

THE UNIVERSITY OF MICHIGAN

SENATE ASSEMBLY

Minutes of Regular Meeting, October 20, 1980

ATTENDANCE

Present: Ackley, Bacon, Barnard, Barritt, Thomas, Beck, Berg, Bishop, D.B.Brown, D.R.Brown, M.Brown, Browne, Burdi, Cares, Carpenter, Cassidy, Crane, Dixon, Duderstadt, Eckert, Esteban, Flener, Friedman, Frost, Gordon, Green, Ehrlich, Hildebrandt, Hinerman, Holland, Hollinger, Hultquist, Kelsey, Kirkpatrick, Koran, Loup, Simms, Maassab, McClendon, Meyer, Millard, Mosher, O'Meara, Naylor, Parkinson, Root, Rowe, Rush, Senior, Sisman, Verhey, White, Wyers, Wynne.

Absent: K.Brown, Cohen, DeKornfeld, Rinne, Abdel-Massih, Gray, Groves, Haddock, Hilbert, Kahn, Liepman, Lynch, Nagy, Nisbett, Pollock, Powers, Romani, Tek, Vinter, Weiner.

MINUTES

The minutes of the Senate Assembly meeting of September 15, 1980 were approved as written.

ANNOUNCE-
MENTS

1. Chairman Naylor commented on SACUA's unusual step in sending a letter to all faculty members, encouraging them to contribute to a political campaign against the passage of Proposal D on November 4, 1980. He noted that SACUA carefully considered the pros and cons involved in sending the precedent-setting letter, but most members felt that the consequences for the University, if Proposal D passed, would be so devastating, that SACUA could not do otherwise.

Professor Hinerman asked if SACUA had considered the possible "boomerang effect" in response to this action? He expressed his concern that because SACUA funds (General Fund monies) were used to distribute the letter, urging the faculty to contribute to an outside group it might make SACUA and the University vulnerable to legal action by the proponents of Proposal D. He was also afraid that publicity about such a use of State funds for political purposes might be deliterious to our efforts.

Professor Naylor answered by saying that SACUA discussed these issues at great length before making the decision to draft and circulate the letter. He added that SACUA sought and received legal advice from the University counsel about the use of General Funds for this purpose. In his opinion it is permissible.

2. Chairman Naylor announced that faculty members and primary researchers would soon receive a survey from the Research Policies Committee. The survey is for the purpose of ascertaining attitudes toward research and the research organization at the University. He urged all recipients to complete the forms and return them promptly.

3. Professor Naylor notified the Assembly that a revised edition of the working paper on the redirection of the University, and copies of the Guidelines for Discontinuance of Academic Programs passed by the Board of Regents in October, 1979, were being passed out to Assembly members.

4. Chairman Naylor announced that Kenneth Mortimer, Director of the Center for the Study of Higher Education at the Pennsylvania State University, will speak on the subject, "Governance and Management Strategies for Institutional Vitality in the 1980's" at the Rackham Building on Tuesday, November 18, 1980.

PROPOSAL
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TISCH
AMEND-
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AND
HIGHER
EDUCA-
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MALCOLM
BAROWAY

Professor Naylor introduced Mr. Malcolm Baroway, U-M Director of State and Community Relations, who gave a brief prepared (color slide illustrated) presentation on the effects of Proposal D on higher education in Michigan.

The program was presented to the Assembly for two reasons:

1. To inform the Assembly members about Proposal D and how it would affect higher education.
2. To make the members aware of how the University is presenting its concerns about the affects of the proposal to people through out the state.

Mr. Baroway said that the slide presentation was prepared about two months ago. It has been duplicated and is being used by the equivalent of the U-M's office of State and Community Relations of all fifteen public colleges and universities, by a number of independent institutions and junior colleges. Arrangements have also been made to have the presentation on local cable television and its ten

markets throughout Michigan.

Following Mr. Baroway's presentation, Professor Frank Stafford, Chairman of the Department of Economics commented on a public statement made by Mr. Tisch to the effect that some economists at the U-M told him there would be no serious economic problems for the U-M if Proposal D passed. Professor Stafford knew of no economics professors who had made such a statement, and circulated a statement drafted by himself and his colleagues explaining their views about how the passage of Proposal D would effect the University.

Professor Gordon explained the mechanics of voting for or against the tax reduction proposals on the November 4 ballot.

Professor Donald Brown urged that an argument against Proposal D for persons not particularly interested in the affects of passage on higher education would be that the property tax exemption by the Federal Government would be greatly reduced for homeowners if the proposal passed.

PROGRAM
RETRENCH-
MENT:
SUBSTAN-
TIVE
AND
PROCED-
URAL
ISSUES -
MATTHEW
W. FINKIN,
VISITING
PROFESSOR
OF LAW

Chairman Naylor introduced Matthew W. Finkin, Visiting Professor of Law from Southern Methodist University, who spoke on the substantive and procedural issues of program retrenchment at universities.

Professor Finkin indicated that he had studied the Guidelines for Discontinuance of Academic Programs passed by the U-M Board of Regents in October, 1979, and that he considered it a superb document. He said that the key questions for considering programs for discontinuance are:

1. What are the criteria for making decisions to abandon schools, departments or academic programs?
2. More importantly how should such decisions be made?

He felt that the Regents' guidelines more than adequately provide criteria, but noted that the criteria do not dictate results - they require choice.

He gave two examples of programs that had been discontinued at his institution, but for different reasons. One was dropped because it was decided that the quality was not commensurate with the institution's projected mission and there was declining enrollment. The other program

(a department) was of high quality, but expensive and peripheral to the institution's basic mission. The criteria for assessment of the two programs were the same, but the weights accorded in reaching the decision to discontinue were different.

Professor Finkin felt that a very significant question is who decides what programs will be dropped? He sensed a degree of ambiguity in the U-M guidelines as to what actual procedures should be used for program discontinuance. He noted that this is a hotly contested issue everywhere and that most faculties want to have an input into judgments concerning discontinuance.

He then asked "is the faculty body that participates (at the local or central level) to be selected by the faculty?" From his experience, he feels that faculties do not consider such bodies to be legitimately representative of them unless they are selected in a democratic fashion by the faculty. He observed, however, that many administrators take a jaundiced view of the practical recommendations that come out of these groups. He added that there must be some way to reconcile these tensions between the faculty and central administration.

Professor Finkin then gave his own preference for dealing with the issue. He suggested that a device be developed where a faculty nominated a certain number of their members, of which the administration selects a certain number to serve on an institution-wide committee. He considered it important to separate the decision to retrench from the quality assessment of programs. He feels that the U-M guidelines do this.

Professor Finkin considered it desirable that schools themselves make the assessment of their programs as to whether they are weak, strong or very strong, and determine where they would cut if support funds were reduced. However, he felt that the actual decisions to apportion reductions should be made at a central level, removed from the individual schools or colleges.

He said that there are some limits to what an institution can do during retrenchment. Professor Finkin noted that although tenured faculty members may think that tenure imposes a limit upon the institution's ability to make program changes, this is true to some degree, but only to a relatively modest extent. He said that as he interpreted the Regents' Bylaws, tenure does not insulate an individual from termination due to program discontinuance or financial

markets throughout Michigan.

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He felt that the Regents' guidelines more than adequately provide criteria, but noted that the criteria do not dictate results - they require choice.

He gave two examples of programs that had been discontinued at his institution, but for different reasons. One was dropped because it was decided that the quality was not commensurate with the institution's projected mission and there was declining enrollment. The other program

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He said that there are some limits to what an institution can do during retrenchment. Professor Finkin noted that although tenured faculty members may think that tenure imposes a limit upon the institution's ability to make program changes, this is true to some degree, but only to a relatively modest extent. He said that as he interpreted the Regents' Bylaws, tenure does not insulate an individual from termination due to program discontinuance or financial

emergency so long as fair and reasonable standards have been applied. He reiterated that the U-M guidelines are exquisitely detailed in providing ample opportunity for review and due process, as well as severance pay.

Professor Finkin concluded his remarks by saying that in his opinion, the U-M guidelines do not contemplate the kind of sudden financial emergency that would result from the passage of Proposal D on the November 4 ballot. He felt that one can only speculate as to what the legal protections would be under such circumstances.

Professor Finkin then welcomed questions from the Assembly.

Professor Bruce Friedman was interested in Mr. Finkin's model of a central committee using the assessments of schools and colleges as to their strengths and weaknesses to make decisions on program reduction or discontinuance. He asked if cooperation from the schools and colleges would be likely, or in practical terms, would the committee have to make their own assessments - or should the committee be strictly reactive to what is brought before them by the Central Administration?

Professor Finkin responded by saying that there must be good will and trust involved for any system to work successfully. He doubted that a central committee could make such program assessments and would want to maximize participation by the schools.

Professor Morton Brown asked how best to apportion the budget cuts among the various colleges, and how is the decision made to discontinue entire programs or even entire schools and colleges? He noted that there doesn't seem to be a decision process available involving a large faculty input?

Mr. Finkin said that it is essential that priorities be established. He noted that at his institution, some successful programs were cut and others continued to exist while operating at a deficit. This was because no agency came to grips with the question of whether that university would ever successfully operate that particular school.

Professor David Hollinger noted that there is a difference between an academic program and an academic unit and asked Mr. Finkin to comment on this in light of the AAUP's conception of tenure. Professor Finkin said that the

AAUP's conception of tenure has been buffeted in the courts. The AAUP makes a distinction between financial exigency and program abandonment. In the case of financial exigency, "all bets are off - tenure won't protect the faculty." Mr. Finkin also explained that there is a difference between abandonment and shrinkage, a distinction that is sometimes lost in court.

As to the question of what a program is, Mr. Finkin said that it is a very difficult question. He mentioned that the AAUP has waffled on this issue, and has not attempted to write a definition. He was aware of only one instance where a court of law allowed that a sequence of offerings given by one person constituted a program.

Professor Hollinger then asked if academia is best served by continuing to waffle on these matters and allowing the courts to make the decisions? Mr. Finkin responded by saying that the problem is the indeterminacy of the standard. It is very difficult to determine if involved universities are really experiencing financial exigencies.

Professor Friedman noted an example of where a department was discontinued, but continues to function as an academic program. Mr. Finkin said that this is sometimes a matter of the school's and central administration's judgement. Mr. Friedman said that he sensed that the net effort of many program discontinuance is zero. Mr. Finkin answered by saying that in his experience, they tend to be relatively modest. With only a couple of exceptions, there have not been wholesale lay-offs of tenured faculty throughout the country.

Chairman Naylor thanked Professor Finkin for presenting his thoughts on retrenchment to the Assembly.

STUDENT
COURSE
EVALUATION

Professor Naylor called attention of the Assembly to the Resolution on Student Evaluation on Instruction (October 7, 1980) reminding the members that they had passed the three main parts of the resolution, but were to vote on the preamble, modified by an ad hoc committee consisting of Professors Morton Brown, Herbert Hildebrandt, and Loren Barritt.

Professor Morton Brown explained the new preamble, and made a motion to bring it to a vote. It was seconded. After opening the floor for discussion, Professors Deming Brown and Morton Brown asked that two minor corrections

be made. The corrections were acceptable to the other members of the ad hoc committee.

Professor Gordon expressed his concern that many of the issues in the preamble of the first draft were omitted, although he supported the committee's modification. He mentioned that the first preamble listed several items about the kinds of issues that involve the use of student evaluations about which the faculties should have some policies.

There was no further discussion. Chairman Naylor called for a vote. The resolution passed. (44 yes, 0 No, 2 abstain).

NOMINA-
TIONS
AND
APPOINT-
MENTS

After Chairman Naylor called for additional nominations from the floor and receiving none, the following Senate members were elected for membership on the following committees by a voice vote.

William V. Caldwell - three-year term to succeed himself on the Association of Michigan Collegiate Faculties.

H. Dean Millard - three-year term for Richmond Browne, term expired - Advisory Committee on Affirmative Action Programs.

Samuel H. Krimm - one-year term for Donald J. Lewis on leave from committee on Budget Priorities.

OLD
BUSINESS

Ruth Barnard inquired as to how the Resolution on Student Evaluation of Instruction was going to be implemented.

Professor Naylor said that the document will be widely publicized, but that the method for doing this has not yet been decided upon.

NEW
BUSINESS

There was no new business.

ADJOURN-
MENT

The Senate Assembly was adjourned at 4:45 p.m.

Charles C. Kelsey
Senate Secretary