

Student Government Association

Student Court

No. SC02192007(1)

SGA EXEC v. SGA STUDENT SENATE
RE: United Council Referendum Resolution

Argued: February 19, 2007
Opinion Released: February 23, 2007

PETITIONER:

SGA Executive Branch,
represented by SGA President
Trista Seubert

RESPONDENT:

SGA Student Senate,
represented by Speaker Michael
Heller and Senator Brian Navin

The petitioner seeks judgment on the propriety of the United Council Referendum Resolution, passed by the SGA Student Senate on 2/5/07.

In this matter, two primary issues stand before the Court. The first issue is whether or not Student Government Association (SGA) Secretaries are permitted to author, introduce, sponsor or co-sponsor Student Senate legislation. The second issue is whether the resolution in question (United Council Referendum Resolution – presented to the Senate on February 5, 2007) was properly considered by the University Governance Committee before being brought to the floor of the Senate, as stated Senate Bylaws Article VII, and implied in the SGA Constitution Section 3 (2) and Section 3 (11).

Fundamental to a judgment on the first matter are two related questions: 1) What are the general the rights and privileges of non-members of the Senate to perform the duties of authorship and sponsorship of legislation? 2) Do SGA Secretaries, who are granted speaking privileges within Senate Sessions but are not members of the Student Senate (per Student Senate Bylaws, Article IV §1) have special rights and privileges, actual or implied, beyond those of other non-members of the Senate? Fundamental to a judgment on the second matter are the questions of what constitutes “consideration” by a committee, and specifically whether “consideration” requires or implies a vote by the committee.

In regards to the first matter before the Court, the Court finds that neither the SGA Constitution nor the Student Senate Bylaws are direct in their specifications as to who can author, introduce and sponsor a resolution. The only guidance available is contained in Article VII of the Student Senate Bylaws, which states that “*any resolution submitted for approval to the Student Senate must be co-sponsored by a current member of the Student Senate.*” Neither the written briefs nor the oral arguments

that were presented have persuaded the Court that the right to sponsor legislation is a restricted right. It is thus the Court's interpretation that anyone, from an SGA secretary to a member of the student body to the President of SGA, can sponsor a resolution so long as the said piece of legislation is co-sponsored by a current member of the Student Senate. Therefore, since the United Council Referendum resolution was in fact co-sponsored by a current member of the Student Senate, the Court determines the argument challenging the constitutionality of the resolution in question to be invalid.

It is the Court's recommendation that the legislative branch carefully considers whether or not it wishes to restrict the right of legislation sponsorship to full members of the Senate and should clarify its intentions in its Bylaws. Also, a review of the Senate's procedural precedent leads the Court to conclude that SGA Secretaries *de facto* function as ex-officio, non-voting members of the Senate, but are not listed as such in Article IV, Section I of the Senate Bylaws. The proper role and privileges of Secretaries and other ex-officio non-members of the Senate in Senate sessions might also be clarified within the Senate Bylaws.

In regard to the second matter before the Court, the Court does not challenge the assertion that discussion of the UC Referendum did, in fact, occur. The Court was provided a document signed by six members of the University Governance Committee attesting that the issue of United Council came to the committee in late November of 2006. Two of the six people who signed the document were the Sponsor and Co-Sponsor of the resolution in question. (The Court notes for the record that one of the members who signed the document was not a member of the committee in late November when it was said to have been discussed by the group). The Court also acknowledges that substantive discussion about the United Council occurred at the 1/22/07 Session of the Student Senate. However, a close reading of the SGA Constitution supports the Court's judgment that for proper consideration to occur, a vote must be taken within the committee. The implication of a vote within committee is found under Article 1 §3, Items (2) and (11) of the SGA Constitution where it states that "*Secretaries shall have no vote in the full Senate and a vote in the committees should a tie occur*" and "*Items successfully passed by majorities in committees are considered to have passed the full Senate via automatic consent after one meeting of the Senate in full subsequent to the passage date in the originating committee.*" No mention of a motion to vote on the UC Referendum Resolution was included in the document provided to the Court and no meeting minutes were provided to show that a vote was taken. Without proper evidence of a committee vote to bring the resolution to the Senate floor, it is the opinion of the Court that the United Council Referendum Resolution has procedurally violated Article VIII of the Student Senate Bylaws and is therefore void and has no binding effect on the Student Body of the University of Wisconsin – Green Bay.

It is not the Court's intention to unnecessarily burden the legislative branch by this finding of procedural impropriety, and it is expressly not the Court's intention that this ruling be retroactively applied to all legislation passed by the Senate to date. In its findings on both matters before it, it is the Court's sole intention to direct the legislative branch to establish an orderly process for the creation, consideration and ratification of legislation, consistent with the SGA Constitution and the Senate's own Bylaws and appropriately respect the powers as well as the limitations of power of each branch of the SGA.

The Court therefore returns the matter to the University Student Governance Committee for remedy and it is the Court's order that henceforth, prior to submitting resolutions to the Senate floor, the authoring or endorsing committee must entertain a motion and a record a vote on the resolution to demonstrate and confirm that proper consideration has taken place.

In a 5-0 decision, Justices Lund, Rieckmann, Ruud, Schmidt and Chief Justice Krambs all vote in favor of the Petitioner.