

creed, colour, sex, nationality, ancestry or place of origin, as expressed in the Ontario Human Rights Code. The University regards these criteria as irrelevant to any judgment that must be passed on the fitness of any actual or prospective faculty member or student in University matters.

Members of the faculty or students, once appointed or admitted to York University, do not lose their status or rights in the larger society, nor does their affiliation with York University impair their exercise of the ordinary rights of citizenship on the campus in pursuing any non-academic activity. Thus, they may freely express their opinions on all aspects of the University's operations, subject of course to the law of defamation. Expression of opinion, even severe criticism, is one thing; obstruction or disruption of the educational programme of the University is something else.

Again, the Committee is not directly concerned with tenure or the claim to tenure by a faculty member. It considers this to be a matter of academic policy, and feels that trust must be reposed in the tenure committees or other authorities concerned with tenure, not to allow non-academic considerations to intrude on a tenure issue. At the same time, it appreciates that there may be border-line cases where denial of tenure or deprivation of tenure may be thought to be the result of factors not directly relevant to academic competence. Such denial or deprivation may be characterized as discipline, but it is not that kind of discipline to which this Committee's terms of reference are directed. In brief, for the purposes of this Report, the Committee is prepared to assume that all faculty members have the protection of tenure. It is not, however, a shield for non-academic misbehaviour, which may justify discipline, even of the severest kind, against a faculty member.

The principal concern of the University with the conduct of faculty members and students is with on-campus conduct, and, more particularly, on-campus conduct which may merit discipline by the University although not amounting to a violation of the law of the land. The definition of such conduct in any but general terms has baffled the Committee. It is easy enough to be specific about activities which directly disrupt the University's functions of teaching or research; a strike of faculty members and a concerted refusal by students to vacate a classroom intended for others are examples. Again, the University must be concerned with the safety of persons entitled to be on the campus, with the security of the residences, and with the protection of faculty member and student property, as well as with the property of the University itself. Any faculty member or student who endangers safety or plunders a residence or property of members of the University or of the University itself would certainly merit discipline. In all likelihood, such conduct would also be a violation of the law of the land.

As is indicated later on in this Report, the Committee does not favour detailed rules of "do's and don'ts"; and it feels that with the assurance of fair and impartial procedures for disciplinary matters, both faculty members and students should not quail at being asked to square their on-campus extra-curricular behaviour with a duty to refrain from unreasonably impairing the pursuit by the University of its educational objectives. Any discipline or charge referable to a claimed impairment would, of course, have to be based on specific allegations, and it would be ultimately for the University Courts to determine if what is

alleged falls within or outside of the general standard.

The Committee sees a faculty member's or student's off-campus activity in a different light. Merely because a person is a faculty member or a student of York University he does not engage the University's disciplinary concern by reason of his off-campus conduct which violates the law of the land. By the same token, the University, especially where students are concerned, should not be put under any obligation to intercede with the public authorities. This would be to return to an *in loco parentis* relationship; and especially would this be so if the University, either on its own initiative or on the suggestion of the public authorities, moved to exercise discipline for the off-campus behaviour. Faculty members and students must accept responsibility for their off-campus activity. However, the University would be expected, especially if asked, to help arrange legal or other assistance for faculty members or students caught up in an off-campus violation of the law. Certainly, where students in residence are involved, being persons away from home, it would be inhumane for the University or for the College to carry the break with the *in loco parentis* relationship to the point of refusing any aid.

The Committee feels that the University ought to go further in this direction and consult with the Law Faculty on the feasibility of setting up a legal referral service for faculty members and students who might need legal assistance in situations other than emergencies. The Law Faculty now has a Community and Legal Aid Services Programme involving certain clinical services, including a student defender service for legal aid cases not covered by Ontario's legal aid plan. This would not meet the situations which this Committee has in mind; qualified lawyers and not students would be needed. The matter is worth exploring from the standpoint of the provision of legal assistance by some of the members of the Law Faculty or by practising members of the bar, but, of course, under arrangements that would be compatible with the regulations of the Law Society of Upper Canada.

Off-campus behaviour does, however, involve the University where a faculty member or student has been sent out to represent the University in an activity sponsored or directed by the University. The Committee deals in a later part of this Report with the situation where both the public authorities and the University propose to act against an alleged offender.

The Committee should add here that it takes no firm position on residence rules that may have the effect of terminating a student's right to remain in residence by reason of some misconduct or misbehaviour off the campus. It goes only so far as to recommend that there be no such disqualification unless the disqualifying rules have been previously promulgated and made known to students who apply for admission to residence in a College. Since, in the Committee's understanding, residence rules are promulgated through a representative council and may well differ from College to College, it feels that it should respect this form of local autonomy and not make any specific recommendations on the content of any rules, subject only to the limitation that the rules should be in conformity with the approach that animates this Report.

Among the issues raised before the Committee were the extent and confidentiality of records kept by the University on faculty members and students. The Committee was assured that the University

collected only the minimum of information about faculty members and students: their names, dates of birth, marital status, parents or next of kin, home address or address for University mailing purposes, telephone number and academic antecedents or record. It is the Committee's understanding that any information recorded on a faculty member or student is made available only to senior administrative officers of the University, and to others only at the request of the faculty member or student. The Committee supports this practice and recommends its continuance.

The Committee would add that if the University wishes to collect or assemble any other information about faculty members or students, this should be done only with the knowledge and participation of the persons concerned, and any intended use thereof should be made known. Where faculty or student organizations operate on the campus and, especially where they use University premises for their activities, the Committee believes it entirely proper for the University to have the names and addresses of their officers, and to have copies of their constitutions, if any, on file.

Another matter of concern voiced to the Committee was the increasing use of human subjects in experiments and surveys made in connection with social science and life science projects. Although this is to a large degree a matter of the academic programme of the University, the Committee felt it should consider its implications in respect of loss of privacy and the possible risk of some impairment by reason of physical or mental strain. The resort of instructors or researchers to students as subjects for their exercises is understandable; and the enrichment of the academic experience and training of the students may be an object associated with the call upon them to submit to the exercises. Nonetheless, the Committee is of opinion that a number of safeguards should be built into the operations in question.

It recommends, first, that all human subjects, whether or not they are members of the University, should be volunteers, and that they be advised of the purpose and nature of the experiment or survey or other exercise. Second, it recommends that in the case of University students it be made clear in the University's calendar or otherwise that their academic standing will be in no way affected by a refusal to participate, nor should a refusal be a matter of record for outside information. This is subject to the qualification that if any academic course requires participation of the students in that course in experiments or surveys as part of the learning experience for that course, this should be made known in advance when a choice of courses is being made.

The possible liability of the University for any damage or injury in this connection makes it advisable that releases be obtained from human subjects. Fairness dictates that such releases be obtained only after the subjects are fully informed of what is involved. The Committee's third recommendation here is, therefore, that the University review its procedures in this field and consider particularly (a) how to deal with students or others in relation to experiments whose successful outcome depends in whole or in part on the subject's ignorance of the technique or purpose; (b) appropriate methods of announcing or releasing results that would protect privacy unless it is surrendered with knowledge of all attendant circumstances; and (c) a form of release of claims against the University for any injury that will be sensitive to the risks, if any, to which persons may be exposed.

4. The university and organized groups

Faculty members and students should be as free as any other citizens or residents of the community to form or join associations or clubs. The University ought to have no concern with the aims or activities of any such associations or clubs, except where (1) they seek the use of University facilities or premises; (2) they seek a University identification through use of the University's name or motto or coat of arms; (3) they seek financial assistance from the University; (4) they seek the exercise of University authority to tax the students for their support or the intervention of the University to collect their fees by way of a check-off arrangement; or (5) they engage in or incite conduct on the campus which improperly interferes with academic work or with faculty members or students engaged in such work or which results in

or creates a reasonable apprehension of violence. In other respects, the ordinary law of the land should govern faculty or student organizations, without University interposition.

The Committee does not recommend that the University establish any general accreditation or recognition bureau for faculty or student organizations. At the same time it appreciates that some of these organizations already enjoy official recognition that does not, however, involve any control over their form of organization or their programmes. This recognition, as in the case of the York University Faculty Association and the Council of the York Student Federation, means simply that the University accepts these associations as the representative collective voice

of the faculty members and the students in matters of mutual concern. These matters are not defined by the University but have emerged as reflections of those interests which faculty members and students see bound up in their respective capacities in the University. Similar recognition within a more restricted compass exists for councils of the various colleges and faculties.

The Committee deals in another part of its Report with the use of University facilities or premises by faculty member or student organizations or groups. It would merely emphasize here that it sees the University as being

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