

- c. The plaintiffs further allege that while under the impression that the vote was 16-15 with 33 present, the Speaker misinterpreted Title II, Article VII, Section 191. Section 191 reads:

"Unless specifically noted, all required votes in this Title are votes of the Congress members present and not of the entire membership. Unless otherwise stated, two-third vote or any other supermajority shall be two-thirds or the supermajority of all members voting, including abstentions."

Section 194 of the same article and title reads:

"Any member of Congress may vote yea, nay, or abstain. An abstention vote shall not be counted in the final vote."

Though the Speaker interpreted these two sections as contradictory, the two sections in fact complement each other and establish the requirement of a majority vote, as opposed to a plurality, for a bill to pass in Congress. Though abstentions may not count as a yes or a no for purposes of recording the final vote, a majority of those present must vote for a bill in order for it to pass. A simple plurality will not suffice.

However, since the initial vote failed to garner either a majority or a plurality, the interpretation of this portion of the code is a moot point.

- d. The plaintiffs further allege that the Speaker disregarded Title II, Article XI, Section 186 and inappropriately approved a motion to reconsider, allowing an illegal second vote to occur. Title II, Article XI, Section 186 reads:

"When a question has been decided, it is in order for any member to move for the reconsideration thereof on the same or the succeeding legislative day; provided that if the vote by which the motion was originally decided was taken by a recorded vote, only a member of the prevailing side may move for reconsideration."

However, the member (Mark Lachiewicz) who moved to reconsider had abstained from the original vote. Since the bill failed, only those who had voted "nay" should have been allowed to move to reconsider.

- e. The plaintiffs further allege that the Speaker inappropriately refused to swear in two new members of Student Congress, a decision that could have changed the outcome of the vote.

The Speaker deemed the election of Adam Jutha and Evan Ross invalid. However, more than 96 hours, the statute of limitations for protesting an election outcome, had elapsed between the Thursday election (November 4th, 2009) and the meeting of Congress (7:30 PM, November 10th, 2009).

Title VI, Article IV, Section 403(L) reads:

"Protests and Appeals of an Election. In the event that an election under the jurisdiction of this Act is protested or appealed on the basis of this Act or of any other official enactment of Student Government, and if such protest or appeal is not of a Board of Elections administrative decision, the Student Supreme Court shall determine the validity of the protest and shall have the power to call a re-election if it deems such a re-election necessary. All such protests and appeals shall be made in writing by the protesting candidate or any constituent of such affected district within ninety-six (96) hours of the certification of the election returns by the Board of Elections or before the elected officer is sworn in, whichever shall occur first."

Section H of the same article reads:

"The Board of Elections may call for a re-election if a violation occurred and it could have affected the outcome or compromised the integrity of the election. If the Board of Elections feels that a re-election is necessary, they must allow all affected parties the opportunity to present information concerning the decision to hold a re-election."

No complaint was filed within the appropriate timeframe.

Title VI, Article VII, Section 702 reads:

"Members of the Student Congress shall be installed in office by and upon taking the oath of office herein provided. This oath shall be administered on the first Tuesday in April. The Student Attorney General, the Chair of the Undergraduate Honor Court, and Supreme Court Justice may have the power to administer the oath of office. In the event that new Congress members must be sworn in on a day other than the first Tuesday in April, the Speaker of Student Congress may also have the power to administer the oath of office."

Though the Speaker was correct in stating that the Code does not explicitly state

the deadline for those representatives elected during a special election to be sworn in, we feel that the swearing in of some of the newly elected members, but not all, constitutes malfeasance. At the start of the meeting, all the newly elected representatives, with the exception of the two from District 3, were sworn in. Though the point was brought up that those two from District 3 should have been sworn in and allowed to vote, this suggestion was thrown out by the Speaker.

5. Demand for judgment: We request that the Court affirm the validity of the first vote on SCB-91-064; deny the validity of the second vote on SCB-91-064. We also request that the Court affirm that the first vote on SCB-91-064 failed to garner a majority of the vote; affirm that the second vote, though invalid, also failed to garner a majority; affirm that abstentions do not represent either “aye” votes nor “nay” votes, but instead represent “present but not voting” votes; affirm that a majority, not a plurality, is required in Student Congress to pass a bill “unless otherwise stated.” We also request that the Court affirm that the two newly-elected representatives from South Campus are duly elected.

We do affirm that we have read in full the foregoing complaint and that the allegations contained therein are true to the best of our knowledge and belief.

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Filed this the 11th day of November, 2009, at 2:30PM.