

CONFLICTING CONCEPTIONS OF RIGHTS IN UNB'S STRAX AFFAIR, 1968-69

Peter C. Kent^{*}

Twenty-six years ago, the University of New Brunswick (UNB) went through a major institutional crisis on its Fredericton campus. It began with protests instigated in the university library in September 1968 by Dr. Norman Strax, a sessional Assistant Professor of Physics. The so-called Strax Affair continued throughout the academic year of 1968-69, until it was finally resolved in March 1969. From the perspective of UNB's subsequent Matin Yaqzan Affair of 1993-94, it is instructive to consider how conflicting conceptions of rights fueled that earlier campus crisis.

Three different conceptions of rights operated in the Strax Affair at UNB in 1968-69. One view held that the rights inherent in the institution of the university functioned to protect the individual rights of its students and faculty in accordance with the time-honoured traditions of the academic world. A second view held that the important consideration was the corporate rights of bodies within the university, such as students and faculty members. These corporate units should be represented in the operation of the university and their rights should be protected. A third view held that rights were inherent in the free individual and that any institutional structure, even one as seemingly liberal as that of a university, only interfered with the free exercise of individual rights.

In 1968-69, the concept being challenged was the traditional view that rights were inherent in the institution of the university. This view was held by Dr. Colin B. Mackay, the President of UNB, most members of the Board of Governors and many members of the faculty. They claimed that the traditions of academic freedom and respect for divergences of opinion had evolved over time, and it was the duty of the president and the university administration to respect and uphold them. These traditions could only operate if the university could function as it was meant to function and if there was respect for the authority of the president and the deans to direct the destiny and ensure the smooth functioning of the institution.

This view was challenged by the faculty association and the Student Council. The faculty association – the Association of University of New Brunswick Teachers (AUNBT), affiliated with the Canadian Association of University Teachers (CAUT) – believed that the traditional view of the university was too personalist and too much at the mercy of the character and the whims of a strong president

^{*} Dean of Arts, of the Department of History, University of New Brunswick (Fredericton). This article is based on personal papers and recollections and on notes for a book which the author is preparing on the so-called Strax affair.

like Mackay. Instead, there should be constitutional guarantees for the interests and rights of the faculty as a corporate entity within the university. The faculty should have representatives sitting not only on the Senate but also on the Board of Governors. There should be agreed upon terms and conditions of employment for faculty members and there should be a standard salary scale negotiated between the University administration and the faculty association, applied consistently in all cases and not subject to the personal likes, dislikes or negotiating skill of the president.

Similarly, many students believed that the voice of the students should be represented and expressed separately on university councils and committees. The traditional paternalistic approach of the university faculty and administration, which sought to protect the students from their own immaturity, was no longer adequate. Students also had rights and interests by virtue of their corporate function and these should be recognized constitutionally.

The passage of the *University of New Brunswick Act, 1968*¹ by the New Brunswick Legislative Assembly created a revised constitution for the University, recognizing the faculty and the student body as corporate entities. Faculty were entitled to elect four members to the Board of Governors, and the elected faculty were guaranteed to be the voting majority on the Senate. Similarly, the new Act allowed for a student-elected, non-student Rector on the Board of Governors and student representation on the Senate. However, constitutions are living organisms and the definition of the *UNB Act* did not immediately resolve the conflicting conceptions of rights within the university. Rather, the *UNB Act* set the stage for an attempt to define the new corporate university and to secure the acquiescence of the President, the senior administration and the members of the Board of Governors in this new institutional definition.

The political eruption associated with Dr. Norman Strax in the fall of 1968 both forced and complicated the issue. Strax and his closest followers operated from a completely different perspective on the question of rights. Their view was that rights were inherent in free individuals and that any institutional structure only imposed illegitimate limitations on the free exercise of these rights. Their task was to remove institutional restrictions on individual freedoms wherever possible and to show how individuals were being stifled and suffocated by the administration of complex institutions, such as the university. By definition, institutional authority could never be exercised benevolently.

Strax and his followers issued their challenge to the authority of the University in the form of a demonstration against the use of photo-ID cards in the Harriet Irving Library in September 1968. They claimed that the cards were an

¹S.N.B. 1968, c. 12 [hereinafter *UNB Act*].

infringement of student rights and represented a plot by Mackay and the industrialist K. C. Irving to exploit and control the people of New Brunswick. It did not impress Strax and his followers in the least that these cards had been initiated by the Student Council with the assistance of the University administration. This demonstration was repeated over three days, closing the library on each day. To ensure the continued functioning of the University and particularly its library, the President suspended Strax from his faculty position and ordered him to leave the campus.

Strax and his followers instead occupied Strax's office, room 130 of Loring Bailey Hall, soon dubbed "Liberation 130", from which Strax was extricated only by a court injunction. Following his departure, those student followers who remained in the room put into practice the type of communal association which Strax had been advocating, experiencing for themselves the direct participatory democracy of a free commune.

Both the faculty and student leadership sought to capitalize on these developments to enhance their own influence within the institution. The faculty members on the Board of Governors insisted that there be due process applied to Strax' case when his suspension was reviewed by the Board. The Board accordingly appointed a review committee to hear Strax' side of the case. At the same time, the executive of the Student's Representative Council (SRC) sought to use this crisis in relations between students and the administration to further the student cause.

The difficulty the faculty and students faced was that Strax and his followers were not really interested in the constitutional niceties of the position of either of the groups. Strax was reluctant to appear before the faculty committee, which his followers condemned as a "kangaroo court", while the students in Liberation 130 moved to their own agenda, which did not include taking orders from the official student leadership. Instead, Strax and the students made their public statement at the October Fall Convocation. When the Board of Governors met the day before the Convocation, Strax' followers left Liberation 130 to barricade the Board of Governors meeting-room, necessitating the Board members being lifted over prone student bodies to exit the room. Yet this was a demonstration more for its own sake than to achieve any defined goal. Similarly, at next day's Fall Convocation held off-campus in the Lady Beaverbrook Rink, Strax, in academic gown, joined the faculty procession as it left the campus, while his followers waved the red flags of revolution and the black flags of anarchy at the processional entrance to the Rink.

So long as Liberation 130 continued to exist, this "propaganda of the deed" continued to disrupt the campus. The administration, faculty members and official student leadership sought some rational means of dealing with the student sit-in. When it appeared that nothing would cause the students to end their sit-in

voluntarily, the police were called in by the University administration. In the early hours of the morning of 11 November, with the University emptied for a long weekend holiday, the Fredericton City Police removed the students from Liberation 130 and boarded up the room so that no one could get back into it.

The ending of Liberation 130 brought the "anarchist" phase of the Affair to a close, after which the issues under debate were greatly clarified. No longer was the viability of the institutional structure of the University itself at stake – the issue now became one of corporate power and corporate rights within the University.

The SRC leadership took immediate control of the situation by inviting the President and the Board of Deans to participate in a public meeting at which they were to explain to the students why police had been used on campus against university students. When these senior administrators accepted the invitation, they subjected themselves to a humiliating public exercise of student power. The SRC had rejected the provision in the *UNB Act* for a non-student Rector to represent its interests on the Board of Governors, instead insisting on direct student representation on that body. It also pressed for the implementation of the provisions for the election of students to the University Senate.

In the case of the faculty, certain members of the AUNBT looked to the invocation of the national faculty association, the CAUT, to stiffen the position of their colleagues in dealing with Mackay and the administration. The CAUT recognized the Strax case as an opportunity to promote the use of binding arbitration as a means of resolving a dispute between a faculty member and an employing university. The CAUT decided to pursue this particular right of faculty members to its conclusion to create a precedent for universities throughout the country. President Mackay and the UNB Board of Governors were asked by the CAUT to apply binding arbitration in Norman Strax' case. When the Board accepted the principle of arbitration but refused to make it binding, the CAUT, on 15 March 1969, imposed censure on UNB, advising its members at other universities to have no dealings with UNB and, in particular, to accept no jobs there.

The censure campaign of the CAUT and the AUNBT was taken up by the UNB SRC which gave extensive press coverage to the CAUT censure and called on students to demonstrate outside the meeting of the Board of Governors on 20 March, the date the censure issue was to be addressed. This student demonstration was a far cry from the student demonstration of the previous October, both in terms of the impressive number of students involved in March and in terms of the control exercised in the March demonstration by the SRC leadership. The demonstration of 20 March was a calculated political weapon as opposed to the anarchic exercise of the previous October.

At its March meeting, the Board of Governors accepted the principle of binding arbitration, causing the censure to be lifted. Students and faculty accepted this decision as a victory, and, when Colin Mackay announced the decision of the Board of Governors to a packed meeting of students in the ballroom of the new Student Union Building on the evening of March 20, he received a warm round of applause. At that moment, the "Strax Affair" came to an end.

Norman Strax received the binding arbitration for which his faculty colleagues had fought but for which he had not. He refused to recognize the legitimacy of the arbitration committee when it was constituted and would not appear before it. Yet, Strax had been a catalyst, a product of the stresses of the western world in the decade of the 1960s. As such, he was an ephemeral phenomenon, pursuing one of the many doomed causes of that fascinating decade.

Where long-term questions of rights were concerned, however, the impact of the Strax Affair was not ephemeral, but illustrated the changing conception of the university from one where the rights of faculty and students were inherent in the traditions of the academy to one where these rights were protected systematically and explicitly by the recognition of the corporate rights of faculty and students within the university. This change was perhaps best symbolized when Colin Mackay stepped down as President in June 1969.

For the faculty, its achievement in the Strax Affair was a significant step on the road to an even more explicit definition of rights caused by faculty unionization at the end of the 1970s. With unionization, faculty rights were enshrined by law in collective agreements negotiated with the university administration. For the students, the aftermath of the Strax Affair saw elected students taking their seats on the Senate and on the Board of Governors. Just as the faculty moved toward unionization, so too did the students change their governing council from a "Students' Representative Council" to a "Student Union". The Strax Affair was midwife to the corporate university.