



AUDITORIAL MEMORANDUM

Date: 12/4/2018

Re: Representative Okkerse v. Parliamentary Counselor

ISSUES

1. Whether Parliament's lack of action should be excused due to mitigating circumstances
2. Whether the requirement imposed by Constitutionality Committee v. Parliament, DM is impossible to meet
3. Whether Parliament has the constitutional authority to interpret their own bylaws and the Constitution for themselves

I. STATEMENT OF FACTS

On 10/23/18 the Parliamentary Counselor, Nancy Allen, issued a decisional memorandum regarding Parliament's accused inactivity. Leading up to the decisional memorandum, Parliament had failed to propose any resolutions since the beginning of the semester. The Parliamentary Counselor viewed Parliament's lack of resolutions as a violation of the constitutional duties bestowed upon the body in TSG III, i & TSG III, iii, ii. The Parliamentary Counselor mandated that Parliament be responsible for passing at least 15 resolutions by December 18th, 2018 or have its members suffer disciplinary action. The decisional memorandum was appealed by Representative Okkerse on behalf of Parliament on 11/05/2018. According to the Decisional Memorandum Appeal, the appealing party took issue with the number of resolutions that were mandated to be proposed by December 18th, 2018. The appeal notes that the Parliament faced unfavorable circumstances regarding unfilled Parliamentary seats, and a lack of enough Parliament sessions left in the semester to accomplish the mandate. The appeal requests that the number of resolutions mandated for proposal be increased from 15 to 18 and that the deadline for the mandated resolutions be moved from December 18th, 2018 to May 1st, 2019. It additionally called for Parliament to have the authority to interpret the Constitution and their By-laws for themselves. The hearing of *Representative Okkerse v. Parliamentary Counselor* was held on 11/26/18.



II. CONSTITUTIONAL ANALYSIS

A.

According to the Temple Student Government Constitution, “[t]he Ethics Board[’s] function is to hold Temple Student Government accountable... and investigate all violations of governing documents” TSG V, i. Further, it states that the role of the Constitutionality Committee is to, “[b]y majority vote, adjudicate the potentially unconstitutional decisions of action or inaction by members of the Ethics Board.” These rules are supplemented by the Ethics Board By-laws, which state, “[t]he power of judicial review rests in the Ethics Board...” J I, i, i and “[t]he Constitutionality Committee must ensure the constitutional validity of the Ethics Board's actions” J I, i, iv. Still, it should be noted that Article One of the Ethics Board By-laws also includes this directive: “The Constitutionality Committee must give deference to the reasoning of the Ethics Board Staff when considering the potential unconstitutionality of their decisions” J I, ii, v. The form of this deference is predefined: it must “involve[...] a strong consideration of the text in light of the reasoning posed by the officer whose decision is being reviewed J III, i” IgniteTU v. EC, AM. It is pursuant to these governing rules that in order to limit conflict surrounding this case and that may arise in future cases, this precedential evaluation, which is Constitutionally, and statutorily authorized, must occur.

B.

The TSG Constitution states that “The Parliament shall consist of a representative body of students whose primary function is to consider and propose initiatives that address aspects of student life” TSG III, i. Therefore, Parliament’s primary function is to represent the student body and to be an effective voice for their constituents. This primary function is supported by the duties that the Constitution bestows upon the Parliament, “The Parliament shall have the power and responsibility to...[p]ass resolutions that express the opinions of the student body” TSG III, iii, ii. By not proposing any resolutions, the Parliament and its members would be a dereliction of their duty to represent and speak on behalf of the students whom they are representing. Parliament’s authority to create and pass resolutions on behalf of the student body is clearly coupled with the responsibility for them to do so, thus, any shirk of this responsibility by the



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Parliament would be a disservice to their constituents and would be considered an incompetent use of the authority given to them in TSG III, iii, ii.

The Parliamentary Counselor, not the Parliament itself, is responsible for “Maintaining, interpreting, and enforcing the Temple Student Government Constitution and Bylaws for Parliament” TSG V, ii, ii. Therefore, the responsibilities of the Parliament are constitutionally defined and enforced by the Parliamentary Counselor. Unless proven otherwise in an appeal and stated in a decisional or auditorial memorandum, the Parliament is required to follow any mandates that the Parliamentary Counselor deems necessary.

III. CONCLUSION

The Constitutionality Committee considers the decisional memorandum issued by the Parliamentary Counselor to be an appropriate use of the Constitutional powers given to that position under TSG V, ii, ii. The Parliament’s lack of proposed resolutions is indeed in violation of their constitutional duties to the student body. Therefore, in accordance with the decisional memorandum issued by the Parliamentary Counselor, the Parliament is hereby ordered to propose a reasonable number of resolutions by the end of each semester or have its members face potential, however not imminent, disciplinary action. In addition, each representative, per semester, must do one of the following:

- Propose one resolution
- Co-Sponsor one resolution
- Hold a town hall or another event focused on constituent outreach

The Constitutionality Committee also understands that there are uncontrollable circumstances which may hinder the body’s productivity from time to time. Therefore, it is also our mandate that there be no specific quota for the number of resolutions proposed each semester by the Parliament as a whole and that the Parliamentary Counselor use discretion when determining whether or not the Parliament is meeting its constitutional obligations to the student body.



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Jordan D. Laslett, Ethics Judge

Joined by,

Morrease Leftwich Jr., Chief Judge

Matthew Diamond, Vice Chief Judge