

Majority Opinion By Council Chair Bennett

JUDICIAL COUNCIL OF THE ASSOCIATED
STUDENTS OF OREGON STATE UNIVERSITY

Josh Kaufman, ASOSU Vice President

INQUIRY TO THE ASOSU JUDICIAL COUNCIL

(No. 18-011.i)

[March 13, 2018}

Josh Kaufman, ASOSU Vice President, brought an inquiry to the Judicial Council pertaining to the lack of established procedure in regards to impeachment proceedings and trial. Specifically, *“If both the President of the Senate and President Pro-Tempore have recused themselves [from impeachment proceedings], does it fall to the Judicial Council Chair to preside over the Senate during trials of impeachment? If not, who shall preside over the Senate during such circumstances?”*

The Judicial Council recognizes the rationale of the inquiry and the lack of constitutional procedure as outlined in any governing documents of the ASOSU. The Judicial Council identifies that the line of succession pertaining to impeachment trials and the position which shall preside over such trials is central to this inquiry.

The Judicial Council refers first to the cited constitutional provision as submitted by Vice President Kaufman in its ruling. As outlined in Article III, Section J, number 2, the Judicial Council upholds the constitutional mandate that “when the President or Vice President is tried, the Chair of the Judicial Council shall preside over the Senate.” The Judicial Council extrapolates firstly from this the original intent of the provision. Particularly, as the President of the Senate shall, in most circumstances, preside over the Senate in trials of impeachment, a conflict of interest or bias is to be avoided when either the President or Vice President is tried. The Judicial Council interprets the use of “conflict of interest” as utilized in the Constitution and statutes to mean a circumstance in which the concerns or aims of two different parties are incompatible, or where one party can derive advantage from actions or decisions made in their official capacity. This stipulation is satisfied by Article III, Section J, number 2 of the Constitution.

Secondly, the Judicial Council, in response to Vice President Kaufman’s question, finds that, for those presiding over impeachment trials, the line of succession is as follows: President of the Senate, Senate Pro-Tempore, Judicial Council Chair, Judicial Council Vice Chair, Judicial Council Member (as to be selected internally within the body). The Judicial Council finds that this line of succession is extensive and not particularly exhaustive.

The Judicial Council reiterates the civic responsibility of recusal in cases of conflicts of interest insofar as potential bias would corrupt the integrity of constitutional processes – not a lack of comfortability -- and suggests to the current Constitutional and Statute rewrite committee that this ruling be adhered to, if not augmented, to provide clarity for trials of impeachment in the future.