

To be completed in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

COMPLAINT TO REQUEST A DECLARATORY JUDGMENT

To: Associated Students Judiciary

From: VINCENT RINEHART

Date: OCT. 26, 1970

The undersigned requests a review of the rights and duties pursuant to:

RIGHT OF A.S. VICE PRESIDENT TO HAVE A REP.

Cause for request: VICE PRESIDENT NEEDS A VOTING
REP ON A.S. COMMITTEES WHERE HE
IS A MEMBER - THIS WOULD BE THE
CHAIRMAN - PRO-TEM. CAN THIS BE DONE LEGALLY?

Briefly explain the substance of your issue: I CANNOT ALWAYS
MAKE MEETINGS (WHETHER IT BE BOJC, etc),
AND SOME ISSUES ARE TOO IMPORTANT
NOT TO HAVE A VOTE. THE CHAIRMAN
PRO-TEMPORE OF THE SENATE IS WELL
WITHIN AUTHORITY TO VOTE IN THE ABSENCE

The undersigned does hereby request a judgment on the preceding issue.
^{OF THE V.P.}
(THE PRES. HAS THE ADMIN.)

Signed Vincent Rinehart

258 Covina Ave
L.B.

938-9009

ASSOCIATED STUDENTS JUDICIARY
CALIFORNIA STATE COLLEGE
LONG BEACH

REJECTION OF REQUEST FOR DECLARATORY JUDGEMENT
and
ADVISORY OPINION

The Associated Students Judiciary declines to accept the REQUEST FOR A DECLARATORY JUDGEMENT of Vincent Rinehart for the following justification.

In accordance with Bylaws, Chapter II, Article V, Section 2, paragraph F, it is the unanimous opinion of the Court that the Judiciary does not have the authority or the jurisdiction to act in the above request as the request requires a legislative act rather than a Judicial interpretation. However, the Judiciary wishes to advise the petitioner of possible avenues to pursue and, therefore, issues the following Advisory Opinion.

ADVISORY OPINION

As specified in the Judiciary rules and procedures (Rule 49) an advisory opinion is not binding on either the Judiciary itself or on those who request the opinion, but is merely a means by which the Judiciary may render its own opinion as to the validity of either existing or proposed legislation or administrative regulations.

The Judiciary recognizes the burden placed upon the A.S. Vice President which requires his presence as a voting member on many committees and commissions. However, the Judiciary must continually stress that its duty is to interpret and not to legislate. The above request, in the opinion of the Judiciary requires legislative action by the A.S. Senate to incorporate into Bylaws Chapter II some provision which would enable the A.S. Vice President to have a representative comparable to the A.S. Administrator.

However, several points should be raised here. If the A.S. Vice President is allowed a representative, is he to be appointed by the A.S. Vice President with the approval of the Senate, or is he to be the Senate Pro-Tem? It would seem that a representative should espouse essentially the same philosophy as the person whom he is representing. The situation could arise, however, in which the Senate Pro-Tem would not necessarily have the same philosophy and then would not be adequately reflecting the views of the A.S. Vice President.

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Advisory Opinion.

A second point to be stressed is whether said representative merely represents or has the authority to vote in the absence of the Vice President. According to Strugis Standard Code of Parliamentary Procedure, there are two types of powers and duties, legislative and administrative. Certain administrative powers can be delegated, whereas legislative powers (e.g. voting) can never be delegated unless expressly provided for by statute or Bylaws. It is with this in mind that the Judiciary recommends that this point be clearly delineated in the event of such a Bylaw ammendment.

Adjudicated this 2nd day of November, 1970.

A handwritten signature in cursive script that reads "Brian L. Arthur". The signature is written in dark ink and is positioned above a horizontal line.

Brian L. Arthur
Associate Justice