

Minutes

Meeting #10, December 13, 1978

Faculty Senate

The Faculty Senate met on Wednesday, December 13, 1978 at 3:30 p.m. in the Senate Room of the University Center with Margaret Wilson, President, presiding. Senators present were: Adamcik, Alexander, Allen, Aycock, Brittin, Chamberlain, Cummins, Davis, Dixon, Eissinger, Elbow, George, Gillas, Higdon, Hunter, Jebsen, Keho, Kellogg, Lee, L. Luchsinger, V. Luchsinger, McDonald, McGlynn, McGowan, McLaughlin, McPherson, Mehaffie, Mogan, Morris, Nelson, Newcomb, Oberhelman, Owens, Pearson, Reichert, Rylander, Sanders, Sasser, Shine, Smith, Sowell, Stoune, Tereshkovich, Troub, Wagner, Walkup, Williams, and Wright. Members absent were: Christian, Dale, Mann, Michael, and Wade. Absent because of other University business: Vines.

Guests included: Charles S. Hardwick, Vice President for Academic Affairs; Richard Klocko, Director of Personnel Relations; Roland Smith, Political Science; Jeanie Field, External Vice President for Student Affairs; Mark Roger, University Daily Photographer; and Rod McClendon, University Daily Reporter.

SUMMARY OF BUSINESS TRANSACTED

The Faculty Senate:

- 1) Moved to have the Senate President draft letters to State Senator Elect E. L. Short and others regarding the appointment of new University regents.
- 2) Adopted the report of the ad hoc Committee to Study Faculty Employment Contracts.
- 3) Moved to place an amendment to the Faculty Senate Bylaws establishing a policy for dealing with temporary vacancies of Senate seats on the January agenda.
- 4) Adopted a resolution regarding the scheduling of final examinations.
- 5) Endorsed two resolutions from the Student Senate regarding: 1) the placement of students's major area of study on diplomas and 2) the terminology used to indicate graduation with honors.
- 6) Moved to have the Committee on Committees designate an appropriate group to prepare a report on the impact of an age 70 retirement policy for faculty for the February meeting of the Board of Regents.
- 7) Heard a report from the ad hoc Committee on the Academic Excellence Fund and adopted that committee's recommendation that the Fund be eliminated and a liaison established with the TTU Foundation, Ex-Students Association, and the Dads Association to elicit support for academic excellence.

Senate President Wilson called the meeting to order at 3:35 p.m. and welcomed the guests.

I. MINUTES OF THE NOVEMBER 8, 1978 MEETING:

Minutes of the November 8, 1978 meeting were approved as distributed.

II. BOARD OF REGENTS APPOINTMENTS - Dr. Elizabeth Sasser

In view of the interest and concerns expressed by many members of the faculty concerning the appointment of new members to the Board of Regents of Texas Tech University, Sasser moved that the Faculty Senate instruct its president to write a letter to Senator E. L. Short expressing the interest and concern of the University Senate regarding appointments to the Board of Regents and reminding him of the statements made during his election

campaign in which he said he would welcome input from the faculty in this matter. Letters will be sent to other interested members of the Legislature, to Governor-Elect Clements and to any others at the discretion of the Senate president. The motion carried without discussion.

III. REPORT OF THE AD HOC COMMITTEE TO STUDY FACULTY EMPLOYMENT CONTRACTS - Dr. Ruth Wright

Wright moved to adopt the committee's report as written and to forward it to President Mackey. The motion carried unanimously without discussion. Newcomb commended the committee on their work and praised the report. (See attachment #1, report of the ad hoc Committee to Study Faculty Employment Contracts)

Hardwick informed the Senate of a pre-filed bill in the Texas Legislature similar to the two "Clayton Bills" which provides for variable term contracts in place of tenure for State college and university faculty.

IV. REPORT OF THE AD HOC COMMITTEE TO RECOMMEND PROCEDURES TO REPLACE SENATORS TEMPORARILY ABSENT FROM CAMPUS - Dr. Elizabeth Sasser

Sasser moved to place on the January agenda an amendment to the Bylaws of the Constitution of the Faculty Senate which would define procedures to replace senators who are temporarily absent from campus. After discussion, the motion carried with one vote against and one abstention. (See attachment #2, Amendment to Bylaws)

V. RESOLUTION ON UNIVERSITY CALENDAR - Dr. Gary Elbow

Elbow moved that the Faculty Senate adopt and forward to the appropriate administrative officer the following resolution:

Whereas great inconvenience is caused to students, faculty and classified employees of the University as well as to parents and other relatives of students by scheduling the fall semester to end on the Friday before Christmas, December 22, 1978, and

Whereas certain final examinations scheduled for Friday, December 22, 1978 will not be concluded until after the 5 p.m. closing time of the Office of the Registrar, and

Whereas the final date for grades to be reported to the Office of the Registrar is Wednesday, December 27, 1978, and

Whereas the University has official vacation scheduled for the period from December 23, 1978 through January 1, 1979, and

Whereas the above schedule will make it difficult for faculty with late examinations to turn in grades by the deadline date without the necessity for altering their travel plans,

Be it resolved that the Faculty Senate of Texas Tech University inform the proper administrative officers of the University of the great inconvenience created by this year's schedule, and

Be it further resolved that the Faculty Senate of the Texas Tech University request that special care be taken by these administrative officers to avoid the scheduling of final examinations so close to the Christmas holidays in the future.

Hardwick explained that in 1973 the Coordinating Board adopted general provisions for a common calendar for all public universities in the state of Texas. These guidelines specify a first class day "no later than the week of" for the fall, spring, and summer semesters. After discussion concerning the University's flexibility in following the Coordinating Board's calendar and guidelines the motion carried unanimously.

VI. STUDENT SENATE RESOLUTIONS

Alexander moved Faculty Senate endorsement of the two resolutions submitted by the Student Senate. The motion passed without opposition and the resolutions (See attachment #3, Student Senate Resolutions) will be forwarded to the President of the University.

VII. RESOLUTION ON RETIREMENT STATUS REPORT - Dr. Margaret Wilson

The Board of Regents have agreed to consider the retirement resolution endorsed by the Faculty Senate at their February meeting. This resolution urges a change in the age limit on mandatory retirement for faculty to age 70. It was suggested that the Faculty Senate might want to prepare supporting documents in writing for the Regents.

Jebsen moved that the Committee on Committees appoint a sub-committee of 3 or 4 persons to compile a report supporting this resolution on the retirement policy. The motion carried without discussion or opposition

VIII. REPORT OF THE AD HOC COMMITTEE ON ACADEMIC EXCELLENCE FUND - Dr. David Cummins

The ad hoc committee appointed to look into the activities of the Academic Excellence Fund found that the balance in the fund had been at zero for the past 18 months. The committee found that no solicitation or other communication to potential contributors mentioning the fund was ever made by the Office of Development or by the Texas Tech University Foundation. The only solicitation of contributions ever made by anyone was in 1975, by letter from the Board of Trustees of the Academic Excellence Fund, addressed to the faculty advising them of the creation of the fund and soliciting their support. The only contributions to the fund have been made by faculty members of this University. It is the feeling of the Committee that the fund as presently constituted is not a functional enterprise. No fund raising activity was ever conducted by the University administrative officers who have the responsibility to do so, nor is any planned.

Cummins moved that the Academic Excellence Fund be disestablished but that the Faculty Senate endorse the purposes for which the fund was originally intended and that the Faculty Senate dispatch emissaries to the Texas Tech University Foundation, the Ex-Students Association, the Dads Association, and any other fund raising bodies enlisting support for the stated purposes of the Academic Excellence Fund. The motion passed.

IX. ANNOUNCEMENTS

Several items from the announcements were discussed briefly. It was noted that Dr. Mackey has indicated his intent not to act on the Faculty Senate's request for an opinion on the constitutionality of the football game invocations policy from the Attorney General. No further action was taken on this matter.

X. OTHER BUSINESS

Newcomb commented on the proposed Grievance Procedures and stated his opinion was that parts of the outlined procedures are absolutely unacceptable. This item

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will be placed on the Faculty Senate agenda for January when President Mackey and/or Marilyn Phelan can be present to discuss it.

Wilson has been informed that the Registrar's Office will be open 8 to 5 on December 23rd, and again on December 27th. The post office will be closed, and there is no way the Registrar's Office can get into West Hall to get their mail. DO NO USE CAMPUS or U. S. MAIL. The Computer Center will accept tests for grading up until 5:30 p.m. on Friday, December 22nd, and will return them on Saturday the 23rd.

There being no further business the meeting adjourned at 4:35 p.m.

Respectfully Submitted,



Gary S. Elbow, Secretary
Faculty Senate

REPORT OF THE AD HOC COMMITTEE TO STUDY FACULTY CONTRACTS

The effect of the two bills "relating to employment contracts for faculty members at institutions of higher education; adding Subchapter I to Chapter 51, Texas Education Code, as amended," is to abolish tenure. Although there is no existing law that provides for tenure in Texas public colleges and universities, a system of tenure has been established by many governing boards and is in keeping with the tradition and practice of the best public and private colleges and universities across the country.

Under the terms of these bills faculty members at Texas institutions of higher education will be placed under a contract of limited duration. While under contract any faculty member may be removed by the governing board of his or her institution, after notification and hearing, for failure to develop professionally, incompetent performance, neglect of duties, physical or mental incapacity, excessive use of drugs or alcohol, felony conviction, or necessary reduction in personnel. Upon expiration of his or her contract any faculty member may be denied reappointment by the governing board without hearing and for any reason or no reason at all.

One of the proposed bills would abrogate tenure retroactively. Retroactive abrogation of tenure already acquired by contract probably violates the United States Constitution. In Indiana ex rel. Anderson v. Brand, 303 U. S. 95 (1938), the Supreme Court held that a legislative abrogation of contractual tenure already acquired by the employee violated the constitutional prohibition that no state shall impair the obligation of a preexisting contract, U. S. Constitution, Article I, Section 10. For those employees now holding tenure, exchanging tenure for a "renewable contract" is plainly not an equivalent exchange.

Historically, a crucial difference between probationary and tenure status is that the university must initiate proceedings to dismiss a tenured employee and must additionally bear the burden of proof in such proceedings that the tenured employee is not fit to be continued in employment. The proposed bills destroy this traditional safeguard for academic freedom, for there is no difference of substance between "probationary" and "renewed" employees. Although the bills provide a maximum term of years for renewable contracts, no minimum term of years is provided. Therefore, all employees, whether probationary or "renewed," could be employed on a one-year contract, year after year which would then subject the "renewed" employee to annual review, and more important, subject the "renewed" employee to termination at the end of each yearly contract.

The "peer review" provided in the bills is wholly advisory; it is not binding on the governing board. The decision to terminate or continue employment at the end of each contract period is in the sole and unreviewable discretion of the governing board. Hence abrogation of tenure by these bills effectively relieves the employing institution of any burden to establish a legitimate reason for terminating either a probationary or "renewed" employee upon expiration of the contract.

Academic freedom will cease to exist, for no employee can be expected to confront or assert controversial or unorthodox positions when employment may be terminated in the unreviewable and unexplained judgment of the governing board upon expiration of the employee's yearly contract. Conversely, those employees whose performance is safe and orthodox will, in practice, enjoy what amounts to tenure -- at least as long as their views do not offend the governing board or "bother" the board, administrators, alumni, citizens, or legislators.

Tenure is not a guarantee of lifetime employment. Tenured employees may -- and should -- be dismissed when their professional performance is deficient. If the reason for these bills is the belief that many tenured employees throughout the state are "dead wood" or not otherwise deserving of continued employment, tenure itself is not to blame. If there is an accumulation of tenured "deadwood," the fault for such a situation must be placed where it belongs -- upon the governing boards and administrators who fail or refuse to exercise their responsibilities to remove unfit tenured employees through established

procedures. Abrogation of tenure seems a drastic remedy for a situation caused by the default of governing boards and administrators.

One of the particular merits of the tenure system is that it requires a formal and very searching evaluation of a faculty member at the time when he or she does acquire tenure. It is a characteristic of systems without tenure that marginal faculty members are continued from year to year. A tenure system is the guarantee that weak and marginal faculty will be weeded out early in their employment rather than being continued indefinitely.

Abrogation of tenure throughout the state will, of course, place Texas public institutions of higher education at a serious competitive disadvantage in attracting and retaining highly qualified employees. Even assuming that salaries are comparable, why would a person accept a no-tenure scheme, with its manifest opportunities for abuse, when a sister institution offers comparable compensation with tenure?

Employees in certain disciplines often forsake the more lucrative rewards of non-academic employment. It seems unlikely that highly qualified persons will forsake private employment for the lesser economic rewards of academic employment without tenure.

Finally, statewide abrogation of tenure will surely precipitate extensive self-protective efforts by present employees to organize themselves into a unitary bargaining position. The unique relationship presently existing between faculty, administrators, and governing boards will vanish, to be replaced by a formalized "labor-management" relationship like that already existing in the private sector.

The foregoing comments on the bills are wholly negative. Without some explanation of the reason(s) for proposing these bills, nothing positive can be said in their defense. Because the bills totally abrogate tenure and offer no equivalent protection for academic freedom, nor equivalent incentive for highly qualified persons to choose academic employment over non-academic employment, the only apparent purpose of the bills is to do exactly what they do -- totally abrogate tenure. Why tenure should be totally abrogated is not explained in the bills and is thus a matter of speculation.

If removal of "tenured deadwood" is the object of the bills, procedures already exist for removing tenured employees whose performance is deficient. The bills are unnecessary and impose disproportionate harm upon higher education to achieve a less important objective that can be achieved readily through present procedures.

If the bills reflect concern that there are, or will be, "too many" tenured employees, certainly total abrogation of tenure is not required to achieve an appropriate balance between tenured and non-tenured employees. Similarly, if the bills reflect concern that tenure forecloses opportunities for younger employees and thus inhibits the infusion of "new blood and ideas," again total abrogation of tenure is not required to achieve an appropriate academic balance between "new ideas" and "mature experience."

If the bills are proposed merely to simplify the procedure for dismissing any employee by relieving the employing institution of any "unpleasant" burden to justify the dismissal, the obvious dangers to academic freedom must surely outweigh the "benefits" of summary dismissals. If the bills are proposed merely to simplify the dismissal of "academic troublemakers" by concealing vindictive or retaliatory dismissals, or are designed to force all employees into a safe and orthodox pattern of behavior and scholarship, then such reasons are palpably indefensible.

If the reason for the bills is to destroy the atmosphere of free inquiry prevailing in state institutions of higher education, passage of these bills will surely do that.

In accordance with the Bylaws of the Faculty Senate, having been introduced by filing with the President of the Faculty Senate in time to be attached to the agenda for the next meeting, the Faculty Senate adopted the following amendment to the Bylaws by a two-thirds affirmative vote at the 13 December 1978 meeting. The amendment will become effective 1 January 1979.

SECTION 8. VACANCY OF SENATORIAL POSITION

The Senate shall declare three absences during a Senator's term of office, without reasonable cause, constitutes a vacancy. The responsibility of reporting cause lies with the Senator.

Reasonable cause may be defined as absence due to other University duties or business, illness, absence from the campus during the summer, pressing personal matters.

The President of the Senate shall have the authority to rule on the validity of the cause of absence. The Senator affected may appeal the ruling to the Senate, which may overrule the President by a simple majority.

If a Senator is absent for more than five consecutive months with reasonable cause, the seat shall nevertheless be declared vacant.

Present Section 8 will become Section 9; Section 9 will become Section 10.

Attachment #3 STUDENT SENATE RESOLUTIONS

Senate Resolution 14:3 By: Eli, Lassetter

(Stating the sentiment of the Senate concerning scholastic graduation honors which are placed on certain diplomas)

Whereas, Texas Tech is presently designating those graduates with high grade point averages by placing "With Honors" or "With High Honors" on their diplomas, and

Whereas, According to the present Texas Tech catalog any student who completes 30 hours of honors courses and graduates with a 3.0 grade-point average will have "In Honors Studies" placed upon his/her diplomas, thereby creating some confusion as to the scholastic level of the graduate, and

Whereas, Texas Tech University and the Student Senate are seeking to improve the academic standing of this University and

Whereas, Most major academic universities use a system of designating those graduates with high grade-point averages by the use of "summa cum laude", "magna cum laude", or "cum laude", now, therefore, be it

Resolved, By the Student Senate of Texas Tech University that the Vice President for Academic Affairs should initiate a system of honors designating a system as follows:

"Summa Cum Laude" to signify graduation with high honors, the overall grade-point average being 3.9-4.0.

"Magna Cum Laude" to signify graduation with high honors, the overall grade-point average being 3.7-3.89.

"Cum Laude" to signify graduation with honors, the overall grade-point average being 3.5-3.69, and be it also,

Resolved, That a copy of this resolution be forwarded to Dr. Cecil Mackey, President of Texas Tech University; Dr. Charles Hardwick, Vice President for Academic Affairs; Mr. Robert Pfluger, Chairman of the Texas Texas Board of Regents; Deans of the Various Colleges within the University; and Margaret Wilson, President of the Texas Tech Faculty Senate.

Senate Resolution 14:5 By: Eli, Lassetter

(Stating the sentiment of the Senate concerning departmental graduation distinction).

Whereas, The type of diploma that is currently being presented at Texas Tech University carries only the name of the College within the University from which the student is graduating, and

Whereas, there is no distinction as to the department in which the graduate has earned his degree, and

Whereas, this lack of distinction in no way designates the graduate's particular interest or area of expertise, now, therefore, be it

Resolved, By the Student Senate of Texas Tech University that the Registrar of Texas Tech University be instructed to take the necessary actions to include the specific area of study of the graduate on all diplomas, and, be it further

Resolved, That a copy of this resolution be forwarded to Dr. Cecil Mackey, President of Texas Tech University; Dr. Charles Hardwick, Vice President for Academic Affairs; Mr. Robert Pfluger, Chairman of the Texas Tech Board of Regents; Mr. Don Wickard, Registrar; Dr. Margaret Wilson, President of the Faculty Senate; and the Deans of the Colleges within the University.