Two Petitions Highlight Council Agenda in New Orleans

When the American Chemical Society Council meets in early September during the society’s national meeting in New Orleans, it will face two petitions to amend the ACS constitution and bylaws. The petitions deal with operations of the council’s “other” committees and with resolution of election disputes.

The petition on “other” committees is a revised version of one recommended by councilors at their meeting last April in Denver (C&EN, April 27, page 58). Its main intent is to place in the bylaws some of the operating requirements for “other” committees, consistent with bylaw descriptions for such ACS committees as council standing, joint board-council, and society committees. The “other” committees are on Admissions, Analytical Reagents, Chemical Safety, Nomenclature, Project SEED, Public Relations, Technician Activities, and Women Chemists.

The proposed bylaw additions would describe responsibilities, cyclical review, and reporting procedures for these committees, as well as define limits of service for committee members and chairmen.

It was the tenure limitations for members and chairmen that generated dissatisfaction with the earlier version of the petition. The limits proposed were the same as for most ACS committees—three consecutive years for chairmen and three consecutive three-year terms for members. Objections focused mainly on the inflexibility of those limits, in view of the specialized knowledge and experience levels desirable on some of the “other” committees.

The new version, revised by the Committee on Committees, gets around that objection by authorizing the ACS president to waive the tenure limits in specific instances.

The second petition, on resolution of election disputes, seeks to transfer to the Council Policy Committee from the full council the authority to set aside results of disputed national and regional elections and require a new election. The amendments also would clarify wording that specifies that the Committee on Nominations & Elections investigate and resolve disputes in local section and division elections.

According to petitioners, a major advantage of transferring resolution of election disputes from the full council to CPC would be a shortening of the appeals procedure, which under current rules could last a year or more. Thus such procedures could be conducted in a more timely and efficient manner and be less disruptive to ACS affairs.

Following are the texts, explanations, and associated reports for the two petitions scheduled for action at the council meeting in New Orleans on Wednesday, Sept. 2. The meeting, open to all ACS members for observation, will be in the Sheraton Hotel, Grand Ballroom C, beginning at 8 AM.

"Other" Committees of the Council

Bylaw III, Sec. 3(i)

Petition

We, the undersigned councilors of the American Chemical Society, petition that Bylaw III, Sec. 3(i) be amended, as follows (deletions in brackets; additions in italics):

Bylaw III, Sec. 3(i)

(1) Other Committees of the Council, responsible to that body, may be established by the Council or the Council Policy Committee [for a term of one year, unless a longer term is specified in the action]. These Committees may serve any purposes that the Council or the Council Policy Committee determines to be appropriate; the responsibilities and lifetime of each shall be stipulated in the founding resolution. The Committee on Committees shall review each committee not less often than every five years and shall advise the Council whether it should be continued.

(2) [The President, with the advice of the Committee on Committees, shall appoint the Chairman and other members of each such Committee.] Each Other Committee shall report to the Council Policy Committee and to the Council at least once a year. A written report of each Other Committee’s activities shall be made a part of the official record.

(3) The Chairman of each Other Committee shall be appointed by the President, with the advice of the Committee on Committees, for one calendar year, each individual being limited to three successive one-year terms as Chairman of a given Committee provided, however, that the President may waive this rule in specific instances. A Chairman shall continue to serve until a successor has been appointed.

(4) Other Committees may have any composition of membership and size that the Council or the Council Policy Committee determines would be most effective in accomplishing the desired results. Appointments to Other Committees shall be for three-year terms, arranged so as to provide rotation. The President, with the advice of the Committee on Committees, shall appoint the members of each Other Committee.

(5) A Committee member shall be permitted only three successive three-year terms on a given Other Committee provided, however, that the President may waive this rule in specific instances.
Resolution of Election Disputes

We, the undersigned councilors of the American Chemical Society, petition that Article X, Sec. 7; Bylaw III, Sec. 3(b)(1)3 and 6; Bylaw V, Sec. 12(e); and Article X, Sec. 8; Bylaw III, Sec. 3(a)(1)7; Bylaw III, Sec. 5(a); and Bylaw V, Sec. 12(f) be amended as follows (deletions in brackets; additions in italics):

Article X, Sec. 7. Unresolved disputes concerning elections in Local Sections or Divisions shall be referred by the Secretary of the Society to the Council Committee on Nominations and Elections for investigation and resolution. The Committee shall have the power to set aside the results of a disputed election and require a new election.

Bylaw III, Sec. 3(b)

1. The duties of the Committee on Nominations and Elections shall include:

3. supervising all Society elections, except for the power expressly reserved to the Council Policy Committee to set aside the results of a disputed national or regional election and to require a new election;

6. serving as an election appeals board for all Local Section or Division elections[s]; establishing regulations for conduct of election appeals, investigating allegations of improper election procedures, and determining if violations have occurred; ordering new elections if necessary to insure validity; submitting charges of conduct as defined in Constitution, Article IV, Sec. 3, when it has reason to believe that significant election procedure violations have occurred.

Bylaw V, Sec. 12

(e) If in a Local Section or Division election the Committee on Nominations and Elections finds a significant violation of the Constitution and Bylaw provisions regulating election procedures, which violation appears to benefit the winning candidate, the Committee may declare the election void and order a

Explanation

The "other" committees of the council are: Admissions, Analytical Reagents, Chemical Safety, Nomenclature, Project SEED, Public Relations, Technician Activities, and Women Chemists. Current bylaw provisions relating to these other committees are very limited, covering only their establishment, term of life, and the process of appointment of members. There are no stipulations covering reports to council, written reports for the records, rotation of membership terms, limitation of service of members and chairmen, or review by the Committee on Committees of the board. The proposed amendment provides for establishing responsibilities and lifetimes for such committees and a review of the committees on at least a five-year cycle. Consistent with provisions covering other categories of ACS committees, the amendment language would require that the other committees report regularly to the council and CPC and would establish limits of service for committee members and chairmen.

Because of the special nature of the work of the Committee on Analytical Reagents, that is, setting standards for and establishing approved analytical procedures for determining the purity of chemical reagents sold commercially, the committee should not be included under the council other committees. If the proposed bylaw amendment is adopted, the Committee on Committees will recommend to the board of directors that the Committee on Analytical Reagents become a special committee of the board.

Statement of financial impact

The Society Committee on Budget & Finance has examined this petition and finds that it will incur minor additional costs for the society.

Final report of the Committee on Constitution & Bylaws

The committee has examined the petition and finds it to be legal and not inconsistent with other provisions of the society's documents.

The petition was presented to council for action at the April 1987 meeting in Denver. The council voted to recomit the petition to the Committee on Committees for review and possible revision, with the intent that it be resubmitted to the council for action at the September 1987 meeting in New Orleans.

The petition has been revised by the Committee on Committees; the previous version had generated some dissatisfaction. In particular, the tenure limitations for members and chairmen of other committees were regarded by some as too inflexible. The present, revised version provides flexibility by giving the president the authority to waive the limitations in specific instances. In addition to this substantive change, two minor editorial changes have been made.

Note that, since the writing of the explanation in the original petition, some doubt has been expressed as to whether the board of directors would be inclined to change any of the other committees of the council to special committees of the board. The board voted, at its Dec. 7, 1986, meeting, to report to the council Committee on Constitution & Bylaws that the board of directors is not enthusiastic about imposing on the other committees of the council all the restrictions embodied in the petition. The Committee on Committees believes that if the proposed amendments in the revised version are adopted, appointments to all current other committees could be effectively handled using the new language.

A two-thirds affirmative vote of the council is required for adoption of a bylaw amendment. If adopted by council, the amendment will become effective upon confirmation by the board of directors.

James A. Walsh, chairman

Signed:

(This petition was referred to the Committee on Committees, the Council Policy Committee, the Committee on Budget & Finance, and the Committee on Constitution & Bylaws.)
new election to fill the vacancy. Opportunity shall be provided for a candidate whose election is challenged, and the challenger(s), to state their views and to include such comments with any mailing on the subject to the Committee. Opportunity shall be provided for full discussion by all candidates before the Committee, or a decision may be rendered by mail ballot if that course of action is preferred by all candidates involved. A positive vote by two-thirds of the entire Committee shall be required to declare an election void. No candidate in the disputed election shall vote in the Committee on this decision. The Society shall hear no further appeal from this decision.

Article X,
Sec. 8. Unresolved disputes concerning regional and national elections shall be referred by the Committee on Nominations and Elections to the Council Policy Committee for investigation and resolution. The Council Policy Committee [shall make a recommendation to the Council, which] shall have the power to set aside the results of a disputed election and to require a new election. Bylaw III, Sec. 3(a)
(1) The duties of the Council Policy Committee shall include:
7. Investigating allegations of improper election procedures in regional or national elections and determining if violations have occurred; setting aside the results of such an election when it finds sufficient cause [making recommendations to the Council regarding any disputed regional or national elections]; submitting charges of conduct as defined in Constitution, Article IV, Sec. 3, when it has reason to believe that significant election procedure violations have occurred. Bylaw III, Sec. 5
(a) The Council Policy Committee may act ad interim for the Council in all matters except amendment of the Constitution and Bylaws [and elections].
Bylaw V, Sec. 12
(f) If in a regional or national election the Council Policy Committee finds a significant violation of the Constitution and Bylaw provisions regulating election procedures, which violation appears to benefit the winning candidate, the [Council] Committee may declare the election void and order the Committee on Nominations and Elections to carry out a new election. Opportunity shall be provided for a candidate whose election is challenged, and the challenger(s), to [explain his or her actions] state their views and to include such [an explanation] comments with any mailing on the subject to the [Council of the recommendation of the] Council Policy Committee. Opportunity shall be provided for full discussion by all candidates before the Council Policy Committee, or a decision may be rendered by mail ballot if that course of action is preferred by [the person whose election is challenged] all candidates involved. A positive vote by two-thirds of [those Councilors voting] the membership of the Council Policy Committee as defined in Bylaw III, Sec. 3(a)(2), shall be required to declare an election void. No candidate in the disputed election shall vote in the Committee on this decision. The Society shall hear no further appeal from this decision.

Explaination
This petition addresses two principal problems in the handling of appeals of ACS elections. First, there is ambiguity in the constitution and bylaws as to where the responsibility rests in handling appeals in national and regional elections. Second, the current procedure for such appeals is time-consuming, potentially so much so that very serious, even damaging, disruption of ACS affairs could occur. The petition also treats some lesser problems that were recognized in reviewing current procedures, including a clearer definition of and improved fairness in the duties of the Committee on Nominations & Elections with respect to appeals of local section and division elections.

In national and regional elections, the present bylaws require CPC to investigate allegations of improper procedures and to make recommendations to the council. The opportunity is then given to a candidate whose election is challenged to provide an explanation of his or her actions, in a mailing to the council or, if he or she wishes, in a full discussion by all parties before the council. The council decides whether to require a new election. The following scenario illustrates the potential problem inherent in the current procedure.

If a runoff is needed after the fall election for president-elect, its results would not be known until sometime in mid to late December. If there were a challenge to the result and if CPC recommended voiding the runoff election, and if the challenged winner so chose, the council would hear arguments, no doubt lengthy, at the spring meeting. If the council required a new election, would it include the originally defeated third (or fourth) candidate(s)? Conceivably yes, if they belatedly pointed to persuasive reasons identified in the disclosures by the runoff challenger. (Remember that the bylaw provides for full discussion by "all parties," variously interpretable, before the council.)

The new election would be held in May or June, and if a new runoff were required, the results would not be known until July or August. Assuming no new challenge in this second round, the society would have chosen its president-elect just before the fall national meeting. Or assume a truly determined challenger, who uses the rules to force another council consideration. The fall council meeting again hears all parties, and may or may not order a new election, which by now would be concurrent with the next year's set of elections.

A delay to June or fall as noted above could have serious consequences. The president-elect has several very important and time-consuming duties at the outset of a term, including appointing some 60 committees concerned with canvassing for and selecting winners of the ACS awards that will be made during his or her year as president. Having this done by a challenged president-elect could lead to questions of legality of the committees' work.

In order to build for a successful presidential year, the president-elect must engage early in serious planning and discussions with many key people. In addition, a newly elected president-elect must quickly rearrange most previous commitments, in order to free the time required for the duties of the
three-year period of succession. Further, in the event of disability of the incoming president, it is important to have a president-elect in office whenever that might occur.

The specific rationale for each of the proposed changes is described below:
- Article X, Sec. 7—This change is included to clarify the language in the appeals procedure for local section and division elections by explicitly placing the responsibility for referring appeals actions in the hands of the society secretary and including an explicit statement giving the Committee on Nominations & Elections responsibility for investigation and resolution of local and division election disputes.
- Bylaw III, Sec. 3(a)(7)—This is the central bylaw change to accompany the change in Constitution, Article X, Sec. 8 above. It provides the enabling language in the bylaws pertaining to the duties of the Council Policy Committee.
- Bylaw III, Sec. 5(a)—This change complements the change in Bylaw III, Sec. 3(a)(7) enabling the Council Policy Committee to act ad interim for the council in election matters.
- Bylaw V, Sec. 12(e)—As with Sec. 12(e) above, this improves fairness and clarity for handling appeals in regional and national elections.

In summary, the petition principally seeks to clarify ambiguities in the constitution and bylaws relating to the handling of election appeals, and places on CPC the responsibility for the resolution of disputes in national and regional elections.

Signed:

(This petition was referred to the Committee on Nominations & Elections, the Council Policy Committee, the Committee on Budget & Finance, the Committee on Divisional Activities, the Committee on Local Section Activities, and the Committee on Constitution & Bylaws.)

Statement of financial impact
The Society Committee on Budget & Finance has examined this petition and makes the finding that it will have no impact on the finances of the society.

Final report of the Committee on Constitution & Bylaws
The committee has examined the petition and finds it to be legal and not inconsistent with other provisions of the society's documents.

The committee has prepared a modified version of the petition, which differs in small part from the original. The last sentence in Bylaw V, Sec. 12(e) was changed to specify where the internal appeal process ends. Parallel language was added at the end of Bylaw V, Sec. 12(f) for the same purpose.

One objection to the substance of the petition has been called to our attention. It is argued that the proposed transfer, from the full council to the Council Policy Committee, of the power to set aside the results of a disputed election and to require a new election is undesirable because a disappointed candidate would be less inclined to accept the decision of the Council Policy Committee than a decision of the whole council. The response of the petitioners is that "the possibility is real but is heavily outweighed by the points made in the explanation, most important the prevention of tying the society's hands for a year or more."

The committee notes that the proposed amendments to Constitution Article X, Sec. 7, Bylaw III, Sec. 3(b)-(1), and Bylaw V, Sec. 12(e) each may stand alone. Adopting, or rejecting, them in any combination would introduce no inconsistency.

However, the proposed amendments to Constitution Article X, Sec. 8, Bylaw III, Sec. 3(a)(7), Bylaw III, Sec. 3(b)(13), Bylaw III, Sec. 5(a), and Bylaw V, Sec. 12(f) are essentially interdependent. The council must either adopt all, or reject all. To do otherwise would be inconsistent.

Adoption of the amendments to the constitution requires a majority affirmative vote of the council. If adopted, the constitutional amendments shall become effective upon ratification by the membership and, where applicable, after adoption by the council and confirmation by the board of directors of the cooperative bylaw amendments.

A two-thirds affirmative vote of council is required for adoption of the bylaw amendments. If adopted, the bylaw amendments shall become effective upon confirmation by the board of directors and, where applicable, upon ratification of the cooperative constitutional amendment by the membership.

James A. Walsh, chairman