

THE UNIVERSITY OF MICHIGAN

SENATE ASSEMBLY

Minutes of Assembly Meeting, October 19, 1970

ATTENDANCE

Present: Abrams, Asgar, Barnes, Bassett, Bertolaet, Bett, Birch, Bowman, Brown, Carter, Coon, Crawford, DeKornfeld, Eggertsen, Frye, Galler, Gilbert, Goodman, Graebel, Hauenstein, Hazlett, Hinerman, Hooper, Jensen, Kahn, Kish, Krachenberg, Lind, Lloyd, Magee, Marsden, Meyer, Michelsen, Mills, Morgan, Nelson, Norman, Overseth, Porter, Price, Richards, Rigan, Rucknagel, Ryder, Scherer, Schulze, Schuman, Sears, Sonntag, Wilkes, Yagle, Youngdahl, Weinberg, Yablonky

Absent: Alston, Bishop, Bole, Bowditch, Castor, Cooperrider, Cornish, Handler, Huntington, Iglehart, Rhodes, Sandalow, Shappirio, Votaw

CALL TO
ORDER

Chairman Weinberg called the October meeting to order at 3:20 p.m. in the Rackham Amphitheater.

ANNOUNCE-
MENTS

Chairman Weinberg announced that since the last Assembly meeting, he had been elected by SACUA to serve as chairman of the Assembly and SACUA for the balance of Professor Knauss' term. Professor Lind is the new vice-chairman. Chairman Weinberg also introduced Mrs. Janice Downs as head of SACUA office, replacing Mrs. Chi-Chi Lawson.

REPORT OF
SACUA
ACTIVITIES

Professor Porter reported that since the September Assembly meeting SACUA had met on September 28, 29 and on October 12. Another regularly scheduled monthly meeting was held with President Fleming and dealt with such matters as the Committee on Communications and agenda control regarding open meetings of Regents.

Professor Porter said SACUA has been concerned with strike policy and received a comprehensive report from Professor Lind on the progress of the ad hoc Committee on a Permanent Judiciary. SACUA also considered the possibility of a standardized procedure on executive committee elections, a matter which was referred to Academic Affairs Committee, and the problems of Periodic Health Appraisal unit and steadily rising costs. Still another matter discussed was SACUA's relationship with the new University Council in areas of crisis management, whether all of SACUA should be involved or whether only two members should be involved.

Professor Galler asked what's happening with the Committee on Communications. Professor Ryder of the Committee on Communications reported that faculty members have been selected and that three of the four administration nominees have been interviewed. He said committee selection should be concluded by this Friday.

In response to a question as to whether the meeting is being recorded, Chairman Weinberg said yes, that the Assembly had provided for open meetings, including the broadcast media. He explained that the recording was being handled by WUOM, the University radio station.

ACADEMIC
SERVICES
COMMITTEE

Chairman Weinberg said the proposal for setting up the new Academic Services Committee had been referred to SACUA by the Assembly. He called attention to the revised proposal distributed with the agenda and asked Vice President Spurr to comment.

Professor Spurr noted that one question raised was whether the committee would deal with the Flint and Dearborn campuses. The answer, he said, is no. Both campuses are in the process of selecting a chancellor who will report directly to President Fleming and the Regents. Thereafter, the role of the Vice President will phase out with respect to these campuses.

Professor Brown asked whether the new committee would go into the bylaws. Chairman Weinberg said yes--with same status as to the rules and regulations governing other advisory committees. Professor Brown suggested the Vice President's role be specified in the proposal. Vice President Spurr replied that at the present time his role is not defined specifically.

On a question as to whether the Vice President should not have the right to call a meeting of the committee, Chairman Weinberg said it was clearly the intention of the proposal that he should have, that the provision was an oversight.

Professor Galler raised the question about difference of this committee. Chairman Weinberg said the Assembly has been jealous over the years on its right to decide how committees are to be structured. He noted that another change for another committee has been proposed further down on the agenda.

Professor Rucknagel asked what the general duties of the new Vice Presidential office are. Vice President Spurr said they included admissions, registration and records, financial aids, essentially service areas. He said it would not involve the Dearborn and Flint operation except as University-wide problems come up.

Professor Eggertsen noted that committee structures are evolving. In a question to Vice President Spurr, Professor Eggertsen asked, How do you view your relationship to the new committee? Vice President Spurr said the Administration should have access to student and faculty input. He said he has been intimately involved in Graduate School which has had direct involvement with faculty. He added that over the years he had never seen a question that has not been improved by faculty input.

Professor Hinerman moved adoption of the proposal to establish the Academic Services Committee. The motion was seconded by Professor Kahn.

Professor Price moved to amend the proposal to provide for seven faculty members on the committee instead of four as provided in the proposal. Professor Schulze seconded the motion to amend.

Professor Lind, recalling the discussion on the size of the group, said there was no attempt to set up rival committees but an attempt to set up con-joint groups. Professor Price said he did not regard this as an answer and referred to other committees where no need was seen for equal numbers. If this group is to reflect faculty view, he said, a strong faculty membership is advisable.

Professor Crawford cited changes in Student Relations Committee, with student representation but with basic principle that these be faculty committees

Professor Galler noted that on other committees, none has found it advisable to have equal number of students.

In the vote on the amendment, the amendment was defeated 30-15.

Discussing the original motion, Professor Norman said in meeting with Vice President Spurr prior to drafting of the proposal for the committee, the question was raised whether there should be separate committees. He said Vice President Spurr said it would be difficult and he would rather have single meetings, but that each committee could meet separately.

In the vote on the original motion, the proposal was adopted.

PROPOSED
CHANGE IN
ACADEMIC
AFFAIRS
COMMITTEE

Chairman Weinberg said that proposals for the change in the Academic Affairs Committee were distributed with the agenda.

Professor Feuerwerker, chairman of the committee, said the decision was taken by the committee last year and was not overturned this year. At present, there are ten faculty members, including a member of SACUA and two students. The proposed change is to enlarge student membership to five with some adjustments in the mechanism for selection of the students.

Professor Brown said there are some ambiguous wordings in the proposal. Chairman Weinberg noted there are ten faculty members, including one selected by SACUA.

Professor Kahn asked whether various student organizations can be defined. Professor Feuerwerker referred to the regular representative organizations of students in schools and colleges.

Professor Kahn said student organizations must be defined.

Chairman Weinberg called on Marty Scott, SGC president, for comments.

Mr. Scott, in referring to the mention of the Graduate Assembly in the document, said that the GA's position in the University is somewhat like other student organizations in LSA. He said the proper appointment procedure would be through the SGC which is the student government for the entire University and the one to make those appointments. He said he would recommend that the Assembly remove the GA as the appointing body.

Professor Scherer asked what percentage of graduates are in SGC. Mr. Scott replied that currently two out of eleven members are graduate students. Mr. Scott asked what percentage of graduate students are represented by GA. He said the usual attendance at GA meetings is around twenty-five, but that a representative meeting should involve at least one hundred fifty.

Professor Morgan moved changes in the text. He proposed that the three additional student members provided for in the committee's proposal be selected by SGC alone and eliminating the GA as a participant in that selection. The motion was seconded. Professor Feuerwerker said the matter had been discussed at length and the proposed change would not be acceptable to the committee.

Professor Galler said historically graduate students have not had a voice in SGC and are not represented by SGC. Professor Galler, speaking as a member of the committee, said he would

support the Academic Affairs Committee proposal.

Professor Morgan said in terms of organization of student government, the umbrella organization is SGC. He said he was aware of the role of GA and has seen it in operation in the Student Relations Committee. To some extent, he said, the two organizations overlap; by no means, he said, did he intend to say the GA is not important.

Professor Scherer asked whether the amendment would mean that additional members would be approved by SGC. Professor Weinberg said if the amendment carries, GA still would have a representative, SGC would have a representative of its choice and then would put forward a panel of three chosen by other student organizations.

In the vote on Professor Morgan's amendment, the motion was defeated by a voice vote.

Professor Norman asked why the selection of individuals was left to SGC and GA. Professor Feuerwerker said the question was a mechanical one, that the committee couldn't handle it itself.

In the vote on the original motion, the motion was adopted.

PROPOSED
UNIVER-
SITY
JUDI-
CIARY

Chairman Weinberg said it has been SACUA's feeling that the Assembly members should have an opportunity to inform themselves as fully as possible before the matter of the proposed Judiciary comes to a vote. He said he expected the matter may be before the Regents at their November meeting. The matter before us at this point is not a proposal for decision. He noted that President Fleming had appointed a special committee to prepare a permanent judiciary procedure to replace the current interim rules. That committee has been working through the summer. He said faculty members, administration and student representatives of the committee were present. He said this was not an action meeting but an information gathering, that no motion will be offered and no votes will be taken. Chairman Weinberg said there will be faculty members around the University who will be interested in the subject. A number of faculties will be discussing the matter, he said, and he added he hoped the Assembly members will get these faculty meetings focusing on these issues. He said he had hoped to get a document ready but that is not the case, but he noted that the University Record of October 19, 1970 had printed a summary of the committee's work to date.

Professor Theodore St. Antoine said he was speaking in a personal capacity, not in behalf of the Committee. He said the Committee has come up with a proposal. He said he had been chosen to appear before the Assembly, perhaps because he is the faculty lawyer on the Committee. Some of the objectives we've sought on the Committee, he said, are: 1) a system that would be competent, 2) one that would be fair, 3) one that would be efficient and 4) a system that would be acceptable, one that would meet consensus of the community, an objective overriding all others. He said this judicial system will be enforcing rules promulgated by University Council for faculty members, students and administrators. The Committee has tended to focus upon what is more likely to be a typical case, one brought by a faculty member or an administrator, involving a student.

One problem we've been confronted with at the outset, he said, is the question of competency and impartiality which immediately raises the question as to the type of person to be involved. The students, he said, see only a person immersed in problems of the University community as one competent to handle problems. The Administration, on the other hand, looks to the outside for such impartiality. Here, he said, is an element of conflict. Something has to give in resolving this conflict; the problem is the element of efficiency, but it still may have enough acceptability with all groups to work and to receive the final approval of Regents.

Professor St. Antoine proceeded to outline the proposed structure of the Judiciary. He said a petition is filed with a judicial ombudsman who investigates the complaint as filed by a petitioner. The ombudsman makes a determination whether there are reasonable grounds for proceeding. The matter is then placed before the trial body if there are grounds. If he finds there are no grounds, the petitioner may go over the head of the trial body to the appeal body. At the trial level, one tentative decision of major importance is that the jury that hears the evidence determines the sanctions as well. A six-man group is chosen randomly for the particular case it hears. If the respondent is a student, the jury will consist of all students; if the respondent is a member of the faculty, the jury will consist of all faculty. The principle is of a trial by one's peers. These will not be persons who will go through a sifting process; there are mechanical problems here but we feel we can work them out. The appellate tribunal will be a permanent judiciary with equal numbers of faculty and student members, probably for one year term, probably with a total of eight or twelve members. This body would have power to set aside the trial verdict and lessen penalty. This is the end of the formal

process, he said. There may, however, be a possibility for one to receive review of the sanctions from the President or the dean.

At the stage in filing of a petition with the ombudsman, if all agree, there can be findings by the ombudsman himself with the fixing of sanctions by him, or, if all parties agree, it can go to CSJ or to the judicial system of the school or college. The matter would then proceed as if one of those bodies were exercising all the functions.

Professor St. Antoine said the major problem which remains is who shall preside over all hearings. The jury is composed of laymen. Competence argues for some expertise, a professional arbitrator with experience in handling such proceedings, or a group of laymen among faculty who would have permanent status. He said the end result is that we've gradually worked our way towards a couple of models that we're considering. He said the Committee has agreed that there should be a kind of expertise presiding over these hearings. The question arises is who should be allowed to make rulings? A suggestion has been made for a three-man tribunal with a presiding officer at the center, with the other two chosen at the appellate body, possibly by lot, either two students or two faculty at a hearing, or one of each. Another alternative proposal, he said, would be a presiding officer, flanked by three men, who would make rulings until challenged and then a vote which would exclude him. The question remains, he said, how shall we choose the three? He concluded by saying that all sorts of details are yet to be worked out.

Mr. Martin Scott, President of SGC, said a few unfortunate things are going on about this issue. He said it is inaccurate to say that there are student positions and faculty positions. Another unfortunate thing, he said, is the article in the University Record that portrays the presiding panel. He said this will hinder the Committee. He said his original position on the presiding panel is that there's really no place for an outside person. What's important, he said, is to leave faculty members on the Committee as loose as possible and try to find an agreement which everybody can accept. The final proposal is not going to be ideal to everybody, he said.

Chairman Weinberg said there is no intent to nail down anything or anybody. He emphasized that the purpose here was to give the Assembly some sense of what's going on.

Mr. Ed Kussy, a member of the Committee, mentioned the proposal of a three-man presiding panel, which would be composed of all insiders.

Professor Porter raised a question about appeals procedure. He asked: Will grounds have to be only for errors?

Professor St. Antoine said errors could include that judgment is contrary to the weight of evidence.

Professor Scherer asked whether the ombudsman would be permanent?

Professor St. Antoine said he anticipates the ombudsman would be permanent so that he could get to know the University.

Professor Scherer asked whether the selection of jury would be subject to challenges?

Professor St. Antoine replied yes, on a kind of vote by the jury. He said he thought the consensus is leading towards a unanimous verdict as in a civil jury.

Professor Mills asked what would happen if there were a hung jury?

Professor St. Antoine replied that in a civil trial, you have to have the trial all over again.

Mr. Scott noted we don't have funds.

Professor Galler raised the question about acceptability to the audience at time of the hearing. He said he can't conceive of any fair hearing which worries about the audience.

Mr. Scott said the presiding panel will have power to exclude people from the hearing. In trying to set up a judiciary procedure, he said, we're trying to set up one which will have the greatest possible amount of support.

Professor Galler said the greatest support is not synonymous with thirty to forty people sitting in the audience.

Dean Joseph Julin of the Law School and a member of the Committee said the Committee is in agreement. He said we're struggling to put together a system which is reasonably fair but one which is perceived as fair. We're succeeding to demonstrate to any individual that we have a fair system, he added.

Professor Price said one of the biggest questions that has to be clarified is what is jurisdiction of the system?

Professor St. Antoine said it will be co-extensive with the University Council, the written rules of non-academic conduct for faculty members, students and administration alike.

Chairman Weinberg noted that the University Council regulations will be coming to this body before they are put into effect.

Mr. Robert Grieg, a graduate student and member of the Committee, said he wanted to emphasize one aspect that hasn't been brought out clearly, that is the attempt to make distinction between faculty and students in some of these positions. He said the Committee hoped to build in a somewhat more elaborate system of checks and balances.

Professor St. Antoine said he seconded Mr. Scott's request that we're in negotiations and that tentative agreements only have been reached. He said we need more time and more patience.

Chairman Weinberg said he hoped that when we meet again next month that we may be able to act on a proposal that hopefully will be before us.

FACULTY
PAY
POLICY
DURING
STRIKE

Chairman Weinberg noted that a number of questions had been raised concerning the proposed faculty pay policy during a strike and that the Assembly asked the Academic Affairs Committee to take another look at the policy with some questions. He noted that the document before us has been redrafted with substantial changes.

Professor Feuerwerker, Chairman of the Committee, said the Committee was unanimously in favor of the revised text.

Chairman Weinberg said the document before the Assembly the last time is essentially an Administration policy. The Assembly, he noted, had disagreements with parts of it. There was no substantive actions which came before the Assembly last time, he said. The pending question is not a series of amendments. What is before us, he said, is the statement at the top of the page of the document dealing with the faculty pay policy. That statement reads: It is proposed that the Assembly accept this document as consistent with its prior actions on the subject and urges that the existing text be modified accordingly.

Professor Feuerwerker said the Committee felt the term "faculty" should be left as vague as possible and that all the faculty are included. He said certain wording in the statement

might be interpreted as threat, but he said he felt it was best to leave that unstated. He noted that the suggestion of disciplinary action also seemed out of place.

Professor Brown moved and Professor Galler seconded the statement. Professor Feuerwerker asked about procedure, whether the statement would be forwarded to Vice President Smith.

Chairman Weinberg replied that it would be.

In the vote on the question, the resolution was adopted.

The meeting was adjourned at 5:20 p.m.

ADJOURN-
MENT

Ben Yablonky,
Secretary