



D. Garrett v. M. Short
January 26, 2012

The issue set before the EDC is three-fold.

- I. Defining Amendments as they pertain to the Code of Student Governance
- II. Separation of powers & a Presidential veto
- III. Freedom of speech infringement

I.

Mr. Garrett (the Petitioner) is requesting clarification on what exactly constitutes an amendment. An amendment is hereby defined as any addition, deletion, or other alteration to the current contents of Student Government's governing documents.

The petitioner is claiming that code amendment bills should follow the same standard of fifty percent plus one in order to be passed. While the petitioner cited the principle of *lex majoris partis*, that principle cannot be found expressly written in any superior governing document. Uniform rules, as referred to in Article II, Section 4, is ensuring that rules are consistent from meeting to meeting and year to year. In the context of the aforementioned clause, uniform does not require all legislation to require the same margin of passage.

II.

Mr. Garrett claims that Bill 24 weakens the power of the Presidential veto, essentially transferring some of the Executive's power to the Senate. A presidential veto has the effect of returning the vetoed piece of legislation back to the Senate, which often comes with notes as to why the president vetoed it. It does not kill the piece of legislation outright. Additionally, it is impossible to preclude the possibility of a veto by passing a piece of legislation with a vote margin greater than two-thirds. Even if a piece of legislation is passed unanimously, the President still reserves the right to veto that legislation. That veto requires senate to re-deliberate the bill, and eventually re-vote on it.

III.

The third point from the Petitioner is that this Bill infringes on his first amendment right to free speech. Legislation is not an enumerated form of expression protected by the first amendment, and this Commission holds that it is not a form of free speech. The U.S. Constitution protects your liberties as an individual against government entities. It does not dictate what people can or cannot do when operating within the rules of an organization which they voluntarily joined. This Bill does not affect a student's ability to petition their elected representatives, and none of Student Government's superior governing documents provide a guarantee to "expedient legislation". Furthermore, the Bill provides an emergency clause, in the event that such action is necessary.



After hearing testimony from both parties involved the Elections and Dispute Commission has reached the following unanimous decision in regards to both of the aforementioned claims: The EDC holds that Bill 24, in its entirety, is not in violation of any clauses outlined in the Petitioner's claim. There is no clause restricting senate from setting higher standards for the passage of certain clearly defined categories of legislation. By requiring a higher vote, this Bill does not dilute the power of a Presidential veto, and this Bill does not present a clear and present danger to any member's right to free speech as guaranteed by the first amendment to the United States Constitution. As such, the Commission dismisses all of the Petitioner's claims forthwith.

Member of Elections and Dispute Committee present: David J. Bier (Chairman), Christina Lauderdale, Greg Mercer, Jessica Richardson, and Emily Daniel. Commissioner Santiago recused himself from this hearing due to a conflict of interest.