

JOHN GAZURIAN REQUESTING A  
DECLARATORY JUDGEMENT

In the request for a Declaratory Judgement presented by John Gazurian pertaining to a proposed 'referendum' on the Vietnam war the Court held the following opinion.

Mister Chief Justice Eisenberg delivered the Opinion of the Court in which Justices Chatten, Preston and Ware all join. Justices Baker, Matthews and Hansen took no part in the decision.

This Court must at the outset address itself to the following question: is the rule as stated in Chapter One, Article Six, Sections One and Two regarding a requirement of fifteen percent of the regular members of the Associated Students a reasonable limitation to impose upon persons attempting to initiate a referendum petition or initiative petition. This Court rules that it is not. We base this decision on three separate grounds.

One, the requirement is internally inconsistent. In Chapter One, Article Eight Section One b, a petition bearing the signature of only five hundred members of the Associated Students is required to propose a By-Laws Amendment to Chapter One. In Chapter Two, Article Eleven, Section One, B-1 a petition bearing the signature of only thirty (30) students together with the signature of any single elected executive officer of the Associated Students is necessary to propose an Amendment to Chapter Two of the ByLaws. We feel that this blatant disregard for consistency in numbers is a serious problem. It should be noted, that the Court has shown in both of the instances cited that although the discrepancy in the number of signatures was in the ratio of one (1) to eighteen (18), this is minute when considered against a petition requiring approximately three thousand six hundred, or a ratio of one to one hundred and twenty.

Two, the requirement is externally inconsistent. Although we recognize that the A. S. Senate is not bound by the procedures of the State of California, we wonder if the referendum requirement of the State of California (five percent of the votes in the last gubernatorial election) should not be a matter for consideration.

Three, the requirement is prohibitive on the average student's ability to pursue the initiative or referendum process.

The requirement in effect, asks an individual or group to obtain a larger number of student signatures for the purpose of proposing a question for the ballot, than voted in the last Associated Students General Election.

The next major question which the Judiciary must confront is that regarding the very nature of opinion -polling at California State College at Long Beach. Is the measure in question a valid referendum petition? We hold it is not. According to Chapter One, Article 6, Section 2 which states in part 'any legislation passed by the Senate...may be subject to, the referendum vote of the Associated Students.' From this section, we necessarily reach the conclusion that no valid legislation exists. Furthermore, a written petition was not submitted in accordance with Section 2. Now we ask if this material could ever be construed within the meaning of Section 2. To this question we answer with a firm, no! For this is by no stretch of the imagination a field in which the Associated Students Senate has authority to create valid legislation. In sustaining this contention we cite Chapter 2, Article 1, Section 2, which clearly delineates the legislative powers of the Associated Students Senate.

Is the measure a valid Senate referendum "section"? To this we must also answer in the negative. For Chapter One, Article 6, Section 3 states in part 'the Senate may...refer any proposed legislation to the members of the Associated Students for decision.' This material is clearly not proposed legislation. We ask again, could this material ever be construed within the meaning of Section 3? We reiterate, unequivocally, that it cannot be so construed, for the same reasons that Section 2 cannot.

Furthermore, it cannot now or ever be an initiative petition for it should be crystal clear that this material is not legislation. Legislation by its very nature precludes the enactment of anything other than that which is, or intended to be, valid law.

Therefore, it is the decision of the Associated Students Judiciary that this measure is not and cannot be acceptable for the ballot given the existing Associated Students ByLaws and Senate Rules. We dispense with, as an tangential point the question asking the Judiciary to alter the language of this measure or direct that the Senate do so. We remind all those concerned that this is a question asking for legislation-an area in which the Judiciary has never claimed any power.

We inform the Associated Students Senate that they are perfectly free to adopt a resolution expressing the Senate's view on any policy statements, recognition, etc., as per the Senate Rules Number Six C.

This Court holds the Opinion that it is most desirable for members in the Associated Students to be afforded the opportunity to utilize the Associated Students election machinery for ascertaining student opinion. We, therefore, order the Elections Commission to establish and enact a procedure for ascertaining said student opinion. This procedure must meet the following two criteria established earlier in this opinion.

1. It must be a reasonable procedure, i.e., internal-external consistency and not be prohibitive.
2. It must be an opinion poll!

Such action in accordance with this ruling must be effected on or before March 1, 1968. If such procedures are not established upon the aforementioned date the A. S. Judiciary will itself, establish such procedures.