

Majority Opinion by Councilor Malos

**JUDICIAL COUNCIL OF THE ASSOCIATED  
STUDENTS OF OREGON STATE UNIVERSITY**

**PAUL M. ALJETS, ASOSU SPEAKER OF THE HOUSE  
INQUIRY TO THE ASOSU JUDICIAL COUNCIL**

No. 09-101(i).

[NOVEMBER 25, 2009]

The ASOSU Constitution, just like the United States Constitution, is a document of great merit and value and is used daily to help construct and espouse the laws created by Congress. Nevertheless, there are times when this document might not be as clearly written and understood as it should be. In other cases, it might be found that it blatantly contradicts itself.

Under the United States Constitution, two-thirds of both Houses must determine the necessity and legality of proposing an amendment, followed by the ratification of three-fourths of the state legislatures in order to pass an amendment. The ASOSU Constitution should enact just as difficult of measures, making it a more arduous and time consuming process in order to eliminate wanton, injurious, and futile regulations, which would end up doing more harm than good to the students of Oregon State University. Fortunately, the ASOSU Constitution follows the U.S. principles.

Paul M. Aljets, ASOSU Speaker of the House, brought forward a Judicial Inquiry concerning Article VII Section A of the ASOSU Constitution, specifically concerning the amendment process.

According to Article I of the ASOSU Constitution, it has been determined that the association is to be officially named the Associated Students of Oregon State University; henceforth known as the ASOSU. Under this declaration, Article VII Section A Subsection I states that amendment petitions may be initiated in either one of two ways. The first is through a signed petition of no less than five (5) percent of the ASOSU Student Body. The second is through a bill passed by a majority vote of both Houses of the ASOSU Congress.

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their peers, they should also be allowed the final say on important issues such as amendments to the Constitution. By allotting this right, it will help keep open the lines of communication and maintain a transparency between the student government and its constituents.

CHAIRMAN BOYD, Concurring.

I fully support the decision concluded by the Judicial Council in regards to the Writ of Judicial Inquiry submitted by Paul Aljets on November 11<sup>th</sup>, 2009, case number 09/101i. While I agree to the same conclusion as the Judicial Council, my thought processes and discussion during the duration of deliberations were differing to those of the other Councilors.

This case, concerning the ASOSU Constitution, Article VII, Section A: Amendment, was brought before the Council to determine whether the Congress has the ability to amend the ASOSU Constitution by a two thirds majority vote or if the power to amend the ASOSU Constitution lies solely within the collective student body, the ASOSU.

Under the Amendment section, subsection 1 addresses amendment initiations which the Judicial Council agrees states clearly that Congress and the ASOSU both have the ability to initiate amendments. The debate of interpretation in this subsection focuses around the "or" which read along with the following two subsections could arguably be read as either an inclusive or exclusive or.

To me, the interpretation could be seen either direction, however, it is more obviously interpreted that the ASOSU Congress does not have the ability to amend the ASOSU Constitution, only to initiate amendments. While this was the black and white interpretation of the Constitution I could reasonably see being able to interpret this section as Congress having the ability to pass amendments, especially if such an interpretation were to be justified as the decision that would better benefit the ASOSU.

After careful consideration and analysis I determined that while I thought that the alternative decision would have been the more beneficial end, I realize that the original intent of the

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Constitution was to indeed make amendments a difficult task to accomplish and respect the original aims of the author.

This was a difficult decision to make as I personally believe that this decision limits amendments to the ASOSU Constitution to an unfeasible end.

COUNCILOR LUDLOW, Concurring.

The inquirer Mr. Paul Aljets is the Speaker of the House of the Undergraduate Senate of the Associated Students of Oregon State University.

Mr. Aljets questions the meaning of ARTICLE VII: AMENDMENT, REFERENDUM, INITIATIVE, RECALL AND REVISIONS, PART A, §1-3. Said sections provide:

Amendments to the ASOSU Constitution may be initiated by a signed petition of no less than five percent of the members of the ASOSU or by a bill passed by a two thirds majority vote of both houses of the ASOSU Congress.

The ASOSU may amend this Constitution by a two thirds majority vote of the voting members.

A minimum of fifteen percent of the members of ASOSU are required to vote in order for an amendment to pass.

Both Mr. Aljets and President of the Associated Students of Oregon State University Chris Van Drimmelen presented their understandings of the sections in question with relation to their construction and passage.

I find that section 1 establishes two different means for bringing about a Constitutional amendment. Grammatically, "or" is a coordinating conjunction, one place between two clauses of equal rank; therefore, I interpret the initiation of a Constitutional amendment by congressional bill and the initiation of a Constitutional amendment by a student petition as separate but equal processes to begin the amendment process.

Sections 2 and 3 then follow serially defining the process by which the Constitutional amendment is considered. After initiation as defined in section 1 is complete, section 2 places the amendment before the Associated Students of Oregon State University, which

is defined in ARTICLE II: MEMBERSHIP, PART A as “all enrolled students of Oregon State University.” The ASOSU must vote in favor of the Constitutional amendment with a two thirds majority. In addition, as defined in section 3, a minimum of fifteen percent of the ASOSU must participate in the voting process for the amendment to be implemented.

The wording of section 2 can prove to be misleading. While the term voting members is not explicitly defined, I find it to refer to the minimum requirement of members of the ASOSU defined in section 3.

While I feel that the process to amend the Constitution should be difficult to execute, I feel that the process as it is currently defined makes amending the Constitution an unattainable end. A stagnant document does not serve the members of the Associated Students of Oregon State University. It is with sincere regret that I deliver this opinion.

COUNCILOR SHROYER, Concurring.

I join the Council’s opinion in full, but write separately to clarify what has been stated by the ASOSU Constitution. In the case of Paul Aljets’ inquiry of the Constitution for the Associated Students of Oregon State University the following is my opinion. The ASOSU Congress may initiate an amendment to the ASOSU Constitution, but can not pass the amendment. The ASOSU student body has the ability to amend the Constitution by a two thirds majority vote of all voting members (eligible students of OSU). It also requires a vote of fifteen percent of the voting members in order to pass.

COUNCILOR WHITACKER, Concurring.

This case is primarily driven by a perceived ambiguity in the grammatical construct of the section in question. This perceived ambiguity is whether the “or” conjunction ties together both of the paths of amending to the introduction statement or not. To help clear this up I reduced the wording without changing the basic grammatical setup “introduced by a X or by a Y”. Under this view it is clear to me that the or is a coordinating conjunction and therefore “introduced” applies to both X and Y. Under this interpretation there are two ways to initiate an amendment but

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the final step is in the hands of the students with a two thirds majority vote.