

Without a Vote: SBA Disenfranchises Law Students



by Alan Kennedy-Shaffer
Features Editor

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Nineteen fourteen stands as the year in which “We the People” began electing our United States Senators. Two thousand seven will, hopefully, mark the year in which “We the Students” of the William & Mary School of Law begin electing our Student Assembly senators.

The Student Assembly Constitution guarantees all students the right to elect their own senators. The Senate, which includes sixteen undergraduate senators and six graduate senators, constitutes the legislative branch of the Student Assembly and purports to represent all William & Mary students.

Contrary to the Student Assembly Constitution, however, the Student Bar Association (SBA) appoints the law school’s senators following a brief application and interview process. Handpicked behind closed doors by SBA officers, appointees usually know little about the position for which they are selected and rarely attend the Senate’s weekly meetings.

The law school’s last senator during the 2006-2007 school year, for instance, did not attend a single meeting during the entire spring semester while new senators were

being selected by a newly elected SBA.

The SBA’s appointment of Student Assembly Senators directly violates Article I, Section 1.2 of the Student Assembly Constitution, which states, “The Senate shall be composed of members chosen in election every year by the students of the College.”

The SBA’s continued refusal to allow students at the law school to choose their own representatives to the Student Assembly also violates Section 2.1-2.1 of the Student Assembly Code, which states, “The members of the Senate shall be elected according to the guidelines created by the Elections Committee. The composition shall be in accordance with the structure indicated by Article I; Section I; Clause II of the Constitution of the Student Assembly.”

Although opponents of free elections might tenuously interpret Article V, Section 3.4, which states that “Graduate Senators shall be sent, and Graduate School Officers chosen, as the Graduate Council shall designate,” to exempt graduate senators from the election requirement, the structure and purpose of the Student Assembly Constitution clearly favor democracy over disenfranchisement.

Article I, Section 1.2, which structurally and logically precedes Article V, Section 3.4, reflects the democratic spirit of the Constitution by explicitly requiring annual elections in order to prevent the type of patronage that currently taints the appointment process.

The apportionment clause, which allows senators to be “apportioned among the Schools as the Graduate Council shall designate,” is further evidence that the Student Assembly Constitution delegates to the Graduate Council the allocation of senators while leaving intact the democratic principle that all senators must be elected. Construing the apportionment clause to mean that the Graduate Council may not only decide the number of senators elected from each graduate school but also decide whether those senators are elected would be legally unconscionable.

Even the SBA Constitution does not support the argument that the SBA may deny law students the right to elect their Student Assembly Senators. The SBA Constitution does not mention the Student Assembly, granting the president only the power to “make all necessary appointments.” The SBA Constitution instead guarantees the “full integrity of all elections” and “due process,” rights undermined by the SBA’s unwritten policy of disenfranchisement.

Reached via telephone on Sept. 1, SBA president Sarah Fulton (3L) refused to discuss with me either the SBA’s undemocratic and unconstitutional appointment policy or any other issue. Fulton, however, has agreed to speak with any other staff member of *The Advocate*.

In the past, Fulton has defended disenfranchisement on the fallacious grounds that the SBA has appointed senators as long as anyone can remember. At an Internal Affairs committee meeting on April 29, Fulton attacked Senator Will Coggin’s proposal to bind “graduate candidates for elected positions . . . by the same elections rules as undergraduates” as “a bit offensive” because she played no part in drafting the proposal.

Fulton seemed less concerned about the substantive rights at issue and more concerned that any election rules changes would make the SBA look bad: “It makes it seem we’ve been doing things wrong.”

Three days prior to the Internal Affairs Committee meeting, at which I pointed out that the SBA’s practice of appointing Student Assembly Senators violates the Student Assembly Constitution, Fulton sent an email to the law school’s Grad Council appointee in which she accused me of “wrecking havoc [sic] . . . [by] attending SA meetings and addressing the senate when our senator wasn’t there.”

In a petition recently filed with the Student Assembly Review Board, Coggin formally challenged the SBA’s appointment of Student Assembly Senators in violation of the Student Assembly Constitution. As a firm believer in the virtues of democracy, I join Coggin in

defending the right of all students, including law students, to elect their representatives to the Student Assembly.

Because the SBA receives more than \$20,000 from the Student Assembly each year, according to Secretary of Finance Andrew Blasi, Jr., all law students have a stake in the composition of the Senate. If the SBA continues to appoint senators in violation of the Student Assembly Constitution as Fulton desires, the Student Assembly may refuse to continue funding the SBA, an outcome infinitely worse than new elections. On the other hand, if all law students were to attend Student Assembly meetings and defend the law school’s interests in the absence of our unelected senators, the SBA might well receive more money and not have to charge exorbitant sums at Barrister’s Ball.

Because the letter and spirit of the Student Assembly Constitution and Code favor the interpretation that all senators must be elected, the Senate should not seat any unelected, law school senators.

The Student Bar Association should recall any appointed senators and hold elections in accordance with Article I, Section 1.2 of the Student Assembly Constitution and Section 2.1-2.1 of the Student Assembly Code.

Our basic right to choose our own representatives in free and open elections lies at the heart of this debate and warrants the vigilance of all of us who continue to believe in the Jeffersonian vision of American democracy. In some small way, our school’s legacy is on the line.

Just as Congress and the states had the good sense in 1914 to establish the direct election of U.S. Senators, let us do our part here at the College of William & Mary to defend democracy and defeat those who would disenfranchise us all.

Alan Kennedy-Shaffer is a second year law student and the Democratic Inspector of Elections for his home polling precinct in Mechanicsburg, Pennsylvania.