

# Censure: the facts from all sides

The following report was the first prepared by the special SRC committee to study effects of a CAUT censure. It was presented to council last night.

As a result, CAUT's position changed slightly. However, Dr. MacKay's published reply to Professor McPherson is regarded by the latter as not yet satisfactory.

CAUT (like AUNBT) has, as part of its aim, the maintenance of standards of academic and teaching excellence, and their concern is related to this.

the major point of contention between CAUT and UNB; although, he, too, wonders about the meaning of the President's non-binding arbitration. Brewer feels that the details of arbitration can be worked out satisfactorily and that the costs can be included in the arbitration.

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 members not to accept teaching positions at UNB. This report will be distributed to CAUT members across Canada, and will draw national attention to UNB. In the short-term (less than two years) there will not be any major effect other than that mentioned above, because 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.

## HISTORY OF THE CASE

September 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.

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 of legal expenses should be left to the Arbitration Committee.

Professor 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 existence 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, operating nationally, and its members here have the right to expect its support if they feel something is wrong. Also,

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 administration agrees to drop 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.

Professor Brewer, President of the Association of University of New Brunswick Teachers (AUNBT) provided the details of their position. Approximately seventy-five per cent of UNB professors belong to AUNBT and consequently to CAUT. Professor Brewer also feels that the injunction is

the major point of contention between CAUT and UNB; although, he, too, wonders about the meaning of the President's non-binding arbitration. Brewer feels that the details of arbitration can be worked out satisfactorily and that the costs can be included in the arbitration.

have on the whole university, students included.

## ADMINISTRATION'S 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.
2. 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 of legal expenses should be left to the Arbitration Committee.

Professor 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 existence 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, operating nationally, and its members here have the right to expect its support if they feel something is wrong. Also,

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.

## 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.
2. 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 of legal expenses should be left to the Arbitration Committee.

Professor 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 existence 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, operating nationally, and its members here have the right to expect its support if they feel something is wrong. Also,

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 administration agrees to drop 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.

Professor Brewer, President of the Association of University of New Brunswick Teachers (AUNBT) provided the details of their position. Approximately seventy-five per cent of UNB professors belong to AUNBT and consequently to CAUT. Professor Brewer also feels that the injunction is

the major point of contention between CAUT and UNB; although, he, too, wonders about the meaning of the President's non-binding arbitration. Brewer feels that the details of arbitration can be worked out satisfactorily and that the costs can be included in the arbitration.

have on the whole university, students included.

## 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 cent of UNB professors belong to AUNBT and consequently to CAUT. Professor Brewer also feels that the injunction is

the major point of contention between CAUT and UNB; although, he, too, wonders about the meaning of the President's non-binding arbitration. Brewer feels that the details of arbitration can be worked out satisfactorily and that the costs can be included in the arbitration.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

## SRC'S POSITION

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 November 26th and assuring the AUNBT of its full solidarity and willingness to help if the AUNBT wished this. Council again February 9th 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.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

have on the whole university, students included.

David MacMullin  
Alistair H. Robertson  
Robert L. Hess