

Minutes of a meeting of Senate held on the above date at 1:30 p.m. in the Senate Chamber, Room E3-262 Engineering and Information Technology Complex

Members Present

Dr. D. Barnard, Chair
 Prof. S. Abeysekera
 Prof. S. Alward
 Prof. John Anderson
 Prof. Judy Anderson
 Prof. J. Asadoorian
 Prof. T. Booth
 Very Rev. R. Bozyk
 Rev. D. Bracken
 A/Dean D. Buchanan
 Ms. A. Cipriano
 Prof. L. Coar
 Prof. E. Comack
 Prof. K. Coombs
 Prof. R. Cossar
 Dr. E. Cowden
 Dean D. Crooks
 Prof. I. Davidson-Hunt
 Dean E. Dawe
 Prof. M. Edwards
 Dr. B. Elias
 Prof. J. Embree
 Prof. M. Eskin
 Dr. E. Etcheverry
 Dean G. Feltham
 Mr. E. Forte
 Dean H. Frankel
 Prof. M. Freund
 Prof. M. Gabbert
 Rectrice R. Gagné
 Prof. J. Gilchrist
 Prof. Y. Gong
 Ms. S. Gottheil
 Mr. N. Grewal
 Ms. J. Guise
 Dean N. Halden
 Prof. J. Hanesiak
 Prof. R. Hechter
 Prof. P. Hess

Dr. J. Hoskins
 Prof. J. Irvine
 Dr. D. Jayas
 Prof. E. Judd
 Mr. J. Kearsey
 Dr. J. Keselman
 Prof. W. Kinsner
 Prof. S. Kouritzin
 Ms. H. Laube
 Prof. J. Linklater
 Ms. K. Marcynuk
 Mrs. D. McCallum
 Dr. R. McIlwraith
 Prof. D. McMillan
 Prof. E. Milliken
 Mr. J. Myskiw
 Prof. J. Owens
 Prof. S. Pistorius
 Prof. K. Plaizier
 Dean B. Postl
 Prof. M. Pritchard
 Mr. S. Richardson
 Dr. I. Ripstein
 Ms. C. Rose
 Mr. M. Sadek
 Prof. M. Scanlon
 Ms. J. Sealey
 Dean G. Sevenhuysen
 Mr. N. Shamanski
 Dean R. Sigurdson
 Dr. L. Simard
 Prof. W. Simpson
 Dr. D. Smyth
 Prof. H. Soliman
 Dean R. Stern
 Dr. R. Tate
 Dean M. Trevan
 A/Dean L. Turnbull
 Dr. K. van Ineveld
 Prof. J. van Rees
 Prof. C. Van Winkle

A/Dean L. Vercaigne
 Dr. M. Vrontakis
 Dean M. Whitmore
 Prof. K. Wilson-Baptist
 Dr. D. Wirtzfeld
 Prof. E. Worobec
 Prof. A. Young
 Mr. J. Leclerc,
 University Secretary
 Ms. M. Brolley,
 Recording Secretary

Dr. A. Katz
 Dr. L. Kirshenbaum
 Dr. J. Mactavish
 Prof. K. Matheos
 Prof. D. Polyzois
 Mr. H. Secter
 Dr. D. Smith
 Dean L. Wallace
 Dean J. Watkinson
 Dean J. Wiens
 Dr. K. Wrogemann

Assessors Present

Mr. M. Ates
 Dr. C. Butterill
 Dr. D. Collins
 M. G. Csepregi
 Ms. A. Ducas
 Mr. P. Dueck
 Dr. G. Glavin
 Dr. K. Grant
 Ms. M. Labine
 Mr. N. Marnoch
 Prof. C. Morrill
 Dr. L. Smith

Absent

Mr. R. Chakraborty
 Ms. N. Chislett
 Mr. N. Ma
 Dr. A. MacDiarmid
 Mr. M. Matychuk
 Dr. J. Ristock
 Ms. E. Romeo
 Ms. J. Rynar
 Dr. R. Soni
 Mr. B. Weedmark

Also Present

Ms. B. Baines
 Ms. S. Coyston
 Mr. J. Danakas
 Ms. S. Foster
 Mr. B. Klassen
 Ms. K. Kipper
 Ms. L. Leonhardt
 Ms. S. Petz
 Ms. S. Sung
 Ms. M. Wetzell

Regrets

Ms. K. Adams
 Prof. J. Bartlett
 Prof. T. Berry
 Ms. C. Bone
 Prof. M. Brabston
 Prof. M. Campbell
 Dr. A. Chiu
 Dr. H. Dean
 Dean J. Doering
 Dr. M. Enns
 Mr. M. Gousseau
 Dean A. Iacopino

purpose of the baseball bat, Dr. Elliot indicated that he took it to Faculty Executive meetings and laid it on the table as a symbol of his power over the warring heads of departments at that time. Dean Trevan noted that Dr. Elliot not only left the legacy of new buildings for the faculty, but that he facilitated the production of a faculty wide book on sustainable agriculture on the prairies. This project required the formation of teams to write each chapter with representation from across departments on each of these teams. His legacy was in getting staff to work across departments rather than to compete between departments. The world is a sadder place without him.

4. In Memoriam: Dr. Barbara Payne Page 12

Dean Sigurdson spoke of the untimely passing of his friend, Dr. Barb Payne, who was taken from her family and friends far too early. He noted that this was to be her last term as a full-time academic as she had planned to retire in December 2010 and had been looking forward to the next stage of her life especially spending time with her four grandchildren, the new loves of her life. Dr. Payne was an expert on aging with dignity, health and vibrancy yet did not have the opportunity to experience this stage herself. Dean Sigurdson noted that her work and the graduate students she mentored continue to influence our society. He noted that Dr. Payne came to academic life later than some, returning to school in her early middle years with teenagers at home, to pursue her BA, her MA, and her PhD. She joined the Department of Sociology in 1994 and ten years later moved to Community Health in the Faculty of Medicine to work with other experts on aging. Dr. Payne was Acting Director of the Centre on Aging this past year. He expressed his deepest sympathies to her two sons and four grandchildren.

5. In Memoriam: Dr. Douglas Rennie Page 13

Professor Comack spoke of Dr. Rennie's long service to the Sociology Department noting his arrival at the University in 1964, four years before becoming Department Head to the newly formed Sociology Department. Dr. Rennie, she noted, was the quintessential gentleman noted for his attention to detail. Professor Comack noted that Dr. Rennie had a reputation for assisting graduate students, especially those whose first language was not English, with their writing skills. In his honour, an undergraduate prize and a graduate scholarship have been established. Professor Comack noted that many in the Faculty had been hired by Dr. Rennie and have great recollections of him.

**6. Items approved by the Board of Governors Page 14
September 28, 2010**

**7. Statement of Intent from the Collège universitaire de Page 15
Saint-Boniface RE: Baccalauréat ès arts spécialisé en
études théâtrales**

IV REPORT OF THE PRESIDENT

Dr. Grant reported on the United Way campaign noting that the University is not quite halfway to the \$1/2 million goal and that there are only two weeks remaining in the campaign. She emphasized that the United Way is a community agency providing support to a wide range of agencies. She encouraged Senators to give as much as they

are able especially in this time of great need. Dr. Barnard added his voice of encouragement noting that this as a way of giving back to a community who is very generous to the University.

V QUESTION PERIOD

Senators are reminded that questions shall normally be submitted in writing to the University Secretary no later than 10:00 a.m. of the day preceding the meeting.

The following questions were submitted by Professor Judith Owens, Faculty of Arts.

An article in the "Globe and Mail" on October 16th alleges that the Aoji Education Group, a Beijing-based student recruitment agency in China, "abuses its relationship with Canadian schools" by promising the students and their families more than they can deliver – i.e. they charge high fees (up to 15- 20,000, promise spots at Canadian universities, but provide only a semester's worth of language courses. The "G & M" article states that the International College of Manitoba has an affiliation with Aoji.

1. Is the University aware that some of the students enrolled in ICM came via this recruiting agency?
2. How many students enrolled in ICM came here via that route?
3. How many students enrolled in ICM have successfully completed the pathway year and been admitted into second-year courses?

Dr. Collins responded that the University is aware that 19 students enrolled in ICM came by way of this recruiting agency. Of the three students that arrived in September 2009, one has since graduated and is now enrolled at the University, the other two commenced the UTP 1 program and are now completing the UTP 11 program and are expected to graduate on time. Dr. Collins reported that the remaining 16 students are at various stages of their course work having entered ICM at different entry points in 2010; nine of these students began in September, 2010. He reported that the average GPA of the remaining seven students is currently 3.14.

Dr. Collins further reported that at this point in time 98 students have been identified as potentially being able to have completed the ICM program. Of these, 92 (93.9%) have actually done so: 80 (87%) have transferred to the University, 5 (5.4%) hope to join the University in January, 2011, 2 (2.2%) have gone to other post-secondary institutions in Canada, 2 (2.2%) have returned home to pursue university studies, and 3 (3.3%) have opted to remain at ICM for an additional term.

The following question was submitted by Professor Cameron Morrill, UMFA Assessor.

The terms of reference of the University of Manitoba – International College of Manitoba Academic Advisory Council specify that "(e)ach September, the Council shall submit a written report covering the previous year's activities to the Chair of the UM Senate." The

Professor John Anderson spoke to the report on behalf of the Committee noting that it was tasked with considering the jurisdiction of the Dean of Graduate Studies. He reported that the Committee, under the chairmanship of Ms. Karen Adams, met in April and September and considered a number of documents as referred to in the report. Professor Anderson emphasized that the Committee considered the question of jurisdiction specifically and that no particular circumstances or situations were considered.

Professor Gabbert indicated that he understood that the occasion for this report was a personnel matter that would have to be resolved somewhere else as had been suggested earlier by the Chair; Professor Gabbert indicated his intention to do his best to confine his remarks to the Committee report. The report, Professor Gabbert stated, confirms the responsibility of Deans for general administrative oversight. Professor Gabbert indicated that the report notes that Deans sometimes waive prerequisites adding that presumably this is typically done where there is agreement from departments and where the prerequisite is arguably met in other ways or where students have been disadvantaged by poor advising or some other glitch that we have to somehow or other address in a fair way. But from this, to Professor Gabbert's mind, very narrow perch, Professor Gabbert stated that the report makes a great leap as it asks Senate to accept that on these very general administrative grounds that Deans have the right to waive the major degree requirements in programs approved by Senate including the fundamental degree requirements for the Ph.D. which, as he noted, Senate is always reminded by the Faculty of Graduate Studies is the highest degree the University offers. Moreover, Professor Gabbert continued, apparently the Dean is entitled to do this without accountability to anybody except in the last instance, the Provost. Professor Gabbert expressed his thought that, in general, the current difficulties we find ourselves in which the President has just mentioned are proof enough of the dangers of the position the Committee has taken. Professor Gabbert reminded Senators that in other areas, for example in the cases of professional unsuitability bylaws recently approved for the Faculties of Education and Social Work, we've been careful to avoid such situations. Moreover, Professor Gabbert stated, that in all these examples there is the backup prerogative of the President of the University to intervene in cases where in his or her view the University's interests require extraordinary intervention. ~~Professor Gabbert indicated that he was not speaking of the dangers here of committee driven deadlocks arising from ordinary collegial decision making.~~ Making decisions like this it seemed to him are, in a collegial way, both principled and prudent and, he stated, it is the way we should operate.

Professor Gabbert added that he felt the report also fails to take into account the rights granted to Senate under section 34 1 (b) of the University Act and noted that this section grants Senate the sole power to both determine the degrees including honorary degrees, diplomas and certificates of proficiency to be granted by the University and the persons to whom they shall be granted. It is pursuant to this section of the Act, Professor Gabbert stated, that at every meeting of Senate prior to a convocation Senate is asked to approve the list of graduands and, he stated, this is not a mere formality as all of us have been at Senate meetings where we have been asked to approve degrees notwithstanding some deficiency in a particular student's record. He noted that Deans are expected to be able to explain to Senate why Senate should approve the granting of degrees in such exceptional cases. Professor Gabbert noted that he has certainly been

at meetings where such explanations were requested and were provided by the Dean in question. Professor Gabbert stated that it may or may not be true as the Committee report claims that Deans have some power to waive requirements on the face of it; however, he felt that it is highly questionable to conclude as the report does that the Dean of Graduate Studies has the power to waive comprehensive exams from the Ph.D. or even perhaps the thesis where these requirements have been approved by Senate. Professor Gabbert stated that both the meaning of section 34 1 (b) and Senate's long standing practice with respect to degrees notwithstanding would require that any Dean inform Senate of such a deficiency and make the case as to why the degree should be granted notwithstanding a deficiency . Without Senate approval, Professor Gabbert said, the degree cannot be granted. Professor Gabbert continued by saying that, in the case before us, Senate was not informed that this was a situation where its approval was needed for a degree to be granted notwithstanding. Nor unfortunately, he continued, does the Committee report so much as refer to Senate's fundamental role in approving degrees. Professor Gabbert stated that, whatever other powers they may or may not have, he thought that all present would agree that Deans certainly do not have the power to grant degrees. Professor Gabbert indicated that, when Senate approves a list of graduands it does so on the assumption that the requirements it has imposed have been met by each individual graduand. He stated that there is no assumption, nor should there be, that these requirements may have been waived by Deans unbeknownst to Senate and he submitted that nothing in the report supports the idea that such requirements can be so waived without Senate approval.

Professor Gabbert stated that it was his opinion that the Committee's report comes to dangerous conclusions in both a practical and prudential sense and *from* the point of view of the rights of Senate. He stated that the Committee's report should not be approved but should be sent to the Senate Executive Committee with instructions that the Executive carry out revisions to the report that would make the report consistent with the University Act, with the actual practice of Senate and with the principles of collegial governance. Professor Gabbert added that Senate Executive should also undertake to consider what in principle is entailed in a reasonable accommodation for students in these sorts of cases and he ~~thought that~~ noted the President's point that this is a matter which will be discussed in any case and he presumed the results of that discussion would come back to Senate. Professor Gabbert concluded that to approve the report as it stands opens the way for Deans and others ~~to~~ possibly to waive fundamental program requirements that have been approved by Senate under the circumstances it de facto gives Deans the right to grant degrees notwithstanding without any Senate approval; he added that Senate has never delegated this right for the very good reason that quite afar from anything else, it has no power to do so. Professor Gabbert noted that he felt that Deans need to be clear that the exercise of their authority in academic matters must be done within the framework of Senate statutory rights and its collegial practice.

Professor Anderson responded on a number of points raised by Professor Gabbert who brought up a specific waiver of a specific exam which was not considered by the committee. Professor Anderson noted that the Provost's statement does refer to invoking and consulting particular committees; whether particular groups and committees were consulted in any one particular decision is a matter for the Provost to answer. Under point 5 of Deans of Faculties bylaw, Professor Anderson noted that it states that in the interim, the bylaw may be revised or rescinded if the appropriate

approving body deems necessary. He noted that that approving body is the Board of Governors and suggested that perhaps the Board of Governors could be asked to examine it.

Professor Gabbert said that, of course with respect to the bylaw on Deans that it is the Board of Governors bylaw, it's about administrative power, academic power is another matter. Academic power, he stated, is Senate's prerogative and its always a careful balancing act that Senate has to undertake but, he asked, how can we possibly imagine any meaningful use of the process of approving degrees notwithstanding if, in fact, we have not been informed that there is a degree that needs approval notwithstanding and been provided with an explanation why that should be the case? Professor Gabbert stated that nothing of what he said specifically addresses the case in question, it deliberately avoids that, it is not meant to address that case, it's entirely the question of this: # Senate approves programs. At the department level, he indicated faculty members are busy figuring out how they want to change them and introduce them and then something happens at the faculty level then there's a Senate committee and then there's Senate. Professor Gabbert indicated that Senate assumes that when Senate approves those requirements that every faculty member and every administrator in this place will be busy seeing to it that all students meet those requirements. Professor Gabbert stated that, in cases where for some good reason a requirement cannot be met, Senate should be informed and if Senate has a question about whether, in fact, it should approve the conferral of the degree under these particular circumstances then somebody should be there to explain why that is the case. He noted that this doesn't require naming anybody stating that it could even be done in closed session, but he noted that it is a very important principle in the academic governance of the University and unfortunately the report of the Rules and Procedures Committee, narrow though it is opens the door for a real undercutting of that particular set of procedures. Professor Gabbert stated that his view was that the Senate Executive should think hard about all the implications of this and that we should try to avoid a situation where we are ever in a set of circumstances where we cannot say to the public or anybody else we made this decision on the basis of a clearly laid out collegial procedure, it was finally assessed carefully by the Senate and approved and that is the way it is and we have nothing to apologize for about the process.

Professor Anderson noted that a certain Ph.D. continued to come up which was not within the task of the Committee. He also pointed out that section 18 of the University Act says: "Where any question arises as to the powers or duties of convocation, the senate, the council, the chancellor, the president, or of any other officer or servant of the university or of anybody therein, it shall be settled and determined by the board."

Professor Young endorsed the comments of her colleague, Professor Gabbert, and added that she felt very strongly, as she indicated Professor Gabbert did, of the undermining of Senate's authority on academic matters. She felt that it was very difficult to separate the circumstance that brought this review of the rules and procedures, what initiated that, and the actual report. She indicated that we're trying to do that, and there are all kinds of reasons for doing that, but in essence, Professor Young stated, what happened was that there was a situation that created certain problems or that brought to light that there were certain problems with the procedures and that that was why there was a review. Professor Young stated that the report seems to indicate that there was

not a problem and she believed that there was a problem. Professor Young indicated that whether the problem was with the rules and procedures and how they're interpreted or whether it was with other processes at the University, she felt that it was something that should be discussed. It seemed to her that the definition of the powers of the Dean are incredibly broad and they are often broad to have no clear mechanism for challenging or questioning the decisions that Deans make that go beyond what the faculty finds reasonable or that Senate deems appropriate or anything that could lead to a controversy. Professor Young stated that this has been a very problematic situation that, she stated, we cannot close our eyes to because, she reported, this situation has been one that people have been talking about in the halls and has been reported in the papers more than just recently. Professor Young reported that she had been approached about this issue several times by colleagues and sent emails and when this report came up on the agenda she was again approached by colleagues. Professor Young stated that a lot of people are concerned about this and that this is not just a matter of a few Senators who want to engage with a debate about how things work at the University, but that this was something that a lot of people were really concerned about. Professor Young said that she thought that Senate and the administration should think again about closing the door on this. Professor Young reiterated her point that there was a problem and suggested that one of the problems was that there is no mechanism at this University that she knew of for faculty members, or departments, or any other body that isn't a student, to appeal a decision that has been made. She indicated that there is a very clear set of rules and procedures for students to appeal decisions but nothing for a faculty member to do if he or she feels that there is something amiss, that the integrity of the University is at risk, or that a decision has been made that compromises either the program, an individual or indeed the University's standards as a whole. Professor Young urged the University to think of some way to put such a mechanism in place because, she stated, clearly this situation has led to, or this particular instance has led to, a situation in which a lot of members of the University community feel that they have a grievance, that they have concerns and there has been no way for them to voice those effectively or to help them address effectively. Professor Young said that she thought that that there should be some consideration of that problem.

Mr. Marnoch clarified that when candidates for degrees notwithstanding were presented to Senate that in all cases those candidates were lacking or deficient in total credit hours and that many of the candidates on the regular list of graduands have had some sort of substitution or waiver approved by Deans, by faculty councils or faculty executive committees.

Professor Coombs noted that the recommendation seemed to imply that the Dean of Graduate Studies would have jurisdiction over all academic matters and he presumed that this would be limited to graduate academic matters. He suggested that the recommendation might be broadened to include all Deans having responsibility for their respective jurisdictions or otherwise to clarify that this matter would pertain just to Graduate Studies.

Professor Anderson responded that this could probably establish such a precedent in other faculties and that this was perhaps where some of the concerns were coming

from. He also indicated (speaking as a Senator) that he would agree with the establishment of some sort of mechanism to more formally and more transparently deal with concerns of faculty members.

Professor Scanlon referring to observation 5 of the report, the necessary accountability and oversight, questioned whether this particular case came before the Faculty of Graduate Studies. He noted that it was difficult to separate the general context from a specific case but indicated that it did speak to whether there was the necessary accountability in place. The Chair reiterated that there was a very fine line regarding jurisdiction; Senate was not to address a particular case but rather to consider the general question. Professor Scanlon indicated that he thought that the devil was in the details and that therefore Senate needs to know whether in terms of accountability it did come to the Faculty of Graduate Studies. The Chair indicated that the principle of the question before Senate was what should happen and we don't have the details on particular case before us.

Professor Anderson added that the items quoted from the Graduate Calendar were certainly not a question of this specific case.

The Chair indicated he was hesitant to get into details about this certain case because there is not a complete presentation and it was confidential. Professor Anderson reiterated that Rules and Procedures did not consider a specific case and did not consider the report from the standpoint of a specific case. The Chair indicated that this matter was currently before the courts.

Dr. Etcheverry noted that the recommendation of the report was specific to Graduate Studies and suggested that a broader interpretation could be intended beyond just Graduate Studies. Professor Anderson indicated that the Committee was tasked with a specific question on Graduate Studies and referred to the question directed to the Committee as indicated in the report.

Professor Judy Anderson reminded Senate that some time ago when it considered changing a policy on the reappointment and search for Deans and Directors of the University of Manitoba that a joint Board-Senate committee was struck to consider that for some considerable time and that, if it had come under the discussion that we were also thinking of changing the powers of Deans under the *University of Manitoba Act* or under that granted by Senate and the Board that she thought that the discussion would have been considerably more lengthily. She indicated that making a ruling or recommendation from the Senate Committee on Rules and Procedures seems like it was coming from the wrong place and that this was a recommendation and they were asked to consider a decision that was made by the Dean of the Faculty of Graduate Studies. Professor Judy Anderson also drew Senate's attention to the powers of Senate in the University of Manitoba Act under point (f) regarding powers of the Senate that Senate has the power to appoint a committee such as might have been suggested as deemed necessary and confer upon the committee the power of Senate's authority to act for Senate in relation to matters deemed expedient and appoint committees that Senate would allow to act in an advisory capacity. Professor Judy Anderson indicated that she was not sure whether the Senate Committee on Rules and Procedures was advisory or whether a formal recommendation could even be made but she thought

that Senate could consider making another committee or an advisory committee to think about forming a committee that would consider faculty based academic appeals that would be somewhat distinct but would integrate with student academic appeals at the Senate Committee on appeals because there is a necessity in her view for faculty who might object or might wish to have Senate know there was a minority report regarding appeals.

The Chair reiterated that the committee was asked about jurisdiction, it was not asked about a specific case; a specific case clearly triggered the question, the committee was not asked to consider that.

Professor Owens expressed concern about the language in observation 5 of the report, noting that the second sentence sounded like it was meant to impose some constraints on the Dean's jurisdiction by specifying adequate consultation to be followed but in fact the language she felt was so vague in that respect as to let the Dean act without many constraints.

Professor Eskin found it very difficult to support this recommendation because he felt that it really gives sweeping powers to the Dean of Graduate Studies that undermine the academics of each of the faculties and he recommended that either this goes back for review or that there be some other mechanism in a more congenial setting where these types of problems can be resolved rather than having a heavy hand by one Dean over the other which he felt to be a somewhat antagonistic sort of proposal.

Dean Whitmore noted that some have spent a lot of time thinking about this and he indicated that, as he thought about it, he had done his best to clearly distinguish between what are the current rules and procedures and could there be better ones. He noted that this is one of the reasons he had suggested that Senate take a look at how the current rules and procedures could be improved. He noted that the wording of this report which appears to give the Dean of Graduate Studies the power to waive regulations is worded very broadly and might warrant more thought.

Ms. Labine spoke on behalf of the student and to provide the student perspective. She indicated that it was unfortunate that a student got involved in this whole debate in the first place but she thought that there was validity to providing consistency when it came to reviewing cases such as this and that comments that were made about having a broad sweeping ability to determine the outcome of cases that are not put to either a compilation of their peers and other individuals who may know other angles from a regulatory standpoint. Ms. Labine noted that there was validity in giving it its due process in such cases as this and that there should be a greater definition to what Deans have the ability to do or not do and as was seen here, it is subject to interpretation. Ms. Labine noted that this same issue arose within our other student association where it was not until a problem arose that the process was analyzed and dissected. She suggested that if this is taken back for review and the dissection, not of the case, but rather the broader implications of it she believed that we would be better off.

Rector Bracken indicated that he could not support the motion as it stands and therefore he would move that it be referred to the Senate Executive for a ruling on

consistency with the *University of Manitoba Act*, specifically section 34. The Chair, prior to asking for a seconder, asked Rector Bracken if he wanted his motion to be that specific or, based on the discussions, if the matter was to be sent to the Senate Executive should it be that limited and specific or do should it be sent as a more general consideration to the Senate Executive. Rector Bracken indicated that section 34 of the *University of Manitoba Act* enumerates the powers of Senate so it would seem that the way the motion reads it overrules the powers of Senate by granting a power of Senate as Professor Gabbert has claimed to a Dean. Rector Bracken was of the view that this is not allowed under the *University of Manitoba Act*. The Chair asked if Rector Bracken thought that this was broad enough to encompass the issue, Rector Bracken responded that it was a pretty long section.

Professor Gabbert noted that he was sympathetic himself as he had brought the matter up with a much broader preoccupation for how it would be referred. He indicated that it couldn't just be reduced to some kind of legal wrangling, he stated that he did not bring it up because he wanted to have yet another legal wrangle there have been enough of them. Professor Gabbert further noted that he understood that the University has its own preoccupations with what is defined as the current situation or not. He indicated that he was much more concerned about the situation going forward and thought that that is the critical thing. He indicated that he thought that Dean Whitmore had said the same thing that the matter of reasonable accommodation is so central to everything and we haven't thought enough about it. He noted that the University is supposed to accommodate to the point of undue hardship but we haven't thought about what undue hardship actually is for us in a kind of principled way, and he felt that we need to do that. Professor Gabbert concluded that that issue plus the role of Deans in these matters should all sort of be considered together so that we have going forward an idea based on our current experience of what the best way to proceed is.

The Chair suggested to Rector Bracken that he might want to make a motion to refer to Senate Executive that was broader rather than limiting it to a particular clause in the Act so that Senate Executive would take into account various matters that have been raised in the conversation including appeal mechanisms, etc. Rector Bracken agreed to withdraw the part of his motion referring to section 34 of the *University of Manitoba Act*.

Rector Bracken MOVED, seconded by Professor Eskin, THAT the matter be referred to Senate Executive taking account of the discussions of Senate including powers of Senate, jurisdiction of Deans, reasonable accommodation, and appeal mechanisms.

Dean Turnbull underlined that because reasonable accommodation is actually a legal requirement that while we're looking at the legal regime that creates the powers of Senate under the *University of Manitoba Act* we ought also to look at that legal requirements and the interface between that and Senate's responsibility particularly around degrees notwithstanding.

The Chair felt that there would be a number of internal regulations or external items that would need to be taken into account. On the matter of accommodation of disabilities, Dr. Barnard noted that Dean Whitmore had brought forward the suggestion that the University should be looking at what is reasonable and how to accommodate this. Dr.

Barnard has asked Mr. Leclerc to review past practice and suggest an appropriate process to deal with this.

Professor McMillan pointed out in the fifth point within the report that the Provost had offered an interpretation that included that the Dean would act reasonably and consult appropriately. Professor McMillan thought it was really important to remember that where there are elements of interpretation that are left out of specific documents in terms of rules and procedures, the capacity for people to go down a different path really exists and that we always want to represent the intent of and the meaning of our aims as well as the letter of the laws here. She thought it very important to ensure that all those elements are actually considered and end up appearing somewhere in the meaningful document that will come forth.

Dr. Etcheverry asked if there were standards of any kind that would be relevant to bring to the discussion and suggested a review of other Canadian universities in general around this area, best practices. The Chair indicated that there was likely a body of practice across the country but that no one here was likely in a position to discuss it this afternoon. To be considered would be things that are imposed upon us externally, things that we have decided ourselves, things that are not yet clear best practice elsewhere.

CARRIED

The Chair indicated that Senate Executive will report back when there is progress.

2. Report of the Senate Committee on Nominations

Dr. Etcheverry MOVED, on behalf of the Committee, THAT Senate approve the Report of the Senate Committee on Nominations [dated November 3, 2010].

CARRIED

X ADDITIONAL BUSINESS - none

XI ADJOURNMENT

The meeting was adjourned at 3:45 p.m.

These minutes, pages 1 to 13 combined with the agenda, pages 1 to 30, and the Report of the Senate Committee on Nominations [dated November 3, 2010], comprise the minutes of the meeting of Senate held on November 3, 2010.

/mb