

IN THE COURT OF COMMON PLEAS
OF DELAWARE COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

No. 114-1937

RESIDUARY TRUST UNDER WILL OF
GEORGE F. PENNOCK FOR THE
BENEFIT OF THE PROHIBITION PARTY

PROHIBITION NATIONAL COMMITTEE'S
MOTION TO DISMISS PETITION

The Prohibition National Committee, by Secretary Leroy J. Pletten, for its Motion to Dismiss, states as follows:

1. The gravamen of the Petition by the PNC Bank, N.A. (the name similarity is a coincidence without legal significance) is whether, in view of a September 2003 majority meeting vs a June 2003 minority meeting, there are two groups each called Prohibition National Committee (hereinafter "PNC").

2. The PNC Bylaws mandate "a biennial meeting of the entire membership of the National Committee" (Petition Exhibit B, "Minutes" P.053, in essence, an admission against interest by the "Dodge group").

3. The PNC Bylaws further contemplate a quadrennial "nominating convention" (Petition Exhibit B, P.052, "Membership and Service, Section 3 Period of Service").

4. The last prior "biennial meeting" had been in June 2001, and the last prior quadrennial "nominating convention" had been in June 1999.

5. The next such meetings were thus due to occur in 2003.

6. The PNC Bylaws (Petition Exhibit P.053-P.054, "Meetings," "Section 1, Biennial Meeting," and "Section 3, Call of Committee") contemplate and provide for meetings including automatically biennially and by "formal petition signed by ten members of the National Committee circulated among all members of the committee and specifying a place date and time"

7. Earl F. Dodge, ironically enough in view of his behavior in the 2003 situation, had himself previously confirmed the ten signature method as a means of convening meeting(s) in the event of a Chairman not doing his duty in regard to convening same—the precise situation in 2003!

8. Pursuant to the said ten signature proviso, and to forestall dispute of the type herein, signatures for the Petitions were solicited (to the extent possible in the face of Mr. Dodge's obstructionism of contacting them re, e.g., names and addresses) from "all members" (including from the signatories of the false statements [in Petition Exhibit B, pages P.045-P.051] fabricating the "organized a new group" falsification). The requisite ten (more than ten) occurred from among both (a) undisputed members (chosen at the 1999 PNC meetings); and (b) selectee(s) alleged in June 2003 by the "Dodge group" (the "Dodge group" is estopped from objecting to same).

9. The PNC avers that the Petitions speak for themselves.

10. Nothing in the Bylaws, including its ten signature rule, establishes that following them in September 2003 "organized a new group"!—nor can doing so, as a matter of law. Indeed, following them as done here, verifies, makes evident, confirms, corroborates, establishes, shows, makes clear, validates, etc., the fact of the PNC still being the one, indivisible, continuing PNC, the same as it always was, notwithstanding the false term "Webb group" disingenuously invented as a term to divert attention off the reality, the PNC majority, and the PNC name.

11. Organizations are governed by Bylaws and majority rule, compliance with which does not "organize a new group," does NOT change their name. There is no more validity to mislabeling the PNC as the "Webb group" than there is to mislabel the Petitioner Bank, as say, the "Altimore group"; or WolfBlock, as the "Lomas group"; or this Honorable Court, as the "Clousen group." Such are NOT proper terms to use for organizations, and must be presumed known by the inventors of the "Webb group" term to be incompetent, fraudulent, diversionary, deceptive, misleading, false, disrespectful, and/or contemptuous, etc.

12. The Petition Exhibit B words from the dissident minority "Dodge group," sore losers, have not rebutted the controlling fact, the adherence to the ten signature Bylaw proviso, and as matter of law, cannot do so.

13. The enclosed affidavit from the undersigned attests to the Petitions.

14. The Petition Exhibit B documents from the "Dodge group" were not authorized to be sent by the undersigned, the Secretary, Leroy J. Pletten, and were provided *ultra vires*.

15. This Motion to Dismiss incorporates by reference the prior "Answer and Opposition" already in the record, the mailed and shortly to be received, if not already received, affidavits of Richard D. Swift and Sarah F. Ward, National President, Woman's Christian Temperance Union (an impartial outside observer and attendee), and additional affidavits in process.

WHEREFORE, in view of the facts set forth in the record and as hereby augmented, the Prohibition National Committee moves that this Court:

1. DECLARE that the so-called “Webb group,” in reality the PNC majority, having followed the PNC’s own Bylaws, did not, could not by so doing, “organize a new group”;
2. DISMISS the Petition with prejudice;
3. ORDER any other or additional relief as the Court may determine.

BRIEF IN SUPPORT

The Prohibition National Committee relies upon the controlling facts herein presented, in the context of the U.S. Supreme Court decision showing that with respect to a

“complete failure of proof concerning an essential element of the nonmoving party's case [that] necessarily renders all other facts immaterial” (with such failure here being not merely on an “essential element,” but the entire gravamen of this frivolous litigation), thus “necessarily renders all of the other facts immaterial.” *Celotex Corp v Catrett*, 477 US 317, 323; 106 S Ct 2548; 91 L Ed 2d 265 (1986).

Such action does “isolate and dispose of factually unsupported claims,” 477 US, 323-324.

The Prohibition National Committee, in the interests of judicial economy, suggests that this frivolous litigation may be summarily decided upon the record as now hereby augmented, pursuant to the aforesaid concept shown in prior case law such as, e.g., *Melancon v Brown & Williamson Tobacco Corp*, 621 F Supp 567 (WD Ky, Louisville Div, 1985) (dismissal for failure to show a cause of action, without even awaiting an answer), without the necessity of burdening this Court with telephone calls, hearing(s), oral argument(s), additional motions*, and/or trial.

* Same are anticipated to elaborate the multiple parliamentary procedure precedents cited by the undersigned’s emails included in the Petition’s Exhibit C, all in the context of

A. the U.S. Supreme Court case law citing parliamentary procedures issues as ancient law:

“This has been the rule for all time. . . .,” *United States v Ballin*, 144 U.S. 1, 6-7; 12 S Ct 507, 36 L Ed 321 (1892) in turn alluding to *Brown v District of Columbia*, 127 U.S. 579, 586 , 8 S. Ct. 1314; 32 L. Ed. 262 (1888), saying “If the major part withdraw [of an organization] so as to leave no quorum, the power of the minority to act is, in general, considered to cease.”

Note that a key aspect of the quorum concept is one “for all time”! — not like this is a new rule or something! And note that “If the major part withdraw so as to leave no quorum, the power of the minority to act is, in general, considered to cease.” How much more so, when the disgruntled

Respectfully,

25 November 2005

Leroy J. Pletten
Secretary
Prohibition National Committee
8401 18 Mile Road #29
Sterling Heights MI 48313-3042
(586) 739-8343

Enclosures:

Affidavit and the Herein Cited Petitions

minority (the “Dodge group”) excludes some of the majority (the “Webb group”), as here!! – And thus forces the majority to invoke the Bylaws “biennial” and “quadrennial” meetings mandate and expectation, and the ten signature procedure, to compel the meetings due for that year (2003).

B. The long line of precedents, e.g., *Wheaton v Peters*, 33 US 591, 668; 8 L Ed 1055 (1834), *Davidson v Wheelock*, 27 F 61 (CA Minn, 1866), *Banks & Bros v West Publishing Co*, 27 F 50 (1886), *Banks & Bros v West Pub Co*, 27 F. 50 (1886), *Banks v Manchester*, 128 US 244; 32 L Ed 425; 9 S Ct 36 (1888), *Nash v Lathrop*, 142 Mass 29, 6 NE 559 (1886), *Banks v Manchester*, 128 US 244; 32 L Ed 425; 9 S Ct 36 (1888), *Callaghan v Myers*, 128 US 617; 32 L Ed 547; 9 S Ct 177 (1888), *Howell v Miller*, 91 F 129 (CA 6, 1898), *Banks Law Pub Co v Lawyers' Co-Operative Pub Co*, 169 F 386 (CA 2, 1909) (per curiam) app dism by stipulation, 223 US 738; 32 S Ct 530; 56 L Ed 636 (1911), *Building Officials & Code Adm v Code Technology, Inc* (628 F2d 730 (CA 1, 1980), *State of Georgia v Harrison Co*, 548 F Supp 110, 114 (DND Ga, Atl Div, 1982), etc., showing that case law, like enacted law, a public domain matter, is in essence owned by the public, and the public (which includes the “Dodge group”) is presumed, indeed, required, to know it.

C. Legal aphorisms, e.g., *Ignorantia eorum quæ quis scire tenetur non excusat*; ignorance of those things which one is bound to know excuses not. *Ignorantia legis neminem excusat*; ignorance of law excuses no one. *Ignorantia juris non excusat*; ignorance of the law excuses not. *Ignorare legis est lata culpa*; to be ignorant of the law is gross neglect.

D. And the U.S. Supreme Court decision saying that it is not

“unfair to require that one [here, Mr. Dodge] who deliberately goes perilously close to an area of proscribed conduct [exclusionism, no quorum, etc.] shall take the risk that he may cross the line.” *Boyce Motor Lines, Inc v United States*, 342 US 337, 340; 72 S Ct 329, 331; 96 L Ed 367 (1952).

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ORPHANS' COURT DIVISION

No. 114-1937

RESIDUARY TRUST UNDER WILL OF
GEORGE F. PENNOCK FOR THE
BENEFIT OF THE PROHIBITION PARTY

AFFIDAVIT IN SUPPORT OF
PROHIBITION NATIONAL COMMITTEE'S
MOTION TO DISMISS PETITION

STATE OF MICHIGAN)
)SS
COUNTY OF MACOMB)

Leroy J. Pletten, being first duly sworn, deposes and says

1. I am the Secretary of the Prohibition National Committee for a 2003-2007 term.
2. The attached are true copies of the Petitions referenced in the Motion to Dismiss.
3. I have a decade of experience as an Election Official and Precinct Chairman in my City, for all elections, including school board, city, county, state (including governor, attorney general, judges, etc.), and federal (including congressional, senatorial, presidential), elections. In this matter, I followed American majority rule concepts of supporting voter participation, not the anti-majoritarian "Dodge group" minority's obstructionism concept.
4. I attended the September 2003 meetings at issue, and that they did NOT, repeat, NOT "organize a new group," but were based upon the policy of re-establishing majority rule maintaining the one, indivisible, continuing PNC, the same as it always was.
5. I did not authorize sending the Petition Exhibit B documents from the "Dodge group," and most definitely not the false statements claiming the said September 2003 meetings "organized a new group."

Respect fully,

Enclosures: Petitions

Leroy J. Pletten
Secretary, Prohibition National Committee
8401 18 Mile Road #29
Sterling Heights MI 48313-3042
(586) 739-8343

Subscribed and sworn before me, this ___th
day of November, 2005, a Notary Public in
and for Macomb County, Michigan

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CERTIFICATE OF SERVICE

I hereby certify that on this date, 25 November 2005, I transmitted the Motion to Dismiss with self-contained Brief in Support, and Supporting Affidavit with Exhibits (PNC Petitions) and Affidavit in Support with exhibits (Petitions), by at least first class mail, postage prepaid, to

Clerk of Court
Orphans Court Division
Court of Common Pleas of Delaware County
201 W Front St
Media, PA 19063-2708

Sue D. Lomas
Wolf, Block, Schorr, and Solis-Cohn LLP
1650 Arch Street, 22nd Floor
Philadelphia, PA 19103-2097

Robert A. Carpenter
200 North Monroe Street
Media, PA 19063-2908

By: _____
Leroy J. Pletten, Secretary,
Prohibition National Committee

Re: Petition No. 114-1937

25 November 2005

Clerk of Court
Orphans Court Division
Court of Common Pleas of Delaware County
201 W Front Street
Media PA 19063-2708

Dear Clerk of Court:

Enclosed for filing is the Motion to Dismiss with self-contained Brief in Support, and Supporting Affidavit with Exhibits (PNC Petitions).

Three sets of documents are enclosed, one original for the record, one copy for the judge, and one copy (without enclosures) for date-stamping and returning in the enclosed pre-addressed postage pre-paid envelope.

Thank you. Your assistance is appreciated.

Respectfully,

Leroy J. Pletten
Secretary
Prohibition National Committee
8401 18 Mile Road #29
Sterling Heights MI 48313-3042
(586) 739-8343

Enclosures:
3 sets of documents, a/s
1 return postpaid envelope