



**72<sup>nd</sup> Student Senate  
Judiciary Committee  
Date: September 29th, 2020**

**Call to Order:** 6:32 p.m.

**Members Present:** Chair Leckie, Vice Chair, Senator(s) Little, Wang, Soto, Pro-Temp Harmon

**Members Tardy:** Senator(s)

**Members Excused Absent:** Senator(s)

**Members Absent:** Senator(s) Recht, Ascanio, Ross, Murcia

**Guests:** Jack Rowan, Senator England, Senator Mougey, Senator Gnanam, Kelvin Ready

**Announcements:**

- Chair - None
- Vice Chair - None
- Members - None
- Guests - Jack Rowan: Urges no amendments to 82

**Committee Business:**

- **Vice Chair elections**
- **Bill 82** - Sponsored by Senator England - To edit the composition of the Executive Office of the President

**Old Business:**

- **None**

**New Business:**

- **Vice Chair elections**
  - **Wang moves to open floor for nominations**
  - **Little seconds**
  - **Soto nominates Wang**
  - **Little seconds**
  - **Wang accepts nomination**
  - **Little moves to close floor for nominations**
  - **Soto seconds**
- **Bill 82** - Sponsored by England - To edit the composition of the Executive Office of the President
  - Opening Statement
    - England: This bill came through over the summer senate. It had a sister bill or two which are still in Senate waiting for this bill. When SBP Levin became president, he created a new cabinet. He gave us a presentation for the positions he was going to be having in his cabinet, and that has

been happening since spring. This bill updates statutes to reflect his administration's positions. Myself and the executive branch want to go over the amendments that were made over the summer by the Judiciary committee as we believe they lose the meaning of what we're trying to say, so I'm here this evening with AG Ready in case I need to direct any questions to him.

- Technical, Non-Debatable
  - X: No Technical, Non-Debatable
- Senator Little moves to enter Round Table Discussion
- Senator Soto seconds
- Round Table
  - England: POPP: How would you like to conduct this? Talk over amendments myself and Executive Branch would like to see?
  - Leckie: Easier if you go one by one
  - England: This is 301.1. We would like to take out "and the vehicle through which the Student Body President and Vice President execute their constitutional powers and carry out their administration's programs, projects, and agenda." The main problem here is that the Vice President is specifically being mentioned. The VP is not a member of the Executive Office of the President. This chapter refers to the specific Executive Office of the President. We don't want the VP to be mentioned in a section not pertaining to the VP. I would be open to compromising, and if we could even just remove the two words Vice President, that would satisfy.
  - Little: Last time this was in Judiciary, one issue was making sure that the VP's powers were not being undermined. My understanding was that our main problem was that the VP's powers were being undermined by the language only mentioning the SBP, but if we can agree that the other language that applies to the Executive branch refers to all three and as long as this doesn't change the powers of the VP, I don't think it's that much of an issue.
  - England: I agree, to my knowledge, the Executive branch does refer to all three. The reason VP was added was to make sure that we're not undermining it because the VP is mentioned as assisting with the cabinets. The summer judiciary was worried that the VP was solely responsible for the cabinet. If the VP was responsible for the cabinet, then it would be a problem.
  - Little: moves to amend.
  - Wang: So, is this amendment just taking out the words VP?
  - England: No, I believe that Senator Little's motion was to use my verbiage. Would the committee be in favor of removing the words Vice President, so as not to cause confusion?
  - Wang: I would be open to removing the two words Vice President.
  - Little moves to amend to remove Vice President
  - Soto seconds
  - England: Please turn your attention to 302.1C. We're looking to have it read "The Executive Cabinet shall be composed of the Director of Cabinet Affairs and Cabinet Secretaries. All members of the Executive Cabinet shall be considered under the "cabinet officers" mantle of major offices." The major offices statute states that you cannot hold two major positions at the same time, so we want to specify the Director of Cabinet Affairs and Secretaries separately.

- Leckie: So, this is just adding Director of Cabinet Affairs to statutes as well?
- England: This would be the first official mention of it, yes. If the committee would like to skip this amendment and move on, we can tackle a later amendment and do this later.
- Little: I was going to suggest we do that.
- England: The next one we'd like to talk about is taking out 302.2E1. We would like to remove this in its entirety. This was added by the summer judiciary. The person running these meetings right now is the Director of Cabinet Affairs. The problem here is that the President and Vice President do not typically attend these meetings, and this would essentially disrupt how things are currently being conducted. We confirmed the director of cabinet affairs to run the cabinet, so to not let them do this job after we have confirmed them is ridiculous.
- Wang: Why was this amendment proposed?
- Little: We heard this bill at two separate meetings, so I am not sure over the reasoning for why this was added as well.
- England: One of the problems was that the Judiciary committee over the summer believed the position of the director of cabinet affairs was unconstitutional. We have received an advisory opinion from the temporary SC Justices over the summer that said it was not unconstitutional. Judiciary wanted to back-up in case that the Director of Cabinet affairs was unconstitutional. Tried to reach out to the SC, but they cannot meet because they still aren't full.
- Leckie: Do you have a copy of the advisory opinion?
- England: It was the opinion that I asked Chair Leckie to read to the committee over the summer, but he refused.
- Leckie: That opinion was from an unconfirmed justice.
- Pro-Temp Harmon: How can I view the documents for the Bill that we are currently talking about?
- Soto: Do you plan on cutting this section out?
- England: Yes, this was added by the summer Judiciary committee and we are wanting to remove it.
- England: I do have that memo, but I have just been sent it.
- Soto: If this was to be removed and you were able to take out this phrase would you replace it with something else.
- England: I would not be looking to replace it with something else. We are interested in the Director of Cabinet Affairs running these meetings.
- Little: Who leads these meetings?
- England: The VP is the ultimate authority on this.
- Gnanam: Was this confirmed and reviewed by Supreme Court Justice?
- England: Not confirmed, but reviewed by AG Ready. Tried to reach out to them, but have not been able to set up confirmation
- Harmon: What part of the Constitution are we looking at that would violate any statutes?
- England: This entire clause is unconstitutional because in this current verbiage. And that is because the cabinet falls under the purview of the sbvp and what this is saying right now that in any absence is filled by the deputy chief of staff. The deputy chief of staff reports to the chief of staff, who reports to sbp.

- Soto: Not comfortable with removing this statement, if this were to be removed, who would take over this responsibility?
- Harmon: Concern with both versions of this, if we're talking about constitutionality, neither one is constitutional, then why are we allowed to give it to the Deputy Chief of Staff? It seems to be an issue of unconstitutionality either way.
- Little: Is the goal to find someone constitutional to take over the meeting, someone below the VP?
- England: Really it is up to the committee, Exec would like director of cabinet affairs, compares this to the United States Presidency
- Harmon: I would advise us to remove this just to avoid unconstitutionality.
- Little moves to redact this section, Soto seconds
- England: We are looking to add a section about the deputy of cabinet of affairs. This would be putting into statutes what a human being is already doing.
- Little move for a non senator to speak
- Harmon seconds
- Ready: The temporary chief justice Abby Salters says that it is not unconstitutional on the grounds that it is at the discretion of the Vice President.
- Little: Is making unconstitutional because it is moving this power from the sbvp
- England: It is constitutional because the director of cabinet affairs would report directly to the sbvp.
- Harmon: What was the reason for removing it?
- Leckie: The crux of the issues
- Gnanam: Why add this when future admins may change their minds?
- Ready: That would be from my personal opinion
- England: It is up to the executive branches of the future, we want to create a transitional document and this will include this
- Gnanam: future admins will have to adhere to this since it is in statutes, future administrations will have to use this
- England: Caution against use of unconstitutional, two law students have said otherwise, statutes is a big rules book, governs way we conduct our business,
- England: Pro Temp Harmon mentioned B might cause some problems, so I would like to work with the committee to make B more statutorily sound.
- England: Administrations in the past tasked cabinet members with particular projects. If the cabinet is still playing active roles in projects, it's natural that the Director of Cabinet Affairs assist in the process.
- Soto: Why decide to include this in your bill if this is already on the website?
- England: We want to include this in statutes because the website means nothing. Statutes is legally binding, and the website is not. We want a legally binding position. This has been a position, and there has been someone who has fulfilled this position for months now.
- Harmon: This amendment potentially mitigates the unconstitutionality of it.
- Soto: Senator England, is the Deputy Chief of Staff in statutes?
- England: It's not currently in statutes, but we are looking to add it.

- Leckie: Have we confirmed Deputy Chiefs of Staff before, and how long have we confirmed them for?
- England: To my knowledge, we've done it for the past two years, but that's just because that's how long I've been around.
- Soto: If the Deputy Chief of Staff isn't in statutes, then why do we want to focus on Director of Cabinet Affairs now when we should be focusing on Deputy Chief of Staff?
- England: The committee is at liberty to review the verbiage regarding the Deputy Chief of Staff position. In the summer, there was no amendment to the part about the Deputy Chief of Staff. We along with the summer committee were happy with the verbiage there. If the committee would like, we could table this for another week, and AG Ready will reach out to Chief Justice to offer an opinion. We can come back with an advisory opinion on this.
- Little: Every administration has the right to run their administration the way they want. This statute forces each administration going forward to conform to these statutes.
- England: What then happens if we let the Executive branch run rampant? We want to put this in so that these roles have an operational handbook going forward. Technically, they could do whatever they want at the moment. They don't have anything to go by or hold them accountable.
- Mougey: Every branch that comes in is unique. When the new branch comes in, they can rewrite statutes how they want.
- Wang: What's the purpose of putting this in statutes if later branches are just going to take them out?
- England: They can do it. It is something they can keep, but they don't have to. Congress can overturn any law made by another congress, so the next Executive branch could come in and request a change if they wish.
- Gnanm: The idea of this operational handbook is different than what statutes are. The idea that we need these positions to operate is a little intense. We've had these positions for the past two years already. What I assume holds people accountable is not statutes but the people that they serve under. This is a bill that has existed in this committee for three months. With change, you don't want to set procedures in stone because that makes things difficult. Creating a new position, you've had difficulty putting this into statutes already. When I said it was unconstitutional, I retract that, but no supreme court justice has deemed it constitutional.
- England: Nothing here is set in stone, and it's easily changed. It's one bill and it can take as quick as two weeks. No one legislature is bound by another Legislature. If they want to change it, they can. This position is under VP who holds them accountable. The VP can tell them to do whatever they want, so statutes can give them boundaries. We're adding a job description.
- Harmon: Exec has a Cabinet of Affairs position. We have the Press Secretary now which has been written into rules. We had an idea to create that position, so we wrote it into rules. As Senator Gnanam said, there is a gray area in regards to constitutionality of this. I think we should get an advisory opinion of the court, so I would advise we table this.
- Leckie: Does anyone want to propose the amendment?
- Soto moves to tables bill 82

- Little seconds
- Leckie: Thank you Senator England for coming out.

**Unfinished Business:** None

**Committee Legislative Round Table:** None

**Final Announcements:**

- Little: Please remember that IB is meeting tomorrow morning at 10:00AM.
- Soto: Congrats Vice Chair Wang on her new position.
- Harmon: I wanted to offer my apologies. I may have been a little harsh on Judiciary, but I want to make it known that I still have faith in this committee's ability. I appreciate the work you guys do. Congratulations Vice Chair Wang. Good luck watching the debates.

**Date and Time of Next Meeting:** X

**Adjourned:** 7:58 PM

*Griffin Leckie*

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Signature of Chair