts: Perseus Publishing, 2000. [Note that this is the 10<sup>th</sup> edition of RONR and that the 12<sup>th</sup> edition (2020) is the current edition.]

<sup>5</sup> Because of the edition of RONR being used is 22 years old, it does not provide an email option for notices. Mr. Bruce has indicated that the notices were sent out on 10/26/22.

<sup>6</sup> Mr. Bruce has indicated that he intends to withdraw this resolution at the general convention. Because it was given notice, any member could move it. The parliamentarian recommends that, if moved, it to be ruled out of order as dilatory.

<sup>7</sup> "Cancelling a Meeting? Remember Absentee Rights," *National Parliamentarian*, vol. 84, no. 1, Fall 2022, pp. 10-13. Note that the final draft of the article was submitted in late June of 2022, well before being contacted Mr. RePass; it was a matter of serendipity that it was printed when it was.

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