

GRADUATE STUDENT GOVERNMENT EXECUTIVE COMMITTEE

Judicial Opinion No. 1

May 11, 2003

PREAMBLE

The judicial decision below represents the response of the Executive Committee to a request for information and clarification made by a member of the Assembly, Mr. Fei Sun. Mr. Sun has drawn a distinction between those questions he asked formally (points A-G below) and those he asked informally (points H-J below). The Executive Committee, on its own initiative, has responded to all of the points in one decision. (Preamble dated 7/2/03)

SYLLABUS

The GSG Executive Committee was called on to make several clarifications and rulings regarding the Constitution, the By-Laws, and a standing rule. The Executive Committee unanimously finds:

(A) Delegates who are not specifically defined in the By-Laws as "voting Delegates" are non-voting Delegates and possess every power that a Representative from an Academic Unit has except the right to vote. This includes the right to move matters before the Assembly and debate.

(B) No individual may hold more than one voting seat in the Assembly at the same time, even if one of these seats is held by virtue of a proxy. Voting seats include Representative seats and voting Delegate seats.

(C) Special Interest Groups that possess lists of their own members are empowered to devise their own procedures for the election of Delegates to the Assembly.

(D) The offices of Representative Secretary and Web Page Administrator ceased to exist at the time of the ratification of the current Constitution. The Executive Committee declines to provide a summary of the duties and powers of the Web Page Administrator under the former Constitution.

(E) The number of votes won by each candidate in the election for Corresponding Secretary held at the April meeting should have been announced. The failure to announce the number of votes won by each candidate is not a fatal defect and the result of the election stands. The results (Nicole Esparza 17, Fei Sun 4) will be entered into the minutes and announced at the May Assembly meeting.

(F) The Standing Rule on Budgetary Requests adopted by the Assembly on October 9, 2002, specifying that all funding requests must be received by the Treasurer at least two weeks prior to the Assembly meeting at which they are to be considered, is not in conflict with the By-Laws of the GSG. This requirement has been legally waived by unanimous consent on several recent occasions; the Executive Committee is unaware of any violations of this rule.

(G) The Executive Committee is unable to find any instances in the Constitution or By-Laws in which the words "Delegate" or "voting Delegate" are improperly used.

(H) Votes taken over e-mail require a quorum of a majority of the total number of Active and Inactive seats in the Assembly. A vote in an Assembly meeting to authorize an e-mail vote to be taken at a future date requires only a quorum of a majority of Active seats.

(I) The Assembly may approve ordinary business by a simple majority vote. Further details follow Robert's Rules of Order.

(J) To the best of the Executive Committee's ability to determine, votes in the Assembly have been properly counted and the distinction between Active seats and total seats has been respected. Announcement of the exact number of votes on each side of a question is ordinarily not required unless a specific request is made. The notes on how to be Parliamentary Secretary written by former Parliamentary Secretary James Vere are merely advisory and have no legal force.

(K) The Executive Committee, in reaching its decisions, places the greatest weight on the plain meaning of the text of the Constitution and By-Laws. Interpretation may be aided, though, by consideration of original intent, common or traditional practice, and the practices described in Robert's Rules. The Executive Committee trusts that the doctrine of stare decisis (adherence to precedent) will prevail in coming years and provide permanent resolution to judicial questions.

The full decision of the Executive Committee follows.

DECISION

Per curiam.

On April 21, the Executive Committee received a request for clarification of several sections of the Constitution and By-Laws as well as a standing Rule under Article VIII of the Constitution by Mr. Fei Sun, Representative from the Department of Electrical Engineering and Delegate from the

Association of Chinese Students and Scholars, hereinafter "petitioner". On May 6, the Executive Committee met and discussed the request under the authority delegated to it by Article VIII, Paragraph 2, Clause B of the Constitution. The Executive Committee reached unanimous agreement on all points contained in this Opinion.

The Executive Committee now presents this Judicial Opinion to the Assembly.

Petitioner has divided his request into a number of sub-requests; the Executive Committee has considered each one individually.

A. Powers of Non-Voting Delegates

Article IV, Paragraph 3, of the Constitution states:

"Delegates of the Assembly are members of the Graduate Student Body chosen by the residential communities and certain interest groups specified in the By-Laws. Because the GSG wishes to establish a diverse forum for communication with the many nonacademic organizations on campus and recognizes the contributions of these organizations, Delegates shall hold every power held by Representatives of the Assembly except the right to vote in matters before the Assembly, including, but not limited to, the right to move matters before the Assembly, propose amendments to such matters, and debate. Some interest groups, as defined in the By-Laws, shall be considered voting interest groups, and shall send voting Delegates instead of non-voting Delegates. These voting Delegates shall have the right to vote on all matters before the Assembly, except for funding requests. In order to be considered a voting interest group, a group must be so designated by By-Law and must represent a unique minority viewpoint which is otherwise underrepresented."

Here, the phrase "including, but not limited to ..." refers to "every power held by Representatives of the Assembly" and not "matters before the Assembly".

In By-Law Article I, Paragraph 4, the Assembly has exercised its right to create seats for ten Delegates. Two of these Delegates are voting Delegates:

"Organizations sending Delegates to the Assembly. The following Interest Groups shall have the right to send one Delegate each to the Assembly: the Council of International Graduate Students and the Association of Chinese Students and Scholars at Princeton University. The communities in the following residential complexes shall have the right to send one Delegate each to the Assembly: the Graduate College, the Butler Apartments, the

Lawrence Apartments, the Hibben/Magie Apartments, the Millstone Apartments, and Off-Campus Student Housing. The Black Graduate Caucus and the Women's Center shall each send a voting Delegate to the Assembly."

Petitioner asserts that the Delegates of the Association of Chinese Students and Scholars (ACSS), the Council of International Graduate Students (CIGS), and the various housing groups are voting Delegates because the By-Law does not specify them as non-voting Delegates:

"Note, NONE of them [are] non-voting Delegate[s]. I assume, they are all Delegates in the general sense and share the same right[s]. This Article also explicitly say[s] 'The Black Graduate Caucus and the Women's Center shall each send a voting Delegate to the Assembly.' They share the right of voting Delegate, which is different [from] the Delegates in general.

"In sum, It is against the Constitution and By-Law[s] to put ACSS and CIGS to non-voting Delegate. I would like the GSG to correct this."

Petitioner further asks for a clarification of the difference between Delegates and voting Delegates.

The Constitution defines a class of Assembly members known as Delegates and grants these Delegates certain enumerated powers, defined as every power held by Representatives of the Assembly except the right to vote. All Delegates therefore possess all of these powers. The Constitution further defines a sub-class of Delegates, called voting Delegates. Delegates within this sub-class have a further right, namely "the right to vote on all matters before the Assembly, except for funding requests", a right that does not deny the other rights they may have by virtue of being a Delegate. The Constitution clearly states that "[s]ome interest groups ... shall send voting Delegates instead of non-voting Delegates." This statement implies the existence, or at least the possibility of the existence, of interest groups that do not send voting Delegates. These latter interest groups send Delegates but not voting Delegates. These Delegates are known as "non-voting Delegates" because they are Delegates who are not defined as being part of the sub-class of voting Delegate. Although this definition is not explicit in the text of the Constitution, we understand its plain meaning. Even if one were to assert that a "non-voting Delegate" was a new sub-class of Delegate and did not necessarily embrace all Delegates not in the class of voting Delegate, no additional powers are granted to non-voting Delegates and the only other time the phrase "non-voting Delegate" is used explicitly is under By-Law Article I, Paragraph 6, which prescribes the method of apportionment of seats and lays down rough rules for the conduct of elections of Representatives of Academic Units; under this clause, if the annual reapportionment of seats leads to a loss of one or more seats by an

Academic Unit that has communicated to the Parliamentary Secretary its intent to hold its Representative elections at a time of year distinct from that specified in the By-Law, then the delegation from the Academic Unit in question shall select one or more, as necessary, of their delegation to relinquish his or her Representative seat and become a "non-voting Delegate." Since this clause does not categorize these individuals as "voting Delegates" they have no more powers than any ordinary Delegate in any event.

The Constitution further grants the Assembly the right to "specif[y]" the interest groups that may send Delegates in the By-Laws.

By-Law I-4 specifies these groups. The Delegates sent by ACSS, CIGS, and the housing groups are not defined as voting Delegates; therefore they possess all of the rights of a Delegate who is not a voting Delegate, i.e. all of the rights of a Representative except the right to vote. Again, the Constitution clearly states, "[i]n order to be considered a voting interest group, a group must be so designated by By-Law." In the absence of such designation, the group is not a voting interest group and is therefore not entitled to the privileges of being a voting interest group.

Although we hold this analysis to be adequate and dispositive, an analysis of the original intent of the framers of the Constitution is helpful. The original draft of the Constitution as approved by the Constitution Committee and presented by its Chair, Mr. Kyle Morrison, Representative from Plasma Physics, to the Assembly, contained provisions for Delegates, but none of these Delegates could vote (Minutes of the Assembly, May 24, 2000). Delegates were originally envisioned as having an ambassadorial role, in order to retain links between Special Interest Groups and the Assembly.

Three amendments were introduced, one by Mr. Manuel Sales, Representative from the Program in Applied and Computational Mathematics, one by Ms. Ann Morning, Representative from the Black Graduate Caucus, and a third by the Constitution Committee itself, in response to the first two and presented by Committee member Mr. Steven Miller, Representative from the Department of Mathematics. The amendment of Mr. Sales was withdrawn in favor of that of Ms. Morning, which, in turn, was withdrawn in favor of that of Mr. Miller. This amendment included a class of Senators who would hold every right of Representatives except for the right to vote on funding requests. The Assembly struck the word "Senator" and replaced it with "voting Delegate". The By-Laws were altered to add the Black Graduate Caucus to the list of organizations sending voting Delegates. On a motion of Ms. Eszter Hargittai, Chair, the Women's Center was added as well. Mr. Kapil Agrawal, representative from CIGS, stated that he "felt uncomfortable claiming to represent all international students" and therefore did not

request a voting Delegate seat for his organization. No motion is recorded on behalf of the ACSS or housing groups. It is difficult to determine whether the ACSS Representative was present since attendance records from that period have been lost. After this, a motion to close debate followed, and was passed.

Thus, any textual confusion between "Delegates" and "voting Delegates" can be traced back to the substitution of the term "voting Delegate" for "Senator" during the ratification process.

The text of the Constitution on this point is clear, and the record of the ratification debate of the Assembly accords with the understanding of the Executive Committee.

CIGS, ACSS, and the housing groups have the right to send Delegates to the Assembly, but these Delegates do not have the right to vote. They do have the right to "move matters before the Assembly, propose amendments to such matters, ... debate" and exercise any other right that may be held by a Representative of an Academic Unit with the single exception of the right to vote.

B. The Right to Hold Multiple Seats

Under the old Constitution of the GSG (formerly the Graduate Student Union), it was common practice for single individuals to hold multiple seats, either by election or by the possession of proxy votes. The new Constitution abolished this practice. Article IV, Paragraph 11, states:

"An individual may hold no more than one Representative or voting Delegate seat in the Assembly at a time, nor serve as a Representative from more than one Academic Unit at any meeting, even if one or more of those representations is by virtue of holding a proxy."

Petitioner requests the explicit meaning of this Paragraph, questioning whether one person can "hold one Representative and one voting Delegate position" or "hold one Representative and one Delegate position" and whether, in either case, "his/her vote" would be "counted twice" (submission of petitioner).

The clear intent of this Paragraph is to bar one individual from holding more than one voting seat at any given meeting, with a voting seat defined as either a Representative seat or a voting Delegate seat.

This Paragraph bars one individual from:

(a) holding more than one Representative seat,

- (b) holding more than one voting Delegate seat,
- (c) holding some combination of Representative and voting Delegate seats,
- (d) serving as a Representative from more than one Academic Unit at any meeting, or
- (e) doing any of the above even if one or more of them is by virtue of holding a proxy (i.e. temporary appointment) from the permanent holder of one of the same seats.

Therefore, no one may hold one Representative and one voting Delegate seat at the same time.

There is, however, no prohibition on one person holding a representative seat and a Delegate seat, provided that that Delegate seat is not a voting Delegate seat, which would be a violation of (c). Similarly, one person may hold multiple Delegate seats, provided that no more than one of these is a voting Delegate seat (which would be a violation of (b)) and that the person does not hold one voting Delegate seat in addition to any Representative seat.

C. Membership Lists for Special Interest Groups

Constitution Article IV, Paragraph 12, states:

"In the event that no written membership list exists for a non-academic constituent group, the Delegate shall be that individual who collects a petition with the most signatures from the members of that constituency. In the event that no petition is submitted, any member of that group attending a particular meeting may be considered upon request to be the Delegate of that constituency. "

Petitioner questions what procedures would be followed if a membership list does exist for a special interest group. The brief answer is that the selection procedure may be determined by the members of that special interest group, i.e. the persons on said list.

However, a brief investigation into the history of this clause and the voting procedures of special interest groups may make the matter clearer. The original Constitution of the Graduate Student Union (later, the GSG) as adopted in 1989 and amended through 2000, provided that:

"In the event that no written membership list exists for a constituent group (e.g for off-campus students), the Representative shall be that individual who collects a petition with the most signatures from the members of the constituent group." (Former Constitution, Article IV, Paragraph A, Clause 4, Line 6, as amended)

The clause in the current Constitution closely parallels the clause from the former Constitution. In the former Constitution, it was established that "Represented groups may develop their own procedures for choosing their Representative, which must be approved by a majority vote of the Assembly" (Former Constitution, IV-A-4-4) but that "[i]n the absence of such approved procedures, the Representative shall be elected according to" procedures outlined in an Appendix, consisting of a timing requirement, an announcement requirement, a secret ballot requirement, and the method of the single transferable vote (Former Constitution, IV-A-4-5 and Appendix A). Importantly, the appendix's requirement that "The [current representative] must distribute an announcement of the elections to each member of the GSG ... in the group who is in residence in Princeton or who is otherwise accessible" presumes the existence of a membership list for the constituency in question.

The governing assumption, then, which carried over into the current Constitution, is that procedures for the election of a Representative or Delegate must be determined by the members of the constituency in question. When the composition of the constituency is unknown, however, this becomes impossible, and thus the procedure outlined above (Former Constitution IV-A-4-6; current Constitution IV-12) prevails.

In the case of known constituencies under the former Constitution, then, the constituencies were provided with a default method of election and empowered to establish their own procedures if they so chose. It is our belief that, although a default procedure is absent from the current Constitution, the principle that each constituency is free to determine its own electoral procedures is still in place. This system was one explicitly in place and it implicitly continues until and unless another system is adopted.

This reading is supported by the text of Article IV, Paragraph III, which specifies that "Delegates of the Assembly are members of the Graduate Student Body chosen by the residential communities and certain interest groups specified in the By-Laws." Delegates must be "chosen", i.e. selected, by the residential communities and the interest groups defined in the By-Laws.

At least two such constituencies have written procedures in place. The Constitution of the House of the Graduate College specifies that an Assistant Chair shall "represent the concerns of the House and the Committee to the Graduate Student Government" (Constitution of the House of the Graduate College, Article IV, Paragraph B, Clause 2, Line C) and provides detailed instructions for his election (IV-C), term in office, (IV-D), and even recall (IV-E). The Butler Committee, the governing body of the Butler Apartments, specifies in its "Butler Apartments Committee

Election Bylaws", Article A, Paragraph 2.10, that there shall be a GSG Representative who "shall act as a liaison to the Graduate Student Government." This document goes on to establish requirements for filing a statement of candidacy (A-3), creates a voting procedure (B-2 and C) and provides for by-elections (D).

By-Law Article I, Paragraph IV, also clearly establishes that it is the constituencies that "send one Delegate each to the Assembly".

The only further restriction (Article IV, Paragraph 10) is that voting Delegates must be elected annually and their terms shall not exceed 15 months. It should be noted that non-voting Delegates are not required to be elected.

D. Transitional Officers

Article XII, Paragraph 4, of the Constitution, states:

"The current Officers shall remain in office until new elections are held. The current Web page Administrator shall become Corresponding Secretary; and the current Representative Secretary shall become Parliamentary Secretary."

Petitioner points out that the offices of Web Page Administrator and Representative Secretary are not defined in the Constitution and he requests a formal explanation of the duties of these officers.

Article XII is a "ratification and transition" amendment that describes how the current Constitution was to replace the former one and what measures were to have been adopted on a temporary basis until the current Constitution came into full force. The former offices ceased to exist by virtue of this very Paragraph.

The current Constitution defines seven offices (IV-1): "Chair, Parliamentary Secretary, Corresponding Secretary, Press Secretary, Recording Secretary, Treasurer, and Social Chair."

Of these offices, three existed under the former Constitution: Chair, Treasurer, and Press Secretary (Former Constitution, IV-B). Two other offices existed officially: Secretary of the Assembly and Representative Secretary. Two offices existed informally, were elected annually, and were de facto part of the Executive Committee: Social Chair and Web Page Administrator. The GSG had deviated substantially in practice from the text of the former Constitution by the time the current Constitution was adopted, as noted in the ratification debate (Minutes, May 24, 2000). The Executive Committee was not made up as specified in IV-D-2-a but

rather consisted of a Chair, a Treasurer, a Recording Secretary (in place of an Assembly Secretary), a Press Secretary, a Representative Secretary, and a Web Page Administrator.

As early as 1996, a Social Chair and a Web Page Administrator were being elected as officers (Minutes, September 25, 1996). This had not been the case in 1993 (Minutes, September 22, 1993). The loss of minutes from the intervening period makes it difficult to identify when the change was made, but other records seem to indicate a Social Chair serving as early as 1994. The important thing is that these two offices continued to be elected annually (Minutes, September 24, 1997; September 30, 1998; September 22, 1999; October 24, 2000). No candidate stood for Assembly Secretary in 1996, and by 1997 (and in subsequent years) the post was called Recording Secretary. A by-election for Web Page Administrator even occurred in January 1998 (Minutes, January 21, 1998) and a by-election for Recording Secretary occurred in August 2000 (Minutes, August 30, 2000). A by-election for Social Chair occurred in July 2000 (Minutes, July 27, 2000).

The current Constitution recognized the de facto existence of these offices and specified that the officers who were elected to these offices in October 2000 would continue in their offices until elections could be held under the new Constitution; this happened in March 2001. Two offices were renamed in the current Constitution; the old Representative Secretary became the Parliamentary Secretary and the old Web Page Administrator became the new Corresponding Secretary. The individuals elected in October 2000 (Mr. James Vere and Mr. Eric Adelizzi, respectively) ceased to hold their old titles and assumed new titles (and powers and duties) for the remainder of their terms.

Petitioner asks for a formal explanation of the duties of the Representative Secretary and the Web Page Administrator. The Representative Secretary's role was described in the former Constitution, IV-B-1-d:

"* To serve as an information resource for GSG Representatives.

"* To coordinate distribution to all Representatives of Assembly meeting minutes, the GSG newsletter, and publicity about GSG activities, events, and programs.

"* To disseminate to all Representatives copies of media coverage of the GSG and other graduate concerns.

"* To distribute copies of this Constitution to newly elected GSG Assembly members.

"* To maintain a mailing list of all GSG Representatives."

The Web Page Administrator's job was never formally defined, but it involved maintenance and updating of the GSG's web pages, reading the GSG's e-mail, checking the GSG's voicemail, and coordinating the response to official correspondence. The Executive Committee declines to promulgate a more comprehensive definition of the powers and duties of an office that was abolished in 2000. The Executive Committee's judicial powers derive from the current Constitution and it is arguable that they do not extend to interpretations of the former Constitution. For the purposes of the current Constitution, the Web Page Administrator has neither duties nor powers and, in fact, does not even hold office. The individual who held that office at the time of the ratification of the Constitution received a new set of duties and powers as Corresponding Secretary. The Executive Committee finds that it has no powers to define formally the role of the Web Page Administrator under the former Constitution and declines to do so; petitioner may appeal this decision to the Assembly if he wishes.

E. Announcement of the Results of the Corresponding Secretary By-Election

The GSG By-Laws, Article III, Paragraph 5, Clause G, on elections by the Assembly, state, inter alia:

"The results of the election shall be announced, as well as the number of votes won by each candidate."

By-Law III-8-i, on by-elections, states:

"The results of the by-election shall be announced, as well as the number of votes won by each candidate if the vote was held by secret ballot, and this information shall be entered into the record."

Petitioner first asks for clarification on what is meant by "the record". The "record" means "the minutes" (Robert's Rules of Order Revised (hereafter RROR), Paragraph 60: "The record of the proceedings of a deliberative assembly is usually called the Minutes, or the Record, or the Journal." See also GSG Constitution, Article VI, Paragraph 4, and Article V, Paragraph 6, Clause B.).

Petitioner next questions why by-elections are not conducted in the same manner as elections. The simple answer to this question is that the Assembly, by By-Law, has designated different procedures for general elections (III-3, III-4, III-5) than it has for by-elections (III-8-h, III-8-i, III-8-j). The Assembly is free to designate (Constitution V-10)

procedures for "direct[ing]" the election of officers.

As to the distinction between general elections and by-elections, Merriam-Webster defines "by-election" as "special election held between regular elections in order to fill a vacancy" (Merriam-Wester Dictionary, 1997) and it is used in this sense by the GSG.

The more general, though less technical, answer is that the two sections of the By-Laws were ratified at different times. The original draft of the current Constitution, as reported out by the Constitution Committee, did not contain By-Laws to provide for the general election of officers. Following the submission of a petition to force general election of officers (Minutes, August 30, 2000), the establishment of a committee to amend the proposed amendment (Minutes, September 27, 2000), and the report of the Committee with amendments to the amendment (Minutes, October 24, 2000), the Assembly, empowered under Article XII, Paragraph VI, of the new Constitution, adopted the amendments to the amendment, and then the amendment itself, to establish general elections, the first of which took place in March 2001.

The procedures adopted were subsequently amended on February 20, 2002, (By-Law Amendments I, II, III, IV, and V) and March 12, 2003 (Amendments VI and VII).

Amendment VI also established a procedure for the conduct of by-elections. This had been absent because the original draft of the current By-Laws did not contemplate general elections.

Because the By-Laws were written at different times by different people, small differences are understandable. The procedures are generally the same, though, for Assembly-based elections of officers.

Petitioner finally suggests that "[i]n last month's election, the number of votes was not announced, which is against the By-Law. I request to write [the results] in the minute[s]."

The election that took place for Corresponding Secretary at the April 2003 Assembly meeting was a general election occurring under III-5-g instead of a by-election under III-8-i. No petitions were filed for the post of Corresponding Secretary in the March 2003 election (Minutes, March 12, 2003) and therefore the race was considered a "vacant race" under III-5-f. The Assembly was therefore called on to elect a Corresponding Secretary under the terms of III-5-g. Mr. Leonard Pease, Parliamentary Secretary, presided in his capacity as Chair of the Elections Committee. Note that "The Election Committee shall be disbanded once all of the Offices are filled with newly elected Officers" (III-5-i), which had not happened

until the April meeting, and that "The Parliamentary Secretary shall serve as chair of this committee ex officio, except in the event that he or she is running for re-election" (III-5-i). Mr. Lior Silberman was ex officio Chair of the Elections Committee until March 2003, when Mr. Pease was elected Parliamentary Secretary and became ex officio Chair. Note also that the office of Corresponding Secretary had not fallen "vacant" as defined in Paragraph 8: "A vacancy in an Office shall be deemed to occur when any Officer resigns, loses a recall election, is removed by the Assembly, or ceases to be a member of the Graduate Student Body."

Therefore, petitioner is correct. Under the terms of III-5-g, the Parliamentary Secretary must announce not only the winner of the election but the number of votes received by each candidate. Since no objection was heard at the time, and no time limit is prescribed in III-5-g for the announcement, the defect is not fatal to the conduct of the election and the results stand. The Parliamentary Secretary shall announce the results of the election (17 votes for Ms. Nicole Esparza and 4 votes for Mr. Sun) at the next Assembly meeting. The election results were posted on the GSG web page within one day of the election, in compliance with III-5-m. The Recording Secretary shall enter the results into the minutes, although this is not a legal requirement for general elections.

F. Rule on Budgetary Request Notifications.

By-Law Article IV, Paragraph 3, states:

"Notification of Budgetary Requests. Any request for funding brought to the Assembly must be given to the Treasurer at least one week before the Assembly meeting at which it is to be discussed or it shall not be eligible for consideration. The Assembly may waive this rule by a vote of two-thirds of those present."

The Assembly on October 9, 2002, adopted a more stringent rule for funding requests:

"[Treasurer] Mr. [Donnell] Butler suggested that it had taken too long to take care of the funding request [discussed at that meeting]. He recommended that organisations requesting money do so several weeks before the event and several weeks before the Assembly meeting at which they present their request. Mr. Butler suggested that, in this case, information could be sent to the Assembly if necessary. Mr. Butler made a motion to change the funding guidelines; Mr. Butler moved that funding requests must be submitted two weeks prior to the Assembly meeting at which the request is to be presented. [Politics Representative] Andrew Erickson seconded the motion. Mr. Silberman amended the motion to allow the Assembly to waive the timing guidelines. The amendment was accepted by

Mr. Butler. The motion passed with no opposition." (Minutes, October 9, 2002)

Thus, a statement on the GSG web site reads:

"By standing order of the GSG Assembly, adopted October 9, 2002, all funding requests must be received by the Treasurer at least two weeks before the GSG Assembly meeting at which they are to be considered."

Petitioner objects that "The motion adopted October 9, 2002 is against the By-Law. I request the GSG to discuss this in the next Assembly meeting and correct it."

While petitioner is within his rights as a member of the Assembly to bring any matter before the Assembly, including the repeal of the rule, it is the decision of the Executive Committee that the standing rule in no way conflicts with the By-Law.

The By-Law requires all funding requests to be submitted one week in advance. The standing rule requires two weeks. The standing rule therefore does not contradict the By-Law since it is consistent with the one week deadline established in the By-Law.

"Standing Rules should contain only such rules as may be adopted without previous notice by a majority vote at any business meeting. The vote on their adoption, or their amendment, before or after adoption, may be reconsidered. At any meeting they may be suspended by a majority vote, or they may be amended or rescinded by a two-thirds vote. If notice of the proposed action was given at a previous meeting or in the call for this meeting, they may be amended or rescinded by a majority vote. As a majority may suspend any of them for that meeting, these rules do not interfere with the freedom of any meeting and therefore require no notice in order to adopt them. Generally they are not adopted at the organization of a society, but from time to time as they are needed No standing rule, or resolution, or motion is in order that conflicts with the constitution, or by-laws, or rules of order, or standing rules." (RROR, Paragraph 67)

The Assembly may therefore consider funding requests submitted between one and two weeks before the meeting by waiving the rule by a simple majority vote. Consideration of funding requests submitted within the week before the Assembly meeting, however, require waiving both the rule (by a majority vote) and the By-Law (by a two-thirds vote as specified therein). Since two-thirds is always a majority, waiving the requirement of the By-Law implicitly waives the standing rule.

There is no conflict whatsoever, since a standing rule may be more restrictive than a By-Law.

Petitioner then alleges that "[s]everal past funding request[s] [violate] the By-Law by submitting proposal after the deadline. I would like the GSG to [e]nforce the By-Law."

If petitioner wishes to lodge an appeal against a particular resolution adopted at a previous meeting of the Assembly, he may do so by making a point of order (RROR Paragraph 21) which will be timely if (and only if) he alleges that "the [original] motion is in violation of the laws, or the constitution, by-laws, or standing rules of the organization, or of fundamental parliamentary principles."

While there have of late been several funding requests considered that have been submitted within two weeks of the Assembly meeting at which they were considered, they have, however, been considered by unanimous consent. In each case the Chair has asked the Assembly whether there are any objections to proceeding, and there have been none. "By general, or unanimous, or silent, consent the assembly can do business with little regard for the rules of procedure, as they are made for the protection of the minority, and when there is no minority to protect, there is little use for the restraint of the rules, except such as protect the rights of absent members, or the right to a secret vote. In the former case the consent of the absentees cannot be given, and in the latter case the consent cannot be withheld by the minority without exposing their votes, which they cannot be compelled to do By the legitimate use of the principle that the rules are designed for the protection of the minority, and generally need not be strictly enforced when there is no minority to protect, business may be greatly expedited. When there is evidently no opposition, the formality of voting can be avoided by the chair's asking if there is any objection to the proposed action, and if there is none, announcing the result. The action thus taken is said to be done by general consent, or unanimous or silent consent." (RROR, Paragraph 48).

We recommend that petitioner object in the future before the beginning of discussion, at which point the appropriate vote will be forced. The Executive Committee does not believe that any such funding votes were accomplished without unanimous consent. If petitioner wishes to allege that this happened in a specific instance, his course is to make an appeal to this effect at a meeting of the Assembly. The Chair will then rule whether the funding request is in order, and the ruling of the Chair may be appealed to the Assembly (RROR Paragraph 21 and elsewhere).

G. Allegedly Improper Wording

Petitioner alleges that "[i]n many places, Delegate and voting-Delegate are improperly used. I would like the GSG to amend that if possible."

The Executive Committee cannot find any places in which these terms are "improperly used" and cannot, in any event, amend the Constitution except for the correction of errors of transcription. Petitioner is free to introduce such amendments as he deems fit.

H. Quorum for E-mail Votes

Article VI, Paragraph 5 states:

"The Assembly may decide during an Assembly meeting, by a simple majority, to hold a vote on any manner of business between Assembly meetings by e-mail or a similar means, or establish regular procedures for such votes by By-Law. A quorum for such a vote shall be a majority of Active and Inactive seats."

Petitioner asks "what does '[a] quorum for such a vote' refer to? To both during Assembly meeting[s] and between Assembly meetings?" The Executive Committee draws a distinction in this clause between the "deci[sion]" of the Assembly and the "vote" of the Assembly, the former being during a meeting of the Assembly and the latter being over e-mail. The word "vote" in this clause is used to describe the latter, and therefore the quorum specified in this clause applies only to votes held in between Assembly meetings.

This has been the practice for e-mail votes conducted under this Constitution in the past.

The quorum for votes held during Assembly meetings is specified in Constitution VI-3.

I. Procedures for Voting.

Petitioner asks, "I didn't ... see the description on voting on funding request[s] or other affairs. Can you kindly point that out to me?"

Constitution VI-4 states "Resolutions and Statutes may be passed by a simple majority of those Representatives present."

Otherwise, rules governing voting are covered in RROR (Paragraphs 9 and 46, see Constitution VI-4).

J. Counting of Votes

Petitioner alleges, "In previous elections and votings, I noticed that the Parliamentary Secretary did not really count the votes. Please refer 'Notes on being Parliamentary Secretary' for details. Just a reminder that active seats is not the same as voting member coming to the meeting."

Mr. Pease maintains that he does count the votes and also that he understands and enforces the distinction between "active seats" and total seats (i.e. "voting member[s]"). The Parliamentary Secretary may enumerate the votes or announce them or not, but it is always in order for a member of the Assembly to ask for the votes to be enumerated.

It should further be noted that the "Notes on Being Parliamentary Secretary" constitute an advisory document authored by Mr. Vere and have no legal force.

K. Conclusion

Since this constitutes the first invocation of the Judicial Procedure of the Assembly since the passage of the Constitution, it is proper that the Executive Committee should promulgate guidelines for Constitutional interpretation. The Executive Committee, in rendering this decision, has considered the plain meaning of the Constitution and By-Laws as dispositive. The record of the debate of the Assembly and its Committees can be a useful guide where the meaning of the Constitution and By-Laws is ambiguous; we have turned to the record of the debates of the Assembly, especially to its debate on the adoption of the Constitution, to understand better the intentions of the framers of the documents. Where ambiguity remains, we have turned to the Common Law procedures of the Assembly, what one might call "tradition", as a guide. Robert's Rules of Order describes common parliamentary practice and most of the common practices of the Assembly may be found described there.

This Judicial Opinion itself shall constitute the beginnings of a Case Law of the Assembly. While the Assembly or future Executive Committees may reach different conclusions where they find clear error in our decision, we trust that they will apply the doctrine of stare decisis in reconsidering questions previously decided.

It is so ordered.