Censure: the facts from all sides

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HISTORY OF THE CASE

Septembe: 24, 1968, Dr. Norman Strax, an Associate Professor of Physics, was suspended from all his duties as a faculty member on the orders of Dr. Colin B. MacKay, the President of the University. The circumstances surrounding this are known to most students. Dr. MacKay, September 28, 1968, reported his action to the Board of Governors (as required in the University Act). The Board approved it and at the same time set up a "Faculty Committee" to "hear Dr. Strax's Case". Dr. Strax remained in his office, and on September 30th the university sought a court injunction to restrain him from coming on university property and from inciting students or faculty to break university regulations. (On October 4, Dr. Strax appeared in court in St. John to answer a charge that he had continued to stay in his office for 24 hours in violation of the injunction. His case was heard again on October 18th, when he was fined a nominal \$1.00.) On October 8 the Board of Governors met again. One member of this committee was present at that time and recalls that the interim report of the Faculty Committee, which was supposed to be presented, was purely formal. Dr. Strax and his lawyer, Mr. Kelly, had made one appearance before this committee but Dr. Strax had later withdrawn (on Mr. Kelly's advice) with the complaint that the Committee's terms of reference were far from clear. It was apparently uncertain whether it was a fact-finding body or a tribunal to judge Dr. Strax's case, and Dr. Strax was not

satisfied. On October 10th the Canadian Association of University Teachers (CAUT) telegraphed Dr. MacKay that their Committee on Academic Freedom and Tenure was "seriously disturbed" by the suspension especially as there had been no previous hearing or charges. CAUT urged arbitration quickly, in accordance with its published procedures. On November 17th, the National Council of CAUT met and confirmed this position.

On January 17th, Professor C.B. McPherson wrote to Dr. MacKay. In the course of his long letter he stressed his concern that no satisfactory action had been taken to bring the case to arbitration. He specified three conditions which CAUT felt should be made by the Board of Governors. (These are set out in the next section). On the 19th and 20th of February, Professor McPherson, with two other members of the CAUT Executive, visited UNB. They had talks with the Board of Governors and with AUNBT.

yet satisfactory.

CAUT POSITION

Something has already been said of this. The conditions listed in Professor McPherson's letter of January 17th were: 1. the Board of Governors should agree to accept arbitration according to CAUT

procedures. The injunction against Dr. Strax should be dissolved before arbitration started. 3. Dr. Strax's legal expenses should be met by the university.

CAUT's policy on Academic Appointments and Tenure was published in 1968 and provides that an appointment of a faculty member should be terminated only with "adequate cause". If the professor disputes the case, it should be referred to an arbitration committee of 3 professors from outside the university who are acceptable both to the President and to the professor concerned. It is their business to consider whether "adequate cause" exists and they decide on matters like salary due. The policy also provides that written statement must be made of the reasons for dismissal and Professor McPherson has criticized UNB

for not having done so.
After the meeting by the CAUT and the Board of Governors the third condition listed above was modified. CAUT agreed that the matter administration agrees to drop of legal expenses should be left

to the Arbitration Committee. Porfessor McPherson, in a telephone interview with our committee, made it clear that the 2 most important things from CAUT's point of view were the acceptance of arbitration and the removal of the injunction. CAUT feels that the existance of the injunction effectively turns suspension into dismissal that Professor Strax is not only forbidden to teach but cannot pursue any academic activities at all. It is for this reason, and because it feels that the use of legal proceedings in this way is a denial of Dr. Strax's rights as a faculty member, that CAUT insists so strongly on the matter of the injunction.

> The demand for arbitration is a perfectly normal attitude on the part of any professional association or union. Some irritation has been expressed (by both faculty and students) at the idea of "interference" by an outside body in the affairs of UNB. It should be pointed out that CAUT is the only organized association of university teachers in Canada, expect its support if they feel to CAUT. Professor Brewer something is wrong. Also, also feels that the injunction is

maintainence of standards of although, he, too, wonders academic and teaching about the meaning of the academic and teaching excellence, and their concern is President's non-binding related to this.

ADMINISTRATION'S POSITION

The Committee attempted to get an interview with President MacKay for the purpose of clarifying the administration's position. However, he felt that he couldn't elaborate on his letter at least until he releases a statement some time next week. The questions that we wanted answered concerned the three demands that CAUT is making.

First of all, there is the problem of non-binding arbitration that was mentioned in President MacKay's letter. It has been agreed that the university cannot legally enter into binding arbitration, but also that all parties agreed to be bound (morally) by the decision of the arbitration board. What we don't know is whether by non-binding the President meant legally non-binding or not binding in any way in which case he would be changing his position.

Also, we wanted to ask Mr. MacKay if he and the Board of Governors would be willing to allow the matter of payment of court costs to be decided by arbitration as Mr. MacPherson said he would be willing to do.

The third and most important question is that of the injunction. Mr. MacPherson has stated that unless the the injunction, he will recommend censure of UNB. At this time, Professor Strax is appealing the injunction in the Supreme Court. If the injunction were dropped, Professor Strax would be able to drop his appeal. In that event, with no legal pressure on either side, the arbitration could be much more meaningful and cover a wider range. President MacKay in his letter stated that the arbitration could not cover some aspects because of Mr. Strax's appeal. Dropping the injunction would clear the air and allow meaningful arbitration in good faith.

Professor Strax would not be apt to jeopardize his case by causing any trouble on campus. In the event that he did, CAUT would withdraw their support from him.

AUNBT POSITION

Professor Brewer, President of the Association of University of New Brunswick Teachers (AUNBT) provided the details of their position. Approximately seventy-five per operating nationally, and its cent of UNB professors belong members here have the right to to AUNBT and consequently

the major point of contention The following report was As a result, CAUT's position CAUT (like AUNBT) has, as the major point of contention e first prepared by the changed slightly. However, Dr. part of its aim, the between CAUT and UNB; arbitration. Brewer feels that the details of arbitration can be worked out satisfactorily and that the costs can be included in the arbitration.

> About the injunction, however, he has mixed feelings. On the one hand he felt that the injunction alone shouldn't be enough to cause censure. On the other hand, he and AUNBT as a whole, feel that the injunction should not have been used and that the members not to accept administration should have followed proper procedure. On November 26, 1968, AUNBT passed a motion saying that, Canada, and will draw national while it didn't condone attention to UNB. In the Professor Strax's actions, the administration should establish prompt and just procedures for major effect other than that investigation and adjudication. mentioned above, because The motion also condemned the university for its continued resort to legal proceedings. At the same meeting AUNBT asked CAUT to aid in the establishing of an arbitration board. The AUNBT has scheduled a meeting for Saturday, March 8, 1969, to consider this matter of censure. Professor Brewer feels that the association may split over the issue of whether or not to support the CAUT move, and whether or not the injunction

SRC'S POSITION

should be lifted.

Until December 8, 1968, the SRC, although involved in matters concerned with Dr. Strax's case which concerned students, had made no statement on the main issue. It was thought wise to wait until the AUNBT had taken a stand. At its meeting, December 8, Council passed a motion "fully and unreservedly" supporting the AUNBT stand taken remember is that whatever our November 26th and assuring personal feelings about the AUNBT of its full solidarity and willingness to think about his actions last fall; help if the AUNBT wished this. he or any professor deserve a Council again February 9th completely fair chance to have backed this stand already taken, deplored the fact that no action had been taken on the AUNBT's motions, urged the university not to incur a censure and called for a "speedy, just, and final academic settlement of the case". On March 2 Council once more reaffirmed its position, declaring that because there had been no "adequate response" to the AUNBT demands, it expressed its "complete disapproval with the manner in which the Board of Governors had handled this issue, and calls upon the Board of Governors to re-open negotiations immediately with CAUT and the AUNBT.

> Council's position, therefore, has been one of continuous strong support for the recognized representative body of university teachers at UNB - and also of concern for the effects that censure might

have on the whole university, students included.

EFFECTS OF CENSURE

It is a matter of debate exactly how censure would affect UNB. Some damage has already been done in that some ill-feeling exists among faculty members here and elsewhere. If UNB is censured, this ill-feeling will not improve but get worse.

If the censure is imposed, the CAUT will issue a full report explaining the situation at UNB and advising all of its teaching positions at UNB. This report will be distributed to CAUT members across short-term (less than two years) there will not be any CAUT does not ask professors to leave. In the longer term, it will be difficult to fill openings with high quality professors, especially in the Arts and Social Sciences, but to some extent in every faculty. If lower quality professors are hired, the value of our degrees will be lowered, since a university is rated according to the quality of its staff.

One additional problem is that it may be difficult to fill the position of President of UNB, and also the positions of Dean of Science, Associate Dean of Graduate Studies, and Head of the Business Department.

CONCLUSION

The crucial vote will be taken next Saturday, March 15, 1969. If, by that time, some agreement has not been reached, censure probably will be imposed on UNB.

Professor Strax; whatever we the full reasons for his suspension stated, and to have his case considered impartially.
Professor Strax deserves the same chance that any other professor would get. CAUT has not stipulated that Professor Strax be reinstated; it desires arbitration.

> The time to consider censure is before it is imposed, not after. The stigma attached to censure will not rapidly disperse but will remain for some time. Many students may feel that since they are graduating this year; they needn't worry. Remember that the new students will be affected and deserve a degree worth as much as yours. It is of no advantage to be sorry about censure when it is too late.

> > David MacMullin Alistair H. Robertson Robert L. Hess