

in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

COMPLAINT TO REQUEST A DECLARATORY JUDGMENT

To: Associated Students Judiciary

From: Jerry Gamble

Date: 11-17-71


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

A.S. Senate appointments in representatives to the Academic Senate.

Cause for request: Consideration by A.S. Senate in meeting No. 13;
XI Reports, F (10 November 1971) when it was moved to rescind a previous
appointment (June 25) to the MCC, and to appoint instead an A.S. Senator
to the MCC seat.

Briefly explain the substance of your issue: Can the A.S. Senate substitute
the "student representative" seat on the MCC for an exclusive A.S. Senate seat
under the existing bylaws?

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

Signed 

to be completed in triplicate

ASSOCIATED STUDENTS JUDICIARY
California State College, Long Beach

INJUNCTION

Filed by: A.S. Judiciary

Party (ies) Enjoined A.S. Senate, California State College at Long Beach

You are hereby ordered in compliance with the power of the Associated Students Judiciary to refrain from any action concerning the rescinding of the appointment of Jerry Gamble as A.S. Senate Representative to the Mass Communications Commission until action, and a judicial decision, has been reached by the A.S. Judiciary on the Declaratory Judgment of "Gamble v. A.S. Senate" (11-17-71).

Failure to comply with this injunction shall result in a contempt citation being issued against any violator(s) individually and/or as a group, in compliance with the A.S. Judiciary Rules of Procedure.

This injunction is effective immediately and expires subsequent to resolution of the issue, unless a date is specifically stated herein.

David E. Schmidt
Enjoining Justice

11/17/71
Date:

ASSOCIATED STUDENTS JUDICIARY

CALIFORNIA STATE COLLEGE LONG BEACH

DECLARATORY JUDGMENT

ADJUDICATED THIS 22nd DAY OF NOVEMBER, 1971

Plaintiff: Jerry Gamble

This is an action brought by Jerry Gamble, A.S. Deputy Administer for Academic Affairs. In the action the following question is asked:

Can the A.S. Senate substitute the "student representative" seat on the Mass Communication Commission for an exclusive Senate seat under the existing By-Laws?

In order to answer the substance as well as the letter of the case, several subsidiary questions must also be answered. They are:

1. Does the A.S. Senate have the power to appoint the A.S. representative to the Mass Communication Commission?
2. Does the A.S. Senate have the power to "rescind" the appointment of the A.S. representative to the Mass Communication Commission?

It is the decision of the Associated Students Judiciary that the answers to each and every of the afore-mentioned questions is an unqualified No!

It is the continued practice of the A.S. Judiciary that when there is any degree of ambiguity in the interpretation of Chapter II of the A.S. By-Laws to refer back to Chapter I of the By-Laws for clarification.

Chapter I, Article II, Section 4-a, states:

"The President shall have the power to appoint, with approval of the Senate, chairmen of executive committees, and commissions as may be necessary for carrying out the activities of the Associated Students... have the power to approve the appointments of committee or commission members made by chairmen or commissioners..... have the power to dismiss or discharge any person appointed or approved by him....."

Realizing that the Mass Communication Commission is categorized and listed as Section 3-g, of Chapter II, Article III, which pertains only to Executive Commissions, it can be established that the Mass Communication Commission is an executive commission.

The ramifications of the afore-mentioned passage are precise. The A.S. President, and he alone, may make appointments and rescind those appointments to positions as A.S. representatives to executive committees and commissions.

In conjunction with this conclusion, it is the opinion of the A.S. Judiciary that, in order to preserve the governmental balance of power between the executive and legislative branches, the A.S. President should have the power to appoint the A.S. representatives to Executive Commissions and Committees, and that the A.S. Senate should have the power of approval or disapproval of those appointments. If both the power of appointment and the power of approval were totally in the hands of the A.S. Senate, the principal of governmental checks and balances would have fallen into disuse. Consequently, only the A.S. President has the power to appoint and to rescind the appointment of an A.S. representative to an Executive Commission or Committee.

In reference to the case at hand, the A.S. Senate may not rescind the appointment of Jerry Gamble as A.S. representative to the Mass Communication Commission, nor may it appoint a representative of its own choosing.

It is so ordered!

Vote: 6-0-0 Unanimous

Gayle J. Fairbanks
Gayle Fairbanks, Associate Justice

Ronald Montejano
Ronald Montejano, Associate Justice

Gordon Park
Gordon Park, Associate Justice

James Walker
James Walker, Associate Justice

David L. Wysocki
David Wysocki, Associate Justice

David E. Schmidt
David E. Schmidt, Chief Justice