

# MINUTES OF A MEETING OF THE FACULTY SENATE

Wednesday, March 11, 1998

The Speaker, Professor John Pollak, Animal Science: "We don't quite have a quorum yet; but, we are close. We'll start off with opening comments by Peter."

## 1. REMARKS BY THE DEAN

Peter C. Stein, Dean of the Faculty: "I just would like to report to you on what has been going on with the motion concerning the Research Futures Task Force, that was so handily defeated at the last meeting. After the last meeting, I decided that I didn't exactly know why it is that you all voted against it, and I decided to find out. And so I called up all of the people that voted against it and actually talked to some forty-four of the forty-eight negative votes. And after talking to people, I have the sense that it wasn't that people thought we should do nothing in this area; it's that they thought there were major flaws with the motion that had been presented to you and that it needed a deeper thought."

"So, what I did was, I chose some six members of this body in rough proportion to how they voted, namely four of them who had voted against it and two of them who had voted for it, and asked those people to get together and try to come up with a proposal that would find favor in this body. I asked Linda Nicholson to be the chair, and Barry Carpenter, Milt Zaitlin, and John Smillie, four people who voted against it; and Brad Anton from Chemical Engineering, and Rich Galik from Physics, two people that voted for it. And they have been meeting diligently and I have every confidence that they will present to you a proposal that they think will receive your favor at the next meeting. And that concludes my remarks."

Speaker Pollak: "Well, we don't have the Provost. You haven't got anything else to say? Two minutes more?"

Dean Stein: "I'm rarely at a loss for words (laughter). They can ask me questions if they want."

Associate Professor Jeremy Rabkin, Government: "I'd like to ask about our Sexual Harassment procedures. The Senate voted a resolution a year ago February, thirteen months, and we've gotten no response at all from the Provost. I have basically two questions for Mr. Stein. One is, what are you going to do about this? and the other is do you blame yourself at all for this? I'd like to remind you and everyone here about the following facts. First, this Senate resolution began because the Arts College voted a resolution of protest. Mr. Stein was one of about three people who voted against that resolution. We then spent a lot of time debating this. Mr. Stein was opposed to a lot of the due process elements in the ultimate resolution. On the floor of this body, he argued against them. He then allowed this thing to be given over to the Provost, and we never actually voted a resolution which said, 'We strongly urge . . .', 'We insist . . .'. There was no language because Mr. Stein neglected to arrange for that. He sent it over with a covering letter which said, 'Eh, here it is.'

"And for thirteen months we've gotten no action, and when I've inquired of Dean Stein what's going on, he more or less told me, 'Mind your own business. This is for the insiders.' So I'm asking now of the insider: What's going on? What are you going to do about this? And just if I could ask one last question related to this, I assume the likelihood is that after thirteen months, if we get any reply at all, it's not going to be a very favorable one. I don't believe that we've had all this delay so that the Provost can then turn around and say, 'Come to think of it, yes, everything you wanted, I agree to it.' So, I also want you to explain what you're going to do, if after thirteen months, and all of your tepidness, the Provost does what we expect, sort of shrug it off. What are you going to do then?"

Dean Stein: "Well, my problem of course, is that I'm much too tepid a person, so I'm not sure I can raise myself with the necessary energy. I think that your recounting the facts is, in the large, incorrect. The Provost has in fact responded to the community and this body with a memo last May which has been widely interpreted to state that he intends to issue a policy which is in substantial conformity to the recommendation that was passed by the Senate. He has said that, words to that effect, on a number of occasions from this floor, and also has said that to the University Faculty Committee on a number of occasions. Is that a fair statement Lisa, Vicki, Sally? O.K."

Professor Rabkin: "His letter did not say ..."

Dean Stein: "No, no. Now let me. My interpretation of that is as I said. I have repeatedly apologized for the error that I

made, which I realized on a street in New Orleans approximately five days before the meeting, that the UFC had neglected to put on the agenda a motion that said 'We forward this to you and ask you to adopt it.' By our rules, it was impossible to put that on the agenda. I must confess my sin. I frankly thought that nobody would notice, and that the passing of this resolution would be considered to be, effectively, a motion to the Provost asking him to adopt it. I'm sure the Provost saw the unanimous vote of this faculty as telling him very strongly that we wanted him to adopt these procedures. There was no doubt about that in anyone's mind. So, I apologize for the lack of a forwarding motion; but, there it is.

"I have not been a tepid supporter of this, Mr. Rabkin, or Professor Rabkin, as perhaps I might use your full title. I have not. I have been a strong proponent of this. I have been in many, many meetings where various objections were made to this policy, and I have vigorously defended them in all of those meetings. Those meetings were confidential, and I regret the fact that I have not been able to answer your request for discovery, that I give you all the items that other people have submitted at these meetings, report to you all the positions that other people have taken. I believed that I was not able to do that. I can only report to you that I have supported vigorously everything that the Senate passed. I have made arguments for it. I have answered counter arguments that other people have made. I have done what I could to the best of my ability. That's all I can say. I never sent you a request saying to mind your own business, and that this was only for insiders. I'm sorry. Nothing I said, I think, could be interpreted in that way."

## 2. QUESTIONS AND ANSWERS WITH THE PROVOST

Speaker Pollak: "We do have the Provost now. You've come none too soon." (laughter)

Dean Stein: "Guess what the subject is."

Speaker Pollak: "The question on the floor that I believe would have been addressed to you had this started ..."

Assistant Professor Anna Marie Smith, Government: "I'd like to ask a supplemental question on the same issue."

Speaker Pollak: "All right, we have a supplement to the question you haven't heard yet."

Professor Smith: "I'm a member of the Academic Freedom and Professional Status Committee. As you know, our committee worked long and hard to produce a new Sexual Harassment Policy. You gave us your assurance last Spring that you would make the resolution of a difference between the policy that we suggested and the policy currently in effect, your top priority. It is now March; we have not seen enough action on this issue."

"The policy that's currently in effect does not enjoy the support of this body. With all due respect, it's only achievement seems to have been the formation of the most remarkable coalition of factions who otherwise have very little in common. Now, my questions are the following. First, why have you not made the resolution of this issue your top priority? Second, if the problem seems to be a difference in the views of staff representatives and the views of this body, why has it been so difficult to resolve those contradictions given the fact that those contradictions must occur on other issues every day? Third, why not give us a chance to defend our work in an open forum, where we can defend our decisions that we made in complex, complicated meetings over several months backed up by a tremendous amount and debated. Why not give us a chance? Sexual harassment is a vicious form of discrimination. It should not be tolerated. But, we cannot eliminate it on this campus without decisive action on your part, and it's long overdue, with all due respect."

Don M. Randel, University Provost: "I subscribe to your view that it is illegal, and vicious, and we should not tolerate it on this campus. I guess I depart from your view that there is a uniform body of opinion, even within the faculty, as to the responsible thing to do as a consequence of this. It is certainly the case that there is not unanimity across the campus. A good deal of the time I have devoted to this subject in the past month has been meeting with staff and with students and with faculty members who, in fact, believe that the procedures adopted by the Senate were inappropriate."

Unknown: "Tell us their names."

Provost Randel: "Well, I don't suppose some of them would mind having their names told. What's interesting about that, of course, is that even the debate within this body has, at moments, been characterized by silence on the part of people who disagreed with what was being said. And, what has a way of happening is that people speak up only when their own most, what shall I say, closely connected digits, are stepped upon. The simple fact is, there are very deep divisions on the

campus, I think, even within the faculty, but certainly in the position that was adopted by the Senate and a lot of valuable employees of the institution who are not academics. There is furthermore, a fairly vigorous body of opinion coming from the University Counsel's office and others with some professional standing in these matters which suggest that the Faculty Senate's procedures are not entirely appropriate.

"I have done my level best while trying to serve this University in a variety of other ways to bring about a resolution of that. I have now in fact sent a proposal to the Policy Advisory Group that has been duly constituted to deal with policies in the University in general. There is a meeting tomorrow of the Executive Policy Review Group that will have in hand my proposals for the resolution of this difficulty, and who knows? Maybe by the end of the week there will be some agreement about it. I'm virtually certain&endash;not virtually&endash;certain absolutely certain that it will not be satisfying to everyone; but, I believe that we will have a responsible approach to this."

Professor Rabkin: "I'm disturbed that we seem to have had after the open, public, official faculty debates, a second secret faculty debate. And that's why it bothers me to be told now, contrary I think, to what Dean Stein was telling us. Dean Stein was telling us that he's a representative of the faculty and that he represented to you that this is the faculty's position, and you should adopt it. And now you're telling us, either that Mr. Stein was not telling the truth, or that along with Mr. Stein there were secret representatives of the faculty stating the opposite, and they carried more weight with you than Dean Stein, who's only our elected representative. How did that happen?"

Provost Randel: "Without wishing to analyze the logic of that statement to see if all the connective tissue that you applied is really there, let me say that I did in fact receive communication directly and personally from members of the faculty, a variety of them suggesting that in fact the position taken by the Senate was fundamentally wrong. This was not done in secret so far as I know. But, I have received direct written communications from members of the faculty saying that they thought this was wrong, and that I should please not in fact adopt what the Senate proposed."

"I would be grateful if some of those faculty members would show up at meetings of this body and say those things to the rest of you. They have said them to me, and not in secret so far as I know. Let me say one other thing. I am perfectly glad to go on record as saying that Dean Stein has been a vigorous advocate of the version that was passed by the Senate. I have spent a very great deal of time with him trying to understand precisely the nature of his views and the views of this body. He has, in fact, been a vigorous advocate of your proposal."

Professor Ken Strike, Education, Chair, Academic Freedom and Professional Status of the Faculty Committee: "I don't want to explore the connective tissue of Professor Rabkin's arguments either, but I want to affirm the general sentiment of them. Faculties are always diverse. There will always be people who disagree. It's virtually impossible, I think, if you poll the faculty to get unanimity on the laws of logic. But what you're proposing is that unnamed people have the right to outvote this body, without public argument, when this body has affirmed the collective opinion of the faculty as best it can. I find that quite an untenable position."

Provost Randel: "Well, it has, outvoted this body? No. Nobody has outvoted this body."

Dean Stein: "I want to have in public with you a discussion that we've had in private on a number of occasions about just this point that's been raised by Professor Rabkin and Professor Strike. I recognize that the faculty is only one constituency in this University and that there are other important constituencies. There are students, there are administration, there are the staff, and they are not represented here at all. And I recognize that when you make University policy, the faculty is only one input."

"But, on the other hand, I believe that this is the appropriate body for you to get faculty input from. It is true that there are people that disagree with how this body interprets the will of the faculty. But, in my belief, when you decide to put together what is the right thing to do, when you think of what the faculty wants, it has to be what this body wants. In fact, this body supported those Sexual Harassment procedures. I can't remember. I think it must have been unanimous, or close to unanimous, when the final vote was accomplished. I think the fundamental issue is not in the end about whether the faculty is absolutely of one voice on this matter, because we are not of one voice about anything. But, let us grant that this body represents the view of the faculty, and when seeking the view of the faculty you should seek it from this body, on this or any other subject."

Provost Randel: "But, the faculty is not the only body that has something at stake here. And part of our difficulty is that the staff and some number of students also have proposals, and also have something at stake, and they see what the faculty has done as fundamentally inimical to their standing in these cases. I mean the end, in the main, the victims of this, over history, have been students, and probably staff victims have outnumbered faculty victims. I don't think we can responsibly say that the people who are in the position of power should legislate about this without some considerable regard for the people who are in the position of lesser power. And after all, that is what sexual harassment is in the main all about: a power relationship that is exploited for reasons that we shouldn't tolerate."

Professor Howard Howland, Neurobiology and Behavior, At Large Member: "On another topic. It's widely known now that the draft report of the Task Force to review the structure of the Division of Biological Sciences has recommended the disbanding of the Division and a conversion of the Division's sections into Departments. And, presumably a slightly revised version of this draft is on its way to you or you have it. It's also true that a response to the draft report has been forwarded to you with the signatures of more than forty members of the Division which recommends retention and strengthening. My question is, what procedures will now be used to decide the fate of the Division of Biological Sciences?"

Provost Randel: "We have a long tradition of responding to reports in this University. One of the great traditions is to respond to them with deafening silence. I propose that we won't adopt that as a strategy. It will be necessary for us to make a response and to decide to do something, there's no question about that. With that in view, even though we have not received the final draft yet we had a discussion just a week ago with the President himself who is keenly interested in the outcome of this. The President, myself, some colleagues in the central administration, Vice President Scott, Vice President Ehrenberg are beginning to imagine how we respond and how we would move in an orderly way to respond.

"I certainly will want to meet with the Task Force face-to-face, so as not to have only the written document, and that I want to be absolutely certain we have a few of these people who may differ with the report from the Task Force. But, I expect that we will have some consultation with colleagues in central administration, the Academic Cabinet, which you have heard described will in fact have a role in trying to reach a conclusion about this. We will certainly, at the moment it happens, have among its members two of the teams who are most directly affected and so we will have a chance to hear what they have to say as well. But we will, let's say the President and I, some of our colleagues in the central administration, after having heard all and sundry, try to move to a resolution of this this Spring."

Speaker Pollak: "We have time maybe for one more? There was a request to know something about the pumpkin."

Provost Randel: "You know I've been asked by a remarkable number of people, three, it turns out, two of them professional journalists, whether this whole pumpkin contest wasn't simply a ruse to smoke out the perpetrator, so as to be able to punish them. For what it's worth, I'm certain that this is not the case, and furthermore, the proof of it is that confession of having done it would not constitute scientific demonstration&endash;such a person couldn't possibly win the contest. Science will decide even if multiple groups get the right answer. The elegance and sophistication of the experiment, and scientific reasoning that go into it will be the criteria on which it's judged. If it turns out to have important theological implications, it is determined to be from other places, other times, as I assured the ABC news reporter, we being a non-sectarian institution, no single theological perspective will dominate."

### **3. APPROVAL OF MINUTES OF FEBRUARY 11, 1998**

Speaker Pollak: "I think he evaded the question. We still don't know if it's real. You all had an opportunity to see the minutes. Are there any comments, corrections, or otherwise concerns of the minutes from February 11th? O.K. Seeing none, we will accept the minutes and I now call on Kathleen Rasmussen."

### **4. REPORT FROM THE COMMITTEE ON NOMINATIONS AND ELECTIONS**

Professor Kathleen Rasmussen, Nutritional Sciences and Associate Dean and Secretary of the University Faculty: "I'd like to report on the actions of the Nominations and Elections Committee. The Social Science Research Task Force will be chaired by Ron Ehrenberg, with a large number of faculty, half of whom were appointed by the administration and half by the faculty. A great deal of thought went in to trying to balance this committee. There are a lot of different ways to balance it. The Faculty Nominations and Elections Committee took the first whack at it and the administration did the final balancing. And Ron's smiling, so it must be O.K. O.K."

John Abowd, ILR

Stephen Ceci, CHE

David Easley, A&S

\*Robert Frank, JGSM

\*Sandra Greene, A&S

\*Davyyd Greenwood, A&S

Ron Herring, A&S

Michael Macy, A&S

\*Phyllis Moen, CHE, A&S

\*David Monk, CALS

\*Andrew Novakovic, CALS

Richard Schuler, Engr./A&S

William Schulze, CALS

\*Elaine Wethington, CHE

\*Appointed by N&E

"Our other actions include appointments to:

**UNIVERSITY FACULTY COMMITTEE**

David Mermin, A&S

**COMMITTEE ON ACADEMIC FREEDOM AND**

**PROFESSIONAL STATUS OF THE FACULTY**

Melissa Hines, A&S

**LIBRARY BOARD**

Karen-Edis Barzman, A&S

"It is my pleasure to bring to you the results of the election for Dean of Faculty that was just recently completed. We have a new Dean of Faculty, J. Robert Cooke, who is with us this afternoon. This election was extremely close. It went to the third round of the Hare system; the final candidates, Dean Stein and Professor Cooke were separated by a mere thirty-five votes out of over eight hundred cast. So indeed, we did have a contest this year. The eight hundred and fifty-nine or so votes that were cast were rather fewer than in our last election where almost eleven hundred votes were cast. The number of votes cast represents approximately forty-one percent of the voting faculty. We need to approve the actions of the committee, these three."

Speaker Pollak: "O.K. We have the nominations from the committee to be approved. Are there any comments on the individuals who have been recommended for committees? Yes?"

Associate Professor Risa Lieberwitz, Industrial and Labor Relations: "On the Social Science Research Task Force for the

University, it looks like there are so few women there. Am I counting right? Three?"

Professor Rasmussen: "And all three of those came from the faculty, so perhaps you'd like to speak to Vice President Ehrenberg."

Ron Ehrenberg, Vice President Academic Programs, Planning, and Budgeting: "Well the balancing thing is very difficult and when the faculty selected their representatives, it was up to the Provost and myself to balance it including the fields that weren't already represented. If you look at the names of the faculty that don't have stars next to them, I would suggest to you that are among the very best and brightest that Cornell has to offer in the social sciences at Cornell, and that was the major criteria that we were looking for."

Professor Lieberwitz: "So you just came up with all men."

Vice President Ehrenberg: "If you look at the names of the people that we have chosen, I assert that they are among the very best and brightest that Cornell has to offer in the Social Sciences. I will tell you that several of the people that were on the faculty list were also on the list of people that we would have selected, but I pledged them to silence on the fact. In fact, I have asked them to give me more degrees of freedom."

Speaker Pollak: "Are there any comments on the recommendations? O.K. Since we did have comments I would like a show of hands from all of those who are in favor of the nomination lists, reply by raising your hands. All those opposed? O.K. The nominations carry. There was opposition. Peter has asked for a moment."

Dean Stein: "I just would like to take this opportunity to congratulate my colleague, Bob Cooke, who I think will make a fine Dean of the Faculty. I've known Bob for years and years and years. I know he has strong analytical skills, a deep commitment to the University, a love for Cornell, and possibly what may be even more important, he doesn't have a mean or devious bone in his body.

"I would also like to take this opportunity to thank my other colleagues, Joe Ballantyne who is not here, and Kay Obendorf, who is, for agreeing to run for this election. I think this is an important post. I'd also like to thank Kathy Rasmussen, or congratulate, not thank, Kathy Rasmussen and the Nominations and Elections Committee for organizing the election which I think gave an opportunity for the candidates to discuss the issues and present themselves to the faculty in a way that was unprecedented. I think that was healthy, and I hope that we do that sort of thing in the future.

"On a less positive note, I am very disappointed in the turnout. Despite these efforts, which I think made this election more visible than it had been in the past, there are twenty percent less people who voted in this election than in the previous election. This is one of the lower turnouts of the past twenty-five years. My only conclusion is that this is yet one more symptom of the malaise that I think threatens the health of our University and the faculty, that people simply don't see these University matters as worthwhile to participate in. I think that really does threaten us, and that it is essentially the job of this body and Bob Cooke to change that way of thinking.

"On a more personal note, I'd like to thank a number of people, who during this election, sent me very kind and flattering thoughts. They warmed my heart on a lot of cold winter nights. And finally, I'd like to say that losing is worse than winning. But, I also have a deep and abiding faith in the democratic process. I believe that in the long run, the people know what's best for them. And so, it is my belief that Bob Cooke is the right person to be Dean of the Faculty at this particular time. I'd like you to join me in congratulating him and telling him that you, as well as I, will help him in every way possible to advance the cause of the faculty, and the health of faculty governance in the years ahead." (Applause)

J. Robert Cooke, Agricultural and Biological Engineering, and Dean of Faculty-elect: "Thank you for your very kind and generous comments, Peter. I look forward to working with you, and I hope Peter's right that winning is better than losing. Bob Miller just said to me, 'Are you sure you did the right thing?'"

Speaker Pollak: "For those of you who are wondering, Bob takes over on July 1. We have a comment."

Professor Strike: "I think it would also be appropriate for this body to express our thanks to Peter Stein for his several years of hard work on our behalf." (Applause)

Speaker Pollak: "Now, you know Peter will be here until July, so we'll see him several more times in this role, but I agree with you. We'll move down the agenda to the item where we will get the Faculty Trustees, Richard Schuler and Kay Obendorf, to share a discussion here with us."

## 5. REPORT FROM THE FACULTY TRUSTEES

Professor Kay Obendorf, Textiles and Apparel, Faculty Trustee: "Losing may be better for me because I get to continue in this post, so for me, losing may be better than winning."

Professor Richard Schuler, Economics and Civil and Environmental Engineering and Faculty Trustee: "I think a unique opportunity that we have at Cornell is for faculty members to be able to serve on the Board of Trustees, and so I think that it's also a responsibility for us to report back to you periodically, and give you a sense of how this august body performs. Since these are the final months of my term, I will give a quick landscape of how the board is constructed and how it functions, so that you might evaluate some of the pronouncements in the context of your views of the University, and then let Kay describe the challenges she proposes to bring before the Board in the future."

"The Board is large by University standards. There are sixty-four members on the Board of Trustees; many of them are appointed by different bodies. There are four ex-officios, two of them being the Governor and the Head of the Assembly. The Governor gets to appoint three more faculty members. Eight are elected by the alumni. The largest group by far are the Board-elected Trustees, and that's forty-odd members, but in addition we have two faculty, two students, and that is truly unique, and one employee elected Trustee, as well as a life member, Ezra Cornell. So, it is a very large Board."

"One might think that that is an unwieldy group, but in fact, most of the Board activity takes place in committees. Most full Board votes are unanimous, and that the real work gets done before any matter comes before the full Board."

"The Board has absolute power over this University. It's a chartered institution in New York State. But in turn, through its bylaws, it turns over virtually all of its power to the President and to the Provost, and to the administration. So, in many respects the Board acts in an advisory capacity only, except, of course, when it comes to selecting a new President. That is the single most important function, and Kay had the opportunity to serve on the committee that engaged in that."

"The various committees range from the Executive Committee, Buildings and Properties (both Kay and I serve on Buildings and Properties), Finance Committee, Investment Committee, Alumni Affairs and Development, and the Academic Affairs Committee. Those committees, again, range from the advisory to almost line operation. The Investment Committee, for example, is staffed with some of the true professionals in portfolio management, and they are far more than advisory in their interaction in managing Cornell's endowment."

"I, in my learning phase in being on the Board, decided to sit in on a couple of those meetings to see how they operated and to see whether it was just general everyone coming to common agreement. They fight tooth and nail with each other with differing opinions, and seem to air the widest latitude of opinions. So, I drew great solace from that, that the proper issues were being discussed and talked about and that the right opportunities were being seized for Cornell in those areas."

"What are the Board members concerned about? In a nutshell, they love good news in the media about Cornell, and they're despondent about bad news. So, they too, since they're not in Ithaca, New York, respond to press releases. And we know how colored that sometimes can paint a picture of what's actually here on campus. So I see the real opportunity that Kay and I have is to occasionally educate them about a more balanced perspective of what's happening on campus, and in particular, to understand the unique nature of this institution, the unique nature of the faculty. How that other fifty percent of the time that we're not spending in the classroom is spent on productive things, and they do begin to understand that indirectly because they respond positively to Nobel Prizes and whiz bang kinds of articles in the media. But there is occasionally a semi-disconnect. They're very concerned about teaching, obviously, and residential life."

"What influence can we have other than advisory? Well, it depends upon how hard we're willing to work on particular issues and whether we have expertise. I was intimately involved with the Lake Source Cooling Project from its very inception. Since that also fringes on my academic expertise, I was able to bring to bear some different perspectives and help that project move along. And occasionally, I'm able to raise issues about strategic planning and balance of attention that may be viewed as a little bit heretical on the one hand, but on the other hand, have a fresh perspective. But, I think

ultimately a real benefit is demonstrating to them that we're just living, breathing human beings with the same hopes and aspirations of other people, who maybe have a better sense of this institution and how the basic missions of the University are served.

"And in that light, Kay had observed that there might be some imbalance of the view of some of the Trustees of spending an inordinate amount of attention on the teaching side and the student side. And she has devised a wonderful proposal to try and begin to demonstrate to the Trustees how the research and scholarship mission of this University is also a very complex and idiosyncratic operation. And . . ."

Unknown: "What is it?"

Professor Obendorf: "Well this came from a discussion after one Faculty Senate meeting and we were talking about the understanding of the research process, not the findings of your research, but how you go about your scholarship, how you go about your research. And so, the proposal is to try and have some more one-on-one between some of the Board members and faculty members to understand the process by which the faculty do research. And we haven't yet launched this, because I think this Spring, when we're here in March, they're going to be meeting some of the newly tenured faculty, and so we didn't want to get too many things started at one time."

"The focus is for the Board members to meet a broader range of faculty and to really understand what we do when we're not working on the teaching side. It isn't so much on the findings of the topic, but in, when the research is upon this topic, how you go about doing it. So we're going to try to work with some of the Board members and have them visit with some of the faculty members. So actually we could use suggestions from you on appropriate people that might like to be such hosts. The Board comes to Ithaca in October and in March, which are probably the best times. They also come at graduation time. So we would do it sometime when they're in Ithaca. So we hope that this might be something of interest to you."

Speaker Pollak: "Do you have questions of these two? Or comments?"

Unknown: "It's striking that you're both on the Buildings and Properties Committee. Is that the best allocation of our faculty?"

Professor Obendorf: "We're on more than one committee. I was on Academic Affairs, but they reduced the size of that Committee, and I think Dick's still on that."

Professor Schuler: "Right."

Professor Obendorf: "Dick is on the Executive Committee, Buildings and Properties, and Public Affairs, and everyone does Development, so we're all on Development. And the I'm on, Statutory and Land Grant, Buildings and Properties, and Development, and this year I chaired the committee. I've had the most interesting experience with student government, because we've just finished the election of the Student Trustee. Katie Dealy was elected, that was announced on Monday, and I chaired that committee. So that's all. I think that the faculty member always chairs this, and every fourth year, there's also election of the staff ..."

Professor Schuler: "The employee member."

Professor Obendorf: "Yes, so we get a variety of committee assignments, and we can attend any of the committee meetings. I attended a sub-committee on Academic Affairs that was discussing financial aid and admissions. I've attended Investment. I quite frequently attend the Executive Committee. So we can attend others on which we're not members."

Professor Schuler: "I have been amazed how inclusive most of the Board members are in activities. You could walk in as a Trustee, any Trustee, to any committee meeting and they'll invite you right up to the main level. The social scientist side of me has tried to understand the workings of this board, and I have finally come to the conclusion that here are a group of people who have one thing in common, they went to Cornell. But they weren't friends by and large as undergrads; they come from very different sections of the University, different classes, some were Greek, some weren't. They've all gone off and made successes of themselves in some arena and then been brought back thirty years later and discovered they like each other. It's remarkable."

"And so when they were talking about restructuring the Board two years ago, I entered into some debate about the optimal size of corporate boards to see whether we could apply this and one of the Board members said, 'Dick, the thing you've got to understand is that's different. This Board is like the Love Boat.' And in a way, that says it all."

Professor Obendorf: "It's amazing how these people work together for the good of this institution and this was definitely true when we participated in the search for the President. And when you see them, like at Buildings and Properties, there are people that run very, very large real estate operations bigger than our campus. These people are sitting and advising and giving comments. So it's amazing&endash;their dedication and their giving expertise, time, and not to mention, their money."

Speaker Pollak: "Thank you. We should move on to the next item. We'll call upon Ken Strike to make a motion concerning the Transition Report."

## **6. MOTION FROM THE COMMITTEE ON ACADEMIC FREEDOM AND PROFESSIONAL STATUS CONCERNING THE TRANSITION REPORT OF 11/11/97**

Professor Strike, Chair of the Committee on Academic Freedom and Professional Status of the Faculty: "Let's see, I'm not quite sure what I'm supposed to read. I think that I will start in the middle, that is, we had an earlier motion, was adopted unanimously. However, we didn't have a quorum. We were asked to take a look into the legality of age-bracketed phased retirement incentives, and having made a few inquiries to a couple of legal sources and done a little reading on some legal opinion on age bracketed phased retirements, we found the issue essentially indeterminate.

"I guess there was a variety of legal opinion. There are, if I may use an Al Gore-ism, there are no 'controlling opinions', and it also turns out to be the case that we were told several times that it was difficult to assess the legality of something until you have a detailed plan. So that I think our collective judgment with respect to, the legal question we were asked to find out, is that it is unknowable at the present time, and it would be unreasonable for this body to base its opinion on any legal conjectures that the Academic Freedom Committee might make on that.

"We also, although without being requested to do so, took it that probably the intent was to have us look into the merits of age-bracketed phased retirements, and we spent some considerable time discussing them. I think there was a concern on the part of many members of the Academic Freedom Committee; there was some discomfort with using age as a criterion for any retirement incentive. We had a rather robust debate on that. I think that, I must say that I started out in the minority on this and then ended up writing the opinion for the other side, and as I constructed the arguments I found that I was convinced by myself to change my mind.

"I think our collective considered opinion is that phased retirement options without a ceiling age simply are unlikely to serve the purpose that they are intended to serve. They are in fact quite likely to be as much an incentive not to retire as they are an incentive to retire. It's hard to know that. But, as we considered our own sense of how we could think about this, that seemed to be a quite reasonable opinion to hold. Especially if the alternative to simply having phased retirement turns to an entitlement by putting administrators in the position of making a case-by-case determination of whether or not a particular person ought to be eligible for phased retirement. And given the kind of judgments that are involved in that, that is simply untenable in this case. We cannot make these kinds of decisions on a case-by-case basis. As a consequence, we think that maintaining the current posture with respect to phased retirement, age-bracketing phased retirement, is an acceptable option. Now, do I also have to move the initial report?"

Speaker Pollak: "Resubmitting the report to the body as it is."

Professor Strike: "Well, I commented on what I think is the salient issue, and I certainly move the initial report."

Speaker Pollak: "We do have an amendment to what's been circulated. We call on Tob deBoer."

Professor Tob deBoer, Mechanical and Aerospace Engineering: "I'd like to move the amendment which has been circulated, which has to do with point three of the motion that was introduced on phased retirement. I'd like to at the end of that append,

be replaced by "over the age of 55," and that point 5 of Option II be deleted.

"Point 5 of Option II logically should be deleted if the first part is accepted. The rationale simply is that restricting the option of phased retirement to faculty members below the age of seventy is against the spirit of the law against discrimination with respect to age. I would like to say a few more words about this."

Speaker Pollak: "First we need a second."

Unknown: "Second."

Professor deBoer: "I would like to say a few more words about it. In the preliminary report on the Provost's Committee on the Transition of Faculty to Emeritus Status there were five places at which discriminatory statements with respect to age were included. After objections were made at this body, and I'm sure other places, all except for this last one were removed. We believe that this one should be removed also. In fact, at the last meeting, objection was raised at this point and afterwards I was told that it had been an oversight that this was still in there. And I was very surprised that the committee came back with the report they had."

"We have to be very grateful to the committee for putting a lot of thought into this and coming up with a very thoughtful report; however, upon reading it, I still disagree with their final conclusion. As stated in the report by the committee (below), the various expectations about these Options I and II are highly conjectural. One of the things that isn't mentioned explicitly is that they take this option of phased retirement away from people who are beyond seventy and those people instead of retiring might stay on full time, whereas otherwise they might have gone on to phased retirement. That would open up a faculty position to a junior faculty member. So, that's one of the many sides of the issue. It isn't clear in other words, at all, that taking away the option of phased retirement for people who are beyond seventy could be good for the University."

"I'd like to note that over the many years of laws against discrimination that in many of them were introduced exceptions. It seems to me this is one of those exceptions and I don't think that Cornell should participate in any discriminatory practices, and certainly shouldn't have on its books any law that is discriminatory in any way, including age."

"I'd like to note that over years, laws against discrimination were introduced exceptions. It seems to me this is one of those exceptions and I don't think that Cornell should participate in any discriminatory practices, and certainly shouldn't have on its books any law that is discriminatory in any way, including age."

Speaker Pollak: "I'd like to focus comments now on the amendment. Are there comments on that? Concerns?"

Unknown: "Is there a possibility of also discussing the report? Because many ..."

Speaker Pollak: "Yes, after the amendment."

Unknown: "Will we vote on the amendment before discussing the report?"

Speaker Pollak: "We'll vote on the amendment and then we'll vote on the report."

Unknown: "But may I ask if the two are linked, if there are aspects of the report which relate to that?"

Speaker Pollak: "That's part of the conversation on the amendment, yes."

Professor Locksley Edmondson, Africana Studies and Research Center: "I hope I'm in proper parliamentary order. This recent report&endash;dated February 27&endash;I'm having some difficulty working through aspects of it. It could well be increasing senility and by the end of the session I may even be senile enough to support it. But having said that, I think it would not be unreasonable to seek further clarifications if you agree this is in order; because, I think they relate partly to the amendment which was brought in."

"It's curious to me why the University Counsel, declines comment. I find it curious, perhaps suspicious. It's important to note that there is a fair division of opinion about the legality of it. It has been stated by the committee that the issue has

not to date been rejected by the courts, and the question I have to ask is, has it been challenged in the courts? There can't be a rejection unless there's a challenge. So, I really think we should, you know the way it looks as if the courts are neutral about it, but we cannot say that unless there has been a challenge and it has been rejected. If not, that language has to be changed. It's misleading. We agree that we shouldn't base opinions on 'legal' speculation, but it seems to me that in a sense the committee proceeds to do exactly that in its final paragraph.

"And finally there's a clarification I wanted to elicit from the chair of the committee about what he said that having a case by case review by administration was less desirable than having a broad policy statement. But, is the differentiation case by case vs. policy? Is it not really case by case vis-à-vis class or group? And when the word policy is put in it, it implies that a case-by-case thing cannot be based on policy. Whereas I think policy, you can devise a policy based on a case-by-case thing. So it is extremely misleading for any committee, it seems to me, and I'm prepared to reject my criticisms here, to argue that it's policy vs. case-by-case. It should be case-by-case on the one hand, and group/class characteristics on the other. And the argument is very clear that once you include the term 'group characteristics' there is a very discriminatory element involved."

Speaker Pollak: "There was a request for a clarification."

Professor Strike: "I don't know if I can clarify it or not. At least as I see it, if you do not, if you are going to say that some people will be eligible for phased retirement and others not, one is to give a criterion which decides the basis of eligibility, such as age, and the other is to have some sort of administrative decision made on the basis of particular individuals. And I think when, you could look at the kind of reason that is likely to ... imagine a conversation that would take place between the Dean and somebody who is seventy-two about whether or not that individual is going to be given the option of phased retirement. Why would a Dean not wish to do that? Because the Dean no longer valued that person's services? Because the Dean wished to push that person's line? Because the Dean had recently disagreed with that person about a matter of important policy? Those kind of discussions have to be very painful, people will flee from them. I would certainly not wish to be in a position of having to make decisions of that sort."

"I think in fact if you put administrators in that position, you will effectively be saying that phased retirement is going to be treated as an entitlement. And that is something which I think has not been recommended, and I think it's a likely consequence of putting Deans in the position of making highly subjective and conjectural and painful decisions about people's lives at this time. That's why case-by-case seems to not make much sense to me."

Dean Stein: "I'd like to make a couple of comments in opposition to Tob's amendment. First about the legal issue, I too, find it curious that we could not get a response from the University Counsel; but, we did get a rather fulsome response from the AAUP counsel, who has been very useful to the Academic Freedom Committee on a number of occasions, and the opinion of that person was that, in fact, these things are legal. Now, that's not a 'controlling legal authority', you're quite right, it hasn't been challenged in court. But, it has been used at a number of major institutions and we were even given a legal paper to read, which I couldn't understand, but the force of the paper was that this is a legal thing to do. So, it did seem to us on the committee that for this body to decide a legal issue was silly. It's obviously clear that if Counsel comes to the opinion that this is not a legal procedure, then Cornell will not make it as a part of their policy. But, it didn't seem like this was something for this body to think about."

"With regard to the other issue of discrimination and the similarities between age discrimination and other forms of discrimination. I've thought about this for a while, particularly being someone who is close to the upper end of the window than the lower end of the window that's being discussed, that this is fundamentally different from racial discrimination or gender discrimination because we all say openly that it is important to have people retire so that we can increase the flow of younger people into the academy. One cannot cast that phrase in terms, in a way that would cause us to say the same thing about people of color, or people of gender, or something like that. This is fundamentally different."

"Let me give you a simple example. Suppose we set as an inducement for people to retire, that any time a person decides to retire, that we'll give them two years' salary as a parting gift. And there would be no upper age window on that. Would that be an inducement to retire? Clearly not. What everyone would do, what you would do, what I would do, is to decide when they were going to retire, then say, 'I'm going to retire, please give me my two years' salary,' and retire. It would not make me retire earlier. So, to the extent that one thinks that this is a valued policy purpose, namely to induce people to retire to keep the flow of younger people coming into the academy, one must have some kind of inducement which is not

available to people at every age. In short, that's really what the committee is saying, in simple words."

Associate Professor Alan McAdams, Johnson Graduate School of Management: "As one of the ancient members of this faculty, approaching the point of seventy years is not too far away. I'm absolutely flabbergasted. If I feel that it's in my interest and the interest of the University to go half time, and I don't want to retire completely, and I don't have that option, I'm very likely to stay full time. Now, I think that if you talk about incentives, if someone of my age and station could make the choice to go half-time, even after seventy, why wouldn't I do it? I'm really flabbergasted by the reasoning. I think it's much more attractive."

Professor Howland: "Well, speaking as a physiologist, I'm very cognizant that we've all been falling apart ever since we reached our peak in the twenties. But, it's a physiological fact that this process occurs at different rates, and there are some of us who are going to be very useful well past the age of seventy. But I think the point here is not so much the legal details, it's what's right. I mean, Peter seems to take it as granted that a) it's a good thing to get young faculty into the University, and I agree with him there, and b) it's anybody over the age of seventy you ought to get out. And I don't agree with him there. I'd rather see maybe some administrators leave before that (laughter). But, it's clearly age discrimination. It's not right, folks, and I think we should vote for Professor deBoer's amendment."

Speaker Pollak: "We are getting to the point where we're going to have to call this question, because we do have another issue."

Professor Obendorf: "I served on the Academic Freedom Committee, and I'd like to remind the body that the report has two Options. Option I has no limit of age. It starts at fifty-five. The difference between Option I and Option II is the time limit in Option II and the payment of benefits. And at least I, as a committee member, believed that by leaving the age limit in Option II makes a broader distinction between Option I and Option II. Option I is available for phased retirement at all ages with no upper limit. We get benefits, but not full benefits."

Professor Lieberwitz: "I want to speak in favor of the motion to amend, to take out the limit for seventy years old, and I want to emphasize something that Tob deBoer said in his motion about the spirit of the law, and I think that's the essence of the comments that we're hearing, which is, you can call this an incentive for people to retire. But, you know, that sounds real nice, but it also could be called a coercive measure to get people to retire at a certain age and to avoid the spirit of the law, and the letter of the law, in fact, if the intention was to get rid of mandatory retirement ages, and this is a way of going in the back door to get it back in, I think, by calling it an incentive."

"Also, it seems to me that, that this is really demeaning to our colleagues. Actually when I was reading it, it reminded me of the commercial where the well-known, well-loved, well-respected person who's recognized in the store, is asked for identification when it comes to trusting the person's right to write a check. Because suddenly our well-loved emeritus and emerita colleagues are suddenly viewed as freeloaders, these wonderful people who will get to this age of retirement and see how they can freeload off the University by stretching out those five years and getting every last penny, and I think that's a demeaning way to look at our colleagues, and I certainly think that this is what the spirit of the comments that are written by the committee put forth. There's some notion that our colleagues will get to this status and just simply get as much as they can out of the University, and I don't think that's true at all. And so it seems to me that we should give our colleagues as much choice as possible. When I get to retirement age, I certainly hope that that's the view that people have of me, as somebody who made the best choices and not just having to squeeze every last penny out of the University."

Speaker Pollak: "If there's not a strong objection I would like to call for a vote on this amendment. Is there an objection to that? All of those in favor of supporting the amendment which is to reduce, or take out the wording relative to the upper limit of age, signify by raising your hand. All of those opposed? There were twenty-two that were opposed, and more than that in favor. So, I'm going to say that the motion has in fact passed."

"So, we will return to the main motion. Were there other comments regarding that, other than those that relate to the motion that was just passed? Seeing none we'll take a vote on this. All of those in favor of the Transition Report, as amended, please signify by raising your hand. All those opposed? The motion will be recorded as accepted."

*BE IT RESOLVED, that the Faculty Senate supports the following recommendations of the 11/11/97 report of the Provost's Committee on the Transition of Faculty to Emeritus Status:*

**1. Overall Reactions.** The Faculty Senate is pleased with both the process and substance of the interaction between the AFPS Committee and the Transition Committee. It commends the Transition Committee and its chair, Vice President Ehrenberg, for a job well done and for the respect shown for Senate input and faculty governance, and looks forward to a similarly cooperative relationship as other issues raised by the original transition report receive further attention.

**2. Telecommunications.** The intent of the report (see D.3) concerning office resources for emeritus faculty seems to be to provide equitable office resources (comparable to non-retired faculty) based on an assessment of actual levels of professional activity as well as departmental capacity. However, no explicit mention is made of access to communications resources (e-mail, WWW access, fax access, etc.). The Faculty Senate recommends that an appropriate reference be made to these resources in D.3.

**3. Phased Retirement.** The report describes two options for phased retirement. Option 1 is for indefinite half time retirement with tenure retained. Option 2 is for fixed term phased retirement. Options 1 and 2 are not mutually exclusive. Moreover, arguments for either option tend to make highly conjectural assumptions about how they would affect the transition to full retirement. The Faculty Senate recommends that for the short term the University make both options available, that it engage in a study to determine how faculty are likely to respond to different mixes of options, and that it carefully monitor the consequences of these options. The Faculty Senate further recommends that the words "between the ages of 55 and 70" in item 4 of Option II be replaced by "over the age of 55," and that point 5 of Option II be deleted.

Rationale for recommendation #3:

1. The argument for Option 1 assumes (a) that it will be more attractive to faculty because it does not specify a point at which one must retire, and (b) that those faculty who choose it will not continue half-time for an undue amount of time. In contrast, Option 2 ensures that those who take it will retire in a timely way, but, because it is less flexible, it may also reduce the number of takers. If both (a) and (b) are true, it is reasonable to believe that Option 1 will be more successful in moving faculty into retirement than Option 2.

2. The basic argument for Option 2 denies (b). Thus it envisions Option 1 proliferating a significant number of long term part time faculty and slowing the transition to emeritus status.

3. The Option 1 plus Option 2 plus a study has the following rationale:

a. We do not know whether assumption (b) is true. Thus, we do not know whether Option 1 or Option 2 is more likely to facilitate transition to emeritus status. We are unlikely to know this if we do not study the matter and if we get no experience on the matter.

b. Option 2 is not only less flexible for the faculty, it is less flexible for departments and colleges. It may be that there will be numerous cases where departments and colleges will benefit by permitting a faculty member to continue in a part time role for an indefinite period.

c. Adverse consequences of including Option 1 in the mix of options can be controlled. None of the proposals under consideration grant faculty any right which they can unilaterally exercise. The effect of any mix of options will be to create a bargaining situation between faculty, departments and colleges. Departments and colleges are not compelled to agree to either Option 1 or Option 2. Thus departments or colleges might choose to limit the number of people who can be on part time status (in either form). Or they might limit the number of people who can be on Option 1.

d. If the Option 1 plus Option 2 plus a study approach proves to generate an unacceptable number of indefinite part time faculty, it is possible for Cornell to eliminate Option 1 leaving only Option 2. Whereas, if we have only Option 1, there is no fall back position, and if we have only Option 2 we will never know whether Option 1 would have been more successful in facilitating the transition to emeritus status. In short, the Option 1 plus Option 2 plus a study allows Cornell to choose between Option 1 and Option 2 (if that should prove necessary) on the basis of evidence and experience rather than on a prior speculation, and it avoids the out of hand

*rejection of the option (Option 1) that may be better both for Cornell and for the faculty.*

Speaker Pollak: "I'd like to quickly move on to the final item. Nobody approached me regarding Good and Welfare, so we do have until 6:00 for the final item. I ask Paul Sherman to introduce this discussion."

## 7. REPORT AND RESOLUTION ON FACULTY SALARIES

Professor Paul Sherman, Neurobiology and Behavior, Chair of the Committee on Financial Policies: "Last year at this time the Senate passed a resolution asking us to report back on a yearly basis about the status of University salaries. Members of the committee spent most of the fall meeting, and corresponding on e-mail, and continued to meet through Christmas time and into January to put together a resolution which you have on the web, and which I hope you've had a chance to read, that I want to take you through today."

"This is a report on where we stand and how the policy that's been announced by the President and the Provost has served us in that. Let me start with just taking, briefly, from the resolution. It says:

WHEREAS, the faculty have primary responsibility for executing the teaching, research and extension missions of the University; in essence the faculty are the University, and

WHEREAS, the Financial Policies Committee has compared Cornell faculty salaries over the past decade to those paid by peer (based on published rankings of institutional quality) institutions, and

WHEREAS these comparisons consistently show the following:

1. The salaries of assistant professors in the endowed units at Cornell are below those paid by peer institutions.
2. The salaries of assistant and associate professors in the statutory units and associate professors in the endowed units at Cornell are, at present, roughly comparable to those paid by peer institutions, and
3. Most conspicuously, the salaries of full professors in both the endowed and statutory units at Cornell have been significantly and consistently below those at peer institutions, and this gap is growing.

"Let me support these statements by showing you some data. In 1993 the National Research Council ranked graduate programs across the country in a very broad ratings survey ([Table 1](#)). It's the latest ranking. There are many different ways to summarize the data. Dean Mark Brenner of the University of Minnesota summarized them this way. He looked across all of the programs that were ranked above 3.0, the ranking went from one to five. Everything above 3.0 he added up together and came up with a ranking of a number of universities. I think all of us could take great pride, everyone in this room, for contributing to the number three ranking of Cornell University in the 1993 survey. And, you notice we have increased from '82, which was the last previous survey, by five slots under this way of looking at the data.

"Another way to look at the data, this is by a magazine called *Change* magazine ([Table 2](#)). They simply go through and look at the average scores of all the programs ranked and come up with an average mean. And then they ask the question, 'All right, how do the schools rank relative with those programs'. According to this ranking, Cornell ranked in 1993, ninth, up two places from the eleventh they were previously. The point that the Financial Policies Committee takes from this is great pride, as I say, everyone of you in this room should share in that pride. However you slice it, we're one of the top ten universities in the country, according to the National Research Council's rankings.

"The question is, do our salaries, are our salaries commensurate with that rank? The main problem is, how do you develop a peer group to compare your salaries to? One possible way to do it, which is a starting point, is to just take the five schools above us and below us in the ranking, and just see how we compare with those five above and five below ([Figure 1](#)). Notice there are public and private institutions in there. Well, we did that, and we see the following pattern. And this is only, I want to emphasize, for full professors. But Cornell ranks, near the bottom compared to these similarly ranked institutions, the five above us and the five below us.

"Now, a hot debate started in our Financial Policies Committee, which continues to this day, about how you determine a peer group for comparison ([Figure 2](#)). The problem is that in the United States today, public institutions and private institutions don't really pay the same salaries. The private ones pay considerably more. And so, the question is, should we lump all the privates and publics together or not? This becomes very important if you're trying to figure out exactly what percentage increase or decrease in salaries is appropriate. So bear with me in that.

"We decided because the publics and the privates pay such different salaries in the United States today that we should try to come up with peer comparisons for both the privates and the publics separately. And many members of our committee agreed that there had to be some way of adjusting for these pay differences in the private and public institutions'. Also, many members of our statutory colleges said that their college was so different from others that we really had to do something like this. So, we first went to the Deans of the Veterinary School, of CALS, Human Ecology, and asked them who they regarded as their peers, and there was surprising unanimity.

"We were able to come up with ten peer institutions relatively quickly ([Figure 3](#)). And then, using published salary data from the AAUP publication *Academe*, compared Cornell to that. Here are the results of that sort of survey for the last year. Starting with assistant professors at the top, associate professors in the middle, and full professors at the bottom. As you can see the list was Wisconsin, Ohio State, Minnesota, Davis, Michigan State, Georgia, Iowa State, Penn State and Texas A&M.

"If we look at the assistant professor level, Cornell salaries are a little above the mean, but about the middle at least. And there's not much variation. If you look at associate professors, again, Cornell is above the mean, and a little further from it. So, again, the range is not great. But if you look at full professors, Cornell plummets to the bottom of this peer group, and we're substantially less."

Unknown: "Paul, you mean statutory, not the ...."

Professor Sherman: "I'm sorry. I mean the statutory. Sorry. This is why the 'whereas' was as it was. Another peer comparison group for Cornell might be the other SUNY centers. So let's look at Cornell compared to the SUNY centers. If we look at assistant professors, Cornell ranks right at the top, although CALS does not, as a subset of Cornell statutory. But the range is not great here. You can see ([Figure 4](#)) they're all about the same. If we look at associate professors, Cornell is just above Binghamton, at the bottom, and CALS is right at the bottom. Again, the range is not great. For full professors, both CALS and Cornell statutory in general rank right at the bottom of all the SUNY centers. Now, we don't have rankings of the various SUNY centers; but, at least my colleagues in CALS like to think of themselves as the gem of the SUNY system&endash;certainly not ranking themselves below Buffalo and Albany.

"If we look at the endowed ([Figure 5](#)), we tried to come up with a peer comparison group for the endowed, the best thing that we could figure out to do was just take the four schools that rank above us and the four schools that rank below us, just using privates. That's all we did. Just take the same thing I showed you before and use privates. So that private group was Penn, Stanford, Chicago, Northwestern, Duke, Columbia, Cornell, Princeton, and Yale. Here are the latest data that we have on assistant, associate, and full professor salaries. The picture is substantially the same as what you've just seen for the statutory colleges. Cornell is, at least above the bottom for the assistant professor salaries. Cornell is just above Yale for associate professors, but ranks eighth, seventh out of nine, near the bottom. And for the full professors Cornell is ranked at the bottom.

"The picture then is substantially the same as what we saw before. This supports the 'whereas' that I showed you before, the idea that in the assistant professor roles we're not doing too badly. Associate professors a little worse. Full professors dreadful compared to these schools which are, as I said, similar in quality, private institutions.

"From this we take another whereas, and the next whereas has many factors including the quality of professional peers, quality of laboratory space, market forces, personal preferences relating to lifestyle, opportunities for spousal employment, cost of living in the community, etc., etc. All these things influence faculty salaries at Cornell and elsewhere. But we don't see how they can justify or explain the decline of salaries relative to those at peer institutions, particularly in the last decade when our ranking of academic quality has remained the same, or indeed has increased.

"Now, sometimes it's said that it's cheaper to live at Cornell than in other places. But, in order to support some kind of

decline, it would have to mean that every place else increased in cost of living and Cornell decreased or didn't change. We have found no meaningful substantive data to support that. But what we have found is data to show what has happened to our salaries relative to our peers over the last decade. The upper graph ([Figure 6](#)) shows our percentile ranking with relation to that peer comparison group I showed you for statutory colleges. That is, our ranking out of that ten. We started off in '72. We were the highest paid. We are now, as you have seen, one of the lowest paid. In terms of our ratio to the comparison group, a ratio of 1.0 means that they're paying the same as Cornell. We started off in the early seventies well above the peer comparison group average. We are now below that average substantially.

"If we look at the same kinds of graphs, the very same kind of plots for the private part of Cornell but this time including all private Ph.D. granting institutions, they show the same kind of graph. Substantially the same. We started off doing fairly well in the early seventies, mid-seventies, and there's a substantial decrease. And I think it's important to bring up the issue of cost of living. We spent a great deal of time on this in the committee. We talked back and forth. We argued back and forth, and presented alternative viewpoints. I'm presenting one that seems to me to be the best summary.

"It is sometimes said that, 'Well, actually what universities do is pay according to the cost of living. They don't really pay dollars, so these comparisons are inappropriate. You have to adjust them according to some cost of living.' And there's considerable debate about how to figure that out, but let's say we use a standard measure of cost of living, and we ask, do universities generally pay relative to cost of living, or do they just pay dollars on the barrel head, regardless of how much it costs?

"We looked first, and these two graphs are Peter Stein's collating, or putting together, the data. If we look at the *Change* magazine's rankings on the x-axis, and the professorial salaries compared with Cornell endowed on the y-axis, is there some relationship, and we find that there is indeed a strong negative relationship which would be described by a linear regression ([Figure 7](#)). In other words, as the quality declines, the pay declines. The highest paid places are the highest quality places, and in fact, Cornell is a significant outlier to this graph. A very significant outlier by any statistical, statistically it is an outlier. On the other hand, if we look at the salaries adjusted for the cost of living, do we similarly see a negative relationship? As the rankings go down, does quality go down? No. The whole thing falls apart ([Figure 8](#)). The point is that when you're looking for a job, if someone offers you a job elsewhere, they don't tell you, 'Well, we're going to be paying you \$104,000 and we're going to adjust it for the cost of living,' they're going to pay you \$104,000. And that's what we seem to be competing with is people paying cash on the barrel head.

"Based on all these comparisons, we think that there are some things that ought to be resolved. And our most important one is right here, so let's just take a second to read it. 'As a general principle, faculty compensation should be commensurate with faculty quality based on published rankings of institutional quality.' This is a principle which has been applied to our administration by the administration. They say, 'We work hard to be competitive in that realm.' We believe that the same principle should apply to the faculty. Another very simple way to say this is, 'If you don't pay 'em, you don't keep 'em.' The whole quality of Cornell University rests on this principle. If we adopt this kind of a strategy, what does this mean that we have to do as a university?

"Well, let's go back and I'm going to just show you full professors now ([Figure 9](#)); we could do the same thing for assistant or associate professors. The idea is that we would have to be raising salaries. If we start at the top, we would have to be placing Cornell salaries somewhere between Chicago and Columbia peer comparison group. Cornell would be placed somewhere between Iowa State, Georgia, and Minnesota in the statutory colleges, or if we take the first approach I did, which is combine all the schools public and private, Cornell would have to align somewhere up between Chicago, Yale, Columbia. Now, the point is, in order to achieve, if this is our peer comparison group that we decide on, and we should decide on this as a university together, we've got administration and our faculty. Then we would have to raise our salaries somewhere around eighteen percent to pull this off.

"If we were to adopt in the statutory colleges, that this is our peer comparison group that we've decided upon, we would have to raise our salaries about thirteen percent to be in the middle. If we take this approach which is to say all public and private arrayed together, then we'd have to raise our salaries about fifteen percent to reach our goal of pay commensurate with quality which we on the Financial Policies Committee believe is necessary to maintain the quality of the university in the long run.

"Two years ago, the President made salaries one of his top priorities, and he instituted a policy of raising salaries

approximately five percent a year. We now have one year of good data, that was last year. When I say 'good' data, it's been published. We now have another year which has now come around and with Peter Stein's help have been able to get data to show how we did. How did that five percent raise a year serve us toward achieving this potential goal? Here are data from the '96-'97 year, and I only have Cornell endowed here to show you. Full professor salaries increased 4.2 percent, associate professors increased 5.0 percent and, assistant professors 5.6 percent. That's great. We did very, very well, as individuals, or as a group, I should say. Sorry.

"But, what did peers do? What did everybody else do? Well, it doesn't matter really very much what peer comparison group you pick. All the peer comparison groups see their raises somewhere above four percent. So basically, the full professors had the best year they've had in years and they still lost a tenth of a point to all their peers. Associate professors lost two tenths of a point to peers, and assistant professors lost, or, gained a tenth of a point. We didn't move very much.

"The data are not yet published for this year. It will come out in the April issue of the journal *Academe* which is the AAUP publication. But Peter has been able to call around and ask several schools, as many as he could get to answer, 'what did you report to *Academe*?' What will be coming out in April? This is pre-publication information, therefore, which will be confirmed in April. We were only able to gather running in our peer comparisons with the private six schools, and six schools in the statutory comparisons. But these will be augmented soon. But the point is, this is a sense of how we did.

"Full professors salaries at Cornell last year in endowed colleges increased 5.0 percent. Our six peers ([Table 3](#)) that we were able to get data on (Duke, Chicago, Columbia, Northwestern, Princeton, and Yale) increased 4.3 percent, it was a net gain of seven tenths of a percent. So, I take that as a very positive point. Associate professors' salaries increased 3.4 percent, but our peers did better: 4.6 percent. We lost ground, 1.2 percent at the associate professor level. At the assistant professor level, the increase was 10.6 percent, and obviously this is due to new faculty hiring. In other words, they were hired at higher salaries, so that's why that's so big. Our peers only increased 4.2. The assistant professors did very well; they picked up 6.4 percent on our competition. Now, I'll stop here just for a second. This is really very good. We're delighted to see at least some increase in the full professors and some increase in assistant professors, but if you remember my earlier points here, the increase of seven tenths of a percent, it would take us about twenty years to get where we need to get, all the time the peers are raising. In the statutory colleges, things did not go as well. The Cornell increase was 1.3 percent, peers 4.6 percent; we lost 3.3 percent."

Vice President Ehrenberg: "Paul, just as a point of information, these were the published salary figures as of September of this year and they do not take into account the 5.5 percent salary increase on average that statutory faculty received in the middle of this year."

Professor Sherman: "My understanding is that this is what will come out in *Academe*."

Vice President Ehrenberg: "That's because *Academe* gives the salary that is in effect, as I've explained to Peter, as of September of each year, and it does not take account of the 5.5 percent average salary increase that the statutory got in the middle of this year. That's just a point of fact."

Professor Sherman: "Yes, but I believe that that will be reflected in next year's salary, and next year at this time I'll be visiting you again to give this same presentation at which point we'll see how our peers did next year. In other words, one way or the other, we'll account for it; we'll see how we did next year, right? So it's the same, it doesn't matter which year we put it in."

Vice President Ehrenberg: "Next year's figure will not take into account the salary increase which the statutory faculty will get in the middle of next year. In other words, we are on a deferred schedule. Unfortunately, we're not always on a deferred schedule, so all I'm saying is statutory faculty have not lost ground this year in the manner that this chart purports to indicate that they have."

Professor Sherman: "O.K. I'm unable to say more than, I believe these are the data that will appear."

Vice President Ehrenberg: "Right."

Professor Sherman: "And this year's salary increases will be reflected next year. Let me finish, because our time is drawing

nigh. By these data, the associate professors did not increase, they lost 4.2 percent. The assistant professors increased 0.2 percent; our competition 5.2, they lost 5 percent. I believe these data will be borne out by what is published in *Academe*.

"So what are we going to do? It seems to us that to achieve the goal of faculty compensation commensurate with quality we need a major salary initiative. The initiative should take the form of an immediate raise to begin closing the gap that already exists, as well as a longer-term plan to close this gap. This is going to require a raise pool consistently in excess of that offered by peer institutions, and substantially greater pressure on New York by the central administration working as a team. Once parity has been achieved, faculty compensation should be maintained.

"The only way to do this is really going to be massive increases. What do we mean by a massive increase? Here's a possible solution. Suppose our goal is to close the gap over a five year period. We don't know in advance how large our peer institutions' raises will be. However, we do know how large they were last year. An appropriate raise pool might be calculated by adding twenty percent of the existing gap, that is 1/5 of the existing gap, to last year's average raise of the peer group, which is decided upon by us and the administration working together for both endowed and statutory at Cornell.

"The final resolution is as follows. 'These changes in faculty salaries be achieved by resetting priorities for the use of current and future resources.' It's important for you to understand that we spent a great deal of time on this committee discussing the issue of tuition. We felt that that was too easy a solution, and we wanted in particular to have considered, and what we are continuing to work on is 'consideration of the relative amounts spent on such items such as new construction, support staff, and administration to reflect the need for salary parity with our peers across all professorial ranks *rather than* by increasing tuition faster than at peer institutions.'

"And the final one, which I assume also has some pepper associated with it: 'Be it further resolved that the Faculty Senate urges the President and the Provost to meet with the Financial Policies Committee at an early, mutually convenient date to discuss how these changes are to be achieved.'"

Speaker Pollak: "I'm going to ask for questions on this."

Professor Edmondson: "Is this something we're going to vote on?"

Speaker Pollak: "Yes."

Professor Edmondson: "May I introduce a friendly amendment? In the preamble, I believe you had called it."

Speaker Pollak: "No. It had to be introduced prior to the meeting."

Professor Edmondson: "Oh, sorry. O.K."

Professor Obendorf: "I don't know how Dick views this, having sat on Buildings and Properties. I don't know which faculty project and which college's new construction we should vote against, Dick. I think that this is a very, very facility-driven campus, with many different facility aspects. You name it, we've got it in facilities. And we see more and more new projects which are generated from the faculty. This is not the administration's problem; this is our problem."

Professor Sherman: "Right. I think that there was a lot of discussion of this and we felt that as the Financial Policies Committee we really ought to be asking. This should be discussed. In other words, this should be something that we would be bringing into a discussion here. For example, there was considerable discussion of the proposal to build a multi-million dollar new dorm. And, the frustration was expressed that no one had talked to the Financial Policies Committee at any point about this."

Speaker Pollak: "I'm going to call the question now. All those in favor of the resolution by the committee, signify by raising your hand. All of those opposed? The motion carries."

*WHEREAS, the faculty have primary responsibility for executing the teaching, research and extension missions of the University; in essence, the faculty are the University, and*

*WHEREAS, the Financial Policies Committee has compared Cornell faculty salaries over the past decade to those paid by peer (based on published rankings of institutional quality) institutions, and*

*WHEREAS, many factors (e.g. quality of professional peers, quality of laboratory space, market forces, personal preferences relating to lifestyle, opportunities for spousal employment, cost of living in the community, etc.) influence faculty salaries at Cornell and elsewhere, they cannot explain or justify the decline in salaries of Cornell faculty relative to those at peer institutions, particularly in the last decade when our ranking of academic quality has remained the same, and*

*WHEREAS, these comparisons consistently show the following:*

- 1. The salaries of assistant professors in the endowed units at Cornell are below those paid by peer institutions,*
- 2. The salaries of assistant and associate professors in the statutory units and associate professors in the endowed units at Cornell are, at present, roughly comparable to those paid by peer institutions, and*
- 3. Most conspicuously, the salaries of full professors in both the endowed and statutory units at Cornell have been significantly and consistently below those at peer institutions and this gap is growing.*

*THEREFORE, BE IT RESOLVED that*

- 1. As a general principle, faculty compensation should be commensurate with faculty quality based on published rankings of institutional quality,*
- 2. To achieve the goal of faculty compensation commensurate with faculty quality, a major salary initiative is required covering both the endowed and statutory units,*
- 3. The salary initiative should take the form of an immediate (within the next 12 months) increase in salary to begin to close the gap that already exists as well as a longer-term (3-5 years) plan to close this gap completely and to provide salaries that are comparable to those paid by peer institutions at the end of this period,*
- 4. This will require an annual raise pool consistently in excess of that offered by peer institutions and substantially greater pressure on the State of New York by the central and statutory administration working as a team on behalf of the statutory faculty,*
- 5. Once parity with peer institutions has been achieved, faculty compensation should maintain parity with that at peer institutions.*

*BE IT FURTHER RESOLVED that these changes in faculty salaries be achieved by resetting priorities for use of current and future resources (including consideration of the relative amounts spent on such items as new construction, support staff and administration) to reflect the need for salary parity with our peers across all professorial ranks rather than by increasing tuition faster than at peer institutions.*

*BE IT FURTHER RESOLVED that the Faculty Senate urges the President and the Provost to meet with the Financial Policies Committee at an early, mutually convenient date to discuss how these changes are to be achieved.*

The meeting was adjourned at 6:07 p.m.

Respectfully submitted,

Kathleen Rasmussen, Associate Dean and Secretary of the University Faculty

Appendix A

**REPORT FROM THE AFPS COMMITTEE REGARDING THE**

## TRANSITIONS REPORT MOTION

At its February meeting the University Senate requested that the Academic Freedom and Professional Status of the Faculty Committee consider the legality of an upper age eligibility limit of 70 for phased retirement. We have, in addition, undertaken to discuss the issue on its merits.

**Legality:** We put the question of the legality of upper age limited or age bracketed eligibility criteria for early retirement incentive plans to three lawyers: the University Counsel, a faculty member from the Law School, and a lawyer for the AAUP. The first declined comment. The second and third provided us with judgments. We also collected some legal materials on the topic.

The result of these inquiries suggest that opinion among knowledgeable people on this matter is divided. The two legal respondents disagreed although both suggested that the matter was unclear. Also, provisions of this sort currently are in effect in some institutions and have not, to date, been rejected by courts. However, legislation has been proposed in Congress that would clarify the matter by making age bracketed early retirement plans legal. It may also be that the legality of any such plan would depend on its details.

Those interested in the details might consult Peter N. Swan, "Early Retirement Incentives with Upper Age Limits Under the Older Workers Benefits Protection Act", Journal of College and University Law, Vol. 19, No. 2. (1992). (Swan argues that they are legal.)

We conclude that the question of the legality of age bracketed early retirement plans is unclear and that it would be unwise for the Senate to base its opinion of such plans on legal speculation.

### **Merits:**

#### *Background Assumptions:*

1. It is both legitimate and desirable for Cornell to put into place plans that provide incentives for earlier retirement.
2. Cornell should do so in a way that respects both the letter and the spirit of the Age Discrimination in Employment Act as amended by the Older Workers Benefits Protection Act. Respecting the spirit of these acts requires Cornell to avoid age discrimination regardless of whether it is illegal and to avoid age specific policies unless there is good and sufficient justification for them.
3. Neither Option I nor Option II for phased retirement create an entitlement to phased retirement. Rather, since they require agreement between a faculty member, a department chair, and a dean, they structure a bargaining situation. Were age bracketing to be removed, the consequence would be to change the question of eligibility for phased retirement after 70 to one in which eligibility is precluded by policy to one in which the availability of phased retirement is determined on a case by case basis.

The question we address is thus: **Is a phased retirement policy in which eligibility is determined by policy more or less desirable than one in which availability is determined on a case by case basis?** The AFPS Committee believes that the answer to this question requires that we balance considerations that are in conflict. Arguably, any policy that is age specific is, for that reason, age discriminatory. Moreover, the flexibility inherent in a case by case approach may have some benefits to Cornell. However, we believe that there are good and sufficient reasons to justify an age bracketed phased retirement option. Thus **we support retaining the age of 70 as the upper limit on eligibility for phased retirement.** Our reasons are:

1. **We believe that phased retirement without age bracketing is unlikely to function, on average, as an incentive to earlier retirement.** Without age bracketing it is likely that many faculty will identify an age at which they would otherwise retire and then use phased retirement to extend their employment so as to maintain some income and benefits at reduced effort. A variation on this theme is that, as faculty age, the availability of phased retirement may be perceived by those reluctant to retire, but facing diminishing energy or contemplating competing life aspirations, as a means of extending their career rather than as an inducement to retire in a timely way. Thus, apart from age bracketing, phased retirement is as likely to provide incentives that prolong careers as incentives to early retirement.

**2. We believe that attempting to determine the availability of phased retirement on a case by case basis is not feasible.**  
If administrators were required to deal with eligibility for phased retirement on a case by case basis, they would need to make judgments both as to how an offer of phased retirement would affect individual decisions to retire as well as decisions as to the current value of a particular individual to Cornell. Such judgments are unavoidably subjective and painful. They are also likely to be contentious, and, possibly, a source of litigation. Moreover, making such subjective decisions on a cases by case basis offers opportunities for capriciousness, unfairness, and violation of academic freedom. These characteristics will cause conscientious and humane administrators to flee from them. A likely result of these features is that few requests will be rejected and that phased retirement, regardless of whether it promotes or inhibits timely retirement, will come to be viewed as an entitlement. Thus the attempt to determine the availability of phased retirement on a case by case basic is not feasible and runs the significant risk of eroding phased retirement as a retirement incentive.

3. Arguably, a policy based on age is inherently age discriminatory. However, the AFPS Committee believes that such age discrimination as is involved in age bracketed phased retirement is at least mitigated by the fact that election of phased retirement is voluntary, and no one is forced to retire. Moreover, the policy applies to all who reach 70 in their turn. Thus it does not single out any distinct class of persons for invidious treatment.

Members of the Committee

Robert C. Fay

Terrence Fine

Ali Hadi

Melissa Hines

Robert Langhans

Maurice Neufeld

S. Kay Obendorf

Anna Marie Smith

Kenneth Strike, Chair