February 24, 2010

In re: Petitions for Constitutional Amendment

CHIEF JUSTICE LAM, ASSOCIATE JUSTICE JONES, ASSOCIATE JUSTICE SUTHERLAND, ASSOCIATE JUSTICE TAYLOR, and ALTERNATE JUSTICE HYNES, joined by Associate Justice HUNTER, deliver the opinion of the court.

On February 15, 2010, Constitutional Council received a grievance asking two questions: 1) When is a signature on a petition to amend the Constitution considered valid, and; 2) Whether a body of Constitutional Amendments proposed by a single petition, signed by fifteen percent of the Student Union constituency, must be voted on as one unit or may be voted on separately.

Constitutional Council first examined the pertinent documents, including the Constitution, the Statutes, and the Spring 2010 Election Rules. The Council further requested and received testimonies and written statements from the Election Commissioners, individuals who had submitted Constitutional Amendment petitions, as well as individuals who had signed the petitions. The Council also provided constituents the opportunity to express their opinions concerning the grievance.

Ultimately, Constitutional Council’s final decision rested upon the Constitution’s usage of the term “petition.” The Council found four instances in which the term “petition” is used outside of Article X of the Constitution. These four instances involve Initiatives (Const. IX.1.a), Referendum (Const. IX.2.a), Recall (Const. IX.3.b), and Block Funding (Const. IX.4.a).

In each of these occurrences, the term “petition” has a specific referent, and calls for an election on the aforementioned referent. Specifically, an Initiative requires that “the constituents shall sign a petition calling for an election on a bill” (Const. IX.1.a); a Referendum requires “a petition calling for the referendum and specifying in writing the action that the referendum is to take” (Const. IX.2.a); to recall an officer, a constituent must “petition for the recall of an officer of the Student Union who is in dereliction of his duties,” (Const. IX.3.b) and; the process of obtaining Block Funding requires “a petition calling for an election on the allocation” of funds to “any student initiative or Student Union student group” (Const. IX.4.a).

Constitutional Council finds that references to a specified bill, a specified action, a specified officer, and a specified allocation all convey the Constitution’s intention that a petition must call for a specified referent. Thus, in the case of Constitutional Amendments, a petition must likewise call for a specified referent – here, a specified Amendment.

Subsequently, the Council finds that a petition requires a specified amendment prior to collecting signatures so that the signatures can support a petition calling for an election on that specified amendment. For the same reasons, language in the amendment cannot change while collecting signatures or after signatures have been collected. Should the language change, the petition would refer to a new Amendment, thereby invalidating all previous signatures.
The answer to the second question, concerning whether a body of Amendments may be considered separately on the ballot, follows readily from the first decision. A body of proposed Amendments may be considered separately on the ballot if the petition so specifies. If the petition does not, the proposed Amendments may not be considered separately. If the petition does specify separate consideration, the proposal may not be considered as one Amendment on the ballot.

*There was no dissent.*