

revolution, as to bring them into closer contact with society at large, than was formerly the case. Men and women of the intellect have in many cases become men and women of social action, bringing in this respect another dimension to their University membership. Students, in part by example and in part by experience and intelligence, have exhibited similar commitment to social action. This is a gain for University life provided there is respect for the University's over-riding function of free inquiry and for its duty to provide an uncoerced environment in which its members may carry on their work.

Broadly speaking, this Committee sees its task as that of assessing the need for and the content of a Bill of Rights and Responsibilities respecting the conduct and activities of faculty and students which will ensure that the academic programme as well as extra-curricular activities may be pursued

peaceably, freely, and without disruption. Judgment may well differ on the detail in which the rights and responsibilities should be or can be expressed, but the Committee is of the opinion, as will be evident in a later part of this Report, that it is preferable to leave a good deal to the play of discretion in the conviction that the civility of University relationships is not a value to be despised. It places great faith in the administrative and adjudicative mechanisms that are recommended, feeling that they are so constructed as to ensure acceptance of decisions, on whatever side of a dispute they may fall. What is important is that there be avenues for securing information and for airing complaints and ultimately, if it comes to that, for impartial assessment of the merits of grievances and for binding determinations that will settle contested questions in disciplinary matters and enable the parties to resume their work and their association without rancour or recrimination.

It is appropriate to mention at this point that the Committee has had the benefit of perusing the Report of the Crowe Committee, delivered on September 23, 1968, being a Board-Senate-Student Committee of four members appointed to study section 13 (2) (c) of the York University Act under which the President is empowered "to formulate and implement regulations governing the conduct of students and student activities." That committee's limited assignment did not embrace a canvass of such substantive questions as were directed to this Committee. Indeed, its report contemplated that its recommendations with respect to the exercise of legislative and adjudicative powers by the President might be superseded by the conclusions of this Committee, having regard to its more encompassing terms of reference, covering faculty as well as students. In large measure, the recommendations in this Report have that result.

2. The university and the law of the land

The University, as a subordinate community albeit of a special kind, has no authority or privilege to give immunity or sanctuary to any of its faculty members or any of its students from the reach of the civil or criminal law of the larger organized societies in which it resides; it is itself subject to that law. Thus, municipal by-laws, provincial and federal legislation and regulations are as fully applicable, according to their subject-matter and scope, to the activities of the University and to those of individual faculty members and students, whether on the campus or off the campus, as they are to other corporations or persons. Exemptions, if any, depend on the language of the by-laws or legislation or regulations, and on their interpretation by the Courts; faculty or student status means nothing to the civil law or to the criminal law.

This is true with respect to not only the substantive law, but also law enforcement agencies. Whether it be a sheriff's officer or a policeman, the powers of entry or of search and seizure, or of arrest, which the one or the other may have by virtue of his authority under the law, are not qualified in favour of the University or any of its members.

The Committee has stated the obvious; it has no reason to believe that any faculty member or student is under any misconception about it. What has, apparently, given rise to somewhat involved debate is the policy that the University itself (that is, those in administrative positions) should follow with respect to the enforcement of the penal and criminal law against persons on the campus. To put it shortly: When, if ever, should the University ask for police help or invite the police on campus?

Members of the Committee have heard much about this issue, which enjoys a magnitude directly in proportion to unfounded if not also unstated assumptions upon which it is raised. Once more to state the obvious, the police need not await an invitation if a criminal offence has been committed on campus or if they have reasonable cause to suspect its commission. If violence has occurred, resulting in personal injury or damage to property, the offenders become liable both to civil suits for damages and to criminal prosecution. There is no principle of "double jeopardy" here to save them from the one or the other. (Consideration is given later in this Report to the concept of "double jeopardy" as it relates to the threat of imposition of additional discipline by the University.)

Nonetheless, the Committee is aware that law enforcement is not always automatic upon an alleged breach of the law, and that situations may arise where it would be the better decision not to "press charges." A single incident of violence, resulting in only minor property damage, might well be left to civil law redress without inviting criminal sanction. A single instance of minor theft from the University might better be dealt with outside the criminal law to save a reputation that one foolhardy act jeopardized. The Committee does not believe it is feasible to recommend any policy in this connection except in the broadest terms. It must be remembered as well that victims of violence, who may be University students or faculty members, may themselves invoke the criminal law. Rape or indecent assault or theft committed against faculty members or students are examples of offences where individual complainants could be expected to seek police help regardless of how the University viewed the matters in question.

Of course, the University community has a proper concern that accusations should not be lightly made nor suspicion too readily acted upon to the detriment of faculty or students. The Committee is of the opinion that if complaints of alleged offences against a member of the University are brought to its attention, and it is not immediately apparent that an offence has probably been committed, it should conduct an investigation before calling in the police. Again, it becomes a matter of judgment, for which this Committee cannot lay down any measure, whether or when to ask for police help.

There are two matters, going beyond the rather straightforward situations just mentioned, which the Committee believes lie back of the apprehension which it has sensed in the minds of faculty and students who are concerned about police presence on the campus. These are, first, the question of general surveillance of faculty members or students in respect of their opinions; and, second, anticipatory police action in respect of demonstrations or meetings.

The Committee is unaware of any police surveillance of the kind mentioned, but, nonetheless, feels that assurance should be given by the University through the President on this score. It draws attention to the policy in this connection adopted by the Canadian Association of University Teachers and reported in the CAUT Bulletin for October 1963.

Peaceful demonstrations or meetings which do not disrupt University activities such as lectures, laboratory work or library study, and which are held in areas or places either allotted or open for such purposes, are exercises of freedom of speech, freedom of association and freedom of assembly. The speakers, at least, if not also the organizers, have to accept legal responsibility for what is said if the law is infringed. The Committee is of opinion that where demonstrations or meetings are held in University precincts, the University is entitled to be satisfied that those in charge have made adequate arrangements for supervising the demonstration or meeting and for ensuring peaceful ingress and egress so that disorder or injury may be averted.

Apart from this, the University is not entitled to monitor the demonstration or meeting, but at the same time it cannot remain indifferent to any incitement to violence. The likelihood of a breach of the peace raises difficult questions about the right of police intervention before or during rather than after the event. The concept of breach of the peace or, to put it affirmatively, of "keeping the peace," is basic to our system of criminal law; and a reasonable apprehension that a breach of the peace will occur may justify police intervention. The Committee recommends, however, that the University should not attempt to prejudge the matter but that if it becomes reasonably apprehensive of violence, with probable injury to person or property, it should, if feasible, consult representatives of the constituents of the University — administration, faculty and students, as the case may be — before taking any action on its own and before summoning the police. Again, it is impossible to do anything more than to suggest broad standards of behaviour.

The Committee is of the opinion as well that the University is entitled to ask the organizers of a demonstration or meeting the purpose for which they seek to have it. The Committee sees such a request as simply an aid to proper arrangements as to place and time. The University's approval or disapproval of the purpose must not be made a vehicle for prohibiting any gathering. If, to take an extreme case, the purpose appears to be of doubtful legality (as, for example, possibly reflecting an illegal conspiracy) the University may think it wise to warn the organizers of the proposed assembly but should leave them to the risk of their undertaking, subject, of course, to the demonstration or meeting remaining peaceful.

3. The university as a community

The establishment of this Committee underlines the appreciation of the University that it is a place where academic programmes are offered but also a place where a host of supporting activities are carried on. The combination of these programmes and activities provide the measure by which the University can be regarded as a community rather than merely a service institution.

As a community, it transcends both the producer-consumer conception of the relationship between faculty members and students and the *in loco parentis* conception of the relationship between

the administration and students. The Committee uses the term "transcends" deliberately because there is a structured educational experience to be gained by attendance at the University, and the University must have concern for its students beyond its mere supervision of their strictly academic activity. However, the overview of the relationships of faculty members, students and the administration of the University is that they are between and among responsible persons, who are properly charged with responsibility as being mature individuals able to understand that their personal and institutional freedom involves

correlative obligations towards others and towards the University.

The Committee is not directly concerned with either appointment or admission policies of the University as they affect prospective staff members or prospective students. It wishes merely to emphasize the full acceptance by the University of the public policy of the Province which prohibits discrimination on the basis of such criteria as race,

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