

DISCUSSION-SPECIAL SENATE MEETING  
YOUNGSTOWN STATE UNIVERSITY  
Friday, April 23, 1971

**PRESENT:** Mr. Hare, Mr. Greenman, Mr. Shipka, Mrs. Miner, Mr. Miner, Mrs. Dykema, Miss Sterenberg, Mr. Terlecki, Mr. Yozwiak, Sister M. Conroy, Mrs. Turner, Mr. Behen, Mr. Satre, Mr. Williamson, Mr. Earnhart, Mr. Roberts, Mr. Elser, Mr. Rosenthal, Mr. Koss, Mr. Hurd, Mr. Flad, Mr. Dennison, Mr. Vanaman, Mr. Hill, Mr. Richley, Mr. Wales, III, Mr. Fukui, Mrs. Harris, Mr. Harris, Jr., Mr. Paraska, Miss Feldmiller, Mr. Kiriazis, Mr. Dobbert, Mr. Scriven, Mrs. Smith, Mrs. Hotchkiss, Mr. Beckman, Mr. Hotchkiss, Mr. Henkel, Mr. Poddar, Mr. Tarantine, Mr. Pejack, Mr. Hankey, Mr. Fortunato, Mr. Reilly, Mr. Zetts, Mr. Painter, Mr. R. Smith, Mr. Ellis, Miss Boyer, Mr. Petrych, Miss Jenkins, Vice President Edgar and President Pugsley.

**PRESIDING:** PRESIDENT ALBERT L. PUGSLEY      **TIME:** 4:00 p.m. Room 103 Conference Room (LINCOLN PROJECT BUILDING)

**PURPOSE OF MEETING:** For the Faculty Affairs Committee regarding Faculty Appeals Committee.

Since a quorum was not present the President suggested that even though the meeting was not official it would provide an opportunity to engage in informal discussion which would be helpful. It will require another meeting officially. Since no decisions can be reached the points made at this meeting should be reviewed at the official meeting for the benefit of the absent members, but as an aid these unofficial minutes will be useful.

The President stated he appreciated very much the kind and good wishes extended by the University Senate to him during his absence relative to his election as the President of the North Central Accrediting Association and his responsibilities there. He thought it most gracious of the Senate and thanked the Senate for the thoughtfulness.

The President stated this Special Meeting today was for the purpose of considering the establishment of a Committee on Appeals or Grievance Committee - whatever language you wish to use relevant to it. The President commented on the Proposal: "I think it is inevitable and proper that there should be established such a Committee on behalf of the faculty. The form it may take and the dimensions of its responsibilities are to be determined by you; and upon your conclusions will be reviewed and acted upon by the Board of Trustees."

The President further stated: "At the present time the Board of Trustees, upon recommendation of the Administration and the Executive Committee of the University Senate provides that the avenue for appeals for tenured faculty shall be the elected Executive Committee of the Senate."

"As a matter of information to you in the involvement at the present time of a non-tenured faculty member of the University seeking an appeal, and acting under the Judgment of the Fifth District Court, and in the absence of any other proper bodies it appears that the best solution is to use the machinery that is provided under Trustee Regulations for tenured faculty for that purpose, and therefore, the Executive Committee of the Senate will be used as the Appeal Board for this particular case."

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"There were two (2) things the Court Order required:

- 1) Reasons must be given to the Petitioner in **writing**.  
At this ~~time~~ the University has supplied those reasons in **writing**.
- 2) An avenue of Appeal must be provided and the University shall set the time and place for such **Appeal**."

"The University has provided the written reasons and has set the time and place for Appeal and has advised the **Claimant** of this action. In order to protect **both** the individual involved and the University, and to assure that the hearing **will** be run impartially, since both the University and the Petitioner may be represented by Legal Counsel, the University has arranged two (2) things:

- 1) There will be a Court Reporter present to take and make a record of the testimony, and
- 2) The National Arbitration Association will furnish, at University expense, an Arbitrator to **Chair** the meeting - not to **make** a decision. The **Executive** Committee of the Senate then, will serve in effect as a Jury and **the Chairman** of the Executive **Committee** is in effect the Foreman of the **Jury**."

The President stated he could not see any better way to **try** to **adhere** to both the spirit and the letter of the expectations of the Court and fair play. I hope this meets with your **approval**.

The President continued: "Having said that I believe the University must establish **some** proper Board or **Committee** for this kind of **Appeal** I confess that I would like to point out one question that I have talked **briefly** about with the Chairman of the Faculty Affairs Committee, **Mr. Petrych**, and I bring it to your attention with the request that you give thought to **it**, as you give consideration to possibilities of modification if such is **your** desire. Because we have both a Minority Report and the Majority Report here there are **obviously** some areas of disagreement. I presume these areas of disagreement will be reflected in the **dis-**ussions that **will** continue not only today but before action is **taken**. And this is quite **simply** that there are two (2) roles **embodied** here and I am not sure of the **de-**gree to which these two (2) roles are compatible.

"The first role: **is** that the proposed **Committee** serves as an Appeal Board which hears **the** evidence presented before it and **comes** to a recommendation regarding that **evidence**."

"The second role: is that **the Chairman** of the **Committee**, and to a degree the **Committee**, acts as an arbitration unit in order to effect conciliation or reconciliation on the issues brought before **it**."

"Part of the problem to me seems to be whether the Chairman, in attempting to effect a conciliation or reconciliation is stepping out of the role of an impartial **member** of the Committee later for the **Committee** then has to act later upon evidence which they do not have **fully** at the time he **has** attempted conciliation. He has lost his impartiality by acting as a conciliator before the **Committee** has met. This bothers me. And I hope you will keep this as a problem in mind as you consider the **recommendations**."

The President then **asked** the Secretary if there was a quorum present? Secretary stated "**No**". This could then not be declared an Official Meeting. The un-official meeting then turned to discussion of the Report of Faculty Appeals **Committee** (Majority Report) presented by **Mr. Petrych**. (**Minority Report**) **discussion later** by **Mr. Joseph J. Koss**.

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Mr. Petrych thanked the members of the Faculty Affairs **Committee** for being so patient with the problem at hand and their attempt to come to some solution that would be satisfactory to everyone involved,

The President asked: how do you wish to take this? Item by item?

Mr. Petrych stated he thought ~~Item~~ by ~~Item~~ would be the best way of approaching ~~it~~.

Dr. Pugsley asked: Would ~~it~~ be helpful if you (~~Mr.~~ Petrych) were to explain the thinking of the ~~Committee~~ on each item as ~~it~~ is taken up?

DISCUSSION:

Mr. Petrych: ~~Item #1~~ (of Faculty Affairs ~~Committee~~ Report - which is attached to this discussion). Please refer to ~~it~~ for reference,

The name of the ~~Committee~~. Does not think any great problem here. Tried to keep ~~it~~ in line with an existing ~~Committee~~ already here at YSU having to do with hearing of complaints and grievances from non-faculty ~~members~~.

I believe ~~it~~ is the Appeals ~~Committee~~ and is a "C" type ~~Committee~~; in line with the naming of that ~~Committee~~ we just came up with the name, University Faculty Appeals ~~Committee~~.

Dr. Pugsley: Does anyone want to talk about the title?

Dr. Hare: I don't want to talk about the title but since you raised the question that the parallel ~~Committee~~ is a "C" type ~~Committee~~ I presume that this particular ~~Committee~~ is an "A" type ~~Committee~~ or not?

Mrs Dykema: Not A, B, or C. Does not get appointed the way the A, B and C ~~Com-~~mittees are done,

Dr. Hare: He had the clarification now. It will not fall under any of these categories, A, B, or C.

Mrs Dykema: wonders where Constitution and Bylaws ~~Committee~~ is?

Mr. Petrych: In regard to ~~Item #2~~:

It was the feeling of the **Majority** that whenever there was an alleged grievance to come before this Grievance ~~Committee~~ there were two (2) areas in which they could make a finding:

1) ~~it~~ was conceivable that there would be **some** complaint about an **area** where there is an existing University policy in effect and

2) a complaint possibly where no written policy or **known** policy as such covered the particular type of complaint,

The **Majority** felt that a finding would have to take into consideration *any* existing University policy rather than just going off in five (5) or six (6) directions and saying - **well**, even though ~~it~~ is here, we find this way.

We tried to cover the matter of the possibility of the ~~Committee~~ finding against an existing policy by putting in ~~Item #3~~ and saying, if the ~~Committee~~ found against someone with an alleged grievance because of an existing University policy, but felt that the policy was inequitable or unfair in some way they would have the obligation as far as ~~Item #3~~ was concerned, to recommend **immediately** to the Administration that possibly this policy should be changed or altered in some way.

Dr. Pugsley: This raises a very interesting question.

This is whether or not the ~~Committee~~ should make such a recommendation to the Administration or whether or not ~~it~~ should make a recommendation to the Senate, or to some other group.

Not all of the **recommendations** made by the Administration to the **Board** of Trustees originate with ~~the Senate~~ or a ~~Committee~~. Indeed most of them originate elsewhere on the campus,

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Mr. Petrych: Possibly he (himself) in error here. He wasn't reading verbatim: "shall have the responsibility to make to appropriate officers or committees recommendations for improvement of the operation of the University, (From Item #3).

Dr. Shipka: Not sure of the intention of this third point,

If it were found that present University policy is inequitable but that according to present University policy the grievance must be denied, and then a recommendation were to follow to suggest a change in University policy what would be the effect on the original claimant - what would be the effect on the man who originally filed the grievance?

Mr. Petrych: I think that would be left to the discretion of the Committee as how far they wished to carry this, but what we were trying to do was to provide enough latitude here so that we didn't come up with any prescribed procedure and say, "You must do this, this, and stop."

What we wanted to do was see how strongly the Committee itself felt about the "inequity" unquote, and if they chose after making the appropriate recommendations to the appropriate officers or bodies to take it a little further possibly.

Dr. Shipka: Would the committee ever suggest strongly that the existing policy must be changed so that justice would be tendered?

Mr. Petrych: There again, I think this would be up to the discretion of the Committee how strongly the suggestion was made,

Mr. Reilly: You were discussing Paragraph #2 and then slid into Paragraph #3. I had some comments on Paragraph #2.

Down to the third (3rd) line, after the comma, where: including us faculty serving as full or part-time administrators,

I found this rather confusing and upon inquiry I was told that your Committee meant Department Chairmen, Therefore, I think you should say Department Chairmen instead of those faculty serving as full or part-time administrators, You meant just Department Chairmen?

Mr. Petrych: You say this is misleading?

Mr. Reilly: Yes - for example: Our President is a full-time administrator, I assume. In order to be clear about it it should state Department Chairmen if it is meant to be Department Chairmen, per se.

Dr. Hare: Wanted to raise something regarding the same paragraph.

It seems to me that in view of the fact that many faculty do have one kind or another of administrative functions and that even this phrase "including those faculty serving as full or part-time administrators, not only the Department Chairmen, but a great many other areas - I don't see what the problem is in making the limitation at the level of a Department Chairman or anybody else.

We really will not solve this problem in any case it seems to me until the entire phrase could be left out without damaging the Proposal and say "people with faculty rank are often Petitioners, and that would include notice by Deans in various areas, all of whom practically hold faculty rank, of one kind or another,

Mr. Reilly: We have people who do not have faculty rank who are administrators here, and later on I noticed these people have no vote and yet they are going to be tried by a Committee on which they had no vote at all.

Dr. Hare: At the end of Paragraph #2, findings and recommendations of the Committee shall be reported to the Petitioner, the members of the Committee, the appropriate Vice-President, the President and any other appropriate administrative officer,

I would like to see this additional phrase added: the Committee may, at its option, report its findings to the University Senate.

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Dr. Hare: Seems to me situations might arise where the **Committee** after meeting and **cont'd.:** making **recommendations** finds its **recommendations** a dead letter. It might be wise to give this **excape** valve to this **Committee** that it could **occasionally** bring its findings to the Senate at its **discretion.**

I notice **that** the Proposal suggests that it will keep Minutes for its own use, that the Reports are to be given only to a very limited number of people. It seems that the **Committee** should at its option report to the Senate. It **may** be able to do so anyway.

Mr. Petrych: One observation here. In **discussing** this in **Committee** our primary concern was for the person with the alleged grievance and we felt that there might arise a situation - and this **was** the Majority opinion - where the alleged grievant **wouldn't** want this aired publicly.

Dr. Hare: I feel very strongly the **Committee** is quite correct in adopting this point of view. Nevertheless, I feel that for instance, where the **Committee** feels that certain University policies are inappropriate or **inequitable** that the option of reporting in general terms or in particular terms is **with** the consent of the Petitioner. Of course, it would be a **valuable** tool in the hands of the **Committee.** **Certainly** no confidence should be violated or it seems to me the entire purpose of the **Committee** **will** be vitiated.

Mr. Petrych: Your point then, Dr. Hare is: "**with** the consent of the Petitioner."

Dr. Hare: Yes.

Mr. Koss: **Mr. Koss** stated the Minority Report points out in Article #2: (See attached Minority Report for reference). **That** if there is an existing University policy, we in view of this **Committee**, in court cases in this State and others, if in view of that **Committee** it believes that if the University policy in its operational effect denies to the Petitioner or the grievant his Constitutional Rights it would be impossible for this **Committee** if it is adopted as it exists to find for the **grievant.**

It would place, **as** the Minority Report (See Minority Report **attached**) indicates an existing University policy above the **grievant's** Constitutional Rights. **On** the point that was recently made **with** regard to the findings and their distribution the Majority **Report** is as indicated. However, the Minority on the **Committee** did believe the faculty should have some access to these findings and recommendations because the **grievant** is not the only person who has an interest in this. Other faculty **members** do, and it is hoped that the **Minority**, at least it is the **hope** of the Minority, that if this **Committee** operates **as** it should it will improve the environment at the University within which **all** faculty **members** and administrators operate.

Sister Conroy: I just wondered if in **Committee** this dual function of the **Committee** was discussed **as** a function of an agency appearing and would they explore possibilities of redress?

Did the Faculty Affairs **Committee** view **this** dual purpose **as** absolutely necessary for this **Committee** or at best not attempt it?

Mr. Petrych: Our point here was that there **may** come a time when someone with an alleged grievance **may** act hastily and file a Petition. We felt that it was conceivable that possibly, after cooler heads prevailed and the **Chairman** maybe talked **with** this individual it was possible that they could come up with some reasonable and amicable solution and avoid the necessity for a Hearing. In the **event** that this was not possible, then of course, there would be a full Hearing, in effect, But the point was to **try** to keep it as simple as possible.

Dr. Dobbert: My question is **simply** a procedural one.

Addressed **his** question to the **Parliamentarian** (Mrs. Dykema): **Isn't** it customary that when a **Committee** does not come to a consensus and a Minority Report has gone out, such a Minority Report is signed by all **those** who have formulated the Minority Report?

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Parliamentarian: Stated she would have to check. Could not tell him right off,  
(Mrs. Dykema):

Dr. Dobbert: Seems to be customary that this is done, generally,

Mr. Koss: I wrote the Minority Report myself. There was no collaboration as is indicated in that Minority Report by anyone else. However, I think that some members of the Faculty Affairs Committee did and would have concurred in that Minority Report, at least in **part**.

It was signed by the person who wrote it, except that the stencils **didn't run** off. And thanks to the Secretary of the Senate (Miss Jenkins) who recopied and ran them, and because of the pressure of time she typed my name, for which I **am very thankful** that she did. She got it out and that is why it is not **signed**. I will sign and autograph your personal copies.

Miss Jenkins: Mr. Koss, I even cut the piece from the old stencil with your (Sec. of senate): name on it and fastened it to the new stencil, but it just would not come through,

NOTE: (On re-run of these Stencils (Saturday, May 22, 1971) Mr. Koss' signature is on the Stencil.)

Mr. Reilly: Since this is a Minority Report I was **going** to raise that question before when you formally presented it, Mr. Koss,

However, Mr. Koss, if I **understood** you correctly you thought **all** the Minutes of this Hearing **Committee** should be made public. Is that correct?

This could be a very dangerous thing. We have dismissed faculty members in past years who were **homosexuals**. Now they violated a law but I **don't** think we should publicize this. So I think **this** should be at the discretion of the Committee what may or may not be publicized. We could hurt some individual **tremendously**, I assure you.

Dr. Poddar: I would suggest that Mr. Koss be asked to be there (on the platform) with the person who is representing the Majority point of view (Mr. Petrych) so that the Minority **has** the opportunity to react upon the suggestions that are made and **comment** upon them,

Dr. Pugsley: This is a **recommendation** Mr. Petrych to your Committee from Dr. Poddar,

Mr. Koss: You going to invite me to come up or not?

Mr. Petrych: Certainly, Mr. Koss came and seated himself on the platform,

Dr. Shipka: I wonder if it is **not** unconstitutional to dismiss a person for homosexuality? And if that were a reason I would tend to **think** that we would be in the Courts again,

There have been several precedents set on this in recent years in the Courts at the Circuit Appeals level and at the **District** Federal level,

Mrs. Dykema: We are getting away from Paragraph #2.

Dr. Shipka: If that is one of the sources of reasons that we are going to use to say that **this shouldn't** be published that reason **doesn't** count,

Mr. Reilly: I am citing here that there can be reasons like this which would be very **injurious**; **doesn't** have to be **homosexuality**; it could be many other things. They could have **violated** the law; could be an habitual drunkard, an alcoholic, for example, I **don't** think we should publicize this even if they **haven't** violated the law. It could be very injurious to the **person**.

I think the **Committee** should have this at **its** discretion,

Mr. Koss: What Mr. Reilly points out is true. There could be some of this - some harm could come to some people who bring an action who were dismissed for the type of cause that he **gives** - whether just or unjust.

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Mr. Koss : But, I think what I weighed in **my mind**, and I was in the **Minority**, of **(cont'd.)**; course, on this **Committee** is that I think it would be of greater damage to **deny** all of **this** type of information **than** there would be in **revealing** it. Besides we are supposed to be **responsible** for our conduct and if we do something we can, of course, be criticized for it.

In regard to the **Minutes** in the **Minority Report** again I indicate there are **those with** interests in a **grievance** other than those with **privity to it**. Again I refer to this idea of **improving the environment** and **that's the reason** I took the **view** on that that I did,

Dr. Pugsley: **My I remind you** that the testimony before this **Committee** would **be recorded**, would be a matter of record and would be available to the Defendant - and that **it may** form the basis for further Appeals in the **Courts**. And bear that in **mind** because in **many** cases **this** is only the first step in what may turn out to be a long procedure of **disagreement**.

Mrs. Dykema: In **talking** about Paragraph #9 - I would like to say that the Majority felt that the **Grievance Committee** or Appeals **Committee** would be able to settle **problems**, not simply be the first step on a long procession of **proceedings** and **that small** problems would not be automatically **escalated**. If, for instance, anything that anybody said was the subject of Minutes being posted in the **Library** it might keep **many** people from going to the **Committee** to seek redress on something that was minor but irritating because they didn't want to **have** it become a big issue on campus.

Dr. Hare: If we are **discussing** Paragraph #9, as we **apparently are**, **it seems** to be we are going to discourage a large **number** of faculty members who might have recourse to this **Committee** from using it at all. And since as Mrs. Dykema observed the hope and expectation of this **Committee.....the formality** that would discourage the **faculty** from making the fullest possible use of **it** as a mediation and **conciliation Committee**.

Dr. Pugsley: **Aren't** you going to have to spell this out in rather **specific** terms?

I **don't** want to seem to get away from the **article** we are talking about - but later on you **very** properly say, I **think**, that Plaintiff may be **represented by** Counsel of **his own** choosing which may very well be legal counsel which throws **it** usually **into** a different ball park.

How do you distinguish where a case begins and where **it** is going to end up?

Dr. Hare: I **don't** think you can distinguish where a case **begins** and where **it** end up. **That is why** I feel that Paragraph #2, which we **were discussing** a while ago, is really a little **more** specific **than** is actually necessary.

It seems to me the **Committee** should be left with the widest possible latitude to **determine** its own **rules** and determine its **own** procedures. **It seems** to me this is going to be a **Committee** of elected **tenured** faculty members, **I don't** think that anybody is going to argue too much about this particular set-up of the **Committee** and that **it** is capable of developing its own rules and **its own** point of view, and **its own** way of **handling** it,

I think we cannot spell **this** out until we know **all** about the **problems** that **existed** in the past. The reason we have a **Committee** like this is because we cannot anticipate the problems that will exist in the future, and **it** is precisely for **this** reason that we need a **Committee** like this to handle situations **as they arise**, and to try to **spell** out every situation that is going to arise in the future **would be absolutely impossible**.

COMMENT: I **don't** think we should waste our time on **it**.

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Dr. T. Miner: I'm a little confused. We seem to be jumping back and forth from #2 to #9.

It seems to me that the findings of this Committee in certain cases will become known and are a matter of public interest, but I would be very much disturbed if the Minutes of its meeting, what goes on, (and I think should go on privately),; I would be upset if those Minutes were broadcast all over campus just as Dr. Hare and Mrs. Dykema have spoken. I agree with their point of view.

Dean Paraska: Speaking on #1 and #2.

I am Chairman of the Appeals Committee. Hope you are not any more active than the Appeals Committee.

Do you really mean to have another Committee named with the word 'Appeals' in it?

In setting up this University Faculty Appeals Committee we are going to set up a second Appeals Committee. We already have one Appeals Committee that takes care of the classified people. Aren't we, in fact, leaving a gap for the professional people who are an important element of our University?

They have no recourse to the Appeals Committee. Did the Faculty Affairs Committee, since we are a University Senate rather than a Faculty Senate, consider including, say, the professional employees in this Appeal system?

Mr. Petrych: We had considered this and the opinion was that we wanted to but that this particular Committee be initially just for the Hearing of Faculty alleged grievances. This was our intention.

Dr. Dobbert: Referring to #9. I think the discussion has wandered from one point to another. In one way there is an opinion or attitudes that all procedures shall be public, and therefore, that publicity shall protect the grievant.

Well, it has been also said by Mr. Reilly that publicity may not protect the grievant, and it has been said from the Chair that probably the grievant cannot prevent publicity because he may go into another ball park.

I would like possibly to get the discussion back to the grievant.

Isn't he the one for which we formed this Committee? Or is it that we formed this Committee for policy of confrontation? It seems to me that we first, and foremost, should say something about the grievant. If the grievant feels that his interest is better served by making the proceeding public then let him request so.

If the grievant, on the other hand feels that he is better served by procedures that may be secret or confidential I would think this possibly would serve best the grievant and his individual rights.

Mr. Koss: Since the Minority spoke to that point " while what you say is true " the grievant - it does not handle " it does not consider, I think, the interest of others other than those privacy to the confrontation, the grievance, the situation, whatever it is. Those people and the rest of the faculty have an interest.

You would get the same argument I think in a Court of Law if you were tried for murder. Don't publish it - you know that I'm guilty. This is for the edification of profession that this is done and we should have something like that in this type of environment, in this type of Institution, I believe.

Dr. Slavin: May I ask the Minority: Who is to decide whether it's to the interest of the faculty or not if the procedures are to be kept private or public?

Mr. Koss: If I may respond to that: In this type of situation I do not think it is the grievant's solely,

Dr. Slavin: Who is going to determine whether it is or not?

If I ask that something not be made public don't I have that right?  
Or are you going to rule in favor because you think you represent the faculty?

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Mr. Koss: I think you do not have that right if the **denial** of that information harms someone else. In response to your question, however, I guess **it** would be the Board of Directors who decides what the situation will be in **view** of what the President recently said,

Mr. Fortunato: I **don't** think there is any **comparison** between the proceedings in a courtroom and the proceedings we are talking about here,

First, and foremost, **all** parties that are in the courtroom have an immunity from any civil action. This committee is going to be a fact-finding Board, and **if** you want to get to the facts you are going to have a full and frank appraisal. I would be fearful of *any* civil action that could come from publicizing minutes of that **kind**.

Mr. Petrych: I think in response to **Mr. Koss**, we have something that is a little **bit** contradictory. The idea that this Committee shall be formulated and open to anyone who feels he has a grievance and yet if we put in a ruling that these minutes are going to be made public and the person with the grievance feels that there is a little something he doesn't want let out **wouldn't it** serve as a deterring factor in getting him to bring the grievance before the **Committee**?

Dr. Hare: I, myself feel, very much like **Dr. Dobbert**, that the **matter** of public or private hearings and whether or not a person wants to be **represented** by Counsel or not should be a matter that the Petitioner could **easily** decide in advance. **This** could easily be written into the Proposal without any great **difficulty**. The Petitioner would determine whether these **are** going to be public hearings or private ones.

If they are public hearings then presumably the minutes are also public; **if** private hearings then presumably the minutes are also private.

Dr. Pugsley: When we do have an official Senate meeting at which there will be formal consideration of this **it** would appear to me that we should agree beforehand on **how** this shall be voted upon.

It would appear that the entire Senate ought to have the opportunity for such discussion before we undertake a Motion for adoption in order that there can be a meeting of minds, and then you ought to take up the points one by one in **terms** of the official adoption,

**Now** is that what you have in mind? Or do you prefer to have a Motion to adopt when the time comes? You go through **all** this red-tape of Amendments, and counter-amendments and that sort of thing, but what do you want to do?

Parliamentarian: There is a procedure by which you can put **it** on the floor  
(Mrs. Dykema): and then you can adopt point by point.

Dr. Pugsley: I **don't** want us to get tangled up when we are actually considering the matter in a lot of Parliamentary red-tape when the essence of what we are trying to do is come out with the right answer.

Dr. Hare: I suggest that perhaps with an expression of the opinion of the people present we could pass on to other points.

Dr. Greenman: **It** seems to me that in terms of what **Dr. Dobbert** has said and **Mr. Koss** has said you can adopt the position that will incorporate merits of both of the positions.

**Dr. Dobbert** is concerned **with** protecting the grievant; this can be done by requesting privacy or by requesting publicity.

**Mr. Koss** is interested in bringing to the attention of the whole **University** the substance at **issue** which has been brought to the attention of the Committee by the grievant.

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Dr. Greenman: This can be done by the Committee calling the University's attention to this without any mention of the grievant, **If it is a question that affects the whole University it can be formulated in such a way as not to be focused in on the grievant,**

**It doesn't seem to me that they are incompatible positions,**

Mrs. Dykema: It seems to me that Dr. Hare's suggestion that a report would be made to the Senate would be brutal if the position takes care of **that.**

What #9 had to do with that, was the actual Minutes, which of most Committees are on file in the Library and available for everyone to read.

Mr. Petrych: With regard to Item #4 here: the size of the Committee was purposely kept small. We thought it would be a little less cumbersome as far as trying to get a meeting together; as for the election procedure we felt that the Executive Committee having been elected by the faculty here would have the confidence of the faculty in picking a nominating committee and subsequently the *nominating committee* picking members for the Appeals Committee.

We did, however, try to make provision for someone who may have been overlooked as far as membership or a potential candidate for membership on this Appeals Committee by having this provision for **Petition by a potential candidate,** and just allowing additional people to come on as possible members of the Committee.

Mr. Reilly: I want to object to the number three (3). The number 3 should be enlarged to seven (7), with one (1) member being elected and one only, from each School, instead of **3 members.**

I think this could be a very unfair Committee balanced one way. I have confidence in one from each School as getting pretty good representation as a whole from the University. I intend to make that as an Amendment when it comes up - that there be seven (7) - one from each School and one only from each.

Dr. Hare: Plus the Chairman or how?

Mr. Reilly: I have a lot here, but I was going to suggest that the Chairman, inasmuch referred to an Administrative Officer, **etc.,** I was told they meant Department Chairmen.

I was going to suggest that the Chairman of this Committee be elected by Department Chairmen and only allowed to vote in the event of a tie needing to be broken, and **serve** one year (1) only.

Mr. Petrych: Mrs. Dykema felt a point of clarification needed here.

Would you give us your reason for your desire to have the Chairman of the Appeals Committee elected by Department Chairmen?

Mr. Reilly: Inasmuch as I was told that what was meant when I referred to Full and Part-time Administrative people I was told that what was meant was Department Chairmen; they are not allowed to vote here. That is why I thought they should elect the Chairman. The Chairman would not have a vote except in a tie and one year is going along with what you already have,

Sister Conroy: The dual purpose of the Committee is to keep the function simple.

The discussion has lead me to believe that this Committee would be more of an arbitration Board, but less an arbitration Board than one with more affiliation. It seems to me we shouldn't structure the Chairman in the various schools. That we ought to look upon this Committee as a kind of grouping of many individuals dealing with other Committee individuals rather than a structure in terms of various Schools and Departments.

I would prefer the Committee as it is outlined in #4 rather than change it to a Chairman from Administration or from different Schools.

DISCUSSION-SPECIAL SENATE MEETING (April 23, 1971)

Dr. Hurd: I should also like to react to the size of the Committee.

Many of you have been on committees with 7 to 10 or 12 members; you know the difficulty of getting them together,

One of the reasons for keeping the committee small was that it would be easier for them to meet quickly and take action.

Dr. Hare: I would like to add my support to what Dr. Hurd said, and to what Sister Mary had to say.

It seems to me that in view of the fact that the requirements did not come in for discussion but the Proposal suggests that the Committee meet within one week after the Petitioner filed a Petition, and that the Committee had better be kept just as small as possible,

Insofar as the Chairman is concerned, I would have some objections as to the way he is empowered to vote in this particular Proposal, but I think it would be very unfortunate to have a large committee - even as many as seven (7) people - but I do not see any objection to having some kind of a rotation system among the various Schools. That would perhaps be perfectly satisfactory. But to have seven (7) members I think we are crippling the Committee in part to begin with.

Dr. Pugsley: Are you saying that you are recommending that no more than one (1) member of the Committee of whatever size, assuming that it is seven (7) or smaller come from a single School?

Dr. Hare: I think it is desirable to have as open an election as possible with as few restrictions as possible. I understand that the feelings of the other Schools on campus who sometimes feel surrounded and outnumbered by Arts and Sciences.

Since it is extremely desirable that this Committee have the support of the entire faculty in the entire University Community anything that can be worked out, if it is possible mechanically to do so, without burying ourselves in rules and regulations, should be done.

A large Committee would be undesirable.

Mr. Koss: With regard to one of the points Dr. Hare raised with regard to the privilege of voting on the part of the Chairman,

The Minority Report attacks that because it believes that it would make this Committee in many cases inoperational. It could not come to a decision, and I think that this Committee, when it has a grievance before it, because that is the expectation of the grievant, is to get some decision. And we should not, I believe write into this procedure something that in some cases will cause a tie vote.

Mrs. Dykema: When we first set it up we had the Chairman with the privilege of voting to make or break a tie. After much discussion it was felt that since he was an elected member, just as the others were, that to deny him (and I think Mr. Koss went along with this) his vote was unfair.

I think perhaps I neglected at that point (which was fairly recently) to go back over the problem of its being, therefore, a 4-member committee though a 3-member quorum. Before that we had a 3-member committee with a Chairman who only voted to make or break a tie.

So there may need to be some change along that line but our thinking was that since he was an elected member, and was not elected just for Chairmanship, that he should not be denied his vote,

Dr. Pugsley: One of the interesting things to me as I observe the operations of the Ohio Board of Regents is that the Chairman of that Board votes and makes Motions. I had not experienced this before but it is evidently quite acceptable.

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DISCUSSION—SPECIAL SENATE MEETING: (April 23, 1971)

Dr. Hare: I do not **really** think whether the **Chairman** votes simply to break a tie or votes or votes under **all** conditions is the essence of the matter **because I would** take issue completely with Mr. Koss and his view of this **Committee**.

Mr. Koss seems to take the **view** that this Committee is one that is going to arrive at decisions and is going to then take action.

I doubt very much that this **Committee** is going to function in this role. This Committee is going to **mainly** attempt to find solutions, and **my** guess is that they will be **acting** in large unanimity in most cases and **I really** do not see that there is a great problem in the procedure of voting.

If this Committee is going to be divided along lines and take votes and have to break ties **it** will probably be a failure anyway.

Mr. Petrych: With regard to the additional candidates over and above those nominated by the **nominating** committee would you as a group have any feeling as far as setting a limitation on the number of candidates?

And do you feel that ten (10) is a substantial number of names on a petition to qualify a candidate as such?

Do you have any preference on this?

Dr. C. Painter: As **it** reads right now you are suggesting that at least two (2) candidates should be nominated for each position. **If** you left that wide open you could have all of us as candidates,

I think you are going to have to set some limitation on the number of candidates for each position.

In response to Mr. **Reilly's** comment relative to **representation:** if we follow Mr. **Koss'** allegations here that **it** is supposed to be not only for the grievant but the whole University that is concerned here - **if** the whole University is concerned then **I** think the whole University should have some **representation** on the **Committee**. Or are we just representing Arts and Sciences or School of Business, Education, etc.

I find that Chairing Committees is very difficult - getting a Committee together.

I think you find that when you try to get classes together. **I don't** think that the fact that the Chairman had a tough time getting 7 people together should be a detriment to the function of the Committee. **If** these are as Sister has pointed out humane people treating people humanely then they should get together, **if it** takes a week, 2 weeks or 10 days. **If** you have to operate on a crisis basis then **that's** the way you will have to operate. At least you operate, **You don't** throw in the sponge before you call a meeting.

Dr. Hare: I would like to ask **Dr. Painter** if he sees any objection to a rotating system insofar as the election is concerned in the interest of keeping the committee small? That the positions could be rotated among the Schools?

Dr. C. Painter, I see one objection to **it**.

In the 10 years I have been here **it doesn't** rotate.

That's the problem; **it** goes around in circles. My point being here that **if I** were to send a paper around now to ask all of you what four (4) Committees you served on in the last 5 years **I'll** bet you **couldn't** tell me.

**That's** my only objection to **it** -- the rotating concept. **That's** fine, **if I** have a grievance, well **let's** see, the people who are in there now **aren't** from my School so **I'll** wait until next year and they will be from my School.

I think **it's** too much of a problem here checking to find out who is on the Grievance Committee before you file your grievance.

If you have representation from all your Schools, not necessarily all of them, six (6) of the Schools and then rotate the 7th School **I don't** think **it** is asking us too much to get together if we have a grievance, **It** will be something very quick. **It** will have to be done quickly.

DISCUSSION—SPECIAL SENATE MEETING (April 23, 1971)

Mr. Koss: Some points I would like to make:

1) Response to a statement Mrs. Dykema made - in the Committee as I recall I have never supported a position that the Chairman should be able to create a tie, I did support the position that he should not be denied the right to vote, I opposed the fact that he should elect not to vote and create a tie by that procedure.

2) With regard to Dr. Hare's statement - the allegation is that the committee is not going to do anything:

This came up so often in our committee as if we were playing games, This committee will find the facts; whether or not it is implemented is quite another matter, It depends upon where it goes from there; what the University does through its various other procedural bodies and chooses to do,

I have no objection to a larger committee. In fact, I have suggested a larger committee in accordance with the statement.

Dr. Greenman: I would like to speak in support of the suggestion of Mr. Reilly's to have a larger committee. It seems to me that the advantages of having a representative from each School would be so great in terms of examining grievances that should outweigh any possible awkwardness that should arise in terms of purely mechanical questions of getting them together.

Dr. Pugsley: How long do you wish to hold this meeting?  
It is now 4:55 p.m. Do you wish to go on until  
5:15 or 5:30 pm?  
Many people are leaving now.  
It was decided to close at 5:15 p.m.

Dr. Poddar: In reference to #4 in the Majority Report.

Regarding the suggestion that has been made here that there should be one representative from each of the seven (7) Schools. It appears to me that as individuals, people represent other people, They do not represent the Institution,

Perhaps in that argument, if it is to have any validity, is to give equal representation to the College of Arts and Sciences: (for example, we might have to divide up the College of Arts and Sciences into the Natural Sciences, Humanities, etc.; Social Sciences, and what else have you).

It seems to me that we ought to have election on the basis of the number of people that are involved; they are the ones who should make the selection of the members of this committee.

Mr. Bright: I think traditionally what has happened in our society and in our Universities today is that people are developing their own small environs around them, And these close-type environs that we keep building around us keep us from really interacting with each other in a humane way which I think the Grievance Committee is set up to do; to analyze the objectives,

Now, I think in a University organization such as this that a grievant would be most widely and broadly represented in any case if that thing was systematized across the board representing a broader base than just 3 or 4 members, which again would just represent small little satellites; like, for example, some of us are here to teach; others are here to make images; others are here as a buttress against one another. It is becoming a weird, bizarre situation,

I think if we are going to go on in terms of a composite unit in the University structure moving in some direction collectively we ought to delegate an organization in this matter,

I think that what is very obvious here is that we have a division of interests. There is a grievance here, We need a Moderator right here to decide what we are talking about in this room.

By that very notion the fact that we are getting absolutely nowhere and that the oxygen is really depleted in this room.

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DISCUSSION-SPECIAL SENATE MEETING (April 23, 1970)

Dr. Mare: Which side are **you** on, Mr. Bright?  
On the 7-member side or the 3-member side?

Mr. Bright: The 7-member side,

Mrs. Dykema: My feeling is that this would be a **committee** of faculty members dealing with faculty problems, Not a committee of schools dealing with school problems, and even **if** the nominating committee was so unwise as to nominate six (6) people to a position all from one School and maybe one department **I am** sure the faculty would be sufficiently incensed to get a lot of petitions going that would get other people on the slate that would give some diversity,

And **it** is conceivable that two faculty members even from the same department might be able to be impartial and helpful in assistance on this committee,

Dr. Greenman: A **member** of the University identifies with his School and if his School **isn't** represented on a Grievance Committee he right then has a **grievance**.

The Committee presumably is going to deal with two (2) **kinds** of problems:

- 1) Problems which are peculiar to the grievant
- 2) Problems which are University-wide

The best way to deal with the second **kind** of problem is to have maximum representation,

In **terms** of the first problem, again **it** seems to me the more **intelligence** you can bring to bear the more humanity you can bring to bear upon that question the better. You can do that with seven (7) far better than you can do with three (3).

Dr. Hankey: The division by Schools at the outset tends to fragment the **Committee**, and we elect School representatives and not committee representatives. And I think there is a counter argument - that is, and **if my** memory serves me rightly and I think **it** does - **Committees** on which I have served with mixed representation from different Schools has always worked very **well**. I think **it** probably works better than **Committees** within the Schools but this has been done by some outside body.

We have never, I think, have known for a while **who** represented what School. When the Committees were in the Senate - as soon as we started to argue things School lines do set up. I think **if** we set the School lines up first we are **inviting** disagreement, representation along school lines; whereas, if we set up the Committees first, a good big Committee **that** will allow election - if faculty does this right **it will** allow representation across the board from different Schools.

If faculty does **it** wrong **it** is going to be **one** more basis for the **Committee** thing to fall on its face. I would rather see us do **it voluntarily**, if possible, than by design,

Dr. Pugsley: If you wish another meeting for discussion that **would** be arranged by **Mr. Petrych**.

I **must** compliment you on having upheld the finest traditions of the faculty in the definition of a **faculty member**: he is one **who** thinks otherwise.

MEETING ADJOURNED: 5:15 p.m.

Respectfully submitted,

Vera Jenkins  
SECRETARY OF THE SENATE

MINORITY REPORT  
ON THE PROPOSED  
YOUNGSTOWN STATE UNIVERSITY FACULTY APPEALS COMMITTEE  
for consideration on  
April 23, 1971  
 by the  
UNIVERSITY SENATE

This Minority Opinion is respectfully submitted to the members of the University Senate to aid in the establishment of procedures for the just resolution of issues between faculty and administration, to insure academic freedom in the University as an institution for free inquiry in a free and open society, and to provide for greater harmony among the various components of the University community.

- I. Article 2 reads: "The purpose of this committee is to function as an agency for the hearing of faculty grievances received from the full and limited service faculty members, including those faculty serving as full or part-time administrators, and to explore the possibilities of redress and/or to assist in arriving at satisfactory solutions. Any findings of the committee **will** be
- a) with regard to the application and interpretation of existing University policy where such policy is stated, or
  - b) with regard to matters not covered by University policy.

The findings.....**Officer.**"

- II. Article 3 reads: "**The** Committee shall have the responsibility to make to appropriate officers or committees recommendations for improvement of the operation of the University,"

111-The Minority contends that if Article 2 is adopted as written, **it** will effectively preclude findings **FOR** the grievant in certain types of cases, not all of which can be anticipated, but one of which is a "**Poddar-type**" case (non-renewal of contract without specific oral and/or written reasons for the action). Except in rare cases where written notice to the faculty member by the University fails to meet a required deadline date for such written notice, or for such other related technical failures to comply with stated requirements under existing University policy, the Committee would find for the **Administration** in all cases.

- IV. Such a result, the Minority believes, is unjust and should not be permitted,
- V. The Faculty Appeals Committee, in view of its purpose, should not be so restrained as to preclude its finding **FOR** the grievant, in the face of the University's stated existing policy, where such policy conflicts with, and/or denies the grievant's Constitutional rights; and where the Committee has made a diligent search of existing legislation and case law, both within and outside the state of Ohio as it relates to the issue at hand and where it further believes the University policy at issue does, in fact, deny the Constitutional rights of the aggrieved,

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MINORITY REPORT - FACULTY APPEALS COMMITTEE: (April 23, 1971)

- VI. To hold otherwise would allow University policy which operates to deny the Constitutional rights of a faculty member to take precedence over, and to supersede, the Constitution of the United States.
- VII. The Majority view is that even if the Faculty Appeals Committee is precluded from finding for the grievant under Article 2 (a), as claimed by the Minority, whatever defect results from the operation of Article 2 (a) is remedied under Article 3.
- VIII. The Minority's contention is that in a case of the type reflected in V (Page #1) the failure to provide due process to the grievant under Article 2 (a) will probably not be remedied under Article 3 for the following reasons:
- a) The Faculty Appeals Committee is not required to take action under Article 3 at the time of the grievance, and it may not take any action whatsoever;
  - b) The Faculty Appeals Committee even if it does act under Article 3, is not required to, and therefore may not, recommend immediate restitution for the grievant to make him whole for the wrongful act of the University; and
  - c) Even if the Faculty Appeals Committee does act under Article 3 and does recommend immediate restitution for the grievant for the wrongful act of the University, the adoption and implementation of its recommendation will be more circuitous and the time interval between recommendation and implementation will be more extended to the effect that the denial of due process resulting from the operation of Article 2 (a) would not only NOT be remedied by the action of the Committee under Article 3; but would, to the contrary, be confirmed and effectively re-enforced by a "pocket vote" of inordinate delay.

THEREFORE, the Minority recommends the deletion of the entire second sentence of Article 2 including sections (a) and (b).

\* \* \*

- IX. The Minority contends that this Committee should not hear grievances of a strictly administrative type brought by one full time "administrator" (employer, or agent of the employer exercising either complete or partial supervisory, evaluative and/or directive function, either directly or indirectly over the faculty, or portion thereof) against another full time "Administrator" or against a member of the faculty (an employee who has no supervisory, evaluative or directive function over "administrators").

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MINORITY REPORT - FACULTY APPEALS COMMITTEE: (April 23, 1971)

- X. The Minority believes that persons who perform both an "administrative" and a "faculty" role or function such as Chairmen of Academic Departments, should be permitted to bring grievances to the Committee if the grievance is rooted in the "faculty" or employee function but not if the grievance is rooted in the "administrative" function.

THEREFORE, the Minority recommends in the first sentence of Article 2 which reads: "The purpose of this committee is to function as an agency for the hearing of faculty grievances received from full and limited service faculty members, including those faculty serving as full or part-time administrators, and to explore..", that the words "full or" be deleted.

ALSO, the Minority recommends that the following be inserted after the first sentence in Article 2: "The Committee shall hear grievances from part-time Administrators only if the grievance has its basis in his role or function as a faculty member (an employee having no supervisory, evaluative, or directive function over administrators), but not if the grievance has its basis in his role as administrator (an employer or agent of the employer exercising either complete or partial supervisory, evaluative and/or directive function either directly or indirectly over the faculty or portion thereof)."

- XI. Article 4 of the recommendation provides the Chairman "with the privilege of voting" and Article 7 provides for a quorum of "three members".

The Minority contends that the Chairman's "privilege of voting" is undesirable in that the Chairman's exercise of his "privilege" could result in a tie vote by the Committee. For instance, when the Chairman and all three other members are present, the Chairman by voting could cause a two-two tie vote. In another case where there are only three members present (quorum) the Chairman by not voting could again cause a one-one tie vote.

In view of the stated purpose of the Committee and the desire of the grievant to obtain a ruling, for this is his expectation in bringing his action, the Minority holds that as an operational matter, such a "privilege" provision can operate only to impede orderly solution of controversy by encouraging inconclusive tie votes.

The Majority defends the "privilege" provision on the grounds that the Chairman should NOT be forced to vote, using the analogy of the "hung jury" in a court of law.

The Minority contends that the "hung jury" is not analogous because when a "hung jury" decision occurs a new jury can be selected from new veniremen and the entire case retried. Under these procedures as proposed, if a tie vote were to occur, however, the grievant would be effectively precluded from any conclusive adjudication of his grievance by the Committee for

MINORITY REPORT - FACULTY APPEALS COMMITTEE: (April 23, 1971)

at least a year until a new Chairman were elected; and even then the Committee may refuse to rehear his case unless he has new and substantial evidence to present that was not entered in evidence at the first hearing.

Furthermore, the Minority contends that if the Chairman or any of the other members disqualify themselves from hearing and acting on a grievance for proper reasons, then that Chairman or that member should appoint a substitute to serve as his own replacement (Article 5). Otherwise, in tie vote situations, which he creates, the Chairman holds an effective pocket vote on the Committee and subverts its purpose.

THEREFORE, the Minority recommends (1) in Article 4, the deletion of the words "with the privilege of voting" and the substitution in their place of the words "who shall vote only to break a tie vote"; and (2) that the third sentence of Article 5 be amended to read "any member of the Committee who will not be available for duty shall appoint a substitute member during his period of unavailability; such substitute shall have the same qualifications for membership as the elected member who designated him, and shall have the same power."

\*\*\*\*\*

XII. Article 9 of the recommendation reads as follows: "9. The Committee shall keep minutes of its meetings for its own use,"

The Minority contends that the restriction "for its own use" operates to the detriment of the interests of various other groups and/or persons and as such is not desirable for the following reasons:

1. This restraint would deny findings, evidence, standards for the findings of fact; minority views and other information to another faculty member who, perhaps, has a grievance, similar to a possible prior precedent-setting grievance and such denial might well handicap his preparation of evidence for the hearing or preclude his ever bringing a formal grievance to the Committee,
2. This restraint, in its operational effect, is probably illegal and the minutes as well as such other specifically enumerated data which is essential to a grievant's proper defense against wrongful acts by the University is probably available through Court action from not only the Faculty Appeals Committee but from elsewhere in the University as well.
3. Also, the greater availability of these minutes and other data at the University would to some degree eliminate the feeling that some faculty members have of the secrecy which seems to surround some decisions, alternative decisions and the grounds on which they were based. Just as Courts of

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MINORITY REPORT - FACULTY APPEALS COMMITTEE: (April 23, 1971)

Law and Equity write opinions for the edifications of the profession instead of merely rendering a decision; so, too, should the availability of the minutes of the Faculty Appeals Committee be made available to those concerned for their edification, information, and use.

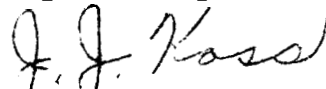
4. One of the greatest benefits to be derived from the effective operations of the Faculty Appeals Committee, aside from rendering justice directly to the aggrieved in a specific case, is the broad indirect but real benefit shared by all parties from the greater harmony achieved within the University environment. Because parties other than those with privity to a specific grievance also have interests in the outcome of the case, information related to it should not be denied to them.
5. The Majority contends that improper use of the minutes by some may cause overwhelmingly undesirable results if they are generally made available. The Minority contends that much more harm will result to the University if the minutes are denied than if made available, that their denial is probably legally unenforceable, and that if the Majority's contention is valid in this case, then the vast amount of information available to the public in various public records should also be restricted,

THEREFORE, the Minority suggests that in Article 9 the words "for its own use" be deleted and that they be replaced by the words "for the use of all interested parties."

\* \* \* \*

In addition to the undersigned, other Faculty Affairs Committee Members who have not collaborated in this opinion may concur in this Minority Report in whole or in part.

Respectfully submitted,



J. J. KOSS, MEMBER  
FACULTY AFFAIRS COMMITTEE

MINORITY PROPOSAL  
for  
YOUNGSTOWN STATE UNIVERSITY FACULTY APPEALS  
for on  
Thursday, June 3, 1971  
after previous consideration on  
April 23, 1971  
by the  
UNIVERSITY SENATE

This Minority Proposal is respectfully submitted to the members of the University Senate on request of a member of the University Senate to aid the Senate in its deliberations. Both the undersigned, J. J. Koss, and Prof. Petrych, Member and Chairman, respectively, of the Faculty Affairs Committee concurred that the undersigned should prepare and present this proposal to the University Senate for the purpose stated.

MAJORITY REPORT

The Faculty Affairs Committee recommends the formation of a faculty committee, to be constituted and charged as described below:

1) The **Committee** in question shall be known as the Youngstown State University Faculty Appeals Committee.

2) The purpose of this committee is to function as an agency for the hearing of faculty grievances received from full and limited service faculty **members**, including those faculty serving as full or part-time administrators, and to explore the possibilities of redress and/or to assist in arriving at satisfactory solutions. Any findings of the committee will be

a) with regard to the application and interpretation of existing University policy where such policy is stated, or

b) with regard to matters not covered by University policy.

The findings and recommendations of the committee shall be reported to the petitioner, the members of the committee, the appropriate Vice President, the President, and any other appropriate Administrative Officer.

NOTE: See end of report for notes and references.

MINORITY REPORT

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2) The purpose of this committee is to hear faculty grievances received from either full-service and/or limited service faculty excluding department chairmen and other full or part-time administrators except as herein-after provided, **brought** individually or **jointly**<sup>1</sup> to make **findings** of fact either for or against the grievant(s) on the **merits of the grievance; and** if its findings are for the grievant(s) to explore the possibilities of redress including full restitution and/or to assist in arriving at **satisfactory** solutions consistent with the **committee's** official **findings.**<sup>2</sup>

The Committee may hear grievances **brought by persons who** jointly perform both an "administrative" and a "faculty" role or function such as chairmen of Academic Departments

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provided that the grievance has its basis in his role or function as a faculty member (a faculty member is an employee having no supervisory, evaluative or directive function over the faculty or portion thereof); but the Committee shall not hear the grievance if its basis rests on his role as an administrator (an administrator is an employee or agent of the employer exercising, directly or indirectly, complete or partial supervisory evaluative and/or directive function over the faculty or portion thereof).<sup>3</sup>

The findings and recommendations of the Committee shall be reported to the grievant(s), to members of the Committee, to the appropriate faculty or administrative groups or officials, and shall be available on request to faculty members having a direct or indirect interest in the grievance.<sup>4</sup>

3) The Committee shall have the responsibility to make to appropriate officers or committees recommendations for improvement of the operation of the University.

4) The Committee shall consist of a Chairman, with the privilege of voting, elected at-large for a term of one year: and three other members, elected at-large and serving for terms of three years, provided that on the first election the three members shall be elected from a single slate for the terms of 3, 2, or 1 years respectively on the basis of highest number of votes. The Senate Executive Committee shall appoint annually the nominating committee from the full-service faculty members. At least two candidates shall be nominated for each position, and additional candidates shall be included if a petition for their candidacy is signed by a minimum of ten (10) full-service faculty members. No person shall be a candidate for more than one position,

3) The Committee shall make to appropriate faculty and administrative groups or committees, recommendations rooted in its area of authority for the improvement of the University.<sup>5</sup>

4) The Committee shall consist of a Chairman voting only to break a tie<sup>6</sup> elected-at-large annually in May for a term of one calendar year commencing and terminating on September 15; and nine<sup>7</sup> other members elected at large in May for a term of three calendar years commencing and terminating on September 15. On the first election the nine members shall be elected, three members each, for terms of three, two and one years, respectively, the candidates receiving the highest number of votes receiving the longer terms. On the first election, the elected Chairman and/or members shall take office immediately and shall serve their elected term plus the time interval between their election and September 15.

MAJORITY REPORT

MINORITY REPORT

The Faculty Appeals Committee<sup>8</sup> shall annually **nominate** for the May ballots at least two candidates for each position; additional nominations shall be included on the ballot if a petition for candidacy is signed by a minimum of six full-service faculty members; the Faculty Appeals Committee shall conduct the election by secret mail ballot; and those three Committee members who have the longest unexpired terms shall serve as election tellers. In the event of a tie vote the candidate receiving the highest number of votes of the Faculty Appeals Committee shall be declared elected.

In the first election all nominations shall be by petition signed by at least six full-service faculty members;<sup>9</sup> such petitions shall be forwarded to the Faculty Affairs Committee which shall conduct the secret mail ballot, and shall serve as election tellers. In the event of a tie vote in the first election there shall be a run-off election by secret mail ballot.

No person shall be a candidate for more than one position.

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MAJORITY REPORT

5. The Chairman and the three other members shall be tenured members of their faculties, excluding department chairmen and other administrative officers. The electors shall be non-tenured, as well as tenured full-service faculty members, including department chairmen, but excluding deans and other administrative officers.

Any member of the **Committee**, knowing that he will not be available for duty during any extended period, shall be **authorized** to appoint a substitute member during his period of unavailability; such substitute shall have the same qualifications for membership as the elected member, and shall have the same power.

6. The Chairman shall be empowered, whenever he feels it appropriate, to appoint from among the faculty-at-large ad **hoc** committees for more thorough investigations and recommendations except in cases **relating** to loss of tenure. Any such subcommittee can report only to the parent committee.

7. The Chairman shall convene the Committee within one week of receipt of any written petition. A quorum of the Faculty Appeals Committee shall consist of three members. The Chairman, however, at the request of the petitioner, is empowered to seek a conciliation without recourse to the Committee,

8. The Constitutional right of any **person** appearing **before the Committee** to be represented by counsel of his choice shall not be infringed.

MINORITY REPORT

5. The Chairman and all nine **members** of the Committee shall be full service faculty members excluding department chairmen and other administrative officers. The **Chairman** may hold any faculty rank but no more than three of the nine members shall hold the rank of **Associate Professor** or Full Professor.<sup>10</sup>

The electors shall be non-tenured as well as tenured full-service faculty members, excluding department chairmen, deans and other administrative officers.<sup>11</sup>

Any member of the Committee, who will not be available for duty during any extended period shall appoint a substitute member during the period of his unavailability; such substitute shall have the same qualification for membership as the elected member he replaces and shall have the same **power**.<sup>12</sup>

6. The Chairman shall be empowered, whenever he feels it appropriate, to appoint from among the faculty-at-large ad **hoc** committees for more thorough **investigations** and **recommendations**.<sup>13</sup>

7. The Chairman shall convene the Committee within one week of receipt of any grievance under these procedures. A quorum of the Faculty Appeals Committee shall consist of seven members<sup>14</sup>, and the "Chairman" shall be considered a "member" for quorum purposes.<sup>15</sup>

8. The **Constitutional right** of any person appearing before the Committee in any capacity to be represented by legal counsel shall not be infringed.

(CONT'D. NEXT PAGE)

MAJORITY REPORT

MINORITY REWRT

9. The Committee shall keep minutes of its meetings for its own use.

9. The Committee shall keep accurate records of its meetings and of its hearings including all evidence and detailed oral and written representations of all parties for proper subsequent use by all persons having an interest, direct or indirect.<sup>16</sup>

10. It is expected that the other duties of the person who is Chairman shall not be such that it will prevent his effective attention to the responsibilities of the Faculty Appeals Committee.

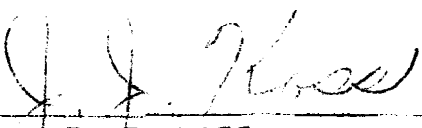
10. If and as the duties of the Chairman become so burdensome as to prevent his effective performance of this function, he shall be granted appropriate release time for the period of such excessive duties without prejudice.<sup>17</sup>

11. A faculty grievance is a complaint by a faculty member of members based upon the decision, action, or failure to act of the employer, or agent of the employer, the operational result of which affects the conditions, circumstances and environment within which the faculty member, or members, work. The grievance is allegedly caused by an employer decision, misinterpretation or inconsistent application of existing rules or practices, or of the initiation of new rules at any and all levels, -- behavior which affects salaries, hours, working conditions, academic freedom, professional standards, and other areas including, but not exclusively limited to, economic considerations.

Settlement of Grievances by nature is essentially a collective bargaining function presuming good faith and a sincere desire to achieve a mutually-acceptable solution rooted in equity and justice.

In addition to the undersigned, other Faculty Affairs Committee Members who have not collaborated in the writing of this opinion may concur in this Minority Report in whole or in part,

Respectfully Submitted,

  
\_\_\_\_\_  
J. J. KOSS, MEMBER  
FACULTY AFFAIRS COMMITTEE



FOOTNOTES AND REFERENCES  
of the MINORITY REPORT

<sup>1</sup>**Grievances** may be brought jointly only if the grievants allege a common cause of their complaint. To disallow joint actions might result in a miscarriage of justice in many cases occasioned by the failure of an individual grievant at the hearings to meet the standard of proof necessary to prevail -- a standard much more easily met by the cumulative evidence of several grievants **filing** a claim in a proper joinder.

<sup>2</sup>**The** Committee should not endeavor to explore possibilities of redress or reconciliation until after it has heard the case and come to a decision.

<sup>3</sup>**See** Minority Report, April 23, 1971, Sections IX and X.

<sup>4</sup>**See** Minority Report, April 23, 1971, Sections **III**, IV, V, VI and VII.

<sup>5</sup>**See** Minority Report, April 23, 1971, Section **VIII**.

<sup>6</sup>**See** Minority Report, April 23, 1971, Section XI.

<sup>7</sup>**The** Minority believes that the majority's recommended Committee is too small and recommends a ten member committee with the Chairman voting only to break tie-votes.

<sup>8</sup>**The** Faculty Appeals **Committee**, it appears to the Minority, would be much better qualified to perform this function than the Executive Committee of the Senate in view of the current structure of the Senate.

<sup>9</sup>**Again**, in view of the structure of the Senate and its influence on the Executive Committee of the Senate, it appears to the Minority that the recommendation reflects a more democratic procedure.

<sup>10</sup>**For** this type of Committee, in the view of the Minority, the suggested proportions according to Faculty Rank reflect much more accurately the different constituencies than do the several schools as argued in the Senate meeting of April 23.

<sup>11</sup>**The** electors to this Committee established to protect employee rights should not include agents of the employer or first-line management, against whom many of the grievances may eventually be filed.

<sup>12</sup>**This** represents an innovative but probably workable suggestion for achieving continuity especially during the Summer Quarter. See also Minority Report, April 23, 1971, Item XI.

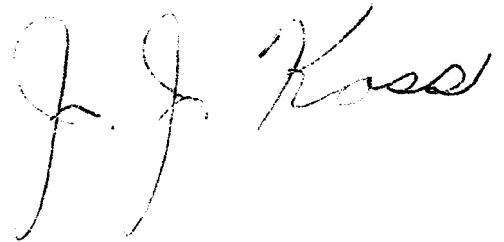
<sup>13</sup>**The** Minority views the loss of tenure recommendation of the Faculty Affairs Committee as almost completely worthless primarily because it provides no right to the faculty member to be represented by legal counsel -- a motion to that effect having been made in **Committee** by the undersigned only to fail **for** lack of a "second".

<sup>14</sup>A quorum of seven of the expanded Committee appears reasonable.

<sup>15</sup>The Minority believes the **Chairman** should not be empowered to seek a conciliation through the "good offices" of the Committee. The person who is Chairman may seek a conciliation in the interest of the grievant in his role as professor but not in his official role as Chairman of the Committee.

<sup>16</sup>See Minority Report, April 23, 1971, Item XII.

<sup>17</sup>While it is impossible to predict the **time** necessary for the Chairman to spend in his function, it appears to the Minority that when the **Chairman** is unduly burdened with the problems of the Committee, **especially** since no other committee of this type **exists** anywhere within the University structure, that reasonable relief time be provided to him without **prejudice**. To fail to comply would **hamper** the grievance procedure with possibly grave consequences to harmony within the University environment.

A handwritten signature in cursive script, reading "J. J. Koss". The signature is written in dark ink on a white background.

YOUNGSTOWN STATE UNIVERSITY  
SPECIAL SENATE MEETING  
Friday, April 23, 1971

IN ATTENDANCE:

Robert R. Hare  
 M. H. Greenlee  
 Thomas A. Sheple  
 Helma S. Miner  
 Ward Z. Miner  
 Christine R. Hykema  
 Elizabeth Sterenberg  
 John J. Terlicki  
 B. J. Uzywiak  
 Mary Conroy  
 Mae Sumner  
 Behen  
 L. J. Latre  
 D. R. Wilkinson  
 G. H. Eamhart  
 S. S. Roberts  
 D. Elser  
 Lewis E. Fozzthal  
 J. J. Koss  
 Raymond W. Hurd

William S. Flead  
 Phil Demison  
 Carl Vanaman  
 Lewis E. Hill  
 V. A. Reckley  
 Jim E. Stalman  
 Henry N. Fink  
 Ann L. Harris  
 Carl Harris Jr.  
 W. Karaska  
 Jayson Feldmiller  
 James W. Kruazys  
 G. A. No. Blunt  
 Earl & Edgar  
 Jim Scriber  
 Mary B. Smith  
 Sally Hotchkiss  
 Paul Beckman  
 Sanford N. Hotchkiss  
 Jack Skubel  
 Bhagwati Poddar  
 Frank J. Tarantone

YOUNGSTOWN STATE UNIVERSITY  
SPECIAL SENATE MEETING  
Friday, April 23, 1971

IN ATTENDANCE CONT'D.:

E. R. Pejack

Clyde Hanky

Frank J. J. J.

Ed. T. Reilly

James E. Coats

Clyde A. Painter

Robert K. Smith

M. Ellis

Lucia Bayer (cop.)

W. J. J. J.

William Petrysh (cop.)



# YOUNGSTOWN STATE UNIVERSITY

YOUNGSTOWN, OHIO 44503

April 8, 1971

Dr. Albert L. Pugsley, President  
Youngstown State University  
Youngstown, Ohio 44503

Dear Dr. Pugsley:

## CONGRATULATIONS!

The Youngstown State University Senate wishes to congratulate you on your election as President of the North Central Association of Colleges and Secondary Schools.

This is a very high honor, not only to you as an esteemed educator, but also to Youngstown State University, and the University Community as well.

The Senate extends BEST WISHES to you in your term of office.

Very Sincerely,

Vera Jenkins  
SECRETARY OF THE SENATE

INTER-OFFICE CORRESPONDENCE

*Dr. Edgar  
for your info  
& files.*

TO Vice-president Coffelt

DATE 4/16/71

FROM J. A. Scriven *JS*

SUBJECT SENATE STANDING COMMITTEE RECOMMENDATIONS FOR 1971-72

In the event there is a discussion of Senate Standing Committees during my absence, may I submit the following recommendations for inclusion in next year's Committees:

- A-3 Academic Affairs - J. A. Scriven, Dean of Admissions and Records
- A-3a Admission Policy Subcommittee - William Livosky, Director of Admissions
- B-2 Calendar and Coordination Committee - Robert Tufts, Assistant Registrar
- B-3 Computer Committee - Wealthie Prince, Coordinator of Student Data Services
- B-5a International Students Subcommittee - Walter Rusnak, Assistant Director of Admissions
- B-7 University Research Council - Mary B. Smith, Registrar
- B-10 Student Academic Guidance and Registration - Robert Tufts, Assistant Registrar  
William Livosky, Director of Admissions
- B-11 Council on Continuing Education - William Countryman, Assistant to the Registrar  
William Livosky, Director of Admissions
- B-12 Committee on Student Development - William Livosky, Director of Admissions
- C-1 Academic Deans' Council - J. A. Scriven, Dean of Admissions and Records
- C-2 Administrative Council - J. A. Scriven, Dean of Admissions and Records
- C-5 Committee on Management and Control of Physical Facilities - Robert Tufts, Assistant Registrar
- C-6 Residence Classification Board - J. A. Scriven, Dean of Admissions and Records
- C-13 Catalog Committee - Mary B. Smith, Registrar
- C-15 Honors Day Committee - Bernice Brownlee, Recorder

The above recommendations will help to spread, somewhat, the responsibilities and will give this area a voice where it is felt a voice should be. I assume that all assignments would be ex-officio.

RECEIVED

APR 19 1971

VICE PRESIDENT  
ADMINISTRATION