

On April 13, Steven Holmes sent an email to BC_Faculty about Article VII of the Constitution.

It began:

“It is disheartening that this representative body of the faculty has chosen to allow a decision to be made unilaterally by the Senate President without discussion, in either the Executive Board or Senate, regarding the interpretation of the Academic Senate of Bakersfield College Constitution Article VII - Referendum. Absence of such discussion once again illustrates a lack of respect, and a silencing of those whom you have been (sic) elected to serve.”

As everyone who attended the last 3 Senate meetings knows:

I moved to agendaize, over the objections of Holmes, the item “Processes and Procedures for Referendums.” This body passed that motion and we discussed it over 3 Senate meetings.

Holmes repeatedly objected to each part of that discussion, whispering objection after objection into the ears of Senators and even threatening legal action if this body so much as discussed referendum processes and procedures. You remember an Officer voicing her concern about being sued for participating in setting referendum processes and procedures.

You all remember the dozens of times that a voice from the back, his, interjected with “Just hold the Referendum,” or “Just run the damn election!” A dismissal of the idea that the Senate should concern itself with referendum processes and procedures.

Finally, after motions to close the discussion, I voiced my concern to this body: I was personally comfortable having our President make the calls about processes and procedures, but closing discussion meant others needed to be as well. The discussion was closed, nonetheless.

It is simply stunning that the person who led the “We don’t need no stinkin processes, just hold the election!” group is now outraged that the Senate did not discuss and specify more processes and procedures for the election.

I also wanted to make several comments with regard to the meaning of Article VII.

First, you can't change the rules after the election.

Look, this is applicable to all parts of life.

In this case, Nick Strobel announced to BC_Faculty on March 28 that they would receive a referendum ballot the following afternoon. In that email he correctly and clearly explained that the referendum would succeed only if it received enough "NO" votes, 180, to constitute a majority of the 358 members.

An unknown number of the 145 members who did not vote, didn't vote because they understood that not voting was the same as voting "YES." It had exactly the same effect as if they had voted "YES." Even if it was only a tiny percentage, that might well have swung the majority of votes to "YES."

Second, Steven Holmes's email of March 29 eviscerates the argument that Article VII means "majority of voters" or "majority of ballots" instead of "majority of members."

When the Senate Constitution means "majority of votes" it STATES "majority of votes". When it means "majority of ballots" it STATES "majority of ballots"

In that e-mail, Holmes doesn't quote Article VII-Referendum. He DOES, however, quote:

Article VIII-RECALL

"An officer shall be recalled if at least fifty percent of the Academic Senate cast a ballot and a majority of votes are in favor of recall.

Holmes also quotes:

Article IX-RATIFICATION

"Ratification of this Constitution shall require a two-thirds affirmative vote of the membership casting ballots and, additionally, shall be ratified only if at least fifty percent of the Academic Senate membership casts ballots.

Finally, Holmes quotes:

Article X-AMENDMENTS

“Ratification of a proposed Constitutional amendment shall require a two thirds affirmative vote of the membership voting and, additionally, shall be ratified only if at least fifty percent of the Academic Senate members cast ballots.”

Finally, remember that Article VII-REFERENDUM, however, is crystal clear:

“Within three weeks, excluding recesses and holidays of the suspension action, an election shall be conducted. **If a majority of Academic Senate members** vote against the Senate (body rep) action, then the Senate (body rep) action shall be null and void.”

Third, there is a great reason the Senate Constitution is the way it is.

Article VII -Referendum offers a way to undo an action of the Academic Senate (body rep). That is the only object of a referendum in the Constitution, to undo an action of the Academic Senate (body rep). One cannot, for example, run a referendum to rename a building on campus, to show faculty support for a bake sale, or to demonstrate against a war. Referenda in the Bakersfield College Academic Senate Constitution only exist as a way for the Academic Senate as a whole to undo an action of the Academic Senate (body rep.)

The Academic Senate (body rep.) is a representative body. It’s actions are the actions of the Academic Senate as a whole enacted by the Senators elected from the whole. Representative Democracy has virtues and limitations. One important virtue is that the citizenry has more important things to do than spend hour upon hour of their lives coming to understand myriad governance issues. They want to teach students, for example. So the whole elects representatives to enact their will on governance matters.

To undo an action of the Academic Senate (body rep.), Article VII of the Bakersfield College Academic Senate couldn’t be clearer: a majority of the members of the Academic Senate must vote “no.” Not a majority of those who voted, not 2/3 of those who voted, not a coin flip, but a majority of the members must vote “no.”

The Constitution presumes that the Academic Senate (body rep) enacts the majority view of the Academic Senate as a whole. To undo an action of the Academic Senate (body rep), it requires proof that the majority of members disagree with their representatives. A referendum undoes an action of the Academic Senate (body rep) only if a majority of Academic Senate members vote “no.” That did not happen in this referendum.

Finally, MOVE ON.

Our meetings go long, every meeting, but we still don't get to important Senate business. This matter has consumed the Senate and now some want it to keep going and going, in service of a misguided effort to do the wrong thing at seemingly any cost. Let it go, already. Look, if, after a year, the EODAC does the things its detractors predict, we can revisit the issue, then.