

### Writ of Judicial Inquiry

Hereafter, in the context of this case, you, the party requesting a decision, shall be referred to as the Inquirer.

Inquirer: Full Name: Andrew D. Struthers  
Address: asosu.senate@oregonstate.edu  
Phone Number: (541) 974-7240  
ASOSU Affiliation: Senator

Constitutional or statutory provision in question:

Document Title (e.g. ASOSU Constitution, Statutes, Election Packet, etc.)

Constitution

Citation (e.g. Article and Section, etc.)

Article III, Letter F, Number 3

Quotation of the provision in question:

"Neither house of Congress shall adjourn for more than seven days while it is in session."

Summary of the alleged:

The question in hand is that does Saturday and Sunday ~~count~~ count in ~~which~~ those seven days.

Type of Review Sought:

Original Decision

Date of Decision: \_\_\_\_\_



Honorable Judicial Councilors,

I first want to apologize for not being in attendance tonight, for I am a member of the Oregon State University Marching Band and we play at all home basketball games and I have to be at the one tonight.

This letter is to hopefully clarify why I submitted a Writ of Inquiry and why you are hearing case number 10/102.1. This request comes not just from me, but from multiple Senators and we are looking for the clarification on what the constitution means by adjourning for more than seven days while in session.

Article III, Letter F, number 3 states *"Neither house of Congress shall adjourn for more than seven days while it is in session."* We ask that you define what the constitution means by seven days, by meaning does this include Saturday and Sunday or is this just business days, Monday-Friday.

We ask for this clarification, because when there is a Joint Session held by Congress that means the Senate will hold two meetings in the same week. We are not saying that this is a bad thing. We are just asking for clarification if we need to hold your regular meeting that week of a Joint Session, if the Senate has no major business to attend to.

For those that don't know when meetings are held. The ASOSU Senate meets on Tuesday evenings at 7:00pm, and the ASOSU House of Representatives meets Wednesdays @ 7:00pm. All Joint Sessions of the ASOSU Congress are held during the House of Representatives regular meetings.

We only ask for clarification and for a ruling to set precedent for future ASOSU Congresses and Senates. We alone as the Senate try to decide if we were aloud not to hold a meeting the same week and decided it was not within our jurisdiction to do so.

Thank you again honorable Councilors, if there are any further questions or concerns please feel free to contact me. I look forward to hearing your ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Struthers', written in a cursive style.

Andrew Struthers  
ASOSU Senator  
President Pro-Tempore of the Senate  
asosu.senate@oregonstate.edu

Majority Opinion by Councilor Malos

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

ANDREW STRUTHERS, ASOSU SENATE PRO TEMPORE

INQUIRY TO THE ASOSU JUDICIAL COUNCIL

No. 10-103(i).

[FEBRUARY 03, 2010]

Andrew Struthers, Senate Pro Tempore of the 69<sup>th</sup> ASOSU Senate, has presented an inquiry before the high court with reference to the significance of the word “day” as avowed under Article III, Section F, § 3 of the Constitution. In a letter addressed to the Judicial Council, Senator Struthers is “...Looking for clarification on what the constitution means by adjourning for more than seven days while in session.” The specific section of the Constitution he is referring to states, “Neither house of Congress shall adjourn for more than seven days while it is in session.”

The United States Constitution was wrought with the mindset that it needn't be excessively pensive and engrossed, nor overly vague and inattentive. The founding fathers had a divination that the Constitution would grow to become a living document, judged not exclusively on its written word, but the merit sited between its lines. This vision has since been added to various other constitutions including the text governing the Associated Students of Oregon State University. Being that the ASOSU Constitution is modeled closely after that of the United States, I believe comparable rules shall be applied when interpreting its content.

It is my conclusion that by merely using the word “day” or “days” classifies any day of the week including non-business/non-academic days. This belief is further evidenced in the fact this diction is unfailingly cited throughout the Constitution on ten unrelated occasions, none of which classifies an unequivocal usage of day. I believe, whether intentional or not, this lack of designation bestows Congress the capacity to take session when

Majority Opinion by Councilor Malos

needed, even if this shall happen upon a weekend or during the week of a Joint Session.

When defining Joint Sessions of Congress, under the ASOSU Statutes Title II, Section F, § 5.G.1, it states "Joint Sessions shall be defined as those instances in which both houses of Congress meet in whole to hear presentations on Student Incidental Fees, or the ASOSU President's State of the Students address." This allows Congress the ability to call a Joint Session when so desired, but does not burden the usage of regular sessions, allowing Congress as a whole to carry out business as usual in their attempt to enhance the OSU community.

Moreover, the ASOSU Constitution states under Article III, Section F that the House shall hold session every academic term with the exception of Summer term and the Senate shall hold session every academic term including Summer. It is also stated in the Statutes that neither house of Congress shall hold session during finals week, (Title II, Section 2, § A.2 and Section 3, § A.2), allowing, in particular, the House only thirty-one or so days to conduct regular business. By lacking a definition of "day", the Constitution allows for more time to conduct the important day-to-day business affecting the students of Oregon State University. Furthermore, this adds two or more sessions to the House's schedule, which in theory bequeaths them sufficient time to conclude all business before the close of their Legislative session.

Thus, it is my opinion that "day" is to mean nothing more than to regard that of a standard seven day calendared week and regular meetings shall occur as scheduled, despite the occurrence of a Joint Session. If Congress feels as though this is overly problematic, they have the ability to espouse either of three things. They can adjourn their regularly scheduled meetings, decide there is no business at hand, and then adjourn for the week; they may change the Statutes to reflect what shall occur in the event of a Joint Session of Congress; or they shall persevere with the status quo, which allows for two sessions of Congress

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should a Joint Session transpire. Nevertheless, this conclusion is certainly at the hands of the Legislative branch and whatever shall result will undeniably be recognized by the high court.

#### CHAIRMAN BOYD, concurring

In response to Senator Struthers' inquiry the Judicial Council has ruled that the term "days" in the Constitution shall be defined as a standard calendar day, not simply week/work days. The reason for this assessment is that throughout the Constitution and Statutes there is nothing that specifically identifies days as being solely "work" days. In fact there are specified instances that seem evidence the contrary that "days" are intended to be inclusive of weekend days.

For example, in the ASOSU Statutes (Title II, Section 3, § A.2) it states that "Regular meetings of the Senate shall occur every Tuesday at Seven O'clock in the evening". I interpret this to be a clarification that the Senate is to meet once a week every seven calendar days with no infrequency in the meeting time due to lack of accounting for weekend days.

While I can see how this may prove inconvenient at times for members of the Senate, this is an inflexible definition set in the ASOSU Constitution.

#### COUNCILOR LUDLOW, concurring

Upon review of the question raised by Senator Andrew Struthers I find that the word "day" shall refer to the unit of time denoted by one full rotation of a planet with respect to the sun or to a distant star. When a definition other than the afore mentioned unit of time is desired the word "day" is modified by the words, "business" or "school". As neither modifier is present, it must be accepted that in this instance the word "day" does indeed fit the provided definition.

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COUNCILOR SHROYER, concurring

The term day is to represent one 24- hour period of time. It is unnecessary to add any additional designations to the word day. The ASOSU Constitution at no point states a day as in regards to a "business" or "academic" day or any other such designation. It is in my opinion that when the word 'day' is written into the Constitution it will represent a single 24 hour period during any given period within a week.

COUNCILOR WHITAKER, concurring

In the ASOSU Constitution the word days is mentioned 10 times. In each reference days there are no specifications as to the definition of days, whether it means workday, weekday, weekend, etc... Since there are no specifications as to a meaning, the word day should be interpreted as is it normally defined, 24 hours in each day and there being 7 in a given week.

COUNCILOR LEONARD, dissenting

Andrew Struthers, Senate Pro Tempore of the 69<sup>th</sup> ASOSU Senate, made an inquiry to the Judicial Counsel, of the exact meaning of the term days, in Article 3, Section F, 3, of the Constitution. The inquiry was to establish whether or not the Senate was allowed to adjourn for more than 7 day exactly.

This would establish the precedent as to whether, the senate can ever meet on a day and time that is not Tuesday at 7 P.M. To determine the exact meaning of the term days, would say if the Senate has the ability to skip a meeting at any time and move it to a different day. If, per say, the Senate was to meet on Wednesday for a specific reason the meaning of the term days determines if it is necessary for the Senate to meet on Tuesday as well as Wednesday.

In my opinion the term (days) would refer to business days. This is for two reasons. First when talking about days in most official documents they are referred to (days) as being the days Monday through Friday. The weekends are days when no work is done, and therefore not part of the general term of days when things are to be done. Second I would look to the intent of the document. Which, I see as meaning, that the reason for 7 days is for consistency so the Senate will meet once a week. I do not see this as a dogmatic principle that has no leeway. So if the Senate would like to meet on Wednesday, for a specific reason, I do not see them as being barred from doing so by the Constitution. They have an obligation to meet every single week consistently. This is what I see Article 3 section F, 3, as referring to. This would mean that if the Senate needs to move one day for a special reason I do not see them as being restricted from doing so.