

Kevin Godbout
Speaker's Ruling Election Appeals Board Report
SOGS Presidential Elections 2012
May 3rd, 2012

Dear SOGS Executive and Council,

The most important duty of the Speaker, and tied directly to his or her ability to effectively chair meetings of Council, is to interpret and serve as the Society's leading expert on the SOGS Constitution and Bylaws (per Bylaw 2.2.2), as well as a mediator of the guidance for the Society's governance offered in Robert's Rules of Order. This past Thursday, April 26, the Interim President presented a legal opinion that in effect made the report of the Elections Appeal Board (EAB) *binding* on Council, thus forcing a re-election for the SOGS Presidency.

To state the issue plainly: the legal opinion sought by the Interim President, while appreciated and respected, is *completely erroneous* in its interpretation of our Bylaws, especially on the matter of the EAB report being final and binding on Council. The Speaker was never consulted by these attorneys and was forced to react to this issue in the final hours before Council. A Speaker's Ruling was presented to Council as a reaction to this legal opinion. The ruling was based on the Society's Constitution (4.2 and 6.1.1), the Bylaws (4 and 15.1.1) and RRO (sections 1, 49-51) that stated Council's right and duty to *debate* and decide the fate of the EAB Report. The ruling was challenged and was overturned by Council, thus restraining Council's own right to exercise its ultimate authority over the EAB report.

The appeal document considered by the DCRO and the EAB, now part of the April Council minutes and available on the SOGS website, remains the almost exclusive source of evidence that determined the EAB's decision to uphold the DCRO's recommendation to overturn the SOGS Presidential Election results. The DCRO did not interview many of the named parties in the appeal, nor did the EAB hold any hearings, as outlined in Bylaws 4.2.2.3 and 4.2.2.4. The Speaker, for the record, contacted both the DCRO and the EAB Chairperson to *suggest* they hold hearings to gather the required information and solicit response from *all named parties* in the appeal. The Speaker did not, and *could not* in good conscience, *order* either the DCRO nor the EAB to hold hearings. They were ultimately responsible for how the appeal was handled, and because Council ruled against its right to debate the EAB report, the authority of the DCRO and the EAB went largely unchallenged.

To reiterate, it is the fundamental right and duty of SOGS Council, as per our Constitution, to govern our Society. Council is "responsible for all matters of policy and for government and regulation of the Society" (4.2) and further "The governing body of the Society shall be the Society of Graduate Students' Council" (6.1.1). Council is the highest level of government of SOGS, outside an AGM gathering the general membership. Boards and committees of a Society, whether they are standing (permanent) or ad hoc (for a specific purpose), *unless specified in the Bylaws*, answer to Council. If the EAB Report has been debated and then *accepted* by Council, there are no problems. But it was not debated. And this stands as a fundamental violation of the SOGS Constitution, Bylaws, and RRO. SOGS members are now tasked to determine the results of another Presidential Election.

Interested SOGS members can find the EAB duties, responsibilities and authorities outlined in Bylaw 4 "Referenda and the Presidential Election." To cite Bylaw 4.2.1: "The Election Appeal Board shall rule on appeals relating to presidential elections and referenda." This bylaw *does not state* that the EAB shall rule and its decision is binding on the appeal in an absolute sense. In other words, the

EAB report and recommendations, presented to Council in the manner of all board or committee reports, are subject to Council's authority, subject to debate, subject to acceptance or rejection. The absence of clear language from our Bylaw *does not empower* the EAB, the opposite is in fact closer to the truth. Furthermore, as per Bylaw 15.1.1, whereby if SOGS Bylaws *are not* clear on a given matter, then one turns to RRO. To cite the Bylaw: "The rules contained in Robert's Rules of Order shall govern the Society in all cases to which they are applicable, and in which they are not inconsistent with the Constitution and Bylaws of the Society."

From RRO section 1: "A board within an organized society is an instrumentality of the society's full assembly, to which it is subordinate" (8, l. 14-17). In SOGS's case, "the society's full assembly" is quite clearly Council. Therefore, a board, which the EAB is, is an instrument of Council, and its authority is subordinate to Council. The latter uses the EAB to carry out its will, and Council has the authority to accept or reject whatever the board presents. Sections 49-51 of RRO provide more details that further substantiate how boards and committees, despite their divergent responsibilities and composition, are *subordinate* to their *parent assemblies*. The theme is consistent: unless *explicitly* stated in the Bylaws of a Society, committees and boards are *always* subject to the authority of their parent assemblies, which for SOGS is Council.

The final decision of the EAB should have been made by Council. In presenting a legal opinion from a third party, which our Constitution does not recognize as either valid nor superior to the authority of Council, the opportunity for democratic debate and governance was concealed and usurped. As a Non-Executive Officer of SOGS, i.e. the Speaker must remain impartial before all matters brought to Council. The Speaker renounces all rights to vote at Council, and must abstain, as RRO prescribes, from voicing an opinion within Council in the interest of impartiality and decorum.

Thus, the Speaker accepts the decision of Council, but not without strong reservations.

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