

UNIVERSITY OF MINNESOTA

FACULTY SENATE

MINUTES

January 11, 1973

The fifth meeting of the Faculty Senate for the year 1972-73 was convened in Nicholson Auditorium on Thursday, January 11, 1973. Checking or signing the roll as present were 71 voting members of the faculty, 4 members of the Administrative Committee, and 12 nonmembers. Vice Chairman Frank J. Sorauf presided.

The following items were considered and action was taken as indicated.

I. MINUTES FOR OCTOBER 19, NOVEMBER 2, AND NOVEMBER 16, 1972

Reported for Action

Approved with the understanding that the Tenure Committee intends that the "Comments" in the proposed Tenure Code are for the guidance of the Judicial Committee.

The chairman announced that Professor Wilbert H. Ahern has been appointed to serve as abstractor for the winter quarter, 1973. The appointment was *approved*.

A motion was made to permit the senators from Duluth to vote by proxy when the Faculty Senate is meeting as a committee of the whole to consider the proposed Tenure Regulations. The motion *carried*.

The chairman then asked the chairman of the Tenure Committee to introduce section 15 of the Third Supplemental Report of the University Committee on Tenure.

A revision of section 15 was proposed as follows:

Section 15. Termination or suspension of any appointment with continuous tenure.

15.1 Academic Tenure means the right of a faculty member appointed to a tenured position to retain that position until retirement barring removal for adequate cause, as defined in section _____.

15.2 Adequate cause defined.

There is only one adequate cause for termination or suspension of an appointment with continuous tenure, namely, the appointee's repeated and demonstrated failure to perform his or her academic duties competently.

Comments:

- a. Adequate cause does not exist where failure to perform academic duties is part of a strike authorized by a collective bargaining unit, which unit is recognized by the state of Minnesota.
- b. Drastic reductions in the University budget, though not mere financial stringency, may necessitate such financial actions as across-the-board workload and pay reductions as a last resort, but shall not be grounds for termination or suspension of an appointment with continuous tenure.

Following presentation of the proposed revision and discussion, a motion was made to replace section 15 of the proposed Tenure Regulations with 15.1 and b of the revision. The motion *failed*.

A motion was then made to add after the word "exigency" on page 2 of the Third Supplemental Report (item number 2) the words "arising out of a drastic reduction in the University budget." The motion *carried*.

The following changes for page 74 of the Third Supplemental Report of the Tenure Committee were introduced with a motion for approval. The changes are in italics.

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See also the comment on section 16.21

15.23 In performing its duties, the Consultative Committee shall request the views and general assistance of the Committee on Educational Policy and the Committee on Resources and Planning. The Consultative Committee may also request the assistance of other University or Senate committees, in studying all or particular aspects of the educational policies and short and long-range priorities that should govern the retrenchment.

15.24 The Consultative Committee shall report to the President its findings and recommendations, including an assessment of the financial exigency requiring the retrenchment. Before doing so, it shall make its tentative findings and recommendations, together with those of the Senate or University Committees which assisted it, available for comment by the University community at large *and it shall obtain the concurrence of the University Senate.*

15.25 After considering the reports of the Consultative Committee and the Administrative Committee, the President shall formulate his recommendations and report them, together with those of the Consultative Committee and Administrative Committee, to the University Senate. Thereafter, the President shall formulate his final recommendations and submit them to the Board of Regents, together with the recommendations of the Administrative Committee and *of the Consultative Committee as approved by the University Senate.* Neither the President nor the Board of Regents shall take action contrary to the recommendations of the Consultative Committee regarding the educational policies and the short-range and long-range priorities that should be pursued in effecting the retrenchment, unless for compelling reasons stated in writing to the Consultative Committee *and to the University Senate.*

15.26 In determining whether it is necessary to terminate or suspend any appointment with continuous tenure, or any other appointment before the end

A substitute motion to allow the Consultative Committee to act independently was *defeated*. The original motion was then *approved*.

The Faculty Senate adjourned.

W. DONALD BEATTY
Clerk of the Faculty Senate

Appendix

ABSTRACT OF DISCUSSION

The meeting of the Faculty Senate was called to order at 3:30 p.m. Frank Sorauf, professor of political science and vice chairman of the body sitting as a committee of the whole to consider the tenure document, presided. Minutes of the October 19, November 2, and November 16 meetings were approved after being amended to indicate in the abstracts, where appropriate, that one function of the commentaries in the proposed tenure document was to assist the Judicial Committee to interpretation. Also approved was the interim appointment of Wilbert Ahern, associate professor of history, UMM, as abstractor for winter quarter. Walter Baeumler, professor of anthropology, UMD, introduced a proposal to permit UMD Senators to vote by proxy during the deliberations on the tenure document while the body was sitting as a committee of the whole. There would be substantial savings in transportation expenditures and other costs, he said. His motion was approved.

Carl Auerbach, acting dean of the Law School and chairman of the Tenure Committee, commenced the discussion on Section 15, covering termination or suspension of tenured appointments because of demonstrably *bona fide* financial exigency. He indicated that language of the section followed the preamble to the existing tenure regulations, with the added objective of assuring faculty and student participation in the making of any such decisions. He said there was nothing in the section which would prevent adoption of alternatives to releasing tenured personnel, such as across-the-board pay reductions in times of financial stress. However, the committee did not want to require such a procedure for each instance brought about by financial exigency.

Hyman Berman, professor of history, introduced a proposed revision of Sections 15 and 17 from the University's Federation of Teachers defining academic tenure as the right to retain a tenured position until retirement, barring removal for adequate cause. Such cause would be only for repeated and demonstrated failure to perform academic duties competently, excluding failure to perform during a strike authorized by a recognized collective bargaining unit. The proposal included the comment that insolvency of the University might necessitate across-the-board workload and pay reductions but would not be grounds for termination or suspension. Mr. Berman explained that the proposal was intended as a substitute for Sections 15.1 and 15.2 on financial exigency terminations and the related procedures. He said the concept of financial exigency was so vague and indefinite as to threaten the whole concept of tenure, and urged that there be only one ground for termination—failure to perform—indicating funding problems could be met in some other way.

A discussion ensued on whether tenure should be jeopardized by funding shortages. Fred Morrison, professor of law, said that the Berman proposal could force a pay cut on everyone in a time of crisis, whereas the committee's proposal would make possible alternative solutions and would provide for maximum faculty participation in decision making. In answer to an objection that the committee's proposal vested power in the Consultative Committee and not the Senate as a whole, he said that the Constitution called that committee the appropriate body to discuss educational and other policies with the President. He added that there would be the procedural problem of dealing with the full Senate during the summer months, which is when budget policies are made.

Erwin Marquit, associate professor of physics, protested the indefiniteness of the term "financial exigency." He said the Berman proposal would have the effect of avoiding drastic curtailment of budgets; the authorities would know that the cushion of tenure could not be put aside. Michael Perlman, associate professor of statistics, said that in the Federation's proposal the concept of tenured appointments was being separated from funding considerations, and the intent was that, if funds were available, tenured faculty members should have first claim and they should not be terminated for financial reasons. Samuel Krislov, professor of political science, observed that it would not be realistic to tell the Legislature to fund at a specific level, and he added that under Mr. Perlman's interpretation the situation could arise where tenured faculty members would retain their positions but would not receive any pay.

There followed a number of proposals as to the best means of amending Section 15. Mr. Hurwicz and Mr. Terrell suggested separating the Berman definition of "tenure" from that of "adequate cause" and adding the commentary on across-the-board reductions, with the procedural issues related to the latter to be taken up later. Mr. Perlman put these suggestions into motion form. Mr. Morrison said the result would be to forbid in all circumstances any decisions by the consultative processes which would result in terminations in financial exigency cases.

When Mr. Auerbach pointed out that the University could not become insolvent, which was the condition of the Berman proposal for general pay cuts, Mr. Perlman substituted the condition of a drastically reduced budget. Charles McKhann, professor of surgery, reminded the Senate that there were many positions on "soft" money, nonstate funds, and that recourse would have to be made to the Legislature in the event of curtailment of Federal funds. In support of the Perlman motion, Leonard Shapiro, assistant professor of mathematics, argued that across-the-board pay cuts would no more erode the quality of the University faculty than would weak tenure provisions, and noted that salary reductions could occur presently or under the proposed tenure regulation. Asked for the distinction between "suspension" and "termination," Mr. Auerbach replied that suspension involved a definite period at the end of which the faculty member had the right to return to his position. Sue Bobrow, assistant professor of sociology and member of the committee, asked whether the definition of "tenure" would preclude early retirement. Mr. Perlman assured her that nothing left out of his statement was meant to be precluded. John Dahler, professor of chemical engineering and materials science, asked why the committee did not take up salary considerations in Section 15. Mr. Morrison responded that it intended to provide maximum flexibility for alternative solutions.

A vote was then taken on the Perlman motion to replace Section 15 with Mr. Berman's definition on academic tenure and the commentary on circumstances under which across-the-board pay and workload reductions could take place. The motion was defeated 42 to 34.

John Webb, associate dean of CLA, expressed a preference for the "drastic reduction in the University budget" wording of the present regulations to the "demonstrably *bona fide* financial exigency" phase of the proposed Section 15. Several alternatives were suggested, but a combination of the two proposed by Mr. Terrell prevailed. It was agreed that Mr. Morrison would work with Mr. Perlman to indicate that what was meant was the operating budget of the University. Mr. Auerbach again emphasized that the important thing was that the section contained operating procedures which would serve as protection by providing faculty and student consultation.