The basic observation is that the Committee does not regard the mounting of physical force or violence or depredations of any kind as legitimate means of asserting the freedoms — whether of speech or assembly or association — that must be secured to all faculty members and students at York. To attempt, therefore, to surround these tactics with formulary procedures through which they would be abated, would be to engage in a ritual negation of the basic proposition just stated. The responsibility for taking countermeasures is immediately that of the administration; mediately, however, the entire performance (if the Committee may so describe it) depends on the respect that faculty members, students and the administration have for the freedoms already mentioned, for rational discourse and for due process.

The Committee does not ignore the fact that there may be precipitating reasons for a manifestation of force. Misbehaviour or misconduct of any member of the administration towards a faculty member or student is as cognizable by the university courts as is the situation in reverse. If, however, policies are advocated for adoption or social issues pressed for approval by the administration and it is unwilling to agree, this Committee is unable to appreciate that a deadlock becomes justification for a legitimate show of force. The decision-making authorities in the University should certainly consider matters within their respective spheres brought to their attention for discussion or decision. Peaceful means of persuasion are open to the proponents of such matters; force and intimidating conduct involved in physical obstruction and seizure of premises are inadmissible. The Committee is of the opinion that we are a long way from totalitarian repression at York to warrant metaphysical rationalizations on the just use of force. Analogies from conditions elsewhere simply do not fit the facts.

The Committee does not see the university courts brought into the picture in emergency or crisis situations other than in their ordinary judicial character. It gave some consideration to vesting jurisdiction in the courts to issue an immediate restraining order or mandatory order to bring a disorderly demonstration or a sit-in to an end, but it concluded that unmanageable difficulties would arise in possibly obliging the court to deal with numerous citations for breach of such orders or for what might be called contempt of court. The Committee feels that the administration must act as it may be best advised; and the ultimate responsibility rests on the President.

The President would rarely act without some consultation; and he would, of course, be wise to invite the opinion of such faculty and student advisory bodies as he is in the habit of consulting or which have been constituted for that purpose. Since emergency situations will themselves vary in the urgency with which they should be met, the Committee is reinforced in its view that to attempt to devise a structured response would be futile. It would always be necessary to leave an avenue for prompt, unilateral measures; no President can afford to take the risk that, by his failure to act instantly, injury or damage has occurred which might have been averted. In a sense, he is called upon to exercise a prudent but sensitive discretion to avert or mitigate harm being occasioned by persons who are, *prima facie* at least, wrongdoers.

In brief, then, the Committee recommends that the administration remain charged, with whatever risks inhere, in dealing with disorder or physical obstruction or disruptions on the campus, whether it be by measures limited to University action or by calling for help from external law enforcement agencies. It must be ultimately the administration's judgment when to call for such help, and that judgment may well be called in question before the university courts if it is imprudently exercised with resulting injury to faculty members or students. Since there is no routine surveillance of the campus, activation of the police would generally be through a source other than the police themselves. Ordinarily, the President would be the one to seek or authorize police intervention, but there can be no assurance that some once else may not think it right to bring them in; and, however circumspect the police response, they could hardly ignore an alarm.

The administration may, in the circumstances envisaged above, also bring charges for determination by the university courts, or, conceivably, by the regular public courts. On the other hand, if, notwithstanding alleged offences by faculty members or students, they are themselves victimized, as by the use against them of excessive force, they too would equally be entitled to resort to the courts for redress.

Excalibur -- Dave Cooper

15. Implementation and the York Act

The Committee has not been directly concerned with the relation of the recommendations of this Report to the terms of the York University Act. It has proceeded on the view that if implementation, in whole or in part, requires an amendment to the Act, this may be left for consideration when the range of implementation is determined.

It is manifest that acceptance of the core of this Report will mean voluntary limitation by the President of the powers given to him by section 13 (2) (c) of the Act. This provision relates only to student conduct and student activities; it does not cover faculty members. There may at the present time be some doubt whether the President alone is vested with power to deal with the conduct of faculty members as he undoubtedly can deal alone with the conduct of students and with student activities. The power vested in the President under section 13 (2) (b), to supervise and direct the implementation of the educational policy and general administration of the University, appears to be wholly administrative, and related to decisions made either by the Board of Governors or by the Senate. The Committee does not presume to do other than point out that, if the Report can be implemented within the present terms of the Act, it can be only by self-limitation of the authorities empowered by the Act to exercise the powers which, by this Report, are to be delegated to others, and especially to the proposed university courts. On the other hand, if some amendment is either necessary or desirable, it will afford an opportunit to consider comprehensively the place disciplinary power in the Act.

The Committee would add that, assuming th Report can be implemented under the Act as it no stands, it thinks it unlikely that implementatio once effected, would be later renounced. Yo University now operates under arrangements many areas which do not reflect a strict use of th legal power of the Board or Senate or President, b rather are a result of an agreed sharing of authori in furtherance of effective working relationshi with faculty members and students. Although th legal power is in reserve, convention has modifi the manner of its exercise.

16. Summary

1. The *in loco parentis* relationship of the University to the student should be abandoned (Sec. 1).

2. Although the University cannot justifiably interfere with the enforcement of the law of the land, it should be concerned (notwithstanding the abrogation of the *in loco parentis* relationship) that accusations should not be lightly made nor suspicion too readily acted upon to the detriment of students or of faculty members

3. Where a complaint is brought to the attention of the University of an offence against a member of the University, then unless it is immediately apparent that an offence has been committed, the University should make an investigation before calling in the police

4. Where meetings or demonstrations are he on University premises, the University should b entitled to be satisfied that adequate arrangemen exist to supervise those events and to ensu peaceful ingress or egress so that disorder or inju may be averted

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