

members or students and it would be unfair to require the university courts to amplify them. So far as concerns faculty members or students, the standards do not have the specific professional focus which, despite their generality, make them susceptible of adaptation to the specialized work of persons engaged in the practice of law or of medicine.

In turn, on the point under discussion, the Committee does not think it should in this Report go beyond the suggestion of the specific and general matters already mentioned for inclusion in a regulatory code. They would be enough to launch the disciplinary machinery herein proposed; but the Committee is also of the opinion that if what is here suggested is accepted in principle and to the extent to which there is detail given, then it may be left to a small representative group of faculty members, students and administrative officers to fill out the scheme, bearing in mind the virtue of avoiding prolixity and of leaving discretion in the adjudicating bodies, but discretion tied to expressed standards.

Turning to sanctions, the Committee felt that it ought to give full specification here so as to fix both the kind and range of penalties that might be visited by the courts upon an offender. However, the Committee does not recommend that the hands of the courts be tied to the imposition of specified sanctions for specified offences. The court should be free to consider all circumstances that it thinks relevant in assessing an appropriate penalty; and it need not be instructed, for example, that wilful destruction of University records or incitement to violence which results in serious injury or arson in respect of University buildings may merit expulsion.

Expulsion as a permitted sanction is at one extreme of the range which the Committee has in mind, and a reprimand is at the other. In between are such sanctions as a period of suspension; the deferring of a sanction on a promise of good behaviour for a defined period on the analogy of the suspended sentence and probation applied in the criminal courts; requiring an apology, or a public retraction of a statement found to be untrue or mischievous where it is the subject of complaint; and the deduction by the University of the amounts

of fines or levies imposed upon faculty members or students from money held for them or owed to them by the University. The reference here is not to tuition fees and the like, but to such things as parking fines and library fines. The Committee does not consider that it should be concerned in this Report with the propriety of the policies underlying such fines, but only with whether they are rightly due and unpaid according to governing regulations. To have involved itself in a consideration of library administration and supervision of campus areas in respect of parking would have taken the Committee off course.

The Committee discussed and rejected the use of fines as a sanction available to the university courts. That is to say, it does not believe in the imposition by the university courts of a monetary penalty as a punitive measure against a faculty member or student. Although a distinction exists between a fine and compensatory damages, and there may be merit in giving the university courts power to assess damages, as for example, for the value of stolen property, the Committee thinks it preferable to leave this kind of redress to be sought through the ordinary civil and criminal courts at the suit or complaint of any injured person. This is not said, however, with any intention to encourage resort to the public courts; composition without such resort may be the better course.

The Committee thinks it proper to point out that the availability of the court system through which community attention would be brought to bear upon allegations of misconduct is itself a form of sanction through the attendant publicity.

The Committee recommends, of course, that the decisions of the courts on sanctions should be binding on faculty members, students and administration no less than its conclusion of guilt in any particular case. It would give the administration power to interfere in only one case and that is where expulsion is either confirmed or imposed by the court. Here, the President should have the authority, as a prerogative of clemency, to commute the expulsion to a lesser penalty.

The Committee considered how far, if at all, the sanctions herein specified could be applied against members of the administration if found by the

courts to offend against a faculty member or against a student. Regard must be had in this connection to the dual role in which members of the administration are cast; they are at one and the same time involved in serving the University as an institution (and in that aspect responsible to the President and to the Board of Governors) and required to be sensitive in their service to the rights of faculty members and students. It appears that only the reprimand and the public retraction or apology may be directly imposed by the university courts, and any sanction beyond those would be for the President to impose or recommend to the Board in the light of adverse decisions by the courts. The Committee's thinking on this is that the purpose of the judicial condemnation is not to punish the administration but to secure redress for faculty members and students.

Two other matters need to be mentioned. First, whether or not a sanction imposed by the court is exacted (as contrasted with one already imposed and confirmed by the court) is not a matter for the court to supervise of its own initiative. Second, the range of sanctions recommended by the Committee is such as to give the administration the effective power of enforcement, regardless of who the subject of the penalty happens to be. The Committee does not envisage a fresh proceeding before the court to secure a direction for compliance with a sanction previously decreed; but the situation would be different if there was an allegation of a fresh offence calling for an original hearing. The previous record of a person so involved would of course be relevant to the proper sanction if he were again found to be an offender.

Lest there be any doubt, the Committee wishes to make it clear that there should be no academic sanction for non-academic offences. There may be academic consequences as a result of visiting certain sanctions upon faculty members or students, but none of the sanctions envisaged by this Report, be they judicial sanctions or administrative ones, should be reinforced by directly imposing academic disabilities. The Committee would emphasize this particularly with respect to administrative library or parking fines. Use of these services may be forbidden until such fines are paid (if properly owing), but academic standing or status should not be otherwise affected.

13. The university's initiative in matters of discipline

One of the questions raised before the Committee was whether the administration should be permitted to impose a sanction upon a faculty member or student before its right to do so was established after a hearing before the university court. Of course, the affected person would be free to grieve against the discipline and to have a hearing on the merits of the University's action as well as upon the propriety of the sanction. But there appeared to be some unease about the possibility of "sentence first, trial afterwards."

The issue must be put in perspective. The University has no powers of arrest, and hence there is no question of detaining a person or, after detention, releasing him on bail pending trial. Second, having regard to the range of sanctions proposed by this Committee, the only one which raises a serious concern about possible injustice and its consequences, if precipitate action is taken, is expulsion. No doubt, suspension is also a severe sanction, with the obloquy, however unfair, which such a publicized severance would involve, but it does not mean a severance of relationship.

There are very practical and human con-

siderations involved in the University's initial exercise of discipline, which might, however, be later called for review. A faculty member or student may readily, or after investigation by the University, agree that he has been guilty of misconduct. There is little point in proceeding in such a case to a formal hearing, and there is more likelihood of a mutually acceptable composition or resolution of the matter if it is left to informal adjustment. If the discipline imposed is regarded as disproportionate to the offence, there is a right to seek review by the university court.

Even if there is a dispute about the guilt or involvement of a faculty member or student in a campus offence, the preferable course would be to have the matter threshed out before resort to the university court system. Both parties may be mistaken about the issue; the faculty member or student may be mistaken that no offence occurred; the University may be mistaken as to its character. Better that they examine the situation than that the University be required to resort to the court in each instance.

It is the University, the administration, that has the initial responsibility of maintaining the in-

tegrity of campus life. Under the adjudicative scheme proposed in this Report, it will be expected to surrender its hitherto ultimate authority in discipline matters to an impartial university court. But it cannot remain indifferent to conduct which constitutes, in its opinion, a breach of what has previously been referred to as the "liberty of the campus" or, to put it another way, "the peace of the University". In moving to deal with instances of breach of that peace it must be left with initial power to impose a sanction, at the risk of successful challenge if the affected person or persons choose to bring the case before the university courts.

The Committee would, therefore, not interfere with the University's privilege, as an initial matter, to exercise disciplinary authority save where expulsion is the intended sanction. Where alleged misconduct deserves, in the University's opinion, the sanction of expulsion, and the person or persons to be affected dispute their guilt or dispute that their misbehaviour merits expulsion, the Committee recommends that the University be entitled to impose suspension provided it simultaneously lays a charge before the university court to obtain a finding that expulsion may properly be imposed.

14. Responses to critical situations

Events on other campuses, in Canada and elsewhere, involving sit-ins, physical obstruction or unruly demonstrations and the like, obliged the Committee to face up to the question of how such matters should be handled if they occurred at York University. The Committee saw this obligation as a

matter of meeting faculty and student expectations that it make its views known, although, as has been noted at the beginning of this Report, there was not and there is not now any emergency at York inviting this Committee's attention. There are two dimensions to these situations; first, internal

handling; and, second, inviting external law enforcement agencies to deal with them.

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