



**A Writ of Constitutional Review Case**  
**Student Senate Rules Committee**  
*Est. 1967*

**Steckbeck v. Lee**

**THURSDAY MARCH 29<sup>TH</sup>, 2018**  
Appalachian Hall Room 085  
7:00 pm

*Presiding: Acting Chairman Connor Hughes*  
*Chairman Grayson recused himself to participate in debate*

Case Number 051-0002

**Complainant:**

Senator Greg Steckbeck

**Date and time the complaint is filed:**

March 28<sup>th</sup>, 2018 at 7:42 PM

**Date and time of the hearing:**

March 29<sup>th</sup>, 2018 at 7:00 pm

**Respondent:**

Senate Speaker Alan G. Lee; Appointed Senator Lee Franklin as Counsel

**The offense as alleged by the complainant:**

While chairing the Senate meeting on March 27, 2018, Alan Lee denied Senator Joe Wilkes' motion for a point of order while the Student Body President was explaining non-objective details of implementation of SB 051-006, The Senate Appropriations Act of 2017. Furthermore, it has not been established this session that this denial could be overruled by a 2/3rds vote.

*Quote from the March 27<sup>th</sup>, 2018 Senate Minutes:*

President Clayton – I don't see why y'all needed name tags, with senate we always have retention issues, I didn't want to buy name tags and put \$400 towards people who might not show up. What if we did what some of y'all said in the room and say senator on the name tag so the tags are reusable, SGA budget was not spent on name tags, I really thought this name tag was going to be handled, if you want to order them there are four weeks left and this is what you are debating on.



The Constitutional articles, sections, subsections, etc. that are allegedly being violated:

The Student Senate Bylaws state under Section 5, Subsection 4, Letter a, Numeral iii, as amended by SB 051-021 and SB 051-028

“iii. The only non-member of the Senate that a Senator may yield the floor to is the Student Body President. The President may only provide objective comments regarding implementation of the specific items being considered. In no way may the President share personal opinions or sway a vote of the Student Senate. Once the President has concluded speaking, the motion will end. As a non-member of the Student Senate, the President only retains the right to speak when the floor is yielded and reserves no other subsequent parliamentary rights. Senators reserve the right to call a point of order if at any point the President violates this provision.”

### **Senate Rules Committee Rationale:**

The Senate Rules Committee provided the complainant (*Senator Steckbeck*) an opportunity to present the case being brought against the respondent (*Vice President*). The respondent’s counsel stated definitively that the respondent violated Senate Bylaws Section 5, Subsection 4, Letter a, Numeral iii. Upon the respondent party taking responsibility for this violation, the committee provided the respondent an opportunity to explain any mitigating factors and immediately proceeded into the sanctioning portion of the hearing (*as prescribed in the Rules Committee Bylaws Article IX, Section 2, and Subsection f*).

The Senate Rules Committee ruled that Senate President Alan Lee incorrectly dismissed the point of order made by Senator Joe Wilkes. Roberts Rules provides that a point of order may be permitted in two cases:

1. An infraction of the Rules has taken place.
2. Improper decorum has been realized.

Additionally, the Senate Bylaws – *which preempt Roberts Rules of Order* – state the following regarding points of order:

1. Senators reserve the right to call a point of order if at any point the President violates this provision [referencing the exact provision in question in this case].

The Committee agreed with the respondent and complainant parties in the claims that the quotes by President Clayton - “I don’t see why y’all needed name tags” and “I didn’t want to buy name tags” – were overt personal opinions held by the President. The committee came to this conclusion based on the preponderance of the evidence, committee testimony, and the President’s choice of the word “I”. The Vice President dismissed this Point of Order incorrectly and the respondent counsel took responsibility for the mistake in the hearing. The respondents counsel stated a parliamentary distraction took place while the President was making her remarks, and that the Vice President was unable to hear what the President was saying, therefore ruling the point of order incorrectly with negligence rather than malice. The committee holds that the Vice President – who is also the chairman of the Student Senate – shall strive to be cognizant of any potential violations of the bylaws or rules of



order, and shall provide Senators with an opportunity to state their case in the event a point of order is contested in the future.

Per the Parliamentary Rules, a point of order must be called immediately following the action or statement in question.

The committee believes that President Clayton's remarks were rhetoric and made purposefully to sway a vote in the fact they stated opinions that were null to discussion for the following reasons:

1. Regardless of if President Clayton didn't "see why y'all needed name tags" or "didn't want to buy name tags", President Clayton was statutorily required to oversee the purchase of the name tags per Article V, Section 4, Subsection F, number 3 of the Constitution – the Senate has the full authority over the allocation of the budget.
2. SB 051-006 passed with the Milbourne Amendment which allocated \$450 for the purchase of nametags – a purchase that was statutorily required aside of any opinions held by the executive. The executive is constitutionally required to execute the Senate passed budget regardless of their personal opinions on the matters (reference Article IV, Section 2, Subsection C, number 1 of the Constitution – "it will be the responsibility of the President, Chief of Staff, and Introducers to ensure implementation with the appropriate parties").

The Senate Rules Committee believes that it is foundationally important to highlight the established rules surrounding floor assignment. Per Roberts Rules of Order, the Senate Floor may only be assigned to members of the voting assembly – in this case the Senate. Our statutes extended this provision to include three exceptions:

1. The Director of Legislative Operations and/or their temporary designee shall read the Rules Reports before the consideration of business as prescribed in the Rules Committee Bylaws.
2. With exception to floor assignment and recognition, this clause shall not preempt the powers afforded to the Student Senate President in Roberts Rules of Order.
3. The only non-member of the Senate that a Senator may yield the floor to is the Student Body President. The President may only provide objective comments regarding implementation of the specific items being considered. In no way may the President share personal opinions or sway a vote of the Student Senate. Once the President has concluded speaking, the motion will end. As a non-member of the Student Senate, the President only retains the right to speak when the floor is yielded and reserves no other subsequent parliamentary rights. Senators reserve the right to call a point of order if at any point the President violates this provision.

The Vice President, acting concurrently as Senate President, has no right to yield the floor per Roberts Rules of Order. Testimony revealed that at one point in the meeting, Vice President Lee yielded the floor to President Clayton to provide details on the Mountaineer Meal Share program. This revelation was supported by the material facts of the March 27<sup>th</sup> Senate meeting minutes. While this fact did not play a role in the responsibility portion of the hearing, the committee believes it is crucially important to note this action was another violation of Article 5, Section 4 of the Senate Bylaws. The only individuals allowed to yield the floor are Senators (*reference Article 5, Section 4 of the Senate Bylaws -The only non-member of the Senate that a Senator may yield the floor to is the Student Body President*).



The Committee holds that these policies exist to maintain the order of the assembly and respect the rights of Senators. Rules and procedure also allow a structured debate and dialogue to provide members of the Senate an opportunity hear a variety of opinions. The Committee held that while this case was filed against Vice President Lee, the action made by President Clayton requires distinct attention for two specific reasons:

1. The respondent party stated that “we fully acknowledge that the President and Vice President share responsibility in the violations that have taken place”.
2. The respondent party also stated that there may have been potential for President Clayton to sway a vote of the Senate through these remarks, however they were unable to determine for certain – a potential direct violation of Senate Bylaws Article 5, Section 4 which states “In no way may the President share personal opinions or sway a vote of the Student Senate”.

Further, President Clayton vetoed SB 051-021 – *The Senate Floor Assignment and Recognition Act* – the bill that established the policy in question. The veto was overridden on March 13<sup>th</sup> 2018 with a 72% vote of the Student Senate. When SB 051-028 – *The Floor Assignment and Recognition Amendment Act* – was reviewed, Senate testimony and minutes provided that President Clayton had an influence over the text of the statute which provided the President the right to have the floor yielded to them. SB 051-028 passed with 85% of the vote on March 20<sup>th</sup> 2018. These material facts provided the committee preponderance of the evidence that President Clayton was aware of the policies prescribed within these bills and that the President was willfully violating the following provisions of Senate Bylaws Article 5, Section 4:

1. The President may only provide objective comments regarding implementation of the specific items being considered.
2. In no way may the President share personal opinions or sway a vote of the Student Senate.

The committee cited in review that President Clayton may have violated *Article V, Section 4, Subsection F, number 3* and *Article IV, Section 2, Subsection C, number 1* of the Constitution along the provisions of SB 051-006 – *The Senate Appropriation Act of 2017*.

The Committee believes it is critically important to highlight a power the senate holds: appealing the decision of the Chair. Per Roberts Rules of Order, the Senate may appeal any decision the chair makes – with a two-thirds vote of members present.

The Committee acknowledges that the executive plays an important role in the legislative process through a number of channels – social media, university email accounts, cabinet led committee meetings, statements from offices, conversations and meetings within the University provided office space, and more. However, the Senate – *the representative of every constituency on campus* – has established rules conducive to legislative business and these rules – *Senate Bylaws Article 5, Section 4* – provide only one restriction on the executive’s role in the process: they may not sway a vote or provide non-objective opinions on implementation during the direct consideration of business. Other than this restriction, there are numerous ways the executive may engage the process.

The committee addressed an antiquated practice that was determined obsolete through the passage of SB 051-021 and 028: Allowing non-senators the right to join Senators in the presentation of bills. This practice is no longer admissible because of the newly passed Article 5, Section 4 of the Senate Bylaws states – “the only individuals



permitted to be recognized by the speaker or assigned the floor during consideration of Legislation, Appointments, and/or any other form of Business shall be ASU-SGA Student Senators”.

The Committee voted for the rationale to be emailed to all Senators and read aloud to the Student Senate.

The Committee thanks the complainant and respondent parties for their time and arguments in the hearing.

**Rules Committee Members Participating in Hearing:** Senators Strahan, Lago, Moody, Waller, Mark, Phronebarger, Griffin, Davis, Brown, Swanson Boyd, and recused chairman Grayson.

**Rules Committee Members Absent:** Senators Chambers, Milbourne, and Durham.

**Rules Committee Members Recusing themselves:** Senators Steckbeck and Wilkes.