

ASUW Judicial Council Preliminary Meeting

Thursday, February 23, 1978

DECISION CONCERNING THE FEBRUARY 15, 1978 COMPLAINT FILED BY  
JERRY LUTHI

ACTION TAKEN: The complaint was summarily dismissed by a 4 to 1 vote, voting justices being Halpain (Chief), Foreman, Leonard, Thamer, and Lovacchini ex-officio.

Justices Foreman and Leonard speaking for the majority, cite reasons for dismissal as follows:

We find that the Senate's motion which called for a special election to be held for the purpose of filling existing vacancies in the Senate due to the fact that there are no "runners up", fails within the Senate's constitutional authority as stated in Article IV, Section 3, Paragraph A of the ASUW Constitution.

Mr. Luthi claims that the Senate's action has denied the President of his power to appoint temporary senators. He further claims that the President has exercised this power in the past. However, we find no evidence suggesting that the President has in fact appointed temporary senators in previous situations similar to this. Rather, it appears unclear as to whose authority these past temporary senatorial successions were actually based upon. Furthermore, we find no specific constitutional provisions granting the President the authority to appoint temporary senators in these instances.

The Council feels that this complaint does not stem from an actual conflict of competing interests, but merely raises hypothetical questions which will not be answered by this body, as set forth in our by-laws. Such questions, not addressable by this body, are proper issues for legislative action and resolution.

HEARING DENIED

University of Wyoming  
Student Government  
Wyoming Union



Box 3625  
University Station  
Laramie, Wyoming 82071  
Telephone (307) 766-5204

February 21, 1978

To the Senate of the Associated Students of the University of  
Wyoming

This letter shall serve as notice that the ASUW Senate has been named in an appeal by a student of the ASUW concerning your action regarding filling of vacant Senate seats at the meeting of February 14, 1978.

As the respondent in this appeal, the Judicial Council invites you to submit a written response to this appeal telling of the circumstances and reasons for your action. The preliminary meeting will be held at 4:00 P.M. on Thursday, February 23, 1978 and the Judicial Council will at this time decide if the appeal warrants a hearing.

If a hearing is decided on, you will be notified of the date and time to allow you to present oral or other arguments in defense of your action.

  
Sean E. Halpain  
Chief Justice, Judicial Council

To Judicial Branch A.S.U.W.

As author of the motion to fill the vacancies in the ASUWJ Senate if was my intention that we move as expeditiously as possible to fill these positions either through appointment by ower or special elections if necessary my only interest is that these be filled by qualified people rather than partagen appointees

Thank you

Blum Stinson  
Senator Education



February 15, 1978

To the Honorable Chief Justice and Associate Justices of the ASUW Judicial Council:

As a member of the Associated Students of the University of Wyoming, I wish to present a formal complaint concerning the actions of the ASUW Senate on the 14th day of February 1978.

A motion was made and approved by the Senate to have the existing vacancies in the Senate filled by special election in each college. Prior to this, when a vacancy occurred, the President chose the next runner up in the previous election and he was appointed to the Senate.


Since there are no more runners up, the Senate has decided to remove the power of temporary appointment away from the President and have special elections in the colleges that have vacant seats.

Since there are no constitutional provisions for the filling of vacant senate seats and since a presidency has been set, I feel the Senate has infringed upon the constitutional powers of appointment of the President.

I do therefore request that this issue be settled by the Judicial Council and that the following questions be answered:

1. Has the appointment of runners up in the previous election been constitutional?
2. Does the President have the constitutional authority to appoint temporary members to the senate to fill vacancies when there are no runners up?

Respectfully requested on this 15th day of February 1978.



Jeffery Luthi  
Administrator of Executive Affairs

Elections

DATE OF MEETING: April 2, 1976

MEETING PROCESS: MEMORANDUM Sheri Edmund MEMORANDUM

Marilyn Horn Thad Stevens

Becky Clough  
Linda Duff Bruce Nelson

Meeting called to order at 2:15 p.m.  
Pam Olsen (Arts & Sciences), Bruce Nelson (Engineering) <sup>found</sup> and Mike ~~Levie~~ <sup>Young</sup> (Engineering) did not turn in a financial expense statement and are in violation of ASUW Election Rule #4 under canvassing.

Chairwoman, Sheri Edmund will call Olsen, Nelson and Levie verifying this concern. If they say they did not turn in such a statement they will be disqualified and the next person in line will be notified of their appointment to fill the vacancy created by the disqualifications.

A special election in engineering may be necessary.  
Meeting adjourned at 3:20 p.m.

Respectfully Submitted  
Marilyn Horn

February 23, 1978

Mr. Sean E. Halpain  
Chief Justice,  
ASUW Judicial Council  
University of Wyoming  
Laramie, Wyoming 82071

As a member of the ASUW Student Senate present at the Student Senate Meeting of February 14, 1978, this letter is in response to a complaint forwarded to you by Jeffery Luthi, Administrator of Executive Affairs for ASUW, in his letter of February 15, 1978.

According to Article V of the ASUW Constitution(2/22/77), the purpose of the Judicial Council "shall be to act as the final decision-making authority in cases arising out of *conflicting interpretations* of the ASUW Constitution and By-Laws." The By-Laws of the ASUW Judicial Council states that the Council will hear "*only* those cases which present *actual, competing interests.*"

I suggest that Mr. Luthi's formal complaint fails to state a case that meets either of those two criteria, mentioned above. Therefore, it is only appropriate that you should find that the appeal does not warrant a hearing and should be summarily dismissed.

Mr. Luthi's letter fails to state any specific constitutional provision that has been violated by the ASUW Student Senate in its actions of February 14, 1978. Mr. Luthi suggests that there has been a violation of the constitution, but is unable to state what part or wording of the constitution is subject to the "conflicting interpretation," and in fact Mr. Luthi admits that "there are no constitutional provisions for the filling of vacant senate seats."

Furthermore, Mr. Luthi alleges that the "Senate has infringed upon the constitutional powers of appointment of the President." There is no reference to any such enumerated powers of the ASUW President, nor are there any specific sections of the ASUW Constitution that gives the ASUW President such powers.

Mr. Luthi's complaint is based solely upon his feeling that the "Senate has infringed upon the constitutional powers of the appointment of the President," and not upon any constitutional provision, therefore there can not be any conflicting interpretations for you to resolve.

In this case, there is not any present actual, competing interests. There have been vacant seats on the ASUW Student Senate, and the ASUW President as of the 14th of February, had not appointed, nor attempted to appoint students to fill those vacancies. The Senate voted to have the ASUW Elections Committee organize and hold special elections to fill such vacancies. The Student Senate acted properly, in the absence of Presidential action, and there are no competing interests. The President of the Associated Students of the University of Wyoming did not file a complaint, but only Mr. Luthi, as a member of ASUW. The Student Senate is not at odds with the ASUW President; they did not prevent action of the ASUW President; nor did the ASUW President prevent action of the ASUW Student Senate, consequently there is no "actual competing interests." Without a conflict, a mere advisory opinion is improper.

I can appreciate Mr. Luthi's wanting to clear up this matter, but it does not present itself to resolution by the Judicial Council. The Judicial Council decides among conflicting interests regarding conflicting interpretations of the ASUW Constitution and By-Laws, it does not create constitutional provisions that do not presently exist, nor does it legislate. Only the ASUW Student Senate has the power to legislate pursuant to its constitution.

March 7, 1978

Members of the Judicial Board:

On February 28, 1978, Owen Stone, acting ASUW President, appointed 4 persons to fill vacancies in the ASUW Senate. The Senate then proceeded to approve this move.

I feel that these appointments are not within the powers of the executive to make or the Senate to approve. No support for these appointments is found in the Constitution or by-laws of the ASUW. The Constitution of the ASUW is clearly modeled after the U.S. Constitution and therefore implies separation of powers by the establishment of three separate branches of government.

I ask that you declare the appointments of the Senators by Owen Stone to be null and void and also any votes that these persons may have made, the same. Also I would like a ruling on the legality of the present system of Senator replacements being made from the runner up list from the previous election since no provisions are made for such action in the Constitution.

Sincerely,

  
Michael G. Leckie  
766-3034

ASUM JUDICIAL COUNCIL, PRELIMINARY MEETING

THURSDAY, MARCH 23, 1978

DECISION CONCERNING THE MARCH 7, 1978 COMPLAINT FILED BY MICHAEL B. LECKIE

ACTION TAKEN: The complaint was summarily dismissed by a 4 to 0 vote. Justice Leonard did not take part in the hearing or decision of the Council.  
Halpsin C. J. writing for the COUNCIL.

The complaint noted that the ASUM President with the consent of the Senate appointed 4 members to the Senate to fill the unexpired terms of 4 Senators. Mr. Leckie claims that this action is not justified by any part of the Constitution or By Laws of the ASUM.

We agree with Mr. Leckie that there are no specific provisions in the documents that provides for filling of vacant seats. We base our decision on the decision in the Luchi appeal. Article IV, Section 3, Paragraph A of the ASUM Constitution provides that the Senate may assume whatever responsibilities it deems necessary to fulfill its obligations to the students. We feel that this action falls under that provision.

It is the expressed desire and advice of the Judicial Council that the Senate make provisions in its rules to solve this problem and to enable the students to know in advance what the procedures of the Senate are.

HEARING ENDED



ASUW SENATORIAL COUNCIL PRELIMINARY HEARING

THURSDAY, MARCH 23, 1978

DECISION CONCERNING THE MARCH 7, 1978 COMPLAINT FILED BY MICHAEL B. JACKIE

ACTION TAKEN: The complaint was summarily dismissed by a 4 to 0 vote. Justice Leonard did not take part in the hearing or decision of the Council. Helman C. J. writing for the Council.

The complaint noted that the ASUW President with the consent of the Senate appointed 4 members to the Senate to fill the unexpired terms of 4 Senators. Mr. Jackie claims that this action is not justified by any part of the Constitution or By Laws of the ASUW.

We agree with Mr. Jackie that there are no specific provisions in the documents that provides for filling of vacant seats. We base our decision on the decision in the Jacki appeal. Article IV, Section 3, Paragraph A of the ASUW Constitution provides that the Senate may assume whatever responsibilities it deems necessary to fulfill its obligations to the students. We feel that this action falls under that provision.

It is the expressed desire and advice of the Judicial Council that the Senate make provisions in its rules to solve this problem and to enable the students to know the advance what the procedures of the Senate are.

HEARING BEHIND

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We agree with Mr. Iackler that there are no specific provisions in the documents that provides for filling of vacant seats. We base our decision on the decision in the Iackler appeal. Article IV, Section 3, Paragraph A of the ASUM Constitution provides that the Senate may assume whatever responsibilities it deems necessary to fulfill its obligations to the students. We feel that this action falls under that provision.

It is the expressed desire and advice of the Judicial Council that the Senate make provisions in its rules to solve this problem and to enable the students to know in advance what the procedures of the Senate are.

HEARING BEHIND

March 8, 1978

TO: Owen Stone, ASUM President  
Mark McNamee, ASUM Vice President  
Members of the ASUM Senate

This letter is to inform you that you have been named as respondent in an appeal before the Judicial Council by Mr. Michael G. Leckie. This appeal was filed on March 7, 1978.

The Judicial Council will hold its preliminary meeting on this matter as soon as possible after the Spring Vacation ends.

We invite comments from you and ask that you provide them as soon as possible so that we may determine if a controversy exists.

A copy of the appeal is included for your convenience.

Thank you.

  
Sean M. Halpala  
Chief Justice, Judicial Council

March 7, 1978

Members of the Judicial Board:

On February 28, 1978, Owen Stone, acting ASUW President, appointed 4 persons to fill vacancies in the ASUW Senate. The Senate then proceeded to approve this move.

I feel that these appointments are not within the powers of the executive to make or the Senate to approve. No support for these appointments is found in the Constitution or by-laws of the ASUW. The Constitution of the ASUW is clearly modeled after the U.S. Constitution and therefore implies separation of powers by the establishment of three separate branches of government.

I ask that you declare the appointments of the Senators by Owen Stone to be null and void and also any votes that these persons may have made, the same. Also I would like a ruling on the legality of the present system of Senator replacements being made from the runner up list from the previous election since no provisions are made for such action in the Constitution.

Sincerely,

Michael G. Leckie  
766-3034