

57. Disciplinary matters arising within the precincts of a College and involving members of the College only should be left for initial determination through College procedures, subject to a right of appeal to the University courts
58. All other disciplinary matters should come within the original and appellate jurisdiction of the University courts
59. The University courts should be established and their membership for particular cases selected in the manner detailed in Appendix D
60. The decision of a University trial court, subject to a right of appeal, and the decision of the appeal court, should be binding on the parties involved in the case, be they the administration or faculty or students. Unanimity should not be required; a majority's decision should be binding
61. The Committee cannot accept as an invariable principle that jurisdiction be denied to the University courts to deal with alleged misconduct of faculty members or students where that misconduct is being or has been dealt with by the public courts
63. The Committee recommends, however, that the University administration be sensitive to the possibility of excessive punishment if sanctions are concurrently imposed by both the University and the regular courts; and it should consider that it might be sufficient to seek merely a declaration that a "University" offence has been committed without seeking a heavy sanction
64. University court hearings should, as a rule, be open but the court should have authority to hold them *in camera*
65. The University should bear the cost of recording and transcribing the proceedings if the court directs that a verbatim record should be made
66. The records of the University courts should be kept separate from other University records, and anything in them pertaining to any faculty member or student should not be noted on his academic record or transcript
67. The Committee recommends that the "law of the University courts" be a blend of specific

- regulations and standards of conduct with a creative function in the courts to complement or supplement them with a "common law" of the University
68. The Committee recommends that the University abandon as a disciplinary standard the present prescription of "conduct detrimental to the good name of the University"
69. The Committee recommends that, since the law of the land applies both on and off the campus, the University should not attempt to legislate a comprehensive code but should in the main (apart from regulations having a purely University *raison d'être*, prescribe general standards
70. The Committee recommends further that if the foregoing is accepted in principle, a small representative committee of faculty members, students and administrative officers should be established to fill out the scheme
71. The Committee recommends that there be a complete specification of sanctions which would be open to the University courts to apply according to their assessment of the particular case
72. The Committee recommends as possible sanctions expulsion, suspension, deferment of suspension on promise of good behaviour, apology or retraction, and reprimand
73. The Committee recommends that neither fines nor damages be among the remedies open to the University courts; but, where the University holds money payable to a faculty member of student, deductions therefrom to satisfy parking or library fines that have been rightly imposed may be authorized or confirmed
74. The administration should not have any power to alter any sanction imposed by a University court save that where expulsion is imposed or confirmed by the court, the President should have discretion to commute it to a lesser penalty
75. The Committee recommends that sanctions within the power of the courts against a member of the administration be a reprimand and an apology or public retraction, since the purpose of judicial condemnation is not to punish the administration but to secure redress for faculty members and students

76. There should be no academic sanction for a non-academic offence
77. The Committee recommends that the administration retain an initial right to impose discipline (subject, of course, to challenge in the University courts), except where expulsion is the intended sanction and in that case suspension may be imposed if a charge is simultaneously laid to obtain a ruling in support of expulsion
78. The Committee does not regard physical force or depredations as legitimate means of asserting the freedoms that should be secured to all faculty members and students at York
79. Although there may be precipitating reasons for a manifestation of force, the wide jurisdiction proposed for the University courts and the peaceful means of persuasion open to proponents of particular policies, emphasized in this Report, make force, intimidating obstruction and seizure of premises inadmissible
80. The Committee does not recommend that the University courts be brought into emergency or critical situations save in their ordinary judicial character; ultimate responsibility for taking initial action must rest with the President
81. It must be left to the judgment of the administration, exercised after consultation with faculty and student advisory bodies if that is possible, whether or when to limit response to crises to University action or to call for external assistance. The Committee does not believe that there can be a preformulated response to fit every situation
82. The administration must take the risks of unilateral action or faulty judgment in dealing with emergency situations, and both the University courts and the public courts may conceivably become involved with the emergency situation and its consequences
83. Acceptance of the core of this Report would involve a self-limitation of the powers of the President under the York University Act, but the bringing down of the Report also provides an opportunity to consider whether or how the Act should be amended in respect of its clauses respecting discipline

17. Appendices

Appendix A

PRESIDENTIAL COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF MEMBERS OF YORK UNIVERSITY

TERMS OF REFERENCE

Recent incidents on North American campuses have raised serious questions about the norms of behaviour of members of a University and have presented issues which prevailing rules do not meet. There is a need for a statement of principles that is clear and contemporary.

In the light of the foregoing, and having regard to the essential purposes and nature of the academic community and of the relationships that should exist in this community between the University and its members, the Committee is hereby charged to define the University's supervisory and disciplinary role, and, further to make recommendations as to the norms that should govern the behaviour and activities of faculty and students in those areas in which the Committee considers that the University has a legitimate concern and as to the institutions or machinery for their enforcement.

Without limiting the generality of the foregoing, the Committee is asked to consider the rights and responsibilities of faculty and students in relation to the following questions:

1. The degree to which the personal behaviour of student and faculty members should be subject to University regulation;
2. The distinction, if any, that should be made between undergraduate students and graduate and professional students;
3. The limits, if any, that should be set to freedom of expression in the University, including

freedom of advocacy, freedom of political action, freedom of artistic expression and freedom of publication in campus organs;

4. The limits, if any, on campus action (as contrasted with freedom of expression), including a consideration of civil disobedience and a code of behaviour to regulate group activity;

5. The relationship which should exist between a University code of behaviour and the laws and regulations of governmental authorities; and

6. The relationship or interdependence of University procedures and law enforcement, including questions such as the disclosure of confidential information about faculty members or students to law enforcement agencies.

The Committee may adopt such procedures for its deliberations as it feels will best assist it in carrying out its duties and will report to the President of the University.

Appendix B

RELEVANT SECTIONS OF THE YORK UNIVERSITY ACT STATUTES OF ONTARIO, 1965, CHAPTER 143

Section 10

Except as to such matters by this Act specifically assigned to the Senate, the government, conduct, management and control of the University and of its property, revenues, expenditures, business and affairs are vested in the Board, and the Board has all powers necessary or convenient to perform its duties and achieve the objects and purposes of the University, including, without limiting the generality of the foregoing, power,

- (a) to appoint and remove the Chancellor;
- (b) to appoint and remove the President and the vice-president, if any;
- (c) to appoint, promote and remove all members of the teaching and administrative staffs of the University and all such other officers and employees as the Board may deem necessary or advisable for the purposes of the University, but no member of the teaching or administrative staffs, except the President, shall be appointed, promoted or removed except on the recommendation of the President, who shall be governed by the terms of the University's commitments and practices;
- (d) to fix the number, duties, salaries and other emoluments of officers, agents and employees of the University;
- (e) to appoint an executive committee and such other committees as it may deem advisable, to fix the quorum for meetings of such committees and to give or withhold from the chairmen thereof a casting vote, and to delegate to any such committee any of the powers of the Board;
- (f) to borrow money on the credit of the University in such amount, on such terms and from such persons, firms or corporations, including chartered banks, as may be determined by the Board;
- (g) to make, draw and endorse promissory notes or bills of exchange;
- (h) to hypothecate, pledge, charge or mortgage any part or all of the property of the