

In Re Powers and Succession of Presidential Duties according to the Chadron State College  
Student Association Constitution

Minority Opinion of the Court

Senior Justice Dean Michel joined by Acting Justice Andrew Smith

It is the minority opinion of the court that the failure to follow the procedures outlined in the Constitution cannot be ruled negligible. Therefore, Vice President Kluber's ascension to the Presidency and his subsequent veto is unconstitutional.

Recusal of the President to alleviate a conflict of interest is consistent with the spirit of the Constitution, as is laid out in CSC Const. art. III, § 2.1.

Presidential recusal and subsequent absence shall count as an absence of the President and the Vice President shall fulfill the role of President and shall execute his power of veto if needed, as is inferred in CSC Const. art. VI, § 2.1 and art. III, § 2.1.

However, the Vice President was not sworn into office, and, thus, never took his role as President, as laid out in CSC Const. art. III, § 2.2. Therefore, his veto is rendered unconstitutional by the failure to swear in the new President.

Additionally, the President, now recused from his office, remained during both the proceedings and the rest of the meeting. Thus, the President cannot be deemed absent, as the definition of absence is inferred in CSC Student Senate Bylaws, art. II, § Attendance to mean the individual in question not be present at a particular meeting.

Therefore, the minority of the court finds fault in the method of Presidential recusal and Vice President Kluber's veto to constitute major issues, thus rendering the veto unconstitutional.

The minority court recommends the creation of a position titled "Acting President" that the Vice President shall be sworn into in the event of a Presidential absence or recusal. It shall exist for the duration of the President's absence or recusal and be filled by the Vice President.

Additionally, to avoid bias and influence during the meeting, the court recommends recusal of executive board members be announced at the executive board meeting, and that the recused individual not attend the Senate meeting in question. The advanced notice is to provide all involved the opportunity to understand their new responsibilities. The absence of the recused is to avoid bias and potential influence, while also complying with the definition of absence, as is inferred in CSC Student Senate Bylaws, art. II, § Attendance.