

The Senate of Michigan Technological University
Minutes of Meeting No. 194

I. Call to Order

At 7:10 pm on Wednesday, 13 January 1993, President Sharik called the meeting to order in Room 105, Memorial Union Building.

II. Roll Call of Regular Members

26 Senators or alternates were present. Representatives from the following units were absent: AF ROTC, Computer Science, IWR, KRC, Graduate Student Council. Absent Senator-at-large: Vable.

III. Recognition of Visitors

J. Coleman-Plouff (Senate Secretary Asst.), J. Glime (Biological Sciences), M. Goodrich (MTU Tech Topics), K. Lipman (MTU Lode), V. Dorweiler (School of Business), C. Selfe (Humanities), J. Waber (Physics).

IV. Minutes

The minutes of Meeting No. 193 were accepted, corrected, and approved as corrected.

V. Senate President's Report

A. Senate Office: Sharik reported that two possible spaces have been identified and in the near future the Senate will have an office.

B. Senate Constituency: Sharik reported on the Open Forum concerning the Senate Constituency held on 6 January 1993. Only 16 people attended, including 8 Senators and 1 Alternate Senator. Sharik said that as many Senators as possible should attend open forums, so they can hear the opinion of constituents. Otherwise it sends out a negative message of not being concerned. There were significant contributions to the overall discussion at the forum, including the proposal of a third alternative for an inclusive body that would have almost everyone in the university as a constituent, with an academic faculty senate nested within such a senate.

Sharik remarked that problems of constituency will not be solved until the Senate defines its authority and responsibilities; shared governance is closely intertwined with the issue of constituency. If the Senate should decide that it wishes to deal primarily with academic matters then it should be a faculty senate, but if the Senate is to deal with broader issues the constituency should be broader. Currently the Senate does deal with broad issues impacting the whole university, such as fringe benefits. The Senate must deal with the issues of constituency, responsibility and authority, and bring the results forward to the administration and the Board of Control.

C. Service: Sharik reported that he has discussed the issue of formal recognition for University service with the President. Formal recognition might be handled by release time, salary structure, and awards for service. Sharik stated that the Senate should push the service recognition policy along with other changes being made in the Senate structure.

- D. Shared Governance: The Board of Control has directed the Senate to develop a system for shared governance for the entire University. This is interconnected with the problems of authority and responsibility. The Senate has an opportunity for making great progress in this area, if it can develop a plan to take to the President and Cabinet for forwarding to the Board of Control.

VI. Vice-President's Report
No report of activity.

VII. Committee Reports

- A. Curricular Policy Committee: Chair Bornhorst reported on two items. (1) The committee has discussed the matter of honors programs, and has decided that it is inappropriate for the committee to originate a proposal. It is the committee's place to review proposals brought to them. The committee recognizes the importance of student input on any honors proposal and will consider it in their decision. (2) The committee has received and begun to discuss the proposal for a four-year Bachelor's program in the School of Technology.

- B. Constitution & Constituency Committee: Chair Heuvers distributed a 16-page committee report (Appendix A of these minutes), dated 1/13/93. He also referred to the 11-page variously dated committee reports (Appendix B of these minutes) distributed with the agenda .

The initial item involved definitions of academic faculty. Various definitions were used during the recent Open Forum. The definition in the Faculty Handbook is based on a definition from the Board of Control. Heuvers read the definitions from Appendix A, p.2. The committee produced a functional definition of "academic faculty", based on listings in the Senate Faculty List that is used for faculty-only voting, and is maintained by the University's Human Resources Office. Heuvers read the functional definition from Appendix A. He noted that the current exclusion of the Dean of Forestry, Dean of Business, and Director of the School of Technology is an artifact of the computer maintenance of the lists, and these three individuals should be on the Senate Faculty List. Heuvers continued reading the committee's recommendation for the proper format and maintenance of the listing, and noted the required revisions of the committee proposals 2-93 and 3-93 (Appendix A, p.3; Appendix B, p.11).

Heuvers began to read the report (Appendix A, p.1) prepared by the committee during its meeting of 12 January 1993. The discussion of the vague pronoun "its" of paragraph 1 is based on the Senate constitution; the relevant passage is copied on p.3 of Appendix B. Heuvers asked the Senate to define and vote on the antecedent of the pronoun. Sharik commented that this issue should wait until New Business. Heuvers continued with his reading of the report, noting in connection with paragraph 3 that the Human Resources Office has a "constituency list" which does not appear relevant

to any Senate function. Heyman suggested it was a mailing list. Heuvers said that the lack of a valid list of constituents would prevent holding an accurate and valid referendum. He continued reading the report.

Sharik indicated that the list would require careful construction and updating to ensure that persons functioning

as academicians would have the appropriate title. Vilmann noted that the appeal process would permit addition to the list. Whitt said this related to the Open Forum problem of determining constituency by titles versus other criteria. Heuvers continued reading the report, commenting favorably on Glime's proposal for a senate in which only academic faculty vote on matters defined as academic.

Whitt asked whether it was likely that there might be issues on which non-academic faculty might vote independently of the academic faculty. Sharik said that such issues would be dealt with on an individual basis. Heuvers finished reading the report, and then read Proposal 2-93 (Appendix A, p.3), noting that it had been revised in line with the recent definitions generated by the committee. Roblee said that a problem with listing constituency by title is that new titles are being continually generated. Heuvers said the list would be updated continually by the Senate Constituency Committee. Sharik said a problem exists with persons who move in and out of various titles on a yearly basis. Heuvers said there was a mechanism for working with the functional basis for a faculty, and then finished reading the text of the proposal.

Heuvers turned next to the attachments to the committee's report (Appendix A), and read pertinent passages about definitions of the faculty from pages 5 and 7. He noted that degree status does not determine rank, either for academic faculty (p.9), or librarians and research faculty (p.10). Heuvers then referred to three other attachments consisting of a proposal by J. Glime (BioSciences), a memo (p.13) from the librarians, and an open letter (p.14-15) from B. Filer (Career Center). Glime summarized her proposal for a senate with separate voting on academic matters (Appendix A, p.11-12). Sharik asked for her definition of "administrators", who were to be excluded from senate membership under her proposal.

Glime replied that this included the president and vice-presidents, but the inclusion of deans, heads and chairs might be possible or desirable. Leifer asked whether they should be voting members. Glime replied that the point needed discussion.

Sharik read a memo sent to him by T. Courtney (Met. & Mat. Eng.), dated 11 Jan 1993: "According to one proposal relative to the senate constituency currently under consideration, as a department chair I am not considered a 'constituent' of the senate. Yet part-time and visiting faculty, who probably teach less than I, and research staff, who probably research less than I and my graduate students, are. I consider this posture insulting, degrading, discriminatory and divisive. I consider myself a faculty member first and foremost. To that end I maintain an active teaching role and supervise graduate students, four of them currently. Rationales for excluding chairs from the senate constituency seem to me mainly 'smokescreens' which tend to propagate a 'we versus them' attitude towards 'administrators'. The dividing line seems to be propagating downward. Are associate chairs to be next on this hit list?"

Leifer elaborated on his previous question of the inclusion of heads and chairs. Heuvers said that the evening's agenda included a Senate vote on the inclusion of heads and chairs as constituents, and on their eligibility for election as senators. Sharik noted that recent proposals on governance called for chairs to be peers representing the faculty to the higher administration. Leifer asked about heads versus chairs as constituents. Sharik replied that it would depend on future development of these positions. Glime commented that heads or chairs should be part of the

constituency of a university senate, but that the senate might want to exclude them from the group voting on particular issues in a referendum. Whitt asked whether heads and chairs should be represented individually, or if they might elect a representative.

Pilling indicated that heads and chairs are now Senate constituents by definition, and that nothing can now prevent them from being elected as a Senator from their department. Selfe said that the revised proposal suggests that heads and chairs will be excluded. Heuvers said again that the Senate will vote on whether heads and chairs as a part of the constituency. Waber said that the principal function of heads or chairs is administrative, and that their presence has had a negative impact on the Senate's deliberations. He added that heads and chairs have ways other than the Senate for providing input to the administration, their views are not necessary for Senate votes, and their presence is not desirable during votes. Roblee said that three years ago, among those voting on a Senate censure of Ventures were three administrators, and their votes were pivotal in defeating the motion for censure. Sharik said that intimidation was the Senate's problem as much as the administration's, and that written ballots would solve such problems. Bornhorst said that heads and chairs should be a part of the constituency, but being a Senator is a different matter. Leifer commented that heads and chairs are represented by their department's Senator; that Pilling was in fact Courtney's representative, for example. Pilling replied that if heads and chairs were to be excluded from voting on particular academic issues, they would in effect be disenfranchised members of the faculty.

Heuvers referred to the committee report of 18 December 1992 (Appendix B, p.4) and read the middle paragraph. He next referred to the committee's proposition for a vote on the by-laws involving the constituency of department heads/chairs (Appendix B, p.6). Sharik asked for clarification of the previously mentioned Deans of Forestry and Business, and Director of the School of Technology. Heuvers replied that the Faculty Handbook considered them equivalent to heads/chairs.

Heuvers read the final paragraph of the 18 December report and then the first paragraph (Appendix B, p.4). At the request of President Sharik, Heuvers summarized the report of 9 December 1992 (Appendix B, p.1-2), saying that report was based on the incorrect assumption that amending the current constitution would be difficult, and that it should be possible to produce an amended constitution by the end of the year. Heuvers distributed a memo asking each Senator to solicit for the committee ideas from the constituency about the future Senate constituency; the ideas are needed for writing a new constitution.

Grzelak commented that the constituents in general would know little about the constitution, and that the current proposals were pretty confusing. Heuvers replied that constituents should examine the constitution in the Faculty Handbook. Sharik wondered if the constituents should use as a framework for comments the committee's three models: Glime's; Snyder's, and the committee's broad ideas. Heuvers said that comments were being requested in areas of governance, constituency, and authority. Sharik asked whether the committee intended to produce a single document for Senate consideration. Heuvers said that was the committee's objective. Vilmann indicated that a proposal should appear before asking for comments. Sharik said that the Glime model would be a good model to critique. Heuvers said

that this model was the one toward which the committee was leaning. Sharik said the critique of a single proposal would be most productive and least confusing. Grzelak indicated that a straw poll on a couple of different proposals would be useful. Heuvers said this was a good idea. Bulleit commented that his Department was frustrated with the current progress and would not produce much more feedback.

Jambekar commented that his department feels this issue has been dragged out, and that the committee needs a deadline. Sharik said he asked the committee for a deadline. Heuvers replied that the comment request does have a deadline. Vilmann said the deadline should be for finishing the business. Sharik asked Heuvers to recall their agreed upon deadline for voting on the constituency. Whitt commented that to vote on whether chairs or heads should be part of the constituency seems irrational, when the constituency itself hasn't been defined.

Heyman said the constituency problem could be decided by a University referendum with a well constructed ballot involving a series of options. Pilling said that Senators already know what their departments want. Heyman replied that voting could be done as a referendum or in the Senate, but that a single document was needed with linked options placed in logical sequence. Sharik asked whether the committee should be directed to produce this document. Heuvers replied that the Senate needed to make a decision now so that the committee would know whether to include or exclude the heads and chairs. Whitt said uniform criteria are needed so that the results of a vote can be applied across the board. Vilmann commented that Chairs need separate consideration because they are represented in the administration already. Heuvers indicated that the issue of department heads involves a major change, and the issue should be decided by the Senate, not by the committee. Pilling commented that the entire issue of who should be part of the constituency could be voted on immediately in the Senate. Glime said that if the Senate takes on added responsibilities, then the chairs might lose their avenues of communication, and their senate constituency would be important. Vilmann commented that the issue of whether first to revise the constitution or the constituency is circular; people are getting frustrated with the Senate on this issue. Mullins commented that the entire constituency issue could be voted on this at this meeting. Heyman again suggested that there could be a clear structure for voting on this issue. Sharik asked if there was a consensus for submitting the formation of such a ballot to the committee; the consensus was not present. Heuvers replied that the issue required a vote.

Mullins proposed a straw vote to see if the committee should include heads and chairs. After a brief discussion, Sharik said that the vote on the issue would take place as indicated on the agenda under New Business. Selfe commented that during her service in the Senate she noted the influence of heads; however, not to include the President and Provost on this vote was unacceptable. Further, her current position as chair with membership in the "mob" does not provide sufficient representation as a faculty member. McKimpson said that the new information about the amendment process implies it is possible to redo the constitution without first addressing the constituency issue. The input to the committee about excluding administrators was also informative.

McKimpson suggested the constituency vote be formally tabled, and that a straw vote be held on directing the committee to first amend the constitution. Grzelak said he had looked forward to a vote on the issues. Boutilier said that the constituency issue had to be settled first. Vilmann agreed. Sharik asked the Senate to stand briefly before proceeding with the agenda.

C. Elections Committee: No report.

D. Fringe Benefits Committee: Chair Leifer reported that feedback on the Sick Leave Pool proposal (Minutes, p.3682-3687) centered on concerns about "abusers" and how they would be handled. Leifer indicated two ways the problem might be handled. Other concerns were with the replenishment of the pool; replenishment schemes are available. Leifer asked for a Senate vote favoring the Sick Leave Pool proposal. Sharik pointed out that the agenda under Old Business called for scheduling of an open forum to discuss the proposal. Leifer said that the open forum was only Sharik's suggestion. Keen pointed out that the Minutes (p.3677) showed a Senate vote in favor of the open meeting. Sharik said setting up a sick leave pool would be complex, and the open forum was needed to clarify the problems. Leifer said that he would soon attend a meeting to further discuss the proposal with staff and other group representatives. Grzelak asked whether the pool would be replenished by the pool itself earning sick leave. Leifer replied that it would. Hubbard commented that this method of replenishment was a major aspect of the proposal, but was not specified in the text of the proposal. Heuvers said that a major change would delay a vote. Leifer said he needed an indication of general support for the pool in order to proceed with planning. Bulleit said that his department favored the concept and would not attend a forum. Sharik commented that a forum would delay the vote only one meeting. Bornhorst, Jambekar and Pilling also said that their constituents would not attend a forum. Sharik asked if there were motion to vote on the proposal immediately. Leifer said that if the Senate favored the proposal, they could address the issues of concern. Vilmann suggested a straw vote to support the concept of a sick leave pool, without supporting a particular proposal. The majority of the straw vote favored the concept.

Leifer distributed a copy of pages 62-63 of the "Northern Michigan University Contract Book" (Appendix C of these minutes). He said that NMU annual retirement benefits as of 1 July 1993 will be almost 5% more than MTU, resulting in a retirement income 3 to 4 times greater. Even with the annuity request that the Senate sent to the Board last year, MTU retirees would still be at 40% of NMU's.

Leifer reported that he met on 12 January with the Provost and Chief Financial Officer, and that he raised the issue of getting the rest of the fringe benefits package submitted last year. Leifer said that Powers wanted him to go back to the Senate to see if the Senate wanted the rest of the package. Leifer then told Powers that the Senate voted 19-3 in favor of the package in January 1992. Powers had asked whether the faculty was willing to trade off the two percent salary restoration against an increase in retirement contributions. Leifer said the budget contained a lot of smoke and mirrors, and pungently commented further about the state and management of the university's finances.

Sharik said that in the Cabinet meeting, when the issue was raised, the administration response was that the package had to be considered against alternative expenditures. Sharik pointed out that the Senate had not been involved in the budgeting and so it could not effectively discuss trade-offs, but that there was opportunity still to be involved in this

year's budgetary process. Leifer asked for a unanimous Senate vote on the fringe benefits package. Sharik said that the administration would still argue about trade-offs, which is why the Senate's initial involvement is critical. Boutilier asked about the vehicle in the budget making process? Sharik said there was none because the University Financial Planning and Policy Committee had been dissolved; such a committee needs to be reformed.

Leifer again asked for a unanimous vote in favor of the remainder of the fringe benefits package. Sharik indicated that a motion asking for this would be appropriate under Old Business.

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- E. Institutional Evaluation Committee: Chair Hubbard distributed a report on the committee's activities (Appendix D of these minutes), and summarized Proposal 16-92 and the flow chart on which they are working.
- Sharik asked whether the three governance proposals approved last year were to be brought forward along with those currently being considered by the committee. Hubbard replied that the committee had not discussed this but was concentrating on revising the proposals for departmental governance; the other proposals could be sent forward at any time. Mullins said that the committee had intended that the approved proposals should have a one-year trial period so recommendations could be made, before permanent adoption in the procedures manual. Sharik said that M. Vable, the previous committee chair, had expected the approved proposals to be forwarded to the President for implementation. Mullins said that was indeed the previous committee's intent. Vilmann said the implementing the approved proposals for one year was not really possible, except for the dean's search procedure. Sharik said the conclusion was to go forward with asking approval of the Board of Control for the three proposals. Sharik indicated that the approved proposals were 2-92 (3-year appointments for department supervisors), 3-92 (4-year appointments for deans), and 7-92 (search procedures for deans). Sharik said he would take those proposals forward to the President.
- F. Instructional Policy Committee: Chair Heuvers distributed and then read the report of the committee (Appendix E of these minutes). Sharik said that at the last Senate meeting the Senate had decided that George Fox, overseer of the program, should have an open forum for the whole university concerning the changeover. Carstens commented that, based on his experience as a scheduler for the School of Technology, the item of "frozen time slots" was a real problem and a stopgap measure since the new system would not generate the "conflict matrix" of the present system. Boutilier indicated that they are refusing to make any adjustments to the purchased Banner system; that there is to be no pre-registration; that faculty are going to be committed to classes that might have to be cancelled because of low enrollments, and that faculty responsible for cancelled classes might have a vacation. Grzelak said EE would take any such faculty. Carstens said that any new courses would have to be scheduled with no idea of conflicts. Boutilier said that each department's schedulers will have to get together and hand check these

classes. Heyman suggested that George Fox meet with the Senate instead of holding an open forum. Selfe suggested that each Senator invite the departmental scheduler to be at the next Senate meeting. The Senate agreed to invite George Fox to appear at the next meeting to address the problems that had been raised.

- G. Research Policy Committee: Chair Pilling said he would have to resign from the committee, because he was leaving the university. McKimpson volunteered to convene the committee; Keeble and Waber volunteered to serve on the committee.

VIII. Reports of Affiliated and Ad Hoc Committees

- A. President's Cabinet: Sharik reported that the meeting on January 11, 1993, dealt with minority hiring, fringe benefits (including the 15/20% co-pay problem of medical retirement benefits and the retirement package), and a problem with admissions procedures for the Engineering Technology program brought to Sharik's attention by P. Tampas.

The latter problem involves a decrease from last year of 85% in projected enrollment in Engineering Technology, due partly to admissions increase in the General Engineering program. This change in admissions practice happened without consultation with the School of Technology. The problem will be discussed in the next Cabinet meeting. Sharik asked if the Senate felt it should deal with this issue. Lukowski commented that the implications were broader than the specifics of the situation. The problem stemmed from a summer meeting among only 4 persons: 2 vice-presidents (Student Services and Academic Affairs) and two deans (Engineering and Sciences & Arts). These individuals set admissions standards to levels needed for efficient operation of the university with caps on engineering programs.

Sharik said that the Institutional Evaluation Committee should handle this matter, perhaps with the creation of a sub-committee of the persons directly involved. Carstens and Roblee volunteered to serve on the sub-committee. Sharik asked if an ad hoc committee might focus on the issue more directly. Roblee moved that the Senate form an Ad Hoc Committee on Enrollment Policy to address this issue; Carstens seconded the motion. The motion passed by voice vote without opposition.

Sharik said the other key issue involved the university budget. He distributed a copy of the proposed budget for 1993-94 and a budget projection for the next 5 years (Appendix F of these minutes). Sharik said the Provost had agreed to attend the next Senate meeting to discuss the budget. He indicated much of the controversy concerned the 1% reduction in base budgets and the 2% "making whole" of salary adjustments under new continuing expenditures. Hubbard and Vilmann asked about the 2% making whole versus the "unmet salary increment" amount. Hubbard also said the base budget was an unexplained figure. Selfe asked (1) who decides what money is spent on program development and how it is allocated within the University, (2) where does the Senate have input into these expenditures, (3) what is the \$100,000 infrastructure expenditure, and (4) does the 2% making whole mean "almost whole"? Sharik replied that the program development suggestions came from the deans, and that infrastructure is a networking expenditure. Pilling asked whether the budget might be broken down further, particularly the base budget? Sharik commented that the Senate needs to be involved in budgeting. The Board of Control will see the budget first in the March meeting and vote on the final budget in May, so the Senate has time to make input. Vilmann commented that typically not many changes are made after March. Hubbard said that detail is needed on the base budget.

Moore asked whether a month wait was needed before the Provost's visit. Sharik said he had thought the one month period would allow time to formulate questions and still permit input for budget revision before the March Board meeting. Jambekar asked whether simply asking for an explanation would influence anything. Sharik said that a critique was worth a try, but that the Senate would have to be involved earlier in the next go-round.

Selfe asked whether the Senate had ever made a statement that the current budget process is unacceptable and that the Senate would like to be involved earlier in the process. Sharik commented that several meetings ago he suggested the

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creation of a financial planning committee, and that he had submitted a proposal for its formation to the Chief Financial Officer and the Fringe Benefits Committee. However, his proposal had the Fringe Benefits Committee nested within the proposed committee, and the Fringe Benefits Committee had tabled the proposal. Boutilier moved that the Senate declare that the lack of Senate involvement in the budget process is unacceptable. The motion was seconded, and was approved by voice vote without opposition. Heuvers asked whether a memo should be sent to President Tompkins indicating this particular motion had been passed. Sharik said that he would merely tell the Senate to get involved in the process. Vilmann said that it was not the Senate's responsibility to form the university's budgeting committee, but that the administration should form a committee in which the Senate would participate. Boutilier suggested that the Senate form a committee and tell the administration that the committee is to be part of the budgeting process. Jambekar noted that the Board of Control Policy Manual says the functions of the Senate shall not include recommendations on administrative matters such as finances and personnel. Sharik pointed out that the entire matter of fringe benefits violates that policy, and that the Senate itself now needs to define what is to be within its jurisdiction.

Pilling suggested that the Senate obtain some power in picking members for the Board of Control. Sharik said that the Board had sent out a clear call for the Senate to establish the lines of authority in the university. Carstens commented that you will not find academia on the boards of a corporation and so it does not seem right there is not academia on the University board. Pilling said that the Cabinet, inserted in the decision-making process without comment, should be removed because it is not a part of official procedures. Vilmann commented the President merely seeks advice from the Cabinet. Sharik commented that the Cabinet is not a "doing" body, but rather reacts to issues that are presented to it; the Senate is the doing body. Vilmann commented that Cabinet is in fact a doing body because it may reject a proposal; the Cabinet should not appear in any flow chart of authority, although the President can seek advice where he wants. Mullins said the university is run by the Policy and Procedures Manual; the Senate needs therefore to have a place in the Manual, although it is out of date and needs revision. The Senate needs to be a part of the mechanism of producing revisions in the manual. Sharik said that there does not exist in writing a sense of what the Senate should be. Vilmann said this is an example of why the

Senate needs to proceed with the adoption of a constitution. Heuvers commented that there is no longer a university procedures manual; the updating process stopped three years ago. Only the Board of Control manual has been maintained. Sharik commented that the flow chart begun by Hubbard's committee needs to be finished.

- B. Board of Control Liaison Task Force: Chair Vilmann reported that the Board of Control will not be touring departments on campus unless they get on the Board's agenda tomorrow. Vilmann added that anyone having anything to bring to the Board should bring it to his attention immediately. Leifer suggested that a policy should be established for having a meeting every January between the Board of Control and Senate officers and committee chairs. Sharik said that they had met with the Board at their last meeting and explained to them what the Senate was doing, and that the Board had asked the Senate to structure the flow of information and decision making through the University.

Vilmann recalled Sharik's statement "that the Cabinet is not a doing body", and stated that President Tompkins had told the Board that the Cabinet was the forum for developing a widespread consensus for proposals being presented to the Board. Vilmann commented that he found that statement disturbing. Sharik replied that we now have the opportunity to build the flow chart to determine the decision-making process for shared governance.

Selfe said the Board of Control are given many tours with happy faculty showing them things that work; she said it would be more profitable for the Board to experience a day in the life of a faculty member trying to prepare for a class with the phone ringing and 12 students at the door. Vilmann said the reason for the proposed faculty tour was to show the Board that faculty are the individuals making things happen, not the administrators who usually give the tours. Boutilier suggested that the Senate consider returning to having a faculty luncheon with the Board. Sharik said he had suggested to the Board that they meet with the Senate, but that Dale Tahtinen said the Board only wanted to meet with about 12 people. Boutilier questioned whether Tahtinen was relaying what the Board members really wanted. Sharik said Tahtinen has made himself the liaison between the Board and Senate. Boutilier said that Lucier had done the same thing, until that barrier had been broken down.

- C. Ad Hoc Committee for Discussion of Unionization: Committee member Whitt reported that the committee had not met and the chair assumes that it cannot meet until the date of the election has been set. Sharik suggested that perhaps the Senate could obtain and publish statements from individuals at other universities about how unions have impacted them; waiting until the election date is set may not allow sufficient time for such communication. Leifer said that it should be easy for faculty to come from NMU or other state universities with unions. Sharik said he was hoping for statements that could be published. Vilmann commented that such presentations would need to provide both negative and positive views of having a union, and that would require a large number of statements. Whitt commented that Julien was construing the committee's charge narrowly, and planned to have an open forum shortly before the election. Sharik said that Julien indicated that it would be easy to obtain pro-union information, but that it would be difficult to generate views critical of a union. Mullins stated that there does not seem to be a strong flow of information from the people who are trying to form a union to the Senate; for example, where does the Senate fit if a union is organized, and what is the

relationship between a Senate constituency and union membership? Whitt asked whether this indicated that the Senate wanted representatives from UPPSA to make a presentation at a Senate meeting. Whitt moved that the Senate invite a union representative to make a presentation. Sharik said the union had notified him of their willingness to address the Senate, but that the sense of the current discussion was to have a balanced presentation from both sides of the issue. Bulleit noted that there was no organized anti-union group. Whitt said that the problem being discussed was the relationship between a union and the Senate, which a union representative could address. Mullins said that such a presentation would be instructive, and moved that the Senate have a union representative or even someone from the other side come to give a short presentation on union-Senate relationships. This was not to be an open forum. Sharik said the relationship between a union and the Senate was very important, and asked whether the representatives could address this critical issue. Whitt said that the issue was being discussed among the union supporters currently. Sharik suggested this presentation be made at the March meeting; Mullins agreed to the suggestion. Whitt agreed to transmit the request to the union organization.

- D. Ad Hoc Committee on Provost Search Forum: Sharik reported the Senate had sponsored evening forums at which five

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candidates had appeared, and individuals were encouraged to submit comments on the candidates to the Search Committee by 14 January. Glime commented that the committee will go through the material and meet with the President on 19 January if the committee can come to a consensus on the final 3 or more candidates in rank order.

IX. Old Business

- A. Agenda Item - Senate Appointments to the Committee on Academic Tenure: Sharik inquired about the status of the committee. Bulleit reported that he had officially resigned, so that the President could appoint a more appropriate person to fill his chair. The Senate can therefore run an election to fill their vacant chair or allow Sam Marshall to continue to fill it. In response to questions, Bulleit explained that Sam Marshall was chosen by the Senate to replace MacLennan who had resigned, and that his own resignation was to enable President Tompkins to appoint a woman to the committee, as a response to a furor.

Sharik reported that the Academic Women's Caucus had suggested two women for the position; both declined, so they are still looking for a person to fill the appointed position. Selfe commented that the difficulty in finding a female was caused by overworked female faculty members having to represent women on too many committees.

- B. Leifer asked for the Senate to confirm its request for the fringe benefits retirement package. Leifer moved that the Senate reauthorize the university administration to put in motion the remaining two-thirds of the fringe benefits program that was passed by the Senate on January 15, 1992. Vilmann seconded the motion. The motion passed unanimously by voice vote.
- C. Sharik stated in answer to questions from the floor that an

open forum on the sick leave pool would be held after details on the package were complete.

- D. Agenda Item - Minority Hiring Procedures: Sharik reported that this item was placed on the agenda as a result of Cabinet meetings in which minority hiring was discussed. In mid-December Sharik sent a letter to Provost Powers expressing concern about a lack of policies and procedures for the hiring of minorities, including the first-come-first-served policy and problems involving normal protocols for faculty hiring. Sharik also included some suggestions for making the process work more effectively. Sharik did not argue against parity or diversity, which he favors and about which he feels strongly, but was concerned about a lack of clarity in policy. Provost Powers replied with a statement that is policy (as of the 11 January Cabinet meeting) about what can and cannot be done in minority hiring. Also bearing on the interpretation of the policy are issues raised by V. Dorweiler (School of Business), including questions of legality of the affirmative action plan put forward by President Tompkins. Sharik distributed copies of the memo by Provost Powers (Appendix G of these minutes), and said the Senate should decide whether it wished to accept the contents as university policy. The memo indicated that \$100,000 has been allocated for minority hiring. Sharik quoted from the memo some details involved in minority recruitment.

Dorweiler referred to correspondence bearing on this issue (Appendix H of these minutes). He said this correspondence dealt with two issues in the affirmative action plan: first, underrepresentation on the faculty brought up by Mr. Powers, and secondly, the issue of role models introduced by Mr. Tompkins in the State of the University address. The University is a public employer and the 1974 Supreme Court decision ruled these cannot be used as a basis for preferential hiring of minorities. Mr. Power's memo mentions two other points. Point number two indicates that employment decisions will be made purely on a racial basis. Dorweiler noted that the City of Cleveland in 1986 used arguments like Power's in hiring high school teachers, and was held to be in violation of the Civil Rights Act. Point number one indicates that the affirmative action policy is being concealed in a national hiring search. The overall proposition is that an employer cannot increase the representation of minorities or women on the basis of underrepresentation. Role models cannot be used as a reason for preferential hiring of minorities. The only reason a public employer can have an affirmative action plan is to correct past discrimination. Power's memo makes it recognizable that the university is not really following the current law of the Civil Rights Act.

Sharik responded that Dorweiler's letter was brought to the Board of Control and looked at by their lawyer. It was determined that the current university policy is legal. Dorweiler replied that the Board is taking a risk position, that the first item indicates that "as long as we can hide what we are doing, we will not be exposed", perhaps to the Equal Opportunity Commission in Detroit. The Board has been notified that they are taking such a position. Sharik commented that this is why he had said that an effort to hire a minority should be open, but that position was in fact forbidden. Dorweiler noted that there is a factor of concealment in the current policy; further, federal courts are now authorized to go after the organizations involved, not just the individual or officer in the organization who might have been practicing discrimination. This is not a resolved issue at the university, and the opinion of the university's counsel is based on a risk basis.

Sharik referred to an article in The Chronicle of Higher Education, 16 December 1992, which reported that the law schools at Stanford and the University of Michigan scaled back their affirmative action plans because of scrutiny by the federal education department. The University of California at Berkeley was found to have violated antibias laws with its affirmative action plans. Sharik said it was important that our policy be correct. Whitt said that the legal issue are complex, and that affirmative action plans differ from social justice plans such as that announced by President Tompkins. She said she was uneasy with the Senate having to rely on the administration's lawyer for this information, and said the Senate should consider seeking its own counsel.

Glime asked whether a position advertisement could ask for mentors to serve as role models for minorities. Sharik commented that he had asked about this and it cannot be done. Glime said that her idea involved no mention of the minority position of applicants.

Whitt commented that she has seen advertisements for minorities in her field, so that the question of legality needs to be pursued. Pilling said that a job should be advertised in the least biased way and should go to the person who is best qualified regardless of who it is. The problem is that the President has made available extra positions for a minority person who might not be the best qualified. Mullins said this provides a mechanism to ensure that search committees will search for qualified minorities. Boutilier said as a math department member she was delighted with the policy, because the inclusion of gender in the list would allow them to hire some very well qualified individuals. Selfe commented that the policy only indicates that the extra position may be filled; the policy needs to be clearer. Dorweiler said the decision cannot be based on race. Selfe said that Glime's idea of minority mentor in the advertisement avoids the problem of race

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or gender because the minority person is obviously the best qualified individual. Sharik said the administration was uneasy with this idea. Glime said Sharik had suggested openly advertising for a minority, but that her idea was to open the position to all. Dorweiler indicated that this is concealment of what you are doing, if you are running the funding program specifically to hire minorities. Grzelak said that his department is understaffed and has asked for additional positions with no success, so that it is bothersome to be suddenly told that "we happen to have a position for you if it's a minority or a woman". The \$100,000 money is being taken from department and unit allocations where it should be available to hire the best qualified person for the job. Boutilier said she has watched this money go to the white male for years. Whitt commented that there is a legal issue that needs to be addressed, apart from the moral issues about what should happen. A second legal opinion would clarify the other alternatives. Whitt moved that the Senate take measures to seek a second legal counsel's opinion on the hiring for minority positions. Mullins seconded the motion. It was approved by voice vote. Sharik said that he would ask for more funding from the President for this matter. Glime suggested that free legal advice might be available from the NAACP or some of the other offices in Washington. Whitt

volunteered to find sources of legal advice and their costs.

X. New Business

- A. Agenda Item - Information on loss of mainframe computer: Sharik said that the informational presentation on the loss of the mainframe computer will be held off until the next meeting.
- B. Agenda Item - Appointment of a representative to the Public Safety Advisory Board. Sharik reported that John Ahola, Director of Public Safety, had called Sharik inviting the Senate to provide a member for that Board. This membership is important because Public Safety now has been authorized to carry firearms. Sharik asked for a volunteer to serve on this committee, with the first meeting 14 January at 8:15 a.m. Boutilier moved that the Senate select a representative for the Public Safety Advisory Board. Vilmann seconded the motion, which passed by voice vote without opposition. No person volunteered for the position, so Sharik said he would go to the first meeting to represent the Senate. He hoped that a person not now on a committee would volunteer to be the Senate representative in the future.
- C. Agenda Item - Votes on questions from Constitution and Constituency Committee: Heuvers called first for a vote on the interpretation of "its" in the constitution, (Appendix B, p.3). Hubbard moved that: The antecedent for "its" be established as "the constitution". Mullins seconded the motion, which passed by voice vote without opposition.

Heuvers called for the second vote to be on the constituency of department heads and chairs (Appendix B, p.6). Vilmann moved that department chairs and heads continue to be constituents of the Senate. Sharik stated that this group included the deans of forestry and business, and the director of the School of Technology. The motion was seconded, and passed by voice vote.

Heuvers called for the third vote to decide whether heads and chairs could serve as senators or alternates. Heyman clarified the motion: that heads and chairs shall be excluded from serving as departmental senators or representing the Senate on elected committees. Jambekar seconded the motion. Roblee said the issue might be important only once every five years, but on those occasions it is likely to be really important. A confused discussion occurred about the academic classification of college deans. Grzelak wondered whether department heads could run for Senator-at-large. A friendly amendment was accepted removing the word "department" from the motion. The motion for exclusion passed by a show of hands, 13-9.

Heuvers called for a vote on the clarification of rules and procedures for ballot initiatives. He read the proposition (Appendix b, p.5). Heuvers moved that the clarification be approved as read. Vilmann seconded the motion. Grimm asked about the definition of "as soon as possible". Heuvers said the intention was to be as soon as physically possible. The motion was passed by voice vote without opposition.

XI. Adjournment

Leifer moved that the meeting be adjourned. Carstens seconded the motion which passed without opposition. President Sharik declared the meeting adjourned at 11:10 pm.