

FACULTY SENATE
Northern Michigan University
Marquette, Michigan

The Faculty Senate met in the Faculty Lounge at 1:15 p. m. on Friday, January 5, 1968. Present: D. Baker (Chairman), E. Barnard, G. Gill, E. Hilton, T. Knauss, R. O'Dell, M. Shapiro, and D. Dickson. Absent: J. Rapport and J. Rutherford. Guests: J. Allswang, R. McClellan, and E. Schacht.

The minutes of the December 8 and 15 meetings were approved (Knauss, Barnard).

Communications received:

1. From the Committee on Faculty Affairs, nominations of three persons for sabbatical leaves.

The Senate agreed (Gill, Knauss) to accept, approve, and forward the three nominations to the President. Carried.

2. From the Committee on Faculty Affairs, notification that the committee, by unanimous vote of the members present, had instructed its secretary to transmit a statement to the Faculty Senate, together with a request that the Senate publish the statement in its minutes so that the committee's views might be shared with the entire faculty.

The Senate voted (Shapiro, Barnard) to comply with this request. The statement follows:

"In view of the statements in Article I of the Constitution of the Faculty Organization regarding facilitation of communication among students, faculty, and administration, it seems to the Committee on Faculty Affairs that the function of the special committee to study university problems appointed by Interim President Johnson is redundant.

"The existence of the committee appointed by President Johnson calls into question the present status of the Faculty Senate and its working committees."

Mr. Gill reported that the Committee on Faculty Affairs had instructed him to alert the Senate to a request for time in the February faculty meeting to consider alternative retirement programs. The committee hopes that representatives from the TIAA and possibly other groups will be present.

Mr. Schacht requested that the Senate share with the special study committee (of which he is chairman) the results of the Senate survey of the university's problems. The Senate, having received copies of a preliminary tabulation made by Miss Rutherford and Mr. Knauss, provided Mr. Schacht with an additional copy. Mr. Knauss cautioned those present against giving any real weight to the number of responses to each problem as tabulated. He noted that overlapping of responses and the difficulty of trying to separate comments on problems from those on solutions. The chairman suggested more thorough discussion of the survey results next week, when Miss Rutherford will be present.

The rest of the meeting was devoted principally to a review of recent developments in the McClellan case. The chairman reported briefly on a meeting he had had with Mr. George E. Bushnell, Jr., attorney for the Northern Michigan University Board of Control, and announced

that he (the chairman) was to meet with Mr. John P. McGoff, Chairman of the Board, on Monday, January 8. Mr. Baker stated that this week the Board had met informally with Mr. Bushnell in Detroit and had responded quite favorably to Mr. Bushnell's recommendations. Mr. Baker had understood that the Board's attorneys desire the naming of the new President by the end of January if possible. On balance, he viewed recent events as encouraging and suggested that his meetings with Mr. Bushnell and with Mr. McGoff may be but the first of a series of one-to-one meetings which may culminate eventually in group sessions. Mr. Baker stated that he will share what he can of his conversation with Mr. McGoff when the faculty meets on Tuesday.

In response to Mr. Baker's report, members of the Senate asked whether the Board may not merely be utilizing delaying tactics in order to dissipate the opposition. Mr. Barnard reported that the Washington office of the AAUP sent President Johnson two requests for information. Because it received no reply to the first and only a general response to the second, the national AAUP office has sent Mr. Johnson a third letter. Moreover, Mr. Barnard reported, the State Labor Mediation Board in November asked President Johnson for a list of faculty members against which to check the names of the instructors who had signed the petition supporting Mr. McClellan's request for mediation. According to Mr. Barnard, Mr. Johnson replied that such a list would be sent, but did not request preparation of the list until three weeks later. Mr. Barnard added that Mr. Elisha Greifer has a letter from the SLMB dated December 26 stating that it had not yet received the list.

With respect to the prospects for early appointment of the new President, the Senate agreed that Mr. Heimonen should be asked to report progress at the general faculty meeting on January 9.

Mr. McClellan reported that during the week after Christmas he had met in Detroit with American Civil Liberties Union representatives. These included Mr. Irwin Ellman, state legal director of the ACLU. At this meeting Mr. Ellman stated that Mr. Bushnell had informed him that on February 1 the new President would be on Northern's campus ready to assume his duties. Mr. Ellman, on the basis of this possibility, suggested deferment of suit until February 1 or somewhat later. Mr. McClellan replied to Mr. Ellman that he did not regard the early appointment of the new President as likely, and asked that suit be commenced at once. The upshot of the matter is that the suit is being filed, and Mr. Ellman has advised Mr. McClellan that if he wishes reinstatement he must keep himself available for reemployment at Northern. In other words, he must accept no other position, or else he must take only one-year employment elsewhere so that he may be free to return the year following.

According to Mr. McClellan, the ACLU officials and attorneys strongly advise broadening the base of the suit to include as co-plaintiffs either the Northern Michigan University faculty or the Faculty Senate acting in the name of the faculty. Papers for this purpose are now being prepared and the Faculty Senate will soon receive a formal request. The reasons are essentially these.

If Mr. McClellan sues alone, the focus of the suit will be personal and procedural. That is, emphasis will be placed on Mr. McClellan's personal relations with former President Harden and other administrators, on the facts of the case as they involve personalities rather than issues, and on whether the former President, in dismissing Mr. McClellan, followed the procedures outlined in the Faculty and Staff Administrative Guide for 1967.

Mr. McClellan's information is that on the above basis it should be relatively easy for him to win the suit and to establish damages for injury done him. To gain reinstatement is something else, for a court is usually reluctant to direct any employer to rehire any particular employee. What could happen is that the court might direct the Northern Michigan University administration to review and decide to keep Mr. McClellan for another year. Meanwhile, it might give him ample

notice that his services would be terminated as of June, 1969--this time taking utmost care not to state any reasons at all for dismissal. Thus, as far as principle is concerned, the whole point of the suit would be lost.

On the other hand, if the faculty or some duly constituted group representing it entered the case as co-plaintiff, the issue, according to Mr. McClellan, would no longer be merely personal and procedural. It would now become a substantive one of profound significance for teachers everywhere. It would turn now on the broad question of civil rights and academic freedom under the First Amendment of the United States Constitution. It would focus on the conditions of employment at Northern which have given rise to this case and which have made it of such concern to the academic community and to the public throughout the state and other parts of the Middle West. In Mr. McClellan's opinion the faculty, by strengthening the case for his reinstatement, has a great deal to gain with respect to conditions for the employment of faculty members generally.

In the ensuing discussion Mr. Shapiro suggested that unless non-injured persons join the suit, the important substantive question of academic freedom may never be decided. People whose own rights have not been violated can do much to help secure a court order for general relief from arbitrary violation of academic freedom and civil rights.

The point was emphasized by several members of the Senate that nothing short of full reinstatement for Mr. McClellan is acceptable. For, against the background of compromise or capitulation on this issue, paper changes in administrative policy would inspire little confidence. The precedent would have become too firmly established that administrators at Northern can act arbitrarily, in violation of even their own written rules and regulations.

The Senate concluded discussion of the McClellan case by agreeing that, before taking any action, it needs as much information as possible about the implications of joining the suit. Along with further contacts with the Board of Control and its attorneys, a meeting with ACLU lawyers is a sine qua non. After gaining the needed information the Senate must then make a full report to the faculty and, following the same procedure as that of last November, request a secret, written referendum on the course the faculty wishes to pursue. In short, the Senate has the responsibility for gathering information and for making recommendations to the faculty. The faculty has the responsibility for making the ultimate decision on what it wishes the Senate to do. A special faculty meeting will be called should circumstances require.

The agenda for the meeting on Tuesday, January 9, was put in final form.

The meeting adjourned at 2:55 p. m.

Respectfully submitted,

Richard F. O'Dell, Secretary

RFO:KP

January 10, 1968