There's a genre of academic novel .. I mean novels about academia .. that exploits petty scenes of faculty life and politics. With exceptions, these usually aren't very good. Their authors seem too obviously trying to "write about what you know", but .. as pettiness really isn't all that interesting .. too easily descend into irony about trivia. Readers rightly ask "Who cares?"

One staple of these novels is The Committee. Most universities attempt some sort of distributed management with Committees as a favored tool. Some committees work but many don't, and the suspicion is strong that they serve mostly to wear out professorial dilettantes, leaving the field open to the Deans. At any event, that's the way they seem to work when I've been on them. It happened in a case I'm about to tell you of, that lingers in my mind as somehow a little more significant than some. Let's see if I can convince you of it. Maybe not, but I'll try.

It was a Grievance Committee, assembled for recommendations about that academic staple: tenure. The plaintiffs were two "young" assistant professors [both in their mid 40's easily] in a small [two full professors, only] division [Voice] of a music department at "large university in a western state." I'm sorry to be coy about persons, time, and place, but there's some potential for libel here that I'll try to avoid.

Both plaintiffs were denied tenure: both claimed injustices and a pattern of the department's false representation and .. in particular .. of neglect, improprieties, and falsities by those two full profs in their division. The committee heard them out, somewhat sympathetically, and also the department's Chair, somewhat less so. One of the two full professors 'dissed the two plaintiffs. The other was on sabbatical. Then it was time to discuss and recommend.

We waffled a bit, nudging towards a consensus that the Chair was "discandid", the senior prof surly and resentful, and that the two plaintiffs had real grievances. Then an interesting thing happened. The only lawyer among us, a young middle-aged assistant professor who was also up for tenure .. and for that reason somewhat a surprise that she was sitting among us .. led us through an intellectual tour-de-force, reducing the conflicts as lawyers are trained to do into a series of questions that multiply branched in a logical-seeming way, then coalesced again into the proposition that if tenure-denial procedures had been properly followed, then our committee had no credentials to superior judgment and should therefore support the decisions already made. That is, she led us .. nodding our heads at every step .. away from what had been an emerging consensus that the two plaintiffs had not been treated fairly, into a proposition that .. provided due process had been exercised .. it was not our business to intervene.

Hmn. That's an interesting value set: as I understand it, that the Law is Process, which may be codified, but not Equity, which cannot. Our mentor was not blind to equity, but it was implicit in her reduction that Process, well constructed, should arrive at Equity. Yet everyone in the room .. she too .. had the uneasy sense that in this case it had not.
Well, to cut it short, we plumped for equity anyway and recommended that the two plaintiffs' contracts be extended for another year, with later tenure decisions that should not be prejudiced by the extensions. That is, we punted. The Dean reversed us, supporting the department's chair, and the plaintiffs' contracts were terminated.

Big surprise: Deans have to work amicably with department chairs, but not with junior faculty, nor with transient members of grievance committees.

OK. Why was this interesting? Why did good lawyering lead us to what we all judged to be a wrong outcome, in this case that Process, which can be codified, trumps Equity, which cannot?