

**THE JUDICIAL BRANCH OF THE STUDENT  
GOVERNMENT ASSOCIATION OF THE  
UNIVERSITY OF TENNESSEE, KNOXVILLE**

Case No. 2016-1

FULLER EDWARDS & GREG BUTCHER, PLAINTIFF v. THE  
UNDERGRADUATE STUDENT SENATE EXECUTIVE COMMITTEE,  
DEFENDANT

Argued 17 January 2016 – Decided 18 January 2016

**I**

This case arises out of the alleged illegal voting on first consideration of a resolution brought before the Undergraduate Student Senate. On Tuesday, 8 December 2015, the Undergraduate Student Senate of the University of Tennessee held a special session to address a recent controversy involving the Office of Diversity and Inclusion and the Tennessee State Legislature. This meeting was called on Monday, 7 December 2015 via an email. This email detailed why the meeting was being called, and what legislation would be discussed and debated. Specifically, this email stated that RES 04-16 would be discussed and voted on. The Court finds that at the special Senate session held on Tuesday 8 December 2015 that the original piece of legislation on the session’s agenda, RES 04-16: “A Resolution to Support Diversity & Inclusion”, did not pass. A motion was made to add a second piece of legislation, RES 05-16: “A Resolution to Support Diversity & Inclusion”, to the agenda. After this motion was seconded, RES 05-16 was added to the agenda for discussion and vote. During the transition from RES 04-16 to RES 05-16, the Senate Sergeant-at-Arms announced that the doors were being barred after noticing senators were leaving the room during a check of quorum. Quorum was thus kept and following debate on RES 05-16, the legislation passed.

The Court finds RES 05-16 to be a new piece of legislation, which, while significantly similar to RES 04-16 in both content and intent, was effectively written, added to the agenda, and voted on during the course of one senate session. While the Judicial Branch appreciates the need for expediency in this particular case, it is the opinion of the Court that expediency cannot serve as a replacement for legality.

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**II**

Article IV, Section 7, of the Undergraduate Student Senate bylaws states:

All legislation to be presented to the Student Senate, whether originally written by the actual sponsor, or written by a third party or entity and only sponsored by a regular voting member of the Senate, must be submitted to the SGA office by 5:00 P.M. on the Tuesday immediately preceding a Tuesday on which a Senate meeting will take place. With the permission of the President and/or Vice President of the student body, an individual may submit legislation by 5:00 PM on the Friday immediately preceding a Tuesday on which a Senate meeting will take place.

The Court also finds no written instruction on how a special session should be conducted differently than that of a normal Senate session. Furthermore, no instruction is given in the Senate bylaws that either Article IV, Section 7, or any other part of the bylaws, ought not to apply to special sessions. Thus, it is the opinion of the Court that, in absence of clear protocol, that a special session should operate within the guidelines set out by the Senate Bylaws. Although this Court recognizes that special sessions of the Student Senate are, in some ways, fundamentally different than normally scheduled sessions, we find that an omission of governing rules does not constitute an invitation to operate without any prescribed rules or contrary to the rules typically followed in a standard Senate session and expected of Senators, Liaisons, and the student body.

Furthermore, as both parties cited Robert's Rules of Order as support for their case and/or as a detractor of the legitimacy of the claims of the opposing party, the Court finds that these rules must be held in esteem by the Senate. Both parties recognized the legitimacy of these rules in oral arguments, the Senate Executive Committee distributes literature for the education of senators on these rules, and precedent affirms their use as the basis for order in the Senate sessions. Accordingly, we give significant weight to the rules of parliamentary procedure as outlined by Robert's Rules of Order in our decision-making in this case. It is the opinion of the Court that these rules have significant influence on the Senate Executive Committee and all Senators, Liaisons, and other persons in attendance during the proceedings of any Senate session, to include special sessions, until such time that the Senate puts in place other rules guiding its procedures in its sessions.

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**III**

The Court finds that the Bylaws of the Undergraduate Student Senate apply to all sessions of the Senate unless explicitly stated otherwise. As such, Article IV, Section 7 was violated by allowing RES 05-16 to be added to the agenda during the course of the meeting.

As stated during oral arguments, the reason for the bylaws mandating submission of legislation in advance is to allow the Senate Executive Committee time to review legislation prior to its submission to the Senate at large for formatting errors, relevancy, realistic achievability, if any other piece of legislation is achieving a similar goal, and so that the Senate Executive Committee may distribute the legislation to the Senate at large so that senators may review it, formulate their opinion, solicit the opinions of constituents, etc. Therefore, it is the opinion of the Court that the Senate Executive Committee violated the intent of Article IV, Section 7 of the Undergraduate Student Senate Bylaws in allowing RES 05-16 to be placed on the agenda during the course of the meeting.

According to Robert's Rules of Order, in the call for a special meeting, the exact business that will be handled at that meeting must be included. As such, new items of business that are not included in the call for the meeting are impermissible, owing to the fact that assembly members are not given adequate notice. Further, the court also finds that Student Senate should more clearly define the requirements of previous notice in their bylaws, including language regarding the distribution of bills before meetings convene, for both regular and special meetings.

Further, as aforementioned, it is the opinion of the Court that Article IV, Section 7 of the Student Senate Bylaws affirms this spirit of Robert's Rules of Order with its submission requirement. This Court interprets the meaning of both the above mentioned Robert's Rule of Order and specifically Article IV, Section 7 to include a variety of important reasons for existing. We conclude that there are three primary purposes for these rules and the concept of notice: 1) to give the Senate Executive Committee adequate time to check the formatting and feasibility of such legislation; 2) ensure that similar legislation is not currently being introduced; and 3) to give proper notice to all sitting Senators about the legislation that they will be voting on during the upcoming Senate Session.

Finally, while RES 05-16 is technically a new piece of legislation, the Court finds that the content and intent of the resolution is significantly similar to the content and intent of RES 04-16. The Defense argued that the discussion surrounding the 04-16 and 05-16 were inherently different as were the debated topics. The Court was unpersuaded by these arguments, however. Differing debates and discussion topics surrounding what is essentially the same resolution is not a compelling argument for 04-16 and 05-16 being separate resolutions that are sufficiently distinct from one another. In noting this, the Court does caution the Senate Executive Committee against allowing resubmissions of the same legislation before the Senate in order to force or

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simply encourage its passing. If this were to become common practice, then any failed bill or resolution could continually and perhaps endlessly be brought up for discussion and additional votes simply by altering a few words and reintroducing it under a new, or, as in the present case, same name in the same meeting where it originally failed. This would set a dangerous precedent and, as such, this Court cannot deem such a practice Constitutional, wise, or for the benefit of the Student Senate and the students it represents.

**IV**

In summary, the Court finds that all articles of the Undergraduate Student Senate Bylaws must apply to all sessions of the Senate, to include special sessions unless explicitly noted otherwise. Therefore, the addition of RES 05-16 to the in progress agenda of the 8 December 2015 special session of the Undergraduate Student Senate was in violation of the Senate's bylaws. The court also finds that Robert's Rules of Order must be upheld in Senate sessions. As such the addition of RES 05-16 was in direct violation of these rules. In noting the above violations it is the unanimous decision of the Court that the addition of RES 05-16 to the agenda of the 8 December 2015 special session of the student Senate was illegal.

The Judicial Branch commends the University of Tennessee, Knoxville's Student Government Association for listening and working to effectively meet the needs of our student body during an emotionally tense campus climate. While we believe the intentions of the Senate Executive Committee to be true and sincere, we also believe that proper procedure and equality should be performed for all senate sessions and that senators should abide by the guidelines of the SGA Constitution, Bylaws of the Student Senate, and Robert's Rules of Order. In considering whether to overturn any bill or resolution, we consider all factors with a great deal of scrutiny and intend to overturn neither frequently nor lightly.

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RES 05-16: "A Resolution to Support Diversity & Inclusion" and any actions taken on it are considered null and void. The Senate and the Senate Executive Committee will proceed as though the legislation had never been drafted, nor brought before the Senate or the Senate Executive Committee.

This ruling does not forbid or prohibit the submission of a similar Resolution at a later date, but The Court would caution the Undergraduate Student Senate of The University of Tennessee, Knoxville to do so in a way that honors the guidelines and principles of the Constitution of the

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Student Government Association, the Bylaws of the Student Senate, and Robert's Rules of Order.

*It is so ordered.*

NIEHAUS, CROSS, C.J., and RODDY delivered the opinion of the Court, in which McNICHOLAS, CLEVELAND, and MARSHALL joined. WHITE delivered a concurring opinion.