

THE UNIVERSITY OF ARIZONA  
Proceedings of the Faculty Senate

Meeting of Tuesday

April 23, 1974

The Faculty Senate convened in special session at 3 p.m. on Tuesday, April 23, 1974, in the Kiva, Room 211 of the College of Education. Forty-nine members were present.

SENATE MEMBERS PRESENT: Bateman, Boyer, Brewer, D. Butler, H. Butler, Carr, Cole, Davis, Dewhirst, Dresher, DuVal, Evans, S. Fahey, W. Fahey, Fazio, Gegenheimer, Graham, A. Grant, Green, Grossman, Hull, Johnson, Keating, Krueger, Livermore, Mason, Massengale, McCoy, McMillan, Miller, Muramoto, Odishaw, Olson, Paulsen, Paylore, Rhodes, Roby, Rosaldo, Rosenberg, Schaefer, Steelink, Thompson, Tomizuka, Trafton, Varney, Ware, Weaver, Wiersma, and Windsor. Dr. Frank LaBan and Dr. Robert Sankey were present as parliamentarians.

SENATE MEMBERS ABSENT: Battan, Blecha, Bleibtreu, Bull, Dixon, Edwards, Gaines, R. Grant, Harris, Joyner, Kassander, Knorr, Lane, Manes, McConnell, McCullough, Mees, Reed, Shields, Skinner, Sorensen, Stairs, Stubblefield, Svob, Vignery, and Yoshino.

President Schaefer explained that this special meeting of the Senate had been called by Dr. Albert Gegenheimer, Chairman of the Faculty, to discuss certain problems that had developed in connection with the recent faculty elections.

*Deleted  
May 6, 1974  
Schaefer*  
~~The President referred to a news story in that morning's issue of the Arizona Daily Wildcat stating that a review of the recent faculty election procedure could have been started because administrators did not like the results, according to Dr. Charles F. Zukoski, one of the three candidates for Chairman of the Faculty. "That's probably the hidden reason," Dr. Zukoski was quoted as having remarked in an interview. President Schaefer said that he had always been led to believe that Dr. Zukoski was a man of integrity. However, if Dr. Zukoski's statement was quoted in the Wildcat correctly, Dr. Schaefer had serious doubts about his integrity. The President said he had had nothing whatsoever to do with a review of the procedures of the recent election. He did not know what the results of the election had been. He had not called today's meeting. At no time in his service at the University of Arizona had he involved himself in the faculty electoral process or sought in any way to influence elections.~~

The President said a letter protesting certain election procedures had been received from three members of the Department of Surgery. The letter had been forwarded to Mr. Arthur Grant, Chairman of the Elections Committee. Dr. Gegenheimer, Chairman of the Faculty, had subsequently told the President that some problems had arisen in connection with the election and that he intended to call a meeting of the Senate. The President said he still did not know what the problems were.

Dr. Schaefer said he would now surrender the chair to Faculty Chairman Gegenheimer inasmuch as Dr. Gegenheimer had called today's meeting. Chairman Gegenheimer assumed the chairmanship of the meeting.

Dr. Gegenheimer reminded the Senate that at its meeting on February 4, after the proposed new Bylaw 5 governing faculty elections had been approved as one of a new set of proposed bylaws to accompany the proposed new Faculty Constitution, the Senate had then voted to implement Bylaw 5 immediately so its provisions could be followed in conducting faculty elections in the spring of 1974. Dr. Gegenheimer said it had been impossible to comply in every respect with all provisions of the new bylaw. For example, the new bylaw states that the Committee on Elections shall notify faculty members no later than January 15 each year of elective offices to be filled that year. This deadline could not be met since the new bylaw had not been activated until February 4. Further, a period of fourteen days after the Proceedings of the February 4 Senate meeting had been distributed had to elapse before the Committee on Elections could proceed, to be sure that the action of the Senate was not going to be challenged. The Committee on Elections had then proceeded, as the new bylaw provided, to inform the faculty about elective positions to be filled and to instruct the faculty on the nomination procedure involving the submission of nominating petitions. After the period for filing nominating petitions had closed, one petition had been challenged on several grounds. The complaints had been reviewed by the Elections Committee and the committee had ruled that all but one of the objections should not be sustained. One complaint, however, was felt to be technically valid. Paragraph d., ii of Bylaw 5 says that the Committee on Elections shall not issue or accept nominating petitions for a faculty member without his or her written consent. The Committee on Elections had in fact in all cases except one released petition forms to persons wishing to be candidates or persons wishing to nominate candidates without requiring the signature of the candidate before the petition form was actually released. The petition form itself did call for the nominee to affix his signature indicating his willingness to be a candidate.

Dr. Gegenheimer said that the Committee on Elections had then submitted a report to him recommending that the 1974 elections for college senators, Committee of Eleven members, and the Chairman of the Faculty be rerun in strict accordance with Bylaw 5, d., ii. Since Senator Arthur Grant had served as chairman of the Committee on Elections, Dr. Gegenheimer said that he thought that Mr. Grant could explain the action leading up to the committee's recommendation. Dr. Gegenheimer said he did not feel he alone had the authority to order the elections rerun and that the question should be a matter for Senate consideration. He said the Senate could accept the recommendation, or reject it, or take action validating part of the elections and order others rerun. He then called on Mr. Grant.

Mr. Grant said that he had a series of three problems to bring to the Senate's attention. The problems were arranged in an order that would provide the best procedural sequence for decision making. Depending on the Senate's reaction to problem number one, the Senate might or might not have to react to problems two and three. Subsequently, depending on how the Senate responds to problem two, the body might or might not wish to respond to problem three.

Mr. Grant explained that the first problem had been referred by the Committee on Elections to the Chairman of the Faculty who in turn was referring it to the Senate. It resulted from the wording of the new bylaw on faculty elections adopted February 4, 1974. There were two provisions of that bylaw that caused problems. The first reads, "The Committee on Elections shall not issue or accept nominating petitions for a faculty member without his or her written consent." The next states, "The Committee on Elections shall not issue

or accept nominating petitions for a person not eligible for the office concerned." Mr. Grant said he would like to comment further on the first statement in question. He said that he, as chairman of the Elections Committee, had designed a nominating petition that he felt would catch the spirit of the bylaw by including on the petition form itself the statement of consent. He said that Dr. Gegenheimer had agreed with him that it would be insulting to faculty members to demand from them a note of written consent before the petition form was even released.

Following receipt of the challenge of the nomination procedure so far as the manner was concerned in which the consent of the nominee had been obtained, Mr. Grant said a majority of the Committee on Elections had voted to recommend that all of the spring elections therefore be rerun.

To get the matter before the Senate, Mr. Grant moved that the 1974 elections for Faculty Chairman, Committee of Eleven, and college senators be declared invalid and that new elections be conducted as soon as possible. Mr. Grant explained that if this motion was approved it would become unnecessary to discuss further problems which had arisen. However if the Senate voted not to invalidate the recent elections, the Senate could move to the next problem.

Dean Brewer seconded Mr. Grant's motion.

Dr. Thompson spoke against the motion. He said he thought such a procedure would be impractical and would simply be putting the faculty in a legalistic bind. He said there was no evidence that there had been any effort by anyone to pervert the election process. The faculty had been operating under new rather complicated election procedures and as a result there had been some missteps. We should profit from our experience of course but we need not throw out everything we have done. He urged the Senate to defeat Mr. Grant's motion.

Dr. Dewhirst asked if anyone had been elected who had not given his signature of consent. Mr. Grant said that only one petition had not carried the signature of consent. However the nominee had signed his own nominating petition so the Elections Committee had ruled that the petition was acceptable. Dr. Dewhirst said it seemed to him that the intent of the new bylaw was being carried out in an adequate fashion.

Professor Davis said that Dr. Thompson's reference to things legalistic had triggered something in his mind and he reminded the Senate that a common canon of legislative procedure is to interpret procedure according to the intent of the debate leading up to establishing the legal procedure in question. He recalled that in the discussion of the new bylaw the Senate had been concerned that people be elected to faculty offices who were willing to serve in such offices. That intent had indeed been accomplished by the procedure followed with this spring's nominating petition forms. He said as a matter of fact he thought the words "issue or accept" in the statement in question could be interpreted as meaning the same thing.

Mr. Grant said he had reviewed this situation with Dr. Currin Shields, Chairman of the Committee on Faculty Constitution and Bylaws, and Dr. Shields said the intent of the drafters of the new bylaw had indeed been carried out by the electoral procedure followed.

Dean Livermore supported Professor Davis' remarks. He said he thought the Senate might want to amend the wording of the bylaw in question to prevent similar difficulty in the future. The question was asked if the language in question could be modified retroactively. Dr. Gegenheimer said while he was confident the Senate could delete certain words from the bylaw so far as future elections were concerned and while the body could vote to validate or invalidate the recent elections, he was sure that the Senate could not act at this belated time retroactively to make something different from what it was at the time the recent elections were conducted.

Vice President Johnson spoke in support of Professor Davis' comment. He said he assumed everyone was aware that he had from the beginning been opposed to the "nomination by nominating petition" procedure and had the Senate declined to approve the new procedure, as he had urged, the Senate would not be faced with the problems before it. In any event, he said he had a new question, namely, how can the bylaws be amended? Dr. Gegenheimer said that bylaws can be amended at any time so long as there is a proper waiting period from the meeting where a proposed bylaw change is presented to the meeting when action on the proposal is taken. He pointed out that this particular bylaw had been presented, debated, and referred to the Constitution and Bylaws Committee, and had come back to the Senate before it was actually voted on. Thus there had been the proper waiting period. Mr. Johnson asked if bylaws could be changed any time the Senate wanted to change them. Dr. Gegenheimer said the point was that bylaw changes could be proposed at any time but a vote could not be taken until a subsequent meeting.

The question was called for and Mr. Grant's motion lost.

Dean Livermore then moved that the words "issue or" be deleted from Paragraph ii of the bylaw on Nomination of Candidates. That section would then read, "The Committee on Elections shall not accept nominating petitions for a faculty member without his or her written consent." Several seconds to the motion were heard and the motion carried.

Dr. Gegenheimer ruled that this change in the bylaw was tentatively accepted. It should be presented at the next meeting of the Senate for final ratification.

Mr. Grant turned then to the next election problem which had arisen. He explained that this problem came in two parts, both stemming from the fact that the new election bylaw is not compatible with provisions in the Faculty Constitution itself--that is, the old Constitution which is still in effect. The proposed new Constitution and Bylaws place no limit on how long a faculty member may serve on the Committee of Eleven. However the old Constitution still in effect limits the terms when it states that "No member of the Committee of Eleven shall be eligible to serve more than three terms consecutively" (Article V, Section C). Three members of the Committee of Eleven just elected were this spring completing three consecutive terms and therefore were constitutionally ineligible to hold office in the new year. Mr. Grant then moved that the nomination and election of Committee of Eleven members be declared invalid and the entire nominating and electing process be reconducted. Dr. H. Butler seconded the motion. Dean Rhodes spoke against this motion. He said he saw no need to throw out the election of the seven individuals who has been properly elected. He suggested that only the election of the three persons who were ineligible to serve in the new year be invalidated.

Mr. Varney said he was confused and asked the chair again to review the situation. Dr. Gegenheimer said he would be glad to do so. He explained that the bylaw on faculty elections adopted by the Senate February 4 does not put any limit on the number of consecutive terms that a member of the Committee of Eleven may serve. However there is a statement in the present Constitution, which is still in effect, which does set a limit of service on the Committee of Eleven of three consecutive terms of one year. Because the Election Committee was unaware of the contradiction between the new bylaw and the old Constitution, nominations for election to the Committee of Eleven had been accepted from three individuals who were completing three consecutive terms on that body at the present time and these three had been elected. Mr. Grant, as chairman of the Elections Committee, had now moved that the election of the new Committee of Eleven be declared invalid. Dean Rhodes had suggested that only the election of the three ineligible persons be invalidated.

Dr. Steelink said he thought that the Senate a few minutes earlier had voted to validate the recent election. Dr. Gegenheimer explained that what the Senate had in fact done was defeat a motion to invalidate the election.

Dr. Cole said that the Senate in the past, when a vacancy had occurred in the ranks of the Senate, had simply gone to the Elections Committee's files and filled the vacancy by electing into that position the next runner-up in the last election of the class of senators concerned. Mr. Grant explained that in the case of the recent Committee of Eleven election there had been only ten nominees for the ten vacant positions so there were no runners-up.

Dean Livermore then made a substitute motion, that the recently elected members of the Committee of Eleven be authorized to serve, with the understanding that the three members who in fact were not eligible for nomination or election would serve only until a new election could be held to elect replacements for those three persons, such election to be held as soon as possible. It was noted that the three persons in question were ineligible only because they were finishing up three consecutive terms on the Committee of Eleven and if this motion were adopted they would simply continue to serve beyond the normal expiration period of their term until replacements had been chosen. Dean Rhodes asked if the substitute motion passed would the action be constitutionally acceptable. In other words, could we honor the election of ineligible persons. He wondered if the Senate would be wiser simply to accept the election of those seven persons who were eligible for election, leaving the other three positions vacant until the vacancies had been properly filled. (Secretary's note: It must be remembered that the Committee of Eleven is made up of the Chairman of the Faculty, an ex-officio member, and ten elected members. Seven members of the elected group were eligible for election and three were not.)

Professor Davis pointed out that there is considerable precedent for permitting persons to serve beyond the normal expiration of their terms of office, pending replacements being chosen. The Governor of Arizona has exercised this practice a number of times.

Professor Cole asked how vacancies in the Committee of Eleven have been filled in the past. Dr. Gegenheimer said that normally the Committee of Eleven itself has elected the replacement when a vacancy occurred. Dr. Cole wondered if those members of the Committee of Eleven who had been eligible for election could not meet as a group and themselves select replacements for the three positions in question and he asked the chair if it would be in order for him to

propose a substitute motion to this effect. The chair ruled that such a motion would not be in order since the house already had before it another substitute motion.

Mr. Grant commented that he had made the motion about this matter that he had because he felt that not enough nominating petitions for membership in the Committee of Eleven had been filed to constitute a democratic election (ten nominees for ten positions). He felt that if the entire election were rerun a more democratic election would result.

Dean DuVal asked if a vote in favor of Dean Livermore's substitute motion would not in fact have the effect of supporting the primary motion, and the chair answered in the affirmative.

The question on Dean Livermore's substitute motion was called for and the motion carried.

Mr. Grant said he would now turn to part two of the second problem, this relating to the recent election of college senators. Again, while the new bylaw on faculty elections does not set any limit on the number of terms a college senator may serve, the present Faculty Constitution itself (Article III, A., 6.) provides that "The term of membership of elected (Senate) members shall be two years. No member shall serve more than two consecutive terms." Two college senators recently elected and one elected in the primary election this spring were completing two consecutive terms, Mr. Grant explained. Since they were constitutionally ineligible to hold office he moved that the nominations and elections for the Colleges of Liberal Arts and Medicine and for the non-college group be reconducted. Several seconds to this motion were heard.

Dr. Thompson said that in the past when vacancies occurred in the Senate the practice has been for the Senate to elect to the vacant position the next runner-up in the election concerned. Mr. Grant explained that in the case of one college there was not a runner-up available. An additional nomination would be needed to assure there being elected the number of senators from that group to which that group was entitled. Dean Rhodes commented that the practice referred to by Dr. Thompson has been used only to fill vacancies resulting from leaves of absence or when a Senate member had left the University before his term had expired. The practice has not been followed to select persons to membership initially.

Dr. Tomizuka spoke against the motion, recommending that if the procedure referred to by Dr. Thompson was not appropriate the Senate could itself as a body make nominations and elect eligible persons to the vacant positions.

The vote on Mr. Grant's latest motion was called for and the motion carried.

Mr. Grant said that the final problem he wished to present to the Senate was that resulting from the fact that in the recent elections there had been no nominations for senators from the College of Architecture. He therefore moved that when new elections were conducted to elect senators from the College of Medicine and the College of Liberal Arts as well as senators from the non-college group, an election also be conducted in the College of Architecture. There were several seconds to this motion and this motion carried.

At this point Dr. McCoy asked if Mr. Grant would announce to the Senate the results of the election for Chairman of the Faculty. Dr. Gegenheimer pointed out that before this was done the Senate should take action validating all other recently conducted faculty elections with the exception of those that are to be reconducted. Dr. McCoy then moved that all faculty elections conducted this spring with the exception of those that the Senate had directed be reconducted be validated. Many seconds to this motion were heard and the motion carried. The chair then asked Mr. Grant to announce the results of the recent election for Chairman of the Faculty. Mr. Grant made the following report: Dr. Albert Gegenheimer, 467 votes; Dr. Cornelius Steelink 418 votes; Dr. Charles Zukoski, 180 votes. The run-off election will be conducted in the immediate future, it was understood.

Dean Rhodes asked if some procedure was not needed to take care of cases in the future where, as recently happened in the case of the College of Architecture, nominees for election as college senators are not forthcoming from a particular college. Mr. Grant commented that it was not only the College of Architecture that was not active in the recent election. As the deadline for filing nominating petitions approached it had become evident that a number of colleges were not going to have Senate nominees. Mr. Grant had then taken it upon himself to get in touch with persons in the various colleges, including the deans, and as a result a number of petitions were finally forthcoming. He paid particular tribute to the help of Dr. Tomizuka and Dr. Thompson, for instance, in the College of Liberal Arts. Dean Rhodes said that if some future faculty elections chairman is not as conscientious as Mr. Grant has been, a serious problem could develop. Dr. Gegenheimer then said that he would refer this question to Dr. Shields, Chairman of the Faculty Committee on Constitution and Bylaws. Mr. Johnson commented that he thought that committee might well be discharged if they could not produce anything more appropriate than the new election procedure which they had developed and which the Senate had adopted. Dr. Gegenheimer asked Mr. Johnson if he wished to move to discharge that committee and appoint a new one. Mr. Johnson said he did indeed so move. There was no second to the motion.

Dr. Rosenberg asked the chair to state again just what elections now would be reconducted. Dr. Gegenheimer said that new elections would be conducted for three seats on the Committee of Eleven and for senators from the College of Liberal Arts, the College of Medicine, the College of Architecture, and the non-college group. These elections would be conducted as soon as possible and written statements of consent would be obtained from any potential nominee before petition forms were released to him. Mr. Grant explained that while it might be possible to complete the circulation of nominating petitions this spring, before the close of the second semester, it would not be possible to conduct the balloting itself until fall. He pointed out that the nominating procedure provided for in the new bylaw specifies that petitions should be available during a period of half a month and may be returned during the following half month. In order that the nominating process for the new elections could be completed before the close of the semester, Dr. Gegenheimer suggested that a motion be passed by the Senate suspending for the upcoming special elections the normal procedure so far as the time constraints were concerned on distributing and receiving nominating petitions. Mr. Grant then moved that the normal procedure be suspended for the special elections and that a period of seven days be established during which petitions could be distributed with the following seven days specified as the period during which the completed petitions must be submitted to the Elections Committee. Many seconds to Mr. Grant's motion were heard and the motion carried.

Professor Green referred to the fact that there had been no nominees from the College of Architecture during the recent election for senators and said he wanted the members of the Senate to know that this situation resulted from the fact that virtually all members of the faculty of the College of Architecture had teaching conflicts with the Senate meeting hours of 3 to 5 p.m. of the first Monday of each month. Dr. Gegenheimer said he was sure that all concerned hoped that some qualified Architecture representative could be found whose teaching schedule would permit his attendance at Senate meetings.

Dr. Gegenheimer said that all matters included in the call of the special meeting having been taken care of, the meeting was adjourned (4 p.m.).

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David L. Windsor, Secretary

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David Butler, Assistant Secretary