

To be completed in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

COMPLAINT TO REQUEST A DECLARATORY JUDGMENT

To: Associated Students Judiciary

From: Ric Opalka

Date: 3-18-71

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

A-S-PRESIDENT'S power of approval ^{of} ~~over~~ A-S Budget

Cause for request: Need to clarify A-S Bylaws, Chapter II, Article I, sec 6-B-2

Briefly explain the substance of your issue: see attached for list of questions requiring resolution. I request that this issue be reviewed by the full court.

The undersigned does hereby request a judgment on the preceding issue.

Signed Ric Opalka

ASSOCIATED STUDENTS JUDICIARY
California State College
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DECLARATORY JUDGEMENT

The plaintiff, Ric Opalka, has requested a review of the rights and duties of the A.S. President and A.S. Senate concerning approval of the annual A.S. Budget pursuant to the A.S. Bylaws, Chapter II, Article I, Section 6-B-2.

Mr. Opalka raises five points concerning the approval of the A.S. Budget. The first question raised is whether the presidential power of approval of the budget is to be considered as a veto which can be overridden by the Senate, or is it an absolute veto, not subject to Senate override.

Mr. Opalka's second question is contingent upon the outcome of the previous question, and asks what the consequences would be if the A.S. President's veto were considered as an absolute veto.

The third question asks whether the President's veto power over the budget is to be considered as a general or item veto.

The fourth point in Mr. Opalka's brief is similar to the second point raised which asks for a clarification in the event that the A.S. Senate failed to override a presidential veto of the budget.

And lastly, Mr. Opalka in substance wishes clarification concerning which senate, the retiring or newly elected, has the power to override a veto by the President.

The Judiciary recognizes its jurisdiction in this case, Bylaws Chapter I, Article III, Section 6-A:

"Interpret the provisions of the Associated Students Bylaws or any other Associated Students document when a dispute arises."

and so issues the following judgement.

1. The Court interprets A.S. Bylaws Chapter I, Article II, Section 4-C which reads:

"The President shall have the power of general or item veto of any measure adopted by the senate."

to include the Annual Budget as a "measure adopted by the Senate" and, therefore, subject to Presidential veto. This decision of the Judiciary is consistent with an earlier Declaratory Judgement (Plaintiff, Robert C. Bland, Jr.) rendered on October 1, 1970 concerning the presidential veto:

"It is the decision of the A.S. Judiciary that...the powers of veto of the A.S. President are inclusive unequivocal, and clearly encompass any and all financial matters transacted by the A.S. Senate."

However, a presidential veto of the annual budget is considered by the Court not to be an absolute veto, but a veto which may be overridden by the Senate as outlined in A.S. Bylaws Chapter I, Article I, Section 7-c which reads:

"The Senate shall have the power to override any veto of the Associated Students President by two-thirds (2/3) of its total voting membership except proposed Constitutional or Bylaw Amendments."

2. The Judiciary dismissed the second question raised by Mr. Opalka since in the opinion of this body, the President's power of veto is not absolute.

3. The Judiciary interprets Bylaws Chapter I, Article II, Section 4-c (previously quoted) as giving the A.S. President the power of general or item veto over "any measure adopted by the Senate" including financial measures. Thus, the President may veto line items or the entire annual budget, subject to Senate override.

4. It is the opinion of the Judiciary that if the A.S. Senate failed to override a veto from the President of the budget, those areas veto would remain unbudgeted until such time as the Senate reappropriated funds subject to presidential approval.

5. The Court is of the opinion that the A.S. Senate is to be considered as continually in session and that there is to be no distinction between a retiring Senate or a newly elected Senate. Thus, regardless of when a presidential veto of the budget occurs, the Senate, whether retiring or newly elected, shall be given the opportunity to override said President's veto subject to the provisions in the A.S. Bylaws Chapter I, Article I, Section 7-c (previously quoted). Should such an override fail, those areas vetoed would remain unbudgeted until such time as the Senate reappropriated funds, again subject to approval by the President.

In summary, the A.S. President is empowered by the A.S. Bylaws to veto any or all parts of the A.S. Annual Budget; however, that veto may be overridden by the Senate. Until such time as

the presidential veto of the budget is overridden, the vetoed areas shall remain unbudgeted. The Senate may then decide whether to reappropriate funds or allow the said areas to remain unbudgeted.

It is so ordered.

Adjudicated this 25th day of March, 1971.

Gayle J. Alaimo
Gayle Alaimo, Associate Justice

Brian L. Arthur
Brian L. Arthur, Presiding Justice

Bill Latham
Bill Latham, Associate Justice

Gordon Park
Gordon Park, Associate Justice

David E. Schmidt
David Schmidt, Associate Justice

Decision: 5-0-0, Unanimous
This decision was prepared by Justices Arthur and Park.