

SPECIAL MEETING OF THE UNIVERSITY FACULTY SENATE

March 15 and March 22, 1976

MINUTES

First Session

In response to a petition from over 20% of the membership, a special meeting of the University Faculty Senate was called to order at 4:00 p.m. Senators not in attendance were:

J. Douglas Campbell	Kenneth Lewis
L. Leon Campbell	Sheila A. McMahon
Robert Dalrymple	Stanley I. Sandler
Jack D. Ellis	Robert M. Stark
Billy P. Glass	Richard W. Tarpley
George F. W. Haenlein	Edward A. Trabant
Larry W. Holmes	John E. Worthen
Vytautas Klemas	Mabel A. Wandelt

President Braun opened the meeting by reminding the Senators that, because of the nature of a special meeting, only the Agenda topic could be discussed. Pres. Braun also suggested that, since the discussion was apt to be lengthy, the Senate plan to suspend the meeting at 5:30 and continue it on March 22 at 4:00; it was so moved and seconded. There was no discussion and the motion carried. Pres. Braun proposed that he continue to recognize, as he has in the past, non-senators who wished to speak to issues before the Senate; there was no objection to this.

At the request of Prof. Geiger, chairperson of the Committee on Faculty Welfare and Privileges, Vice President Catts asked that items 2 and 3 on the Agenda be reversed; the request was made because the report of the Welfare and Privileges Committee had just been completed and Prof. Geiger preferred to discuss the report after the Senators had had a chance to read it. There were no objections.

Pres. Braun recognized Prof. Haskell who, as a representative of the AAUP, addressed himself to the first item on the Agenda. Prof. Haskell read a statement from the Executive Committee of the AAUP commending the Senate for its examination of the issues raised by the non-renewal of Richard Aumiller's contract. He also announced that the Arts and Science Academic Freedom and Responsibility committee had found three contract violations in its review of Prof. Aumiller's case, including a violation of academic freedom as it is stated in the Faculty Handbook, and had recommended the reinstatement of Prof. Aumiller. Prof. Haskell emphasized the fact that Prof. Aumiller had acted consistently with his role as advisor to the Gay Community, an organization which is recognized and sanctioned by the University and which has among its goals the education of the community about homosexuality.

Pres. Braun then called on Prof. F.L. Smith, chairperson of the

Senate Committee on Academic Freedom, to introduce the report and recommendations from that Committee. Prof. Smith discussed the Committee's deliberations and added the Committee's conclusion that their report did not subvert Prof. Aumiller's case. Prof. Goldstein, a member of the Committee, added that the Committee had not dealt with Prof. Aumiller's role as adviser to the Gay Community because that function was not included in the sections of the Handbook, dealing with academic freedom, with which the Committee had concerned itself.

Dean Lippert expressed his concern that the available evidence was limited to material from the press. Prof. Geiger, chairperson of the Senate Committee on Faculty Welfare and Privileges, said that President Trabant and Mr. Aumiller had met with his Committee and had discussed their statements with them, and they had not found this testimony to be in contradiction to the available evidence; information from these discussions had been available to the Academic Freedom Committee. It was also noted that the President had not attempted to correct the press reports, and that a videotape of the President making the reported statements was available.

Dean McDaniel expressed his concern that the Senate procedures might jeopardize the court case, and Prof. Smith and others noted that both Prof. Aumiller and his attorneys had said that they had no objection to the Senate activity, and that the Senate, in expressing its opinion, could not influence any court decision.

Dean Neal suggested that the Senate would be in a better position to act after the legal and grievance procedures had been completed, because the evidence from those procedures would then be available. Senator Mosberg responded that the Senate, as an independent body representing the faculty, had an obligation to make its views known on the academic freedom issues in the case; he added that if the Senate did not feel that it had sufficient information it could vote not to accept the report.

Dean Lippert expressed his concern that administration members might be under restraint on advice of the University's attorney. Prof. Smith responded that the legal opinion he had consulted had told him that the Senate action could not influence the court decision.

Senator Catts introduced a motion that the Academic Freedom Committee's recommendations be separated from the rest of the report and that the Senate deal with the recommended resolutions separately; the motion was seconded and defeated by a voice vote.

Senator Catts introduced the following amendments as additions to the recommendations in the Academic Freedom Committee's report:

Resolve 1. - that the following statement be included following the AAUP 1973 statement on Academic Freedom in Section III-B-1 of the Faculty Handbook:

Advocacy of ideas, positions, or solutions to human problems is an academic freedom that is the right and privilege of any member of the faculty.

Resolve 2. - that the following statement be included following paragraph 1 of the Faculty Handbook Section III-N-1 dealing with Termination and Non-renewals:

Advocacy of an unpopular idea, or position, or solution to human problems does not of itself constitute adequate grounds for termination of a faculty appointment.

The motion to amend was seconded. After discussion Senator Mosberg moved that Senator Catts' first amendment be referred to the Committee on Academic Freedom and the second amendment be referred to the Committee on Faculty Welfare and Privileges. The motion was seconded, and carried on a voice vote.

Senator Hepburn moved that the second resolution of the report be amended to read as follows:

RESOLVED: That Mr. Richard Aumiller, having been wrongfully dismissed from his position as Lecturer in the Department of Theater for the year 1976-77, and having been wrongfully dismissed from his position as Managing Director of the Summer Festival of the Arts for 1976, should and must be awarded contracts for those positions, unless the usual and established process of peer evaluation and recommendation, and of chairperson, college dean, and University Provost concurrence would have resulted in his non-renewal for reasons independent of and other than Mr. Aumiller's expression of his informed and honest opinions regarding an issue of general social concern.

The motion to amend was seconded, and passed by a voice vote.

Dean Lippert asked how this action by the Senate would affect the court case; Dean McDaniel asked whether the University's counsel had been consulted; when it was replied that they had not, Associate Provost Halio suggested that the report should be tabled until they had. Senator Mosberg noted that the report had been distributed a week earlier and that if the University counsel had so advised, the administration could have requested that the Senate not act on the report.

Pres. Braun called for the vote on the first resolution of the report; Senator Schweizer moved that the vote be by roll call. The motion was seconded and approved by voice vote. The following resolution was then approved, 36 yes, 6 no, and 1 abstention:

RESOLVED: That the University Faculty Senate finds the decision not to renew the contract of Mr. Richard Aumiller as Lecturer in the Department of Theater for his alleged advocacy of homosexuality to be contrary to University policy as set forth at III-B-1 of the 1975 Faculty Handbook.

The vote was as follows:

YES

Val E. Arnsdorf
D.A. Barlow
Joseph T. Bockrath
E. Paul Catts
George A. Cicala
Ivo Dominguez
David Ermann
Raymond F. Goodrich
Ross K. Hall
Andrew Hepburn
Robert N. Hill
Robert C. Hodson
Robert C. Hogenson
Svend Holsoe
Harry D. Hutchinson
James W. Kent
Deborah S. Kliman
Dene G. Klinzing
Robert N. McDonough
Donald H. Meyer
Ludwig Mosberg
Roger K. Murray
Daniel C. Neale
Franklin B. Newman
Lucia Palmer
Asa B. Pieratt
Marjorie Recke
Judith A. Runkle
Paul Schweizer
Richard Sharf
Mark Sharnoff
James R. Soles
Barbara Stafford
Ulrich Toensmeyer
Roger S. Ulrich
Carol J. Vukelich

NO

Catherine Bieber
Eric Brucker
William S. Gaither
Irwin G. Greenfield
Arnold L. Lippert
William E. McDaniel

ABSTAIN

Helen Gouldner

Second Session

The meeting was continued at 4:00 on March 22, 1976. Senators not in attendance were:

Joseph T. Bockrath
Eric Brucker
J. Douglas Campbell
L. Leon Campbell
George A. Cicala
Jack D. Ellis
William S. Gaither

Irwin G. Greenfield
Ross K. Hall
Robert C. Hogenson
Vytautas Klemas
Deborah S. Kliman
Kenneth Lewis
William E. McDaniel

Daniel C. Neale
Richard Sharf
Robert M. Stark
Richard W. Tarpley
Edward A. Trabant
John E. Worthen

Pres. Braun opened the session by calling for discussion of the second resolution, as amended in the first session, in the report of the Senate Committee on Academic Freedom. Senator Mosberg requested a roll call vote on the resolution and this was approved by voice vote. There was no further discussion, and the amended resolution (p. 3 above) was then approved, 33 yes, 3 no, and 2 abstentions. The vote was as follows:

<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
Val E. Arnsdorf	Catherine Bieber	Billy P. Glass
D. A. Barlow	Arnold L. Lippert	Helen Gouldner
E. Paul Catts	Mabel A. Wandelt	
Robert Dalrymple		
Ivo Dominguez		
David Ermann		
Raymond F. Goodrich		
George F.W. Haenlein		
Andrew Hepburn		
Robert N. Hill		
Robert C. Hodson		
Larry W. Holmes		
Svend Holsoe		
Harry D. Hutchinson		
James W. Kent		
Dene G. Klinzing		
Robert N. McDonough		
Sheila A. McMahon		
Donald H. Meyer		
Ludwig Mosberg		
Roger K. Murray		
Franklin B. Newman		
Marian Palley		
Lucia Palmer		
Asa B. Pieratt		
Marjorie Recke		
Judith A. Runkle		
Stanley I. Sandler		
Mark Sharnoff		
James R. Soles		
Ulrich Toensmeyer		
Carl J. Vukelich		

Dean Gouldner expressed her concern about the impact of litigation on the issues under discussion in the Senate and on universities in general. She suggested that the Senate study the long-range impact of litigation on universities and university procedures.

Prof. Smith opened the discussion of the third resolution in the report by explaining how his Committee had incorporated the recommendations from Prof. Catts, which had been referred to the Committee at the first session, into the third resolution. The discussion of the rewritten resolution which

followed centered around the definitions of advocacy in the classroom as an exercise of free speech and advocacy as a misuse of class time. Prof. Goldstein noted that the University had rules regarding use of class time which could be invoked, and that the U.S. Supreme Court had distinguished between "advocacy" and "incitement." Prof. Smith suggested that the material on page 6 of the report, lines 12, 13 and 14, be added to the resolution as an introductory phrase in order to clarify the resolution. It was moved and seconded that the lines be amended to read as follows:

The teacher should be careful not to devote large amounts of class time to matter which has no relation to his subject.

This amendment was defeated by voice vote.

Pres. Braun called the question and the Senate voted by voice to retain the introductory phrase, as suggested by Prof. Smith. Pres. Braun then called for the vote on the third resolution in the report from the Committee on Academic Freedom, as amended by the Senate, and the resolution, as follows, was approved by voice vote:

RESOLVED: That the following paragraph be adopted by the President's Cabinet and published as an addition to the present statement on Academic Freedom in the Faculty Handbook, as an apparently needed re-affirmation of this University's understanding of and continued dedication to the highest principles of academic freedom:

While the teacher should be careful not to introduce into his teaching ~~controversial~~ matter which has no relation to his subject, the advocacy of ideas, opinions, or solutions to human problems is an inalienable academic freedom, even when the ideas advocated are unconventional or held only by a minority. The right to take or defend even unpopular positions is essential to a community of scholars. No exercise of that right, or of any other form of freedom of speech, publication, religion or assembly which is protected by the Constitution of the United States or the laws of the State of Delaware shall be the basis for any action by any officer or administrator of the University against any member of the University of Delaware community; nor shall the exercise of those rights, actual or alleged, enter into any decision concerning contract renewal, promotion, or tenure for members of the faculty of the University.

Pres. Braun called on Prof. Geiger, chairperson of the Senate Committee on Faculty Welfare and Privileges, to open the discussion on his Committee's report. Prof. Geiger stated that his Committee has requested but had not received comments on the report from the administration. He described the major difference between the Committee's proposal and the present procedures as being the addition of the mandatory involvement of the faculty body in varying ways in all decisions regarding termination and non-renewal of faculty contracts. After a discussion which included the roles of the Senate Committee on Retrenchment and of COPE in defining financial exigencies and the termination of programs, Senator Hill moved that the report be returned to the Committee on Welfare and Privileges, so that the Committee could obtain input from the Administration and from the Senate

Retrenchment Committee, with instructions for the report to be returned to the Senate at the Committee's discretion. The motion was seconded, and approved by voice vote.

A motion was made and seconded for adjournment; the meeting adjourned at 5:20 p.m.



Marjorie R. Recke, Secretary
University Faculty Senate

MRR/b