

Item: Senate Minutes, December 1983
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DALHOUSIE UNIVERSITY
MINUTES
OF
SENATE MEETING

Senate met in regular session in the Board and Senate Room on Monday, 12 December 1983 at 3:00 P.M.

Present with Mr. W. E. Jones in the chair were the following:

Anderson, Andrews, Angelopoulos, Axworthy, Barkow, Belzer, Betts, Bissett-Johnson, Blecher, Boyle, Bradfield, Braybrooke, Brett, Brookbank, Burt, Cameron D.M., Cameron T.S., Caty, Charles, Chaytor, Christie, Cohen A.D., Cromwell, Duff, Easterbrook, Farley, Flemming, Friedenberg, George, Gesner, Graham, Haley, Hall B.K., Hennen, Hill T., Horrocks, Huber, Irwin, James, Josenhans, Laidlaw, Lewis, Maloney, Milne, Manning, McInnes, McNulty, Misick, Monk, Nestman, Ozier, Parks, Pooley, Renner, Rodger, Shaw L.R., Sinclair, Stewart, Stern, Stovel, Stuttard, Thiessen, Tindall, Tingley, Tonks, Van Feggelen, Varma, Waterson, Wien, Wood, Yogis, Yung.

Regrets: Fulton, Gold, Pronych, Scheibelhut, Warner.

The Chairman extended, on behalf of Senate, a vote of appreciation to Mr. S. Cameron for his contributions as Acting Secretary of Senate.

83:111. Minutes of Previous Meetings

The minutes of the meeting of 7 November 1983 were approved upon motion (Klassen/Chaytor) with one amendment to minute 83:102, page 2, last line - delete "unanimously" and add "Nem Con".

It was moved and seconded (Horrocks/Sinclair) that the minutes of the 14 November 1983 meeting be amended with two corrections noted minute 83:109, page 7, paragraph 4, line 1 - delete "speaking for the motion", and line 4, 5 - delete "in order to gain time for the APC to produce an academic plan to guide future financial decisions." "Mr. Stuttard expressed concern that criteria for decisions on what appointments would be frozen were not given and therefore would not support acceptance of the report" should be added to

this section.

Mr. S. Cameron noted that the word "lamented" on page 6, paragraph 2, line 4 should be interpreted as a "profound expression of fury and grief" and that on page 8, second last paragraph, the following sentence should be added - "Mr. D. Cameron assured the meeting that before implementation was developed, consultative advice would be sought from the APC, FPC and from Senate."

The Chairman called on Tim Hill with respect to 83:108 (page 5),

nominations to the Advisory Committee on Public Relations, who reported that David Milne would serve as the student representative.

83:112. Question Period

Vice-President Shaw rose to reply to two questions raised by Mr. Axworthy in the 14 November 1983 meeting (Minute No. 83:107). He noted that the Board of Governors had undertaken seven strategies to discharge the obligation under the collective agreement that they indicate the efforts they are making to raise money for the university; Dalplex had increased revenue by 150% over a two-year period; the net profit from ancillaries (e.g. -book store) had increased; increased tuition by 25%; improved contributions of alumni by approximately 60% in a one-year period; investigation of government sources of revenue such as MPHEC, and by doubling the cost of the sale of steam; installation of parking meters, etc.

In response to the second query regarding assurance of future improvement, Vice-President Shaw indicated that there was some hope of achieving a balanced budget if the chronic operating deficit is eliminated. He explained that there is budget flexibility in future years due to the sheer diversity of the university. In addition, some faculties have attained some flexibility in meeting their budget obligations through contributions from alumni. A successful campaign is in an advanced stage of planning and **would also provide** greater budget flexibility.

Mr. Bradfield questioned whether the university sought clarification of the MPHEC definition of operating budgets to determine if the servicing of the capital debt is considered part of operating budgets. Mr. Shaw reported that clarification had not been sought.

Mr. Bradfield request clarification on the MPHEC regulation regarding operating deficits. Mr. Shaw explained that the MPHEC has a regulation which requires a university to not permit its accumulated operating deficit (since 1974-75) to exceed 2% of the total annual MPHEC operating grant. Vice-President Shaw reminded Senate that Dalhousie had exceeded this limitation one year ago and MPHEC filed notice with Dalhousie that the

1984-85 operating grant would be decreased by \$1,300,000. Mr. Shaw reported that the university had reacted immediately, indicating that the application of this rule was inappropriate at Dalhousie in view of the action taken in 1983-84 to establish a sinking fund to pay off the debt and to balance the 1984-85 budget. No formal response from MPHEC has been received.

Vice-President Klassen responded to the question raised by Ms. Burt and Mr. Braybrooke of the advertised commitment of the university to the government of Indonesia (University News) in a time of restraint, by indicating that the university would not be engaged in new costs but rather would be contributing in kind through funds already allocated to a programme.

Messrs. Axworthy and Andrews made inquiries regarding whether Senate would be informed of the names of the applicants and a short list of the candidates for Vice-President Academic and Research.

Mr. Horrocks noted that there was no short list at the moment and Ms. Ozier elaborated by indicating that to date senior members of the university who had been nominated had discussions with the President and the committee regarding characteristics of a suitable vice-president and have been contacted to determine their willingness to be considered as candidates. The external candidates have been "short listed" and their external referees have been written to. It was anticipated, therefore, that all candidates will have been identified by mid-January, however, the issue of whether or not the names will be made public has not yet been determined.

83:113. Notice of Motion

It was moved and seconded (Ozier/Friedenberg)

Until such time as the procedures for conduct of academic appeals are approved by Senate, Senate confirms that those hearing an appeal shall be only those three members of the committee selected on a rotating basis, and that it is the ultimate responsibility of those three members to ensure that the terms of reference of the AAC adopted by Senate on 21 March and 6 May 1983 are being followed.

Ms. Ozier outlined the rationale for this motion, namely, that there was a possibility of conflict of interest if the Legal Advisor to the President also served on the hearing panels of the AAC. Mr. Crocker then acknowledged the legitimacy of the intent of the motion and the concerns expressed by Ms. Ozier noting that he would be forced to advise all parties (i.e. the department, the student and the hearing panel) and that his interests could perhaps not be identified and convergent with both Senate and the student. The Legal Advisor then proposed that the student could object to his presence at a hearing and that

he could instruct the hearing panels of AAC about the legal aspects of a fair hearing as he planned to do by taking part in a workshop for the AAC in the near future.

Mr. Braybrooke assured members that the legal advisor to the President would not sit as a member on each hearing panel but rather would advise on jurisdictional issues and procedures at the beginning of each hearing to ensure that the -hearings would be free of bias and apprehensions of bias and would meet the requirements of natural justice. He stressed the need to avoid the time consuming process of conducting repeated hearings resultant from adverse reactions. He reinforced the merits of improved access to legal advice.

Mr. Friedenbergr spoke in support of the motion pointing to the fact that the legal advisor would strive to be impartial, but as the institution's lawyer, would inescapably serve a partisan function. Mr. Huber likewise noted the appropriateness of a motion which acknowledged the ultimate responsibility of the Senate committee which would be in a position to seek legal advice as deemed appropriate but would not be bound to the advice of a particular person. Mr. Braybrooke stated that the crux of the issue was not whether a finding was in favour of either party, but whether there would be grounds for objecting to a decision on the basis of a procedural question. He indicated that the committee was in the process of acquiring competence and would benefit from the workshop.

Upon a vote, the motion was carried.

83:114. Reports and Recommendations -- Committees of Senate

A. Academic Appeals Committee

1. Consideration of Academic Appeal -- Ms. Colette Power

It was moved and seconded (Braybrooke/Hill)

that the report of the hearing panel for the Colette Power case, including the recommendations, be ratified.

A. Academic Appeals Committee

1. **Consideration of Academic Appeal - Ms. Colette Power** (continued)

Mr. Braybrooke commented on the fact that the subcommittee had been convened in the

summer prior to the development of the procedural guidelines by the total committee of AAC. Mr. Braybrooke argued that the terminology of "request" was not sufficiently strong. He also noted that he had invited the appellant to make a formal deposition to Senate by express mail, when he forwarded the report of the hearing panel and Dean Leffek's letter of reaction. A written response had not been received, however, Miss Power indicated that she herself had not been heard by the hearing panel, that over two years had elapsed, and that she had left Dalhousie because of financial difficulties. Messrs. Christie, Farley and Braybrooke then advised members of Senate to initially discuss only the procedures used by the panel following which Mr. Farley identified the individuals contacted by the committee, specifically, the MBA Coordinator and Professor Glube (in the absence of the Director of the School). He emphasized the delays created both by the student and the university. Mr. Friedenberg then contrasted the length of delay in "charging" the student with an offence to circumstances in common law.

It was moved and seconded (Sinclair/George)

that "the case should be referred back to AAC with the instructions to seek a re-hearing of the case."

Messrs. Friedenberg and Hill spoke against the motion to refer on the grounds of the time lapse and the need to discuss the merits of the proceeding motion. Vice-President Cameron supported the motion as did Mr. Misick who noted that there was no course in question at Memorial which was equivalent to a Dalhousie course. Hence he believed the remedy was inappropriate.

Mr. Huber referred to the delays created by the student and Mr. Thiessen, stated that leniency which resulted in delays for the student was not "wasteful".

Ms. Lambie then questioned whether new evidence was required in order to refer back and whether the costs of bringing the professor and student back to the university could be assumed to which Mr. Crocker replied that written representation was sufficient in order to hold a fair hearing. Mr. Andrews then asked for the rationale behind the motion to refer to which Vice-President Sinclair commented that the parties to the appeal had not been invited to make presentation. In this context the chairman referred members to Senate Minute 83 95. Ms Boyle reiterated the fact that the hearing panel had not had procedural guidelines.

Messrs. Stuttard and Brett contended that a rehearing should not occur on the premise that there were no procedures in order.

The motion to refer was then put to a vote and defeated with two abstentions by Ms. Monk and Mr. Van Feggelen.

Subsequently an amendment to the initial motion was moved and seconded

(Hill/Cameron) by adding the words:

with the exception of the remedy which should be referred back to the AAC hearing panel.

There was some discussion by Messrs. Braybrooke, Hill and Cameron regarding the specific portion of the report which made reference to a remedy, the outcome being a suggestion to delete the last two sentences. Mr. Rodger summarized the three levels of remedy implicit in these sentences as the decision not to dismiss, the opportunity to pass the final class and the recommendation that this be accomplished by transfer of credit.

In the course of the ensuing discussion, Mr. Braybrooke suggested that the last sentence of the conclusions be struck and that the word "another" should precede "opportunity" while Mr. Hill recommended that the AAC hearing panel should consult with the School of Business Administration. Mr. Huber then identified the inappropriateness of a remedy which does not take into account the necessity for readmission to the Faculty of Graduate Studies. Vice-President Cameron then urged that the last two sentences (i.e. the remedy) should be deleted.

The question of the amendment was put to a vote and was defeated.

The deliberations then returned to the motion regarding ratification of the report and its conclusion. Messrs. Hill, Huber, Braybrooke, Cameron, Sinclair and Misick sought clarification regarding the implications of ratification pointing to the possibility that a failure to ratify could be interpreted as a rejection of the appeal, that Senate as a body may not have heard detailed evidence on all sides and possibly could not approve or disapprove of the report and that Senate could not be in a position to determine the appropriateness of a remedy. Messrs. Braybrooke and Welch contended that it was unfortunate that Senate had not referred the case back to AAC for a rehearing. It was moved and seconded (Welch/Friedenberg)

that the last sentence of the remedy should be amended to read "allow her to request transfer of credit from another university.

Messrs. Hill, Wien, Rodger, Huber and Braybrooke spoke against the amendment on the grounds that the student would have to be reinstated to fulfill the intent of the motion.

The amendment was put to a vote and defeated.

The main motion to ratify the report and its recommendations was put to a vote and defeated.

There was some resultant debate on the ramifications of the defeat of the main motion to

ratify. Mr. Braybrooke proposed consideration of another opinion - specifically, empowering another hearing panel to rehear the case and Messrs. Hill and D. Cameron and Ms. Ozier questioned the implications of this alternative versus Senate choosing to "hear" the case. Ms. Waterson provided clarification stating that the initial vote evolved from the decision that there were no procedural grounds for referral back to the M C hearing panel; that the second vote would be based on the substantive matter of the report and that the third option would leave the student without a decision.

Mr. Christie stated that either agreement or disagreement with the report would result in a decision related to the student's status and stated that the case could be referred back for further debate on the merits. He referred to evolution of procedures whereby the Senate might divest itself of final decision making and accept the decision of a lower subcommittee; noting that it was not legally predictable whether Senate should hold a full hearing or appoint a (sub)committee to do so. Mr. Huber then noted that Senate members had on hand the report of the hearing panel and the letter from the Dean of Graduate Studies, contending that both agreed that the student should have failed and that hence, the substance of the case could be considered albeit, not in detail. Mr. Misick agreed that the facts of the case were unlikely to be disputed, but maintained that the decision of the hearing panel was inconsistent with the facts.

It was moved and seconded (Braybrooke/Hill)

that the case should be referred to a new hearing panel of the CAA.

The motion was **defeated**.

83:115. Adjournment

A special meeting to consider the remaining items on the agenda will be scheduled for Friday, 16 November 1983 at 4:00 P.M. The meeting adjourned at 5:30 p.m.

DALHOUSIE UNIVERSITY

MINUTES

OF

SENATE MEETING

Senate met in Special Session in the Board and Senate Room on Friday, 16 December 1983 at 4:00 P.M.

Present with Mr. W. E. Jones in the chair were the following:

Andrews, Angelopoulos, Barkow, Betts, Bissett-Johnson, Borwein, Boyle Braybrooke, Brett, Burt, Cameron D.M., Cameron T.S., Campbell, Caty, Duff, Friedenber, Hatcher, Hill T., Horrocks, Huber, James, Josenhans, Klassen, MacKay, Maloney, Manning, McInnes, O'Shea, Ozier, Pooley, Milne, Richards, Rodger, Shaw, Sherwin, Sinclair, Stern, Thiessen, Tingley, Tonks, Van Feggelen, Wien, Wood, Yogis, Yung, Stewart.

Regrets: Cohen A.D., Fulton, Gwyn, Pronych, Tindall, Waterson.

The Chairman introduced the purpose of the special meeting, namely to complete the discussion of agenda items of the 12 December 1983 meeting. Subsequently, Mr. Braybrooke reported that Colette Power's written response had been received after the 12 December 1983 Senate meeting and that she had been sent correspondence citing the outcome of the Senate deliberation regarding her appeal.

83:116. Consideration of Student Appeal - Mr. Steven Lambert

Mr. Jones referred to the four documents which had been precirculated, pertinent to the case, specifically the recommendations of the Ad Hoc Committee, the initial 20 pages of the Report of that body, the Summary of the Report, prepared by the Chairman of the Subcommittee and the Response of the Senate Discipline Committee to the Report. He then welcomed the student's legal counsel, Mr. Chris Manning. Mr. Josenhans, speaking on behalf of the ad hoc committee, made reference to the fact that eight hours of hearing had occurred and nine different witnesses had been called. He stated that presentation of the paper which had been alleged to have been plagiarized, had not occurred, that it was difficult to speculate that would occur or was intended, since the calendar regulations incorporate the word

"presentation".

It was moved and seconded (Josenhans/Hill)

that the report of the ad hoc committee, including the four recommendations be adopted, namely,

- 1. the appeal by Steven Lambert be allowed and the decisions of the Senate Discipline Committee be set aside.**
- 2. the notation relating to the Discipline Committee's finding on the student's record be deleted.**
- 3. the student be permitted two weeks from the date of the approval of this report by Senate to submit a paper complying with the course requirements.**
- 4. the department appoint an instructor, other than Dr. Jabbra, to grade the paper.**

Mr. Thiessen then alluded to the fact that there was some inadequacy in appeal procedures, based on the lack of precedence. He noted that of 20 cases of plagiarism heard by the Senate Discipline Committee over the preceding years, only one decision was appeal.

It was moved and seconded (Thiessen/Pooley)

Whereas the Senate Discipline Committee found Mr. Lambert guilty of plagiarism and whereas the Ad Hoc Hearing Panel strongly suspected Mr. Lambert intended to commit plagiarism, the following amendments to the latter committee's recommendations are moved:

To delete recommendations 3 and 4 and in their place insert

No. 3 - the department appoint an instructor to compose an appropriate invigilated examination.

No. 4 - the student be permitted 4 weeks from the date of the approval of this report by Senate to prepare for and to take this examination.

No. 5 - the department appoint an appropriate instructor to grade the examination.

In the ensuing debate, Messrs. Betts, Thiessen, Pooley, Manning and Friedenbergr voiced diverse opinions on the merits of making reference to inclusion or exclusion of the instructor of the course in question within the recommendations. A proposal "to amend the amendment" by inserting the words

"who has not previously been associated with evaluation of material pertinent to this case" following "instructor" in No. 5

was moved by (Friedenberg/Braybrooke). Mr. Barkow urged members to return to discussion of the main motion while Mr. Hill spoke in favour of the amendment.

Upon vote, the amendment to the amendment failed.

Returning to discussion of the amendment, Mr. Andrews sought confirmation of the fact that the student had already written a final examination and should, in his opinion, be required to complete an assignment which was similar to the original circumstances. Mr. Sinclair supported this contention, while Mr. Varma commented on the difficulties inherent in determining a definition of plagiarism.

It was then moved and seconded (Hill/Friedenberg)

that two weeks in recommendation No. 4 of the proposed amendment be changed to four weeks.

This was accepted as a friendly amendment by Messrs. Thiessen and Pooley.

Messrs. Josenhans and Stovel served as proponents of requirement of a paper.

Upon vote, the amendment was defeated.

Mr. Thiessen then queried the use of the words "before the deadline" on page 2 of the report of the ad hoc committee.

Messrs. Manning, Hill and Bissett-Johnson maintained that Senate should be bound by the parameters of the report and should restrict itself to the question of whether any procedural irregularities had occurred in the Ad Hoc Committee. Senate, in their opinion, should not get involved in the substance of the case unless there was some evidence of denial of natural justice. Mr. Yogis supported this contention and reiterated the request of the Senate Discipline Committee for clarification and guidance regarding an acceptable definition of plagiarism. Messrs. Cameron and Varma proposed a remedy which afforded

the student a reasonable opportunity to complete and submit the work in progress. Mr. Friedenbergl then queried the procedural defects which occurred at the departmental level noted on page 7 and 11 of the ad hoc committee report.

The President's recommendation that the time limit specified should begin on the date of "receipt of official notification of the student by Senate", which Mr. Josenhans accepted as a friendly amendment to Recommendation 3, replacing the words "the approval of this report by Senate".

The main motion was put to a vote and approved.

Messrs. Hill and Milne raised again the interrelated issues of definition of plagiarism and burden of proof, following which Ms. Ozier expressed concern that the Ad Hoc Committee had failed to notify the Senate Discipline Committee that an appeal of its decision had been launched and further, had not invited the Discipline Committee to submit an elaboration on its findings. Ms. Boyle indicated that she had chaired the initial subcommittee of the AAC which erroneously had been assigned the task of hearing the case and had been in contact with the Chairman of the Discipline Committee at that time.

Upon motion (Hill/ Milne)

it was agreed that the questions of what constituted burden of proof and a reasonable, adoptable definition of plagiarism be referred to the CAA.

83:117. Reports and Recommendations - Committees of Senate

A. Steering Committee

1. Procedures for an Appeal of Decisions of the Senate Academic Appeals and Senate Discipline Committees (Minute No. 83:90)

The Chairman reported that the Steering Committee had tabled its motions dealing with appeals of decisions of the Senate Academic Appeals and Discipline Committees until the revised procedural guidelines had been received from the Faculties.

2. Security and Parking Committee Recommendations re: Non- Academic Student Discipline

The Steering Committee had considered the recommendations incorporated within the 17 November 1983 letter from Mr. S. Blecher, the Senate representative on the Security and Parking Committee, and had inquired about terms of reference for this committee.

It was moved and seconded (Horrocks/Stern)

that in light of a motion passed by the University Security and Parking Committee regarding the establishment of a committee to consider the question of non-academic, student discipline on campus, the Steering Committee recommends to Senate that Senate request that a joint Board-Senate Committee be struck to review the jurisdiction, operation and terms of reference of the University Security and Parking Committee.

The President, although he spoke against the motion, suggested that the President's Council might be an appropriate forum for such a review if the motion was accepted. In response to a question from Mr. Hill, Mr. Horrocks identified vandalism in libraries and damage to research as issues of non-academic student discipline, which might involve Senate. Mr. Rodger recommended that the statutes be examined to determine if restrictions regarding discipline matters (academic or nonacademic) were incorporated. Ms. Sherwin then spoke in defence of the newly-formed President's Council's right to determine whether this issue was within its jurisdiction. Mr. Andrews voiced his unhappiness with the use of the term "non-academic" in association with students. Messrs. Cameron, Horrocks, Hill, Jones, Ms. Sherwin and Mr. Rodger participated in the ensuing debate, pursuant to which Mr. Crocker clarified that the jurisdiction for discipline remains with Senate and Senate shares select aspects of student discipline with the Student Union.

The motion was put to a vote and was defeated.

It was then moved and seconded (Rodger/Cameron)

That Senate endorse the motion of the Security and Parking Committee with one addition, namely that the University Security and Parking Committee refer the matter of disciplinary action for non-academic infringements to the Vice-President or his consideration that a committee (including the Director of Security, Deans of Residences, a representative named by Senate, and other relevant persons), be struck to consider the question of non-academic, student discipline on campus:

An amendment was proposed (Hill/Milne)

that "a representative named by the Student Union" follow the word "Senate" in line 6.

The amendment was approved upon vote and the main motion was carried.

B. Academic Planning Committee

1. Joint Faculties of Education (Minute Nos. APC 83:69, 83:88, 83:111)

Following a report from the chairman that the relevant subcommittee of the APC had not yet reported to APC their reaction to the President's comments about their report, it was agreed upon motion (MacKay/Wien) that this item be tabled until the January meeting of Senate.

C. Committee on Academic Administration

1. Proposed University Medal in Occupational Therapy

It was moved and seconded (MacKay/Tonks)

that the University Medal in Occupational Therapy be established according to the criteria used by the other schools/college in the Faculty of Health Professions.

The motion was carried.

83:118. Report from the President

President MacKay announced that the President's Council has held two meetings directed to organizational matters and that AUCC had submitted to MPHEC a recommendation to increase the funding for institutions in the region by 11%. The MPHEC recommendations would then be submitted to government and published in January. He informed Senate that the President had held meetings with the Minister of Education and the Premier over the past two months and expressed his opinion that the government appeared to be more sensitive to the need of the universities. The President then alluded to the extreme financial difficulties experienced by universities in Manitoba, Saskatchewan and other western provinces. He further relayed to Senate his intent to not only address the University Brief but reflect on the variety of reports and recommendations submitted to the Royal Commission on Post Secondary Education, while representing Dalhousie at the hearing scheduled for January 6, 1984. President MacKay finally reported on successful endeavors to enlist the support of alumni in the region for the capital campaign and commended the dedication of the faculty and students reflected in the preceding year.

The President responded to a question of Ms. Burt regarding the new university postings for financial (1) and development (7) office personnel, stating that the capital campaign

necessitated the latter expertise and that the former posting was a replacement. He would provide confirmation at the January meeting. Mr. Andrews then advocated the merits of assuming that the government would support funding requests and that the university should calculate its budget on that basis, to which the President replied that he attempted to use an optimal "conservative" judgement to forecast revenue. Mr. Rodger requested consideration of the impact of "political fallout" on the budget and urged faculties to consider alternate courses of action vis a vis enrolment, etc.

83:119. Adjournment

There being no further items of business, the meeting adjourned at 6:00 P.M.