

2024 LIBERTARIAN PARTY BYLAWS AND RULES COMMITTEE

MINUTES OF MEETING FEBUARY 23, 2023

Meeting called to order at 8:48 PM ET.

<u>COMMITTEE MEMBERS</u> <u>PRESENT</u>	ALTERNATES	GUESTS
PAUL BRACCO	DEAN RODGERS (3)	RICHARD BROWN, RP
NICKOLAS CIESIELSKI		DUSTIN COFFELL
CARYN ANN HARLOS		JESSICA TEWKSBURY
ROB LATHAM		MARRION SKINNER
DATA LOGAN (A-2)		NATHAN MADDEN
FRANK MARTIN		STEPHEN ECKER
KEN MOELLMAN		
CHUCK MOULTON (A-1)		
TOM ROWLETTE		
MIKE SEEBECK		

ABSENT ARROWWOOD and RUFO

PUBLIC COMMENT: (No Response)

MINUTES APPROVAL: Minuets of 2-9-23 Approved. Without Objection.

PROPOSAL G FROM LATHAM

LATHAM moved Proposal G due to inquiry whether Judicial Committee could amend its rules past the 90-day window after a regular convention. He felt this should be explicit as committee terms now four years versus two and issues may come up that could require amendment.

CHAIR HARLOS while reading aloud Proposal G stated she did not understand sentence: "The existing Rules shall remain in effect until and unless the Judicial Committee submits new proposed rules to National Committee for approval, which approval shall be deemed given after 60 days of being submitted unless denied by a 2/3 Vote of National Committee ~~within~~ before 60 days of ~~submission~~ being submitted." .

LATHAM stated the second "60 days" is to make it explicit. It is 60 days and does not extend past 60 days to state objection or forever hold their peace. It emphasizes the 60-day window. But if others have suggestion for tightening that up, he is eager to hear.

MOELLMAN does not believe LNC should approve rules. LNC and JC are two distinct bodies. Four-year term was voted in. His opinion is LNC should be out of the issue.

BRACCO dittoed the Chair. Inclined to not change sentence at all.

SEEBECK agreed with Moellman. Expressed point of parliamentary inquiry: Would a substitute be in order if it contains part of a existent proposal's language?

CHAIR HARLOS agreed with Bracco. There are two different issues here. 1. Ability to amend the rules. 2. Should LNC be able to approve or not? Best to handle separately as what Latham brought out might get axed because it was bundled with something else.

SEEBECK desired another substitute but needed some time to put it together before presenting.

CHAIR HARLOS granted Seebeck time. Moved to amend what Bracco said about adding "60 days after being submitted because prior language leaving it alone says it. Language as stated says it. Does not need to be changed to get what Latham desires.

MOULTON agreed with what other members have said as to 60 days. It does not change meaning at all. But he has other concerns. 1. The idea that the JC may amend JC rules of appellate procedure from time to time, subject to the same approval procedure within 90 days following a regular convention and that would make "within 90 days after a regular convention" redundant. 2. First sentence after "Within 90 days following the regular convention at which elected" and then also may amend at any time they want or from time to time. That makes "within 90 days" redundant.

Stated he would move to amend: 1. Take sentence with "after 60 days of being submitted" he would like to remove all the changes and keep it as it was. 2. Would delete "~~Within 90 days following the regular convention at which elected~~", to delete the entire phrase and start with "the Judicial Committee may establish new or propose amendments to ...". 3. Would delete the sentence: "The Judicial Committee may also propose amendments to the rules of appellate procedure from time to time, subject to the same approval procedure. He understands what Latham is trying to do but this cleans it up and eliminate some redundancies.

LATHAM thanked Moulton for his suggestions and agreed. Question: Scenario, What if JC submits new rules for approval but there is a 60-day window and the LNC has not acted yet? What appellate rules are in effect during that 60-day window? The new rules or the existing rules? He believes existing rules should remain in effect even if JC has proposed new rules. This could create questions and gamesmanship.

MOULTON had quick fix. Say "if denied or pending".

LAHAM stated he was good with either way. This seems to accomplish what the intent was. The LNC maybe shouldn't have a say. Also, the 2/3 Vote is very high.

CHAIR HARLOS asked Richard Brown, RP, to speak if committee does not object.

RICHARD BROWN As to which rules are in effect? The existing or old rules are in effect until the pending rules are adopted.

CHAIR HARLOS agreed with Mr. Brown. Sentence is not necessary but can do no harm.

BRACCO stated it might do some harm. Right now it says: "If denied, the existing Rules remain in effect. But "if pending" is something else. Let's say there is no mechanism for the LNC to approve the rules. They just do nothing. Approval is inaction. But since we are now saying within 60 days submission, then you have to wait 60 days before they go into effect because they are still pending. We should have some type of "pending". But to do that there is more procedure and more words. Do we need some type of procedure to approve the rules if everybody is in agreement? If more than 2/3 or 1/3 is cool with it?

CHAIR HARLOS opposed removing and will speak to it if anyone opposes and gave the relevant history. The reason for 60 days is to allow time for all to become aware and have input. Related these are not Bylaws. They are rules of procedure and can be suspended. They are approved and then there is 60 days for comment and then they are approved. She also does not think it is in order for an LNC member to approve them earlier. 60 days is necessary because it is passive approval. We often times overthink these issues.

BRACCO stated that's good or at least acceptable.

CHAIR HARLOS yes and expressed hope the problem does not arrive. But it is a "rule".

SEEBECK said the idea of LNC explicitly approving the rules could create a problem. The motion to make rules could be subject to appeal to the JC which makes a catch 22 if someone decides they don't like a rule and is going to appeal. That would make a mess. He has his substitute ready. Not sure when to make as Moulton's Substitute is now up.

CHAIR HARLOS stated we can submit a Substitute for a Substitute, but suggest we not. Best time is after we decide on the current substitute and we then decide on new main and then we will call upon Seebeck immediately for his Substitute.

AMENDMENT TO PRIMARY PROPOSAL G BY LATHAM (NO RESPONSE) WITHOUT OBJECTION ADOPTED.

AMENDMENT TO SUBSTITUTE G BY MOULTON

LATHAM moved to insert "if denied, or while proposed amendments are". Note comma (,) after "denied" to indicate two separate things. Let's add a comma after "denied".

MOELLMAN expressed he likes it. Makes it real clear. He thinks it's good to have "while proposed amendments are pending". The more explicit we make it the less chance of lawyers parsing it out. It's good to have "while proposed amendments are pending".

SEEBECK not sure but thinks there is contradiction in the wording here. The sentence above that says "the existing rules shall remain in effect until and unless the JC submits new proposed rules to the National Committee for approval". That implies that the moment the new rules are submitted to the National Committee that they go into effect and the old one go away. Then the very next sentence says that while pending the old rules are still in effect. That sounds like a contradiction to me. Which rules are in effect during that period of time? One sentence says one set is and the other says another set is.

LATHAM thinks Mike Seebeck is kind of making his point. There is a way to read that earlier sentence that those proposed rules go into effect immediately. But maybe that is the purpose of adding the second sentence to change that interpretation. I don't know. Maybe that should be done elsewhere.

MOULTON once we dispose of the Latham Amendment, I have an amendment to the previous sentence.

CHAIR HARLOS asked for further amendment to Latham's Amendment? (NO RESPONSE).

All right. Is there any objection to Latham's amendment? (NO RESPONSE) (ADOPTED WITHOUT OBJECTION) That becomes part of the Substitute Proposal. Are there any further amendments to the Substitute Proposal?

MOULTON moved to delete "the existing rules shall remain in effect until and unless" and then after Judicial Committee strike out "submit" and insert "shall submit". He hopes to help Seebeck's proposal as to redundancy and possible confusion between those two sentences and it also eliminates from the first sentence the part about what will be in effect and lets the next sentence explain that part and will clarify how it works and makes it shorter.

ROWLETTE expressed he liked this but addressed a different topic. It seems to him that we treat new rules of procedure different from amendments to the existing procedure as far as whether or not they are in effect in the 60-day window. It might be construed that those two things are treated differently. Would we like to tackle that in five or ten minutes?

CHAIR HARLOS was in agreement on above and called on Latham.

LATHAM appreciated the language suggestions. He inquired should we use “shall” before the last underline? Is it necessary to use “shall”? It was his preference to leave it out.

CHAIR HARLOS advised we return to Moulton’s amendment to the prior sentence first. Then we will return to Rowlette’s suggestion to whether or not we want these two categories of changes?

BRACCO advised if we still need a replacement secretary, he would be willing to help out.

MOELLMAN agrees and let’s knock it out.

CHAIR HARLOS asked for any objection to Moulton’s Amendment to Substitute Proposal G (NO RESPONSE) MOULTON AMENDMENT TO SUBSTITUTE PROPOSAL G ADOPTED WITHOUT OBJECTION.

CHAIR HARLOS asked for any further amendments or comments to Substitute Proposal G.

MOELLMAN asked whether the JC’s rules already exist and handed to the Committee?

SEEBECK answered “yes”.

MOELLMAN moved to strike “the Judicial Committee may propose amendments to the existing rules of appealable procedure”. He stated it is what we do procedurally anyway.

LATHAM agreed with Moellman. Likes brevity. Totally open to striking that sentence. It is totally unnecessary.

CHAIR HARLOS objected to striking but feels it should be updated.

MARTIN stated there are two references to “amendments” and also a reference to “new proposed rules”. He thinks we should be consistent with “amendments”.

CHAIR HARLOS stated okay. We may look at the second sentence again. We will next deal with Moellman’s proposal.

BRACCO asked could we say “amend existing rules”? It’s the same thing but shorter.

CHAIR HARLOS answered it is not same thing. They are not amended until approved.

BRACCO agreed. That was fair.

MOULTON inquired: What if the JC were to propose amendments that got rid of all rules and the LNC were to approve those? Under proposed language, would we have just the JC Rules and if we don’t have JC Rules, would it be possible for the JC to do anything about it?

CHAIR HARLOS stated she did not know and doesn’t know how to solve that.

MOELLMAN asked can an empty document be amended?

CHAIR HARLOS responded an empty document is not a document. Asked Brown for his thoughts.

RICHARD BROWN asked to be filled in on question.

CHAIR HARLOS asked what if the Judicial Committee moves to delete the appellate rules entirely and the LNC approves it; can they ever be amended again without amending the bylaws because there are no existing rules because they have been deleted?

RICHARD BROWN responded submitting new rules may be problematic. The window of opportunity may be closed until the next convention or until the Bylaws are amended at next convention.

MOELLMAN asked Richard Brown, if the bylaws give permission for amendment the bylaws are still there but if they are deleted, even though they voted to delete them, are they really gone or would they still have something?

CHAIR HARLOS stated “no”. No they don’t.

MOELLMAN replied there are still the principles of parliamentary law or could you fall back on custom or tradition?

CHAIR HARLOS answered but that’s not the bylaws though. We removed the 90 days.

MOELLMAN said but at convention you could create bylaws. The bylaws are what enable this document to exist. We are not voting to eliminate the bylaws. Even if subordinate document were to be deleted, they would still be empowered to amend the document even though it does not exist, they could amend a document that does not exist because the bylaws say so.

RICHARD BROWN replied the bylaws say they have to be done in 90 days.

CHAIR HARLOS answered the 90-day thing is gone, Mr. Brown.

RICHARD BROWN stated with this amendment they probably could propose new rules at any time. The way you have this amendment, he thinks you could propose a brand-new set. He would not bank a lot of money on it. He is still studying it.

MOULTON replied to Mr. Brown, I want to draw your attention to the word “existing” therein the second line; that’s what he is grappling with.

(NO RESPONSE)

MOULTON asked the Chair to move on and we can do more on this later. He does not think we are making any progress.

RICHARD BROWN told Moulton, you have a point there. He does not have a ready answer and it should be more clear.

CHAIR HARLOS stated we may return but this is Moellman's question. Next called on Rowlette.

RICHARD BROWN asked Madam Chair to postpone before Rowlette addresses this issue. It was just a suggestion.

CHAIR HARLOS agreed. Stated we should not keep spinning wheels and that she was considering that perhaps the committee would want to consider a rewrite. It might be better to start from scratch.

SEEBECK added that was what his substitute was, a rewrite.

ROWLETTE did not think we need to do an entire rewrite. He believes it is unlikely to happen but if it did, there would be solutions for it. All this needs is two small changes and it is golden. So he does not think we should worry about it too much.

BRACCO agreed it is super, highly unlikely and thinks we are creating this problem for ourselves. We have to get to the part about "shall submit new" amendments. That part still needs addressing. He kind of feels we might be creating a potential problem – but is not against it – but we should not be creating a problem even if a super unlikely one.

CHAIR HARLOS responded to Bracco that she understands what he is saying.

ROWLETTE opined, let's say a disaster occurs and the JC decides we are going to destroy our own Rules of Procedure. They could specify themselves whether or not they are creating a zero or a no which are two different things. If they don't specify, they could just say we will do it this way or that way when the time came to do something. Also, the JC could work without rules but if that is the worst scenario, then he thinks that will be fine.

CHAIR HARLOS said the JC cannot make rules on the fly unless there is authorization for it in the Bylaws. The JC is not a board. They are kind of a subordinate body to the convention. Committees cannot create their own special rules of order without specific authorization. We as a committee cannot create our own rules. This whole scenario does not exist in original language; so it is a problem of our own creation in this proposal. Rowlette pointed out that there are two categories in that first sentence. Rather than solving by deleting the two categories, maybe the way to solve it is to fix the second-to-last sentence and put in the word "new"; but she has to be honest and say she does not think the last sentence is

necessary whatsoever. She knows people want clarity but she does not think that sentence is necessary. Well, maybe it is now that we have deleted it but if we left it that “the existing rules shall remain in effect until and unless” she does not think that second-to-last sentence is necessary. She always thought it was clear before and understands some may want more clarity but she thinks we are creating problems and perhaps we should start from scratch and emphasized that is just her opinion. She is not saying none of these changes would be incorporated but right now we are in a cobbling cycle together that seems will not turn out well. We revealed a lot of problems in our discussion.

LATHAM still has confidence in this proposal although he is leaning against the high-lighted language. Even if it is adopted, we could do the other substitute and maybe swap out proposed rules and he thinks that would capture the original intent. He did have another question for Mr. Brown about the no rules scenario which is highly unlikely but: would or could we just defer to Robert’s? The JC would just rely on Robert’s to run its procedures?

CHAIR HARLOS said she would be a stickler here. Parliamentary issues should be directed to the Committee Chair. She will bring in Mr. Brown if she does not know the answer and she is sure he will pipe in if he thinks she is wrong. Robert’s does not address JC’s at all. The issues in our appellate rules are not contemplated at all by Robert’s.

RICHARD BROWN concurred with Chair Harlos.

CHAIR HARLOS sees a fix. Delete the current proposal. Leave “established or proposed amendments” and in second-to-last statement, change it to “if denied or while proposals are pending”. Proposals, cover new ones and cover amendments –

SEEBECK Objected.

CHAIR HARLOS called on Seebeck to state his objection.

SEEBECK stated, the Chair is biased and leading the committee to dissolution when there is another one still pending out there and that’s improper.

CHAIR HARLOS stated she is arguing against the proposal and that’s perfectly acceptable when urging a committee to vote against something to say there is an alternate solution that can be proposed. That is perfectly in order.

SEEBECK responded that pending to be proposed is denying equal time to that one.

CHAIR HARLOS believes that what she did was perfectly in order but she asked for Brown’s opinion. Brown is not chairing this committee but she asked for his opinion.

RICHARD BROWN responded that he was thinking about that. He asked: Seebeck has a proposal pending currently; is that correct?

THE CHAIR answered, “No, Moellman does”.

RICHARD BROWN stated that what Chair was doing is permissible and it is appropriate.

CHAIR HARLOS put forth that we were still on Moellman’s proposal. Is there any further debate on his proposal? (NO RESPONSE). Chair knows there is already objection.

Requested Bracco to take the roll call.

Amendment to Moellman Amendment to delete the words “establish new, or” and then a stray “,” after existing would be deleted so that it would read: “The Judicial Committee may propose amendments to existing rules of appellate procedure to govern its consideration of matters within the scope of its jurisdiction”.

DEFEATED 5-5-0

Bracco	No
Ciesielski	Yes
Latham	No
Martin	Yes
Moellman	Yes
Rowlette	Yes
Seebeck	No
Moulton	No
Logan	Yes
Harlos	No

CHAIR HARLOS voted “No” to cause the motion to fail. She next called on Moulton to speak.

MOULTON wanted to propose an amendment to what our Chair had suggested which was in the second-to-last sentence which starts out “If denied” to strike out “amendments” and insert “proposals’. He did not want to speak to it. He thinks our Chair has already spoken to it and he will let her speak for herself.

CHAIR HARLOS stated she thinks this covers it and it is cleaner as to new rules because we give the JC authority to issue new ones or propose amendments and we don’t have this weird category of things if denied or to propose amendments.

LATHAM inquired would it be okay in the prior sentence to change “proposed rules” to swap that out and also make it “proposals”? It would read “The Judicial Committee would submit proposals to the National Committee for approval, which approval . . .?”

CHAIR HARLOS that would be separate, done separately. Is there any further discussion on this amendment? (NO RESPONSE). Is there any objection to amend by striking “amendments” and inserting “proposals”? (NO RESPONSE) (ADOPTED WITHOUT OBJECTION).

Chair called on Latham to address conforming amendment and asked if he wished to make that amendment now?

LATHAM so moved.

CHAIR HALOS motion to strike “proposed rules” and put in “proposals”; is that correct?

LATHAN stated that it was correct.

CHAIR HARLOS it would read “The Judicial Committee shall submit new proposals to the National Committee for approval which approval shall be deemed given” . . . and then the rest of the sentence. Asked Latham if he would like to speak to that.

LATHAM maybe it’s too vague but maybe in the whole context it makes sense and it would be consistent with the one we just passed so we know what we are talking about. It is the same thing.

CHAIR HARLOS thanked Latham and asked if anyone else wished to speak? (NO RESPONSE). Is there any objection to this amendment? (NO RESPONSE). Hearing none, it passes. (AMENDMENT ADOPTED WITHOUT OBJECTION). Are there further amendments?

MOULTON would like to amend the last sentence in this proposal. I would leave the language “A copy of the current rules of appellate procedure shall be” and cross out the rest of the sentence and add in “appended to the bylaws and posted on the Party’s website.”

MOELLMAN asked whether we need to specify the Party’s website or do we need to specify a mechanism that is easily accessible to the members? The reason he says that is because he can bury something on a website and yes “Doctor” is a title I could legally use but I don’t. Just to say post it to the website, I can bury something on a website where it might never be found. We need it to be accessible to the members. That is the key. I am looking for language that would be more expediently acceptable, readily accessible, something to that extent it would be “readily accessible to the members”. Keeping it in the office is stupid. Putting it on a website is better but it can be buried on a website. I am open to

ideas but something about readily accessible to members I think might be better. I am looking for better terminology.

CHAIR HARLOS there is something in the Bylaws that says the Secretary is responsible –
MOULTON Article 7, Section 14 talks about the Secretary posting notice.

CHAIR HARLOS there is something about – and maybe I am thinking about the policy manual.

MOULTON only other section where website is mentioned is Article 10, Section 9 where it says “draft convention minutes within 60 days of the adjournment of the convention and present them to the National Committee. Draft convention minutes shall be posted on the party’s website at least 14 days prior to being submitted to the National Committee for approval by a 2/3 vote.” Neither of them say easy to find or posted on the Party’s website. Somewhere it mentions “permanent archive”. The word “permanent” is there.

CHAIR HARLOS Article 18 Promulgation of Bylaws. It does not say anything about website. But if we talk about accessibility, it would go in Article 18. It might be sufficient to say appended to the bylaws because we have an article that deals with Promulgation of the Bylaws and maybe this section of the Bylaws needs to be amended to deal with accessibility issues?

MOULTON that sounds fine to him. Having served on the JC in the past and I have chaired the JC and when I chaired the JC we changed some of the notice requirements which dealt with US Postal mail which were antiquated and then the next JC still felt it was antiquated and so he would like to step into the 21st century with websites and emails and items like that.

CHAIR HARLOS this is somewhat unorthodox and the committee can object but would you be okay with your amendment if it just said “appended to the Party’s Bylaws”?

MOULMAN certainly.

CHAIR HARLOS and then deal with the accessibility issues in Article 18?

MOULTON yes.

CHAIR HARLOS is there any objection to Moulton’s Amendment?

LATHAM objected. He has a thought on amending the issue.

CHAIR HARLOS because we are in a substitute, we cannot amend an amendment. The only way to amend his amendment would be to vote it down.

LATHAM then no objection.

CHAIR HARLOS Moulton, do you wish to speak further?

MOULTON I think this amendment removes words and makes things shorter, conforms things to how we have been doing it and is less antiquated and brings us into the 21st Century. I recognize there are still potential problems and things that need to be made better as far as accessibility but I agree with the Chair that those items should be in other places in the bylaws than this particular article. I don't think we should try to put everything into this one article.

CHAIR HARLOS is there any further debate on this amendment? (NO RESPONSE). Hearing none, is there any objection to this amendment? (NO RESPONSE)(AMENDMENT PASSED WITHOUT OBJECTION). We do understand Seebeck has an amendment. Not forgotten.

SEEBECK will wait.

CHAIR HARLOS are there any further amendments to the substitute? (NO RESPONSE). There is lot of text here. I would like to read aloud what it would read if we passed it.

The JC may establish new or propose amendments to existing rules of appellate procedure to govern its consideration of matters within the scope of its jurisdiction. The JC shall submit new proposals to the National Committee for approval which approval shall be deemed given unless denied by 2/3 vote of the National Committee within 60 days of submission. If denied or while proposals are pending the existing rules remain in effect. A copy of the current rules of procedure shall be appended to the Party's Bylaws.

After hearing it read, are there any further amendments to the Substitute? (NO RESPONSE). Procedurally where we are at is to decide between the Substitute and the original Latham Proposal. So the motion before the committee is shall the Substitute become the Main Pending Motion? A Yes Vote would get rid of the original Latham Motion and we would have the Substitute. Let me warn you, before we get to actually putting this Question, after the Substitute is made no further amendments to the Primary Motion are in order except for additions. I am telling you that's how technically it works.

The Question before us is: Shall the Substitute Motion become the Main Motion or shall the Substitute go away and the Original or the Latham Original, which is the first paragraph on the screen, remain the Main Motion? A Yes Vote would make the Substitute the Main Motion. Is there any objection to making the Substitute the Main Motion?

SEEBECK Objection.

LATHAM I am confused the way you phrased that. I wasn't sure what a "yes" would do.

CHAIR HARLOS okay. Will explain that again. A Yes Vote would mean that this first paragraph here would go away entirely and the totally amended second paragraph would become the Main Motion.

LATHAM thanks.

CHAIR HARLOS and no further amendments to it technically would be allowed except for "additions" meaning only that which is adding to the beginning or the ending of it. A no vote would make all of this go away and we would then be with the Original as Amended with the same caveat that no further amendments to it would technically be in order but if that's what the committee wants to do, we could go through a whole reconsideration process and get to what we want anyway which I am not inclined to do but I am telling you technically what the rules are.

BRACCO whichever way we go with this the presumed Substitute that Mr. Seebeck has, that's going to be open to amendment? Is that right? No matter what?

CHAIR HARLOS yes.

RICHARD BROWN you can also suspend the rules to permit further amendments to a Substitute.

CHAIR HARLOS thank you. All right. There was objection on whether shall the Substitute become the Main Motion. Mr. Bracco, if you would take the roll.

MOTION TO MAKE THE SUBSTITUTE THE PENDING MAIN MOTION

ADOPTED 8-1-1

Bracco	Yes
Ciesilski	Yes
Latham	Yes
Martin	Yes
Moellman	Yes
Rowlette	Yes
Seebeck	No
Moulton	Yes
Logan	Yes
Harlos	Abstain

CHAIR HARLOS the Main Motion is now –

SEEBECK before that, I have a question. I want to make sure. Because of the discussion and because of the amendments, what is the best way to get it from my screen to where you are at?

MOELLMAN can we take a five-minute recess? We are getting close to the time -- Look what time it is now!

LATHAM is it possible to post it in chat and then copy it from chat?

SEEBECK there is too much striking through and –

LATHAM okay. Thanks.

ROWLETTE on the new Main Motion now that it is adopted, can we get rid of all the red and blue and strike-through?

CHAIR HALOS no because we are amending something recently adopted. All of that strike-through has to do with the original Bylaws,

(OFF RECORD TO REMEDY TECHNICALITIES)

CHAIR HARLOS I will read this aloud as it is hard to read on screen

The JC may establish new rules of appellate procedure or amend the current rules of appellate procedure to govern its consideration within the scope of its jurisdiction. The existing rules shall remain in effect until and unless the JC establishes new rules or amends the current rules. The JC may only establish the rules of appellate procedure or amend them when no appeal or request to the JC is pending. A copy of current rules of appellate procedure shall be appended to these bylaws and Convention Rules.

Would you like to speak to your Substitute?

SEEBECK Yes. This takes care of all the concerns regarding establishing rules, amending rules. It takes the LNC approval whether active or passive out of the equation equally because, frankly, they should not have a say that matters because this committee deals with issues from the LNC so there is a conflict of interest there. There is also a clause in here that says that they can only do amendments to this if something is not pending. That is in there specifically – and this was not discussed in discussion on the other ones – because the JC -- and I am on it – is allowed to amend their rules in mid-stride while dealing with an issue. That is not a good thing to do. That's going to create a lot of craziness. We

can't have an appeal pending and then we say we changed the rules – and which can be seen to bend the rules to help one party or another. That's not a good idea, amending the Bylaws or Convention rules when they are requested. I think that covers everything we were talking about in a simpler manner and addresses the whole 90, 60, 150 days, whatever the days are and makes it easier to work with.

LATHAM the issue I have with this proposal is the sentence that reads that the JC may only establish the rules of appellate or amend them when no appeal or request of JC is pending. That would again invite some gamesmanship where if someone wanted to frustrate the JC's ability to change its rules. They would just have a pending appeal. You know courts amend their rules routinely while litigation is on-going. It is just a reality of those processes and you just incorporate the rules as you are going along. You can't do ex post facto stuff so sometimes you work off of the rules that were in effect at the time of when your litigation or your appeal started. I think that sentence is problematic.

CHAIR HARLOS likes a little bit of each of these. However is opposed to the idea the LNC could somehow game the rules or whatever. There are existing rules that are mature but don't think they could game it to their benefit because the existing rules are not to their benefit. It is not as if the LNC is proposing the rules but to have the JC be able to amend them on their own and perhaps there is some huge problem in them that there is no way to overcome if the JC was trying to game things. There always has to be prime mover and I prefer checks and balances. It's not as if the LNC has sole authority. It is an interplay between the LNC and the JC. That is a healthy balance unless we have JC rules approved at a convention. That's the only way to keep it completely where it is not going to be gamed. Perfection is not on the table here. I think good is on the table here. This process has served us well. I do not want a JC that makes its own rules. There is non-profit law under which the LNC is bound and our Bylaws. The only one that has a legal right to share a right to protect members is – and they don't always do it – but the fact is they are the ones with the legal responsibility and I am completely opposed to removing the LNC out of this. So please – and I have never seen it abused – and not that it could not be. Everything can be

But we need checks and balances here. Just having the JC establish whatever rules they want with no way to overturn them because they are the final court until the next convention, I don't think that is wise.

My second thing here is the only reason that an issue of potential unfairness of changing the rules mid-stream is an issue is because they can change them on their own. If there was a pending appeal and the LNC had to approve them, then the LNC could disapprove them and then resubmit after the pending appeal. That is the check and balances and it

keeps people from filing some appeals and because they don't go into effect immediately. That also is a check and balances there because there is that 60-day window.

I noticed an error in both of these proposals which we can maybe fix later through a Motion to Suspend. I don't think we should be getting rid of "maintained by the Secretary". I do think it should say still "A copy of the appellate rules of procedure shall be maintained by the Secretary and appended to the Bylaws". Somebody has got to be responsible for this and it's the Secretary.

MR. MOELLMAN I like the idea of having the JC separate from the LNC. Harlos brought up some good points. I don't have a good answer to rectify them. A rogue JC is no better than a rouge LNC. That's bad. Being stuck with a bad JC now for four years is bad enough. Having a rogue JC that could run amuck for four years could be devastating. Don't know that I have a good answer. I do think there is merit in both. I don't think either proposal addresses that. That's just what it is. I think it is good to keep the JC in check more than the proposed substitute even though I would prefer a proposed substitute with a check and I don't think I have an answer here but that's where my gut is on all this and I'm open to ideas. That's where I'm at.

RICHARD BROWN as the parliamentarian I share the concerns expressed by Harlos, Moellman and the previous speaker before the Chair. In particular I want to point out my concern from a parliamentary standpoint with the provision that would prohibit the JC from establishing new rules only when no appeal is pending. That strikes me as problematic. I can understand a provision that said that any new rule shall not apply to any pending appeals. That would be fine. That would be customary. An appeal can take several months and there could be two or three appeals pending. One could be filed before the previous one is over. As a parliamentarian I would prefer something that says any new rules shall not apply to any pending appeals. But I do share all of the concerns that I have heard expressed with this substitute.

CHAIR HARLOS we are coming up on our ending time. Just want to warn you all.

BRACCO make a motion to extend time by ten minutes.

CHAIR HARLOS is there any objection to extending time for ten minutes? (NO RESPONSE)
Hearing none, we will extend our time for ten minutes. We will go for 10:55 ET.

BRACCO I understand not wanting to have a check. I get not wanting to have the body that is doing the check be the body that is also being reviewed. I think the least bad option would be maybe a review but by someone other than the LNC. The only people I can think of is the delegates elected to the JC. I am spit-balling language here so don't hold me to it,

denied by a majority of the delegates at the convention which elected the JC. – or maybe the most recent convention because we could have like year three of the term. That's my idea.

SEEBECK heard the arguments and they are not persuasive. No court in this country changes their rules of procedure in the middle of a trial. That does not happen. They have oversight from other courts in the system. The idea of being able to change the rules in mid-stride while a case is being heard is problematic in itself and it's not good optics either. That is why that sentence is in there. We don't want to be changing the rules in mid-stride of an appeal. That does not make any sense. How do we know what the rules actually are when we are doing this? How is there established a fairness if the JC can be changing the rules in mid-stride of a hearing? As far as changing the rules outside of a rogue JC, the ultimate decision lands in the hands of the delegates every two years. If the delegates wish to amend the Bylaws to change the election of the JC for that term or to throw them out if they have gone rogue, they can do that. They can determine their own Bylaws. That's in Robert's. I am not worried about a rogue, run-a-way JC for a four-year term because the members can fix that in the interim. The real issue here though is that you have a conflict of interest. You cannot have an LNC, passive or active, subject the rules to a committee to which they are subject to in appeals dictate those rules. That does not make any sense and after that 90-day period is gone, the LNC has no say in it anyway. So the 90-day period is kind of pointless. Plus you have another 60 days on top of that to deal with approval of sufficiency. So you have got up to 150 days from the convention for a set of rules to be established to take effect. If there are serious flaws in those rules that are exposed in that time, you are stuck and that is going to create other problems.

CHAIR HARLOS just wants to point out that the 90-days has been struck from –

SEEBECK I am saying as the current wording in the Bylaws now stand.

CHAIR HARLOS thank you.

SEEBECK that is what we are dealing with. The bottom line of this is that 150 days literally is five months at a maximum would leave the JC in limbo figuring out rules is ridiculous and it's not a good idea. If we need an amendment to say the rules are amendable by the convention delegates, I'm fine with that. But there is an inherent necessity for a separation of powers here between the LNC and the JC that is not present as the Bylaws currently exist. That needs to be corrected.

MOULTON Bracco mentioned possibility of delegates being the ones who could object to proposals. Don't think we should create whole new processes where state chairs or some another entity. We have enough entities as they are between the JC and LNC. We don't

need to complicate things more and I don't think it's needed. If we are worried about the time that it takes for these rules to come into effect, we can always look at 60 and make it shorter or longer but I'm inclined to make it longer if other committee members would think it makes it better.

MOELLMAN doesn't know if either of these proposals is perfect now but we only have five minutes, or four minutes, something like that. He is tired and honestly doesn't know. Would it be proper for us to adjourn here and take up right where we left off at our next meeting, ideally with both of these proposals? Everybody has stuff in writing perfected and we have heard a lot of good arguments tonight. Can we come back with two proposals that are perfected and ready to rock and we can be done and move on to the next thing? In the time we have left, we can't even get the other corrections done.

CHAIR HARLOS it's possible in a way – We are going to be adjourning in four minutes. To move to reconsider the extension of time is not worth it. We are going to be adjourning in four minutes absent another extension for time. However, when we come back, we'll be in exactly the same position we are in now unless someone moves and the committee doesn't object to withdrawing everything and starting from scratch. Otherwise, we are going to be where we are at now. Members can come with their proposals but it won't be brand new stuff. That ship has sailed.

MOELLMAN each one could propose to suspend the rules; Proposal A and then –

CHAIR HARLOS we could or everything can be voted down and we start again. Let's vote them down and start again. That is another way. All I am saying is our procedure posture will be wherever it was frozen when we left. We have a couple more minutes and I had my hand up. No matter where we end up this is what I am going to suggest. I think the committee is going to be divided. I don't mean "divided equally". There is going to be one side who will win. I think there will be a significant minority. I don't think that's going to rely on having the JC being completely self-regulating its own rules and another side that does not think so. I am going to encourage whatever side does not end up on the winning side of that to submit their proposal as a minority report. I think this is where we are going to end up with this. Do want to offer one rebuttal to Seebeck. It is not a potential run-away JC for four years because the Convention Delegates can come back and amend the Bylaws to re-elect a new JC. That is a horribly technical procedure that would take a 2/3 Vote of the Delegates and unless we change our requirements, to get something moved from the floor is moving mountains. Have done it before and it's not easy. There is no guaranty you are going to get the Bylaws Committee to pass it. Meanwhile the LNC automatically gets reviewed every two years. No bylaw amendments necessary. If we are

worried about either body abusing privileges, there is one that gets reviewed automatically every two years. The other one would require a bylaw amendment to do that which is not easy and we don't always get to hear bylaw proposals as we have learned and there could be much more pressing issues. We need a check. The LNC is not the perfect one. Think I agree with Moellman; I would not be in favor of it, adding any kind of additional procedure for regionals or state chairs. We have enough of those that we barely keep up with.

BRACCO what about the Delegates have to authorize the policy? Say if you don't get ten percent of the Delegates to sign on, the LNC can't vote on anything? I don't know. Trying to find a middle ground here and I'm not sure there is one but I'm trying.

CHAIR HARLOS once we leave convention, there is not a graceful way to get them to decide on anything.

BRACCO there is precedent for it though, like appealing to the JC by ten percent of the delegates and all that.

CHAIR HARLOS it's not easy.

BRACCO maybe it should be easy.

CHAIR HARLOS think it should be somewhat easy for the JC to adopt rules.

BRACCO no, no. What I'm saying is not that those be approved –

CHAIR HARLOS apologize, I'm going through cross-conversation here which I would yell at anyone else for doing so.

BRACCO to clarify what I am saying is you have a mechanism where the LNC can review the JC's ruling with a 2/3 Vote. However, they cannot do that unless the Delegates first say basically to the LNC, hey, we want you to take a look at this and if the Delegates don't say that, then the LNC can't say that. There has to be some sort of agreement of both, the Delegates say you should review it or the sustaining members say that, then you can review it and then they review it and maybe it passes or maybe it doesn't get 2/3 Vote. But there is some kind of check. What we are talking about here is another nuclear scenario.

CHAIR HARLOS we are out of time. Unless there is some kind of motion to extend, we are out of time.

BRACCO move to extend another ten.

CHAIR HARLOS there is a motion to extend another ten minutes.

SEEBECK Objection.

CHAIR HARLOS there is objection and we need to do another very quick roll call. It will take a 2/3 Vote.

MOTION TO EXTEND ADDITIONAL 10 MINUTES

ADOPTED 6-3-1

Bracco	Yes
Ciesielski	No
Latham	Yes
Martin	Yes
Moellman	No
Rowlette	Yes
Seebeck	No
Moulton	Yes
Logan	Yes
Harlos	Abstain

CHAIR HARLOS Motion to Extend Adopted.

MOULTON wants to reiterate that he strongly opposes any effort to throw in Delegates or any other weird mechanism. Thinks we should go with entities that we already have.

CHAIR HARLOS strictly opposes adding any convolutions. Already having sweats if having to do that as Secretary. From somebody who has been in the sausage factory, that's not a good idea. Would anyone else like to speak? (NO RESPONSE)

I'm going to make a somewhat unorthodox motion, making at the same time and because the threshold will be 2/3 – even if made only one, it would require a Majority. I am moving to suspend the rules and amend both proposals to maintain the phrase “maintained by the Secretary” and adding the word “independent” so that the first proposal would read “copy of the current appellate procedure shall be maintained by the Secretary independent of the party's Bylaws”. The Substitute would say “copy of the rules of the appellate procedure shall be maintained by the Secretary and appended to the Bylaws and Convention Rules and shall be available to any member”. Am moving to Suspend and Adopt in one motion with a 2/3 Vote, not debatable. Is there any objection?

MOULTON object to that.

RICHARD BROWN it is not debatable.

BRACCO could you do a markup on the screen, please?

CHAIR HARLOS okay.

BRACCO it is only one; they are the same in both places?

CHAIR HARLOS yes. It shall be shared by the Secretary for both of them. “A copy of the appellate rules of procedure shall be maintained by the Secretary and” and then the rest of the sentence diverges a little.

BRACCO don't believe it is “shall be”?

CHAIR HARLOS yes. That's true. Now we are going to move to a roll call vote.

MOTION TO SUSPEND AND ADOPT (REQUIRED 2/3 VOTE)

PASSED 8-1-1

Bracco	Yes
Ciesielski	Yes
Latham	Yes
Martin	Yes
Moellman	Yes
Rowlette	Yes
Seebeck	Yes
Moulton	No
Logan	Yes
Harlos	Abstain

MOULTON hopes some members stay after to hear why it is a terrible idea.

CHAIR HARLOS if there is no objection, would like Moulton to have a minute to state why he thinks it is a terrible idea if there is no objection. (NO RESPONSE)

MOULTON doesn't think this is the place for it. The Chair noted before that Article 18 has promulgation in the Bylaws and that's where we should put like where on the website we should put things and I also think we should put on the website who should maintain the Bylaws. We are just saying appended to the bylaws. We can say that the Secretary maintains the Bylaws but don't put it here. Put it in Article 18. It's just misplaced.

CHAIR HARLOS what I would suggest to Moulton is when we get to 18 I think it then opens an essentially new question where we can go back and revisit this language if it still exists but right now it's in there but I do think it would be in order for anyone to move to reconsider this if we change 18 and I'll ask someone who did not vote on the losing side to reconsider. If the committee wishes I will move to preserve the reconsideration by reconsidering it on your behalf if that is what the committee wishes to do at a later time.

MOELLMAN was going to note that I voted “yes” so we could reconsider later. That’s why I voted “yes”. I agree with Moulton. I don’t want to get into debate here but, yes.

CHAIR HARLOS when we get to 18 if proposal is made there we can take care of it then. No motion is needed to adjourn as the time is here and there is no objection – just one comment – If people wish to think on this and don’t want to wait until we get to Article 18 as Moulton has said he has reconsideration rights, it would be in order at the next meeting to reconsider that vote if the committee wishes to. They could wait or they could leave it be. Just want that to be in your heads.

We will be adjourned at 11:05 ET. I will fix all the markups. We will be in same procedural position we are in now. Our next meeting is March 9th at 8:45 ET

MEETING ADJOURNED AT 11:05 ET.

DRAFT COPY 1 – NEEDS GUESTS PRESENT

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