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Opinion¹: Chief Justice Qualifications

Issues/Questions:

1. What are the qualifications needed to be chief justice?

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The selection of a Chief Justice is provided for in Article 6, Section 2 of the OIL Constitution. Here is the section in its entirety:

“The Supreme Court shall consist of nine (9) justices who shall be members of the organization in good standing for the duration of one (1) conference at the time of confirmation. To preside over its deliberations, the Governor shall select one of its members to be designated as Chief Justice. The Chief Justice, upon confirmation, shall have been a member of the Court for at least the duration of one (1) entire session. The Governor shall also select one (1) of its members to serve as Vice Chief Justice who shall preside over its deliberations in the absence of the Chief Justice. The appointments of Chief Justice and Vice Chief Justice shall be confirmed by the advice and consent of the Senate. A majority shall constitute a quorum to do business. All business before the Court may be disposed of by a majority of those present.”
[emphasis added]

Per Title 3, Section 210, the Governor appoints judicial nominees, which should be interpreted as the associate and chief justices (given that Section 209 provides that the Court selects its own Bailiff and Clerk). Thus, the first requirement for a Chief Justice is that they be selected by the Governor.

The second qualification deals with the requirement of being “a member of the Court for at least the duration of one (1) entire session.” Unfortunately, the Constitution does not define “member of the Court.” Thus, for my interpretation of that requirement, I must draw on other sections of the Constitution and Statutes.

Title 5, Section 509 states that “The Secretary of State may not serve as a member of the Legislature or the court.” This section is intended to ensure the impartiality of the Secretary of State by prohibiting them from serving in either the legislative or judicial branches. Thus, Member of the Court can be interpreted to include the entirety of the judicial branch, including competitors and justices.

Title 3, Section 203 essentially provides the basis of the Moot Court competition, and it includes that “The Supreme Court may allow persons from member institutions to come and participate in the judicial process. Such persons shall be Officers of the Court and shall be considered members of the Organization.” Thus, all Moot Court competitors may be considered Officers of the Court. It would be an unusual and confusing wording for only Justices to be “Members of the Court” while competitors are “Officers of the Court,” given that officers generally hold a higher station than members. In conjunction with Title 5, Section 509 (described above), I interpret the Statutes as including both Justices and competitors as Members of the Court and Officers of the Court. (This linguistic vagary is

¹Title 5, Chapter 4, Section 400

likely the result of the the Statutes being amended over time. Legislation to clear this up, and the Constitution, could be beneficial.)

I would also note that, if the intention of the Constitution were to require the Chief Justice to have previously been an associate justice, then the Statutes could have been worded “The Chief Justice, upon confirmation, shall have been [an associate justice of the OIL Supreme Court].” I interpret the absence of this wording to support a definition of Member of the Court as including competitors and justices.

In conclusion, based on my overall interpretation of the Statutes and Constitution, the Chief Justice must: 1) have been a member of the organization for at least one (1) session (as mentioned in the passage from the Constitution); 2) have been in the judicial branch (such as being a competitor, associate justice, etc.); and 3) have been selected by the Governor.