

millions of dollars we put annually, through the Canada Council and other means, into the retrieval of English and European documents and texts, might have to modify a little our rapt concern for the geography and socio-political conditions of other countries at the expense of serious concern for the study of our own. Placed in this context, the Report must be seen as a land-mark of great importance in the development of Canadian studies.

On a more personal note, two closing thoughts. First, I am grateful for the encouragement which the Report will give to those who have worked long at a disadvantage to bring Canadian studies into the core of our academic disciplines. If they lacked confidence, they can have it now. Second, I await with some trepidation the next instalment of the Symons Report, which will address itself to problems of staffing and citizenship. These problems, foreshadowed by the many references in Volumes I and II to the less than benign effects of “foreign” predominance in our educational system, are truly difficult ones. To deal with them justly, and with dignity, will demand of us all that we have learned about understanding and tolerance in an up-tight world.

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Paul Thomas ed; *Universities and the Law*. Winnipeg: Legal Research Institute of the University of Manitoba, 1975. 116 pp.

There is a re-orientation in faculty attitudes towards universities in Canada at the present time, one manifestation of which is a desire to define the legal status of faculty members and to determine the legal rights and responsibilities of both faculty and universities. Two conferences have focused on this topic recently, the first, from which the above publication of papers resulted, at the University of Manitoba in May 1974, and the second at Dalhousie University in the spring of 1975.

The papers presented at the Manitoba conference were exploratory in nature. Professor G.H.L. Fridman, then Dean of the Faculty of Law at the University of Alberta, delivered a paper, commented upon by Professor Janet Debicka of the University of Manitoba, in which he sought to define in law the nature of the contract between the university and a faculty member. He points out that generally there are a few clear, or even written, terms and much has to be implied from the law generally and from the specific regulations in force at each university concerned. At this point, however, the matter becomes exceedingly complex, for the Boards of Governors of many universities enact a host of rules and regulations which may or may not be intended to be binding and to affect the contractual relationship between the faculty member and the university.

In the past such a situation has been acquiesced in. As Professor Dale Gibson points out in a preface, faculty members “once were willing to leave the determination of their rights and responsibilities to administrative discretion, guided by unwritten customs and understandings.” Not so now, and it is this dissatisfaction that has given impetus to drives for collective bargaining by faculty on Canadian campuses. The moves in this direction are discussed by Professor Andre Côté of the University of Laval, in so far as they concern

universities in Quebec, and by Professor Bernard Adell of Queen's University, with respect to the rest of Canada. The experience in Quebec is more longstanding than in other parts of Canada, but everywhere collective bargaining, either through formal certification under provincial labour codes or through less formal means of bargaining, is clearly gaining momentum. Since Professors Adell and Côté wrote in 1974 the number of certified faculty bargaining units in Canada has substantially increased.

These developments have not been free from their own problems. What happens to university collegiality once collective bargaining begins? How do faculty bargain with a body that does not have real control over purse strings? Should faculty bargain directly with government? How are differentials in salaries between different parts of the university accounted for in collective bargaining? Both of the writers, and Professor Roland Penner, of the University of Manitoba, who commented on their papers, deal with these issues. Tentative views are offered but even at the present time the answers to these questions are not clear.

An awareness that faculty members have rights that are not adequately protected has manifested itself also in the area of copyright. As professor Peter Lown, of the University of Alberta, points out in his paper on "Copyright and the University," copyright questions involve a reconciliation of the interests of the faculty member as a creator of ideas and those of the university which has financed the faculty member's time and provided facilities. Moreover, the faculty member is interested in protecting his own material, but at the same time in making use of material collected by others for teaching or research. Again, these interests can only be protected by resort to the mechanisms of law, by agreements with the university and with holders of copyright in materials, and by ensuring that the relevant copyright legislation does not prejudice the interests of faculty. The points are well made by the Executive Secretary of C.A.U.T., Donald C. Savage, in a commentary to Professor Lown's paper.

The rights of faculty members are also dealt with in a paper on dispute adjudication in universities. Professor John D. Whyte, of Queen's University, discusses the occasions on which procedures to provide appeals of decisions about tenure, particularly those involving a hearing, should be instituted. He and Professor Donat Pharand, of the University of Ottawa, who comments on the paper, both conclude that internal procedures for the resolution of such disputes are more desirable than leaving these matters for the courts. However, in a further commentary, a practising lawyer, Mr. John B. Dea of Edmonton, points out that internal procedures will not always be adequate and that the use of the courts for disputes between individual faculty members and their universities can still be expected. This discussion of dispute settlement procedures is a useful one, although the improvement in such procedures over recent years at a number of universities, including the setting up of internal arbitration boards, makes some of it less pertinent. Moreover, many would disagree with Professor Whyte's conclusion that "efficiency precludes granting appeals on the basis that the individuals making the decision might have been biased or might have been ignorant of some pertinent fact." Decisions on a faculty member's career, whether they relate to reappointment, promotion, or tenure, should always be capable of withstanding objective scrutiny and it is not clear that efficiency is achieved by refusing a review in any case where a faculty member considers that there may have been bias, or

that not all the facts were before the decision-making body. The possibility of outside review is an important incentive for objectivity.

After all the discussion of faculty members' rights it is refreshing to find one paper devoted to responsibilities, both those of faculty members and those of universities. Professor Bruce Dunlop, of the University of Toronto, discusses tort liability of the university and his paper is commented upon by Professor Dale Gibson. Topics such as legal liability for human experimentation, and liability arising out of the operation of clinical programmes, such as in dentistry and law, are discussed. The issues in these areas, perhaps less related to the other topics of the conference, are dealt with only briefly. They deserve more substantial discussion and it is a pity that time and space did not permit Professors Dunlop and Gibson to expand on these questions.

Through its focus on the legal relationship of faculty with their universities the conference has raised some fundamental issues concerning universities. A question not addressed in the papers, however, was, why are faculty members concerned about their legal status? Why are faculty members seeking the protection of collective bargaining? It would be too facile to dismiss current actions by faculty to organize for collective bargaining as simply a move to get higher salaries. More importantly, there appears to be a pervasive dissatisfaction among faculty with their universities, with the way resources are allocated, with the traditional modes of decision making, with the way universities have prepared themselves for the economic and social conditions of the late 1970's and the 1980's. This dissatisfaction is real and it is a challenge to present and future university administrations to seek to understand the current concerns of faculty and to respond to them in a satisfactory way.

What will be the consequence of this preoccupation for legal status and for legal rights, and of collective bargaining? Certainly it has led in most universities to the institution of more formalised procedures, and to an increase in the time spent by the university community on matters of administration. Nevertheless, as Professor Adell points out, the real question is whether it is possible under collective bargaining "to maintain and strengthen the capacity of our universities to serve as centers of free inquiry." No general answer is possible and the course of collective bargaining rests with the faculty and the administration of each university.

Much will depend on the way faculty associations and university administrations react to each other in the collective bargaining process. Confrontation and adversarial relations of the type found in industrial relations in the private sector can easily develop. A danger, too, is that university administrations will abdicate their responsibility for ensuring proper economic conditions and conditions of appointment for faculty, and concentrate on developing an effective management organization capable only of reacting to faculty initiatives. This would shift part of the administration's responsibility for a well-functioning university on to faculty and lead to even greater disillusion and dissatisfaction among faculty members.

The topics covered by the Manitoba conference are important for Canadian universities and they will receive repeated attention in coming years. The present publication is useful, therefore, in providing a starting point for discussion, although a failure to correct an inordinate number of typographical errors makes for irritating reading.

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