

SUBJECT TO SENATE APPROVAL.

MINUTES OF THE ONE HUNDRED AND TWENTIETH PLENARY SESSION
OF THE UNIVERSITY FACULTY SENATE OF THE CITY UNIVERSITY OF NEW YORK

April 19, 1983

Professor Wasser (English, Staten Island), chairman, called the session to order at 7:20 p.m. in Room 207 at the Graduate Center. Present were Senators Amendolia, Baumrin, Baxter, Borneman, Brogan, Buianouckas, Danziger, Davidson, Donleavy, Donoghue, Ercolano, Forstall, Gerardi, B. Gerber, Grossman, Heller, Henderson, Hune, Hunte, Jiji, Julia, Keyser, Kolliner, S. Levine, Loy, McCullers, McDaniel, Minter, Muehlig, Muller, Pennington, Plissner, Reuder, Schuyler, Seguire, Speidel, Stroup, Simoni, Trefousse, Valinsky, Waldinger, Waldman, Walkwitz, Wedeen and Zaneteas; Alternate Senators Graham, Ladimer, Ranis, Rosen, and Zades; Senators Elect Burks, Fedullo, Harris, Quinn, and Weightman; Alternate Senator Elect Bearison. Also attending were Liaison Member Nachtsheim (New York State Conference-AAUP), Chancellor Joseph S. Murphy and Dr. Jean Ellis, Executive Director of the Senate. Mr. Jay Hershenson, Executive Assistant to the Chancellor, was present with the permission of the body for the duration of item 3 "Chancellor's Report." The absences of Senators Barber, Beilin, Burton, Cooper, Finkelstein, Freedman, R. Gerber, Lea, Litke, Petratos, Picken, Reuder, Santos, Sohmer, Wakatama, Williams and Yousef were excused.

I. Approval of Revised Tentative Agenda: The revised tentative agenda was approved with the additional revision of reordering the items so as to place item 5 "Chancellor's Report" as item 3. This action was taken at the request of the Chancellor.

II. Approval of the Minutes of the 119th Plenary Session (March 15, 1983): The minutes were approved with the following corrections: the absences of Senator Yousef and Alternate Senator Ranis were excused.

III. Chancellor's Report: Professor Wasser introduced Chancellor Murphy and noted that under the able leadership of the Chancellor and as a result of the tactics and strategy he had devised the University had as good a budget as might be expected in the present economic climate and that, in fact, the budget was perhaps better than might have been anticipated due to the Chancellor's efforts. Professor Wasser stated also that there were some differences of opinion between the Chancellor and the Senate concerning the Senate's proposed search procedures and retrenchment guidelines and that the Chancellor might clarify these in his report.

Chancellor Murphy thanked Professor Wasser and observed that the University's budget was the result of many people's efforts. He then said that there were a number of housekeeping items he wished to report very quickly and that he would then address three substantive issues of some concern.

The Chancellor commented with respect to the University's budget that the initial gubernatorial budget looked as though it would entail the loss of 1,000 full-time positions for the University which would translate into some 700 people. That result was averted through several strategies: 1) the transfer of \$12.1 million from other than personal service items to personal service, 2) the addition of \$9.4 million in State funds by the Legislature. These two actions meant a virtually full restoration in terms of persons and positions so that he did not think there would be layoffs in the next year. Chancellor Murphy stated also that these results were due to the impact of various constituencies, especially the faculty, on the legislature who were responsive to the coalition of forces in the general community also. The Chancellor voiced a note of caution, however. The budget, he asserted, is a very delicately

balanced one especially in terms of revenue and the Governor is now at war with the real estate and corporate oil interests. If those forces prevail, he continued, and the additional taxes levied in those areas don't hold, if the economic upswing does not continue, then the University will face difficulties. If there was an error made by the Governor, said Chancellor Murphy, it was in keeping his promises. In fact, said the Chancellor, in an aside, since President Reagan was also holding to his promise to reduce taxes, an action whose effect was certainly not discernible to most people, then he might assert that he was nervous about politicians who kept their campaign promises. The Governor, he resumed, is holding to his campaign pledge not to raise the three main types of taxes and that almost meant disaster for the City University.

Chancellor Murphy reported also that all 7 capital programs in the University's capital budget request were approved. None of them with one possible exception - a \$10 million item [the rehabilitation of the CLNY Law School at Queens College facility] - was excessive. On tuition, the Chancellor announced, he would recommend a \$150 increase which was roughly one-half that adopted by the State University. He would not recommend imposition of the \$25 computer fee - in fact, he found himself making speeches analagous to those of Ned Ludd in 19th century England since he was convinced that the idea of a particular tax for a particular function was not wise. The State University, he noted, had added the \$25 fee onto the tuition increase.

There was one area that caused great concern, the Chancellor observed, the recommendation that out-of-state tuition be raised \$1400. When the Division of the Budget thinks about out-of-state students, he explained, they think of people 18-22 years of age from Minnesota or Iowa or Montana and not of foreign students who constitute a large number of the City University's out-of-state students. The Chancellor will therefore recommend to the Board, he said, a \$300 increase for our out-of-state students as a one time action while the State University is imposing a \$700 increase for two years.

Chancellor Murphy then alerted the Senate to the fact that there would be hearings this spring on the issue of tuition indexing which is another proposal the State has made. The State proposal is to use a formula based on contiguous states, e.g. Vermont, Rhode Island and the like which are like New York. The University has suggested that they would have been better advised to have used states such as Texas or California. In effect, New York State has no tuition policy and therefore there are many proposals being floated. City University has proposed that they start from zero and go from there. The idea of indexing tuition to income is also being aired which Chancellor Murphy implied might not be unacceptable. Finally, said the Chancellor, there was hope to obtain some kind of part-time tuition assistance.

The second item on the Chancellor's housekeeping list was the establishment of a committee to expand the Robert J. Kibbee Scholarship Fund and he announced that Dr. David Valinsky, a former chairman of the Senate, had been named to that Committee.

Chancellor Murphy reported next that there were two searches in progress, that the one was virtually completed and the other was nearing completion. He had been told, he continued, that the Medgar Evers Search is underway, that the committee is meeting weekly, that there has been a serious effort to make the search a national one and that it has been free from political intrusion. The same things were true of the other two searches, he added, those for Deputy Chancellor and Vice Chancellor for Academic Affairs. Perhaps, he said, these positions were considered "marginal jobs" which responsible people would not want.

The Chancellor then reminded the Senate that in the fall he had asked the AAUP what was needed to lift the censure on the University's Board and administration. He had entered into negotiations with the AAUP and had then tabled the activity because of

strong opposition from the presidents who were facing a possible retrenchment situation. He had said he would bring it back after the budget cycle and he had done so in April. The Council of Presidents had adopted the document he proposed with the provision that the Chancellor was authorized to negotiate, within certain limits, a final document. His intent was to go to the Board in May with that document and if it were approved and if the AAUP acted in a timely way, it was possible that the censure would be raised this year. His document, he noted, had been endorsed by the union also.

The next item on the housekeeping list was the Chancellor's reference to the University's pride in the results of the national evaluation of doctoral programs which had given top rating to four City University programs. He said too that he hoped in the next such evaluation ten programs would achieve top ratings.

Finally, the Chancellor said, he wished to note Henry Wasser's birthday (applause from the Senate and "39" from Professor Wasser.) He had not sent Professor Wasser flowers as he had other Board members, he said, but had sent him a book, "Schooling in Capitalist America."

Chancellor Murphy then turned to the three substantive issues which he defined as issues free from the kind of bureaucratic detail associated with the housekeeping items. First, he said, there was the Solomon amendment. On this, as the Senate knew, he said, the University had taken a strong position in the 30 day period objecting to the form of administrative guidelines proposed to implement the act. Since then a number of things have happened - the Minnesota court's injunction, the rumored Office of Education decision to postpone the requirement that students present evidence of draft registration. He had prepared a resolution for the Board's consideration and had submitted it to two Board committees for consideration - a practice he did not think he would repeat. Each committee had approved and recommended to the full Board a different version of that resolution. The Board therefore has several options now: to table both proposals, to pass one, or to do something else. In any event, Chancellor Murphy said, he would probably issue a statement anyway.

The second substantive issue was that the University is feeling a lot of pressure in the larger corporate community who want to look to the University as a place to train people for entry-level jobs, not necessarily very meaningful ones. The New York City Partnership, PICS and others were doing this. The Chancellor said he has the sense that the eagerness in the corporate, financial and banking communities is to help us use public dollars to do their training for them. He was not opposed to this except for the narrow view of education these groups took. Their interest was solely in having people trained to perform the specific tasks needed and to have acquired those skills only. Therefore, given the demands of students to be prepared for jobs - a demand he understood - the Chancellor said there is more and more pressure on the University to squeeze out liberal learning as preparation for careers. The University can resist this, he said, but only if there is also resistance on the campuses. He understood the students' need to work, he said, but he also felt that once the University had them enrolled, there was a responsibility to educate them.

Chancellor Murphy then addressed his third substantive issue. He said that he was startled to see the growing opposition to the concept and role of tenure in higher education which was coming from various quarters. That opposition, he said, seemed to be the result of ignorance and perversity. He had the sense that more and more of that opposition was building and that it was the result of a confusion of tenure with the idea of job security as in the school system, industry and the like. It had social and political roots too as well as lack of understanding among the ignorant. It was his view, however, that tenure maintains its vitality only so long as it protects someone who says something outrageous. He finds faculty today reticent to do this although there

are issues that should be spoken to. These days, he said, it is easier to defend a Marxist or Buckleyite, though these do not really represent polarities, than tenure.

These were the kinds of issues, Chancellor Murphy concluded, which he hoped the Senate would address rather than the number of persons to serve on search committees.

Chancellor Murphy then responded to the following questions and comments from the floor. 1) Professor Speidel (Earth and Environmental Science, Queens) - "The three issues you deem substantive are, of course, parts of the essence of the town and gown issue which has been around for centuries, in fact, since the establishment of the University of Bologna. I wonder about some of the implications in your remarks about jobs and job training. For example, the American Chemical Society has set up programs for years to certify programs and students and these are seen as good things. Would you care to comment on this?"/ The involvement of corporations in education is a fairly recent phenomenon. Throughout history universities have been supported by wherever they could get the bucks to stay alive. At Bologna, since you cite it, it was from the students, then they turned to the churches - most of the universities in America were initially established and supported by the church, then to government, and now corporations. In every case support has meant some kind of compromise. What concerns me is that one condition under which the present massive interest is offered is that the curricula be written by the corporation and more and more they are doing this and bringing them especially to the community colleges. The University needs to think about accepting such curricula. 2) Professor Donleavy (Education, Lehman) - "Could you tell us about the status of the case for women, what you plan for solving the differences and what the status of women in the future of the University is going to be?"/ You are referring, I guess, to the Melani case. There have been a number of efforts over the ten years the case has been in progress to resolve it - I can't tell you the details but the decision of the court has spurred the University's desire to settle the issues. There is a lot of anger that has been generated and acrimony to dispel. I made some recommendations before the decision but the other side was not satisfied, now we will make further recommendations. The University has one-third women faculty now and that proportion will probably increase. In future there will not be discriminatory practices against women and there haven't been since the contract was enforced though there may have been at entry. That is the explanation for the one-third women plus the fact that it was easier to hire them at lower salaries. For myself, my first appointment of a Vice Chancellor was of a woman as Vice Chancellor for University Relations and I believe there was no other woman Vice Chancellor at present. 3) Professor Plissner (Student Services, Kingsborough) - "The first anniversary of your selection as Chancellor is rapidly approaching and I wonder whether plans are underway for your inauguration?"/ I have established a committee and people are thinking about it. I wanted it to be held in Bryant Park where I would have felt at home but the Commissioner of Parks, although he is an old and good friend, objected so now there is talk about some other place. I hope that in any event it will be an occasion when the Governor will speak and express his views on higher education. I have heard him speak on those issues and think what he has to say is well worth hearing and this would provide the opportunity for them to be communicated more widely. 4) Professor Nachtsheim (History, Kingsborough), AAUP New York State Conference liaison member - "I just wanted to alert you to the fact that the State Education Department is now preparing its four year plan. In 1976 that plan included an attack on tenure but that was diverted and it is something that deserves our attention./ I am sure that Henry Wasser will do something in that area.

IV. Communications from the Chairman: Professor Wasser then reported to the Senate. He noted that there was a lengthy written report distributed to the membership and comments briefly on some of the items. With respect to the meetings of the Association of Governing Boards he said that his fellow trustees had indicated an interest in the information they obtained from trustees of other institutions on the way in which they

were kept informed of major issues affecting the institution by their staff. The trustees attending the conference seemed eager for information, said Professor Wasser, and there might be a lesson for the Senate in this, viz. that the Board should be kept apprised of issues of concern to the Senate and the reasons for that concern.

Professor Wasser also indicated that the Executive Committee had spent a great deal of time this year trying to get the Chancellor to attend its meetings and the Plenary Sessions of the full Senate and to do this on a regular basis. He explained that his lateness in arriving for this evening's session was the result of a meeting he was having with the Chancellor who seemed to prefer one-on-one sessions with him to the other opportunities available to him to meet with faculty in the Senate. Among other things he and the Chancellor had discussed two areas of disagreement between the Senate and the Chancellor. The first relates to the Retrenchment Guidelines and their revision. The document on which the Senate has been working for several years was presented by Professor Wasser to the Board Committee on Faculty, Staff and Administration, as noted in the report on that committee. The Chancellor who attended the meeting brought the earlier document developed by a committee chaired by President Shenker. Professor Wasser said he had hoped that the Chancellor might provide a further explanation this evening of the reasons why he thought the Senate document "diminished his authority." Professor Wasser stated also that he had sent the document to the Chancellor and the President of the PSC six weeks ago but had had no response from them until the Board committee meeting. Subsequently the document has been circulated to the Council of Presidents for their comment but no response has been received. In addition, the document has been sent to Professor Walter Metzger, a member of Committee A of the AAUP, and a pillar of that organization, for his comment, and the document has been discussed with Professor Nachtsheim as representative of the New York State Conference. In short, the Executive Committee is pursuing the issue and had considerable debate with the Chancellor in a meeting with him in early April - a debate in which Professor Baumrin took the responsibility for explicating the Senate document and the reasoning which had gone into it as well as the reasons for Senate support of it.

The second area of disagreement has to do with the Senate proposal on search procedures. The Chancellor responded by letter first and then in meeting with the Executive Committee rejecting the proposal, although the Executive Committee had thought the guidelines adopted by the Senate were in line with what the Chancellor had discussed with them earlier in the year. The Chancellor, as the Senate might have noted, thinks this is a lesser matter for Senate concern than the larger issues he outlined in his report. The Executive Committee, however, is not so sure that this is so and thinks that both kinds of issues need to be addressed as the Senate has been doing and continues to do.

On the issue of the Solomon/Hayakawa amendment, for example, the Senate took the initiative and issued a position statement on it at the February Plenary Session. The Chancellor still has not issued such a statement, possibly because he has to be aware of some resistance among the trustees and also because there is a view among some of the trustees as a result of a statement made to them by a staff member of Senator Strafford's that the issue is now a dead one.

On the issue of corporate/University relations, another of the substantive issues outlined by the Chancellor, Professor Wasser noted that this was an agenda item for this evening's session. Finally, on the issue of the liberal arts raised by the Chancellor several Senate committees have in the past and are at present addressing this issue.

Finally, said Professor Wasser, the Chancellor had expressed to him his feeling of a lack of contact with faculty such as he had as president of Queens College and of Bennington as well as a lack of contact with students. Professor Wasser opined

that the Chancellor might have the opportunity for that contact with faculty in the Senate if he attended its meetings regularly and said that he had told this to the Chancellor.

Professor Wasser then made several announcements concerning the May 24 meeting of the Senate and the fact that it is the annual organizational and elections meeting of the body, concerning changes in the Office staff, and the appointment of Professor Valinsky as the Senate's representative on the Kibbee Scholarship Committee. He noted also that at the Board's Public Hearing there had been testimony by Professor Bohigian (Mathematics, John Jay) concerning the introduction of a new course into the curriculum of his department which had not been done according to established procedures as well as comment on the proposed resolutions on the Solomon/Hayakawa amendment by Professor Wasser stating the Senate's support for the stronger resolution which had been adopted by the Student Affairs and Special Programs Committee of the Board. He reported also that the Senate has received positive responses to its position on this issue from several legislators including Senator D'Amato and seven members of the New York Congressional Delegation. Comment has been received from a number of other legislators also but the position they have taken is best described as "wait-and-see."

Professor Wasser reported too that he had met with Dean Rothlein (Office of Academic Affairs) who had brought him up to date on the Faculty Development Program. She had reported that the program is budgeted for next year and will be carried on using more or less the same format as this year since these are areas of importance to the University. The program has been going well although there have been some difficulties with the writing component on which there is disagreement from CAWS, the association of writing supervisors.

Professor Ercolano asked whether it would be possible for Professor Wasser to outline the major points of the Chancellor's retrenchment document and indicate the differences between that document and the Senate's document. Professor Wasser deferred to Professor Baumrin who responded to the question, noting that he did not have his notes with him but would try to touch on the most salient points. The issue of notice is handled differently: the Chancellor's document provides 12 months notice for tenured faculty and a much shorter period for non-tenured faculty: the Senate's provides 10 months notice for all faculty because the Committee thought it inappropriate to have a difference especially because none of these provisions on notice was realistic in the face of the University's budget cycle and because tenured faculty were still protected by the State Education Law. A second issue on which the two documents differ concerns the appeal process: the Chancellor's document makes length of service and reasons which are discriminatory on constitutional grounds the only bases for an appeal while the Senate document takes the position that every issue is appealable. Further, the Senate document places the burden of proof on the University while the University's places it on the retrenched individual. There is also a minor difference related to the question of who pays for a transcript of the appeal proceedings with the Senate assigning payment to the University and the Chancellor's document to the individual. The Senate's document also provides for a continued association of the retrenched individual with his college for a period of time in an unpaid role with certain services provided, e.g. office space. The most serious point at issue between the two, however, is the definition of the retrenchment unit. The Senate Committee, all of whose members are members of the Bar, studied the Education Law very carefully and concluded that while it was not unambiguous its purport was pretty clearly that tenure is held in the institution and not the department as the Chancellor's document states, and as the present Guidelines maintain. The latter definition, of course, makes reassignment within the college foolish and opens the way to engage in programmatic retrenchment using the guise of financial exigency. Even if the Chancellor says that during his tenure no tenured faculty will be retrenched, Professor Baumrin said, and I suggested to him in his meeting with the Executive Committee that none of us will be here forever, there are departments with tenured faculty which are vulnerable to programmatic retrenchment. Still

another means of dealing with this was demonstrated during the 1975-76 retrenchment when departments were put together and the seniority rankings were thus reordered. None of this would be of great importance to the AAUP, Professor Baumrin suggested, although it was significant to the University's faculty. Finally, Professor Baumrin added the two documents differed with respect to the campus retrenchment committees with the Senate document providing for membership to include a member of the Senate delegation from the campus. Dr. Ellis reminded the Senate that the Chancellor's doctrine was the subject of an article in the March UFS Newsletter.

A question on another topic resulted in a motion to go into Executive Session. The motion was seconded and passed. The Senate remained in Executive Session for 25 minutes.

V. Reports of Faculty Members of Board of Trustees' Committees: The reports were distributed in written form. (Copies attached to these minutes.)

VI.a. Report of the Research Committee: Proposed Policy Statement on Restricted Publication:

Professor Speidel, vice chairman of the Committee, reported in the absence of Professor Gerber who was recuperating from eye surgery. Professor Speidel explained that the proposed statement was placed before the Senate at this meeting to be accepted and discussed but not for action. The report would be placed on the agenda of a subsequent session for action. Professor Speidel then provided background on the development of the statement. Two years ago, he said, the late Chancellor Kibbee had raised with the Executive Committee the question of whether the University had a policy on freedom of publication and asked the Senate to review that policy or, in the absence of such a statement, to develop one. The Executive Committee, in turn, referred the issue to the Research Committee.

The Research Committee set about its task and investigated first whether or not such a policy existed. They learned that only one such statement existed - one which had been adopted by one college, Queens, in 1968 and which prohibited any restriction on publication. The Committee then asked, "Should there be any restrictions?" Since this issue was raised at a time when many other institutions were interested in the same question, it was decided to explore existing policies at comparable institutions. The result of this activity was the knowledge that such policies ranged from that of the University of Minnesota which barred any restriction to that of Harvard which, in effect, ignored the issue. Dr. Speidel referred also to the Yale policy promulgated some three or four months ago which took yet another position. The idea, he concluded, was patently one whose time has come.

The major problem which the Committee had in developing a statement lay in the everpresent disparity of interests of the members and their constituencies, in the practices accepted within different discipline areas so that what seemed acceptable in engineering, for example, raised concerns with the social scientists. The Committee's membership, Professor Speidel reminded the Senate, includes, by design, representatives from various discipline areas as well as from community and senior colleges. Furthermore, since the work was carried on over a two year period changes in membership took place. The Senate members included, in addition to Professor Gerber and himself, Professor Bohigian (1981-82), Professor Cooper, Professor Jiji, Professor Muller, Professor Fried (1982-83) and the Committee membership included also the members of the UCR's Executive Committee - in 1982-83 Professors Cohn (Borough Manhattan), Engel (Queens), Habib (Queens), and Simor (Graduate School; and in 1981-82 Professors Ettenberg (City) Magdalaner (John Jay) and Simon (Queens).

The Committee readily agreed that the thing that makes a university different from other institutions is that it exists not only to generate knowledge but

other institutions is that it exists not only to generate knowledge but also to disseminate it. The Committee also agreed unanimously that absolute restrictions on publication were unacceptable. The question then became "What are legitimate restrictions? The proposed policy statement represents the Committee's effort to present the kinds of things that should be followed to safeguard the responsibility to disseminate knowledge.

Upon motion made, seconded and passed the proposed statement was accepted for review prior to action at a subsequent session.

VI. b. Proposed Statement on University-External Agency Relations: On behalf of the Executive Committee Professor Baumrin presented the proposed statement. He noted that it too was placed before the body at this session for discussion, comment and study and not for action. He explained that the question posed by the Executive Committee was "To what extent should the University prohibit finding itself in the position of having secret research occur or dependent on outside funding with strings attached. Such funding, he continued, could relate to research but also to facilities, curriculum, staff, etc. The result was the statement proposed at this session.

Professor Baumrin moved acceptance of the statement. Professor Speidel asserted the view that the body should not accept the statement but should refer it to the Research Committee for consideration. He argued that if the Senate was to operate through an established committee structure this was the only appropriate course to follow. Professor Speidel's motion was seconded and supported by Professor Baumrin on behalf of the Executive Committee. The motion was adopted.

There being no new business the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Jean Ellis