
Academic Freedom and Tenure Committee

Report on the Strax Case at the University of New Brunswick

April 1969



Canadian Association of University Teachers
Association canadienne des professeures et professeurs d'université

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Dr. Norman Strax (Ph.D., Harvard) was appointed Assistant Professor of Physics at the University of New Brunswick in 1966 on a 2-year contract. This was renewed for a 1-year term for the 1968-69 academic year. On 24 September 1968 he was suspended by the President, Colin B. Mackay. No formal reasons were given for this action at the time. The suspension appears to have been related to the efforts of Professor Strax, in company with some students, to oppose or challenge the requirement that identification cards be used when borrowing books at the university library. The actions in the library, which judging from all accounts were non-violent, appear to have taken place over several days: on Friday 20 September, Saturday 21 September, and Monday 23 September. On Friday the library was ordered to be closed early, at 9 p.m., and on Monday at 10 p.m.

The form of protest or opposition appears to have been advertised by a student group as a game called "Bookie-book". On all three days Prof. Strax made trips to the open stacks from which he brought books to the circulation desk for withdrawal. When asked to produce an ID card in keeping with the requirement which had been introduced at the beginning of the 1968 academic term, Prof. Strax offered instead other modes of identification (principally a driver's licence). On being told that he could not withdraw books without showing the identification card, Prof. Strax appears to have left the book(s) at the circulation desk, to have left the library, and then returned to repeat the process.

Several Deans and senior faculty members appeared at the library to "remonstrate" with Prof. Strax and some students at various times during these periods over the three days involved (from about 6 to 8 p.m. on Friday; 4:30 to about 5:15 on Saturday; and from 9:15 to just before closing at 10 p.m. on Monday).

While Prof. Strax appears to have earned the reputation in many quarters on and off the campus at Fredericton as an "activist", it has been consistently claimed by the University that the suspension was occasioned only by the library incidents, with no reference to any previous actions on his part either in his capacity as teacher or as citizen. Thus, in a press release, President Mackay stated that Dr. Strax "has been suspended for disrupting the normal work activity of the University, specifically the operation on the "University library." The subcommittee of the Board of Governors established as a "fact-finding" committee, which will be discussed in greater detail later, reported that President Mackay testified that "the letter of suspension was written as a result of the library incidents and the participation therein of Professor Strax." (McAllister Committee Report, p. 53.)¹

The text of the letter of suspension follows:

September 24/68

Dr. N. Strax
Dept. of Physics,
University of New Brunswick,
Campus Mail.

1. The C.A.U.T. received on 11 October the following telegram: "Re: M. Strax suspension I have duplicated his provocation at U.N.B. library carrying three hundred and eighty-nine books from library shelves to checkout counter. My action was at no time disputed. For the same provocation Strax faced dogmatic administrators faculty and student hecklers and numerous hysterical librarians. While great disruption did occur Strax alone was not responsible ... " /s/Gerald Tacholke Dept. of Mathematics, U.N.B.

More detailed descriptions of this experiment were received later. Neither at the time, nor at any time since, curiously enough, has anyone at U.N.B. commented on this episode either to refute it or to discuss its possible relevance to the suspension of Prof. Strax.

The effect of this suspension, in depriving Strax of the opportunity to teach his classes, to use his office, laboratories, and library, was to leave him with one "right" only - the continued payment of his salary. Even that was not clear until some time later. Since there was no indication of the formal grounds for suspension, or of what period of time the suspension might be in effect, or of what procedures might next be followed, there is perhaps some extenuation to Prof Strax's reactions to his suspension.

Dear Dr. Strax:

This is to advise that, effective immediately, you are suspended from the University of New Brunswick. Such suspension means you no longer have any duties to perform here, and that all rights and privileges are withdrawn which normally belong to a member of its faculty.

Yours sincerely,
(signed) Colin B. Mackay,
President.

This letter was delivered on the same day to Prof. Strax by the Head of his department, who appears to have notified Strax verbally that under the terms of this suspension he must vacate his office within 24 hours (an extension of the meaning of suspension hitherto unparalleled at Canadian universities, to the best of our knowledge).²

Prof. Strax refused to leave the campus, and in company with some student supporters began an "occupation" of his own office in Bailey Hall. On 30 September he was served with a court order to quit the campus.

On 28 September, Prof. Strax was informed by a letter signed by the Secretary of the Board of Governors that the Board approved of the President's action and that the suspension "is continued in full force and effect." In the same letter Prof. Strax was informed that the Board, "before taking final action", had established a 3-man subcommittee to "review and report on the circumstances of the suspension". This subcommittee, which was clearly established as a fact-finding, rather than as an adjudicative or arbitration committee, was comprised of Professor G. McAllister (as Chairman); Professor E. G. Garland; and Professor Douglas Brewer, as President of the Association of University of New Brunswick Teachers. Professors McAllister

and Garland are faculty representatives on the Board of Governors. The first meeting of the subcommittee was scheduled for 2 October 1968, and Prof. Strax was invited to appear before it.

The original writ of summons issued by the New Brunswick Supreme Court is dated 28 September the same date as the letter announcing the establishment of the Board's subcommittee headed by Prof. McAllister. The writ, together with the subsequent statement of claim, asks for:

- 1) "An injunction restraining the defendant from returning to or entering upon any part of the said lands and premises of the plaintiff (U.N.B.)."
- 2) "An order enjoining and requiring the defendant (Strax) to desist from causing, inciting or counselling University students from disregarding and disobeying rules or ordinances of the said University."
- 3) "A declaration that the defendant was duly and regularly suspended pursuant to and by virtue of the provisions of the University of New Brunswick Act 1968, ch. 12 Acts of Assembly of New Brunswick 1968."
- 4) "Damages for nuisance, trespass and disturbance."
- 5) "Such further or other relief which this Honourable Court deems just."
- 6) "Costs in the within action."

In ignoring the court injunction for one day Prof. Strax was held on 2 October to be in contempt of court, and on 18 October he was fined \$1.00, plus costs.

On the same day as the first court hearing, 2 October, Prof. Strax appeared with counsel before the McAllister Committee. When it was learned that the committee was a fact-finding one only, with no

2. According to newspaper accounts, it was established at the trial through the evidence of Prof. A. Boone, Head of the Physics Department, that the court injunction had been taken out in St. John between 1p.m. and 1:30 p.m. on 28 September, an hour before the meeting of the Board of Governors began.

specific charges against Strax before it, having no authority to arbitrate the matter or even to make recommendations, and without power to provide assurance that Prof. Strax would have an opportunity to appear before the Board at such time that the committee might report to it, Prof. Strax and his counsel withdrew from the proceedings after making a statement to the committee. Prof. Strax subsequently returned and gave evidence as a voluntary witness on 3 October.

The National Office of C.A.U.T. was first made aware of the developing case on 30 September, and undertook to learn what it could. The Academic Freedom and Tenure Committee met in Montreal on 5-6 October, when the Strax case was discussed at length in light of the information then available. That information was in some respects vague, and in others incomplete. For example, the A.F. & T. Committee was not aware that the University of New Brunswick was making the claim to the New Brunswick courts quoted as (3) above: the declaration that the defendant was "duly and regularly suspended". This claim was not endorsed on the original writ, and appeared for the first time in the Statement of Claim dated 11 October.

During the course of these deliberations Professor Milner, Chairman of the A. F. & T. Committee, and the National Office were in contact by telephone or by letter with a great number of people, including President Mackay, Professors Smith, Monahan, Brewer, McAllister, and various persons speaking on behalf of Prof. Strax who during this period was "sitting in" in Bailey Hall. It was learned that the U.N.B. Board of Governors was scheduled to meet on 8 October, and a telegram was sent to President Mackay with copies to Profs. McAllister and Brewer (see Appendix 1).

On Wednesday, 9 October, it was learned that the Board of Governors had taken no action on the Strax case, presumably because the McAllister subcommittee had not had time to complete and submit its report. A telegram from President Mackay

to somewhat the same effect was received on 9 October (see Appendix 2). Further extensive telephoning took place in an attempt to determine whether by agreement the McAllister Committee might be converted to an arbitration committee. C.A.U.T. was not able to reach President Mackay by telephone. A second telegram was dispatched to Prof. Brewer, President of the A.U.N.B.T., and a press release was issued (see Appendix 3).

In the late afternoon of 10 October President Mackay telephoned the Executive Secretary to discuss the situation. The Board had undertaken to meet as soon as the McAllister Committee report was available to them. It was felt this might be early in the next week.

When the C.A.U.T. Council met in Montreal on 16-17 November, it received a lengthy report on the Strax case from Prof. Milner.³ The McAllister Committee report was not yet available (a copy of the report would be sent to the C.A.U.T. with a covering letter from President Mackay dated 20 November 1968). The Council as a result of its deliberations passed the following resolution:

This Council endorses the statements and actions of the President of the Association in the Strax case and condemns the action of the University of New Brunswick in suspending a faculty member without stated charges or provisions for an adjudicative hearing.

*Carried
(36 in favour, 1 opposed, 7 abstentions)*

This resolution was conveyed promptly to the President of U.N.B. President Mackay's response on 20 November was to transmit a copy of the McAllister Committee report which he wished to be considered as a confidential document (see Appendix 4).

Subsequently, they passed two resolutions strongly objecting to the continuing delays in dealing with the Strax case and urging the C.A.U.T. to assist in establishing an appropriate adjudicative body (see Appendix 5). The Chairman of the A.F.&T.

3. The text of this report is printed in the C.A.U.T. Bulletin 17, 3 (February, 1969), 36-42.

Committee began efforts to obtain a chairman for such a body.

Meanwhile, hearings of the New Brunswick court in the case against Prof. Strax were continued.⁴ On 27 December, Mr. Justice Barry announced his decision, in which he supported the University at all points: on the continuance of the injunction, the validity of the suspension, and the payment of damages and costs. Prof. Strax was ordered to pay all costs, plus exemplary damages to the University of New Brunswick of \$2,000.

The A.F. & T. Committee at its meetings in Toronto on 11-12 January again discussed the current situation at great length. It had received a copy of the McAllister Committee report, and had received also a request from Prof. Strax that the C.A.U.T. support a legal appeal against the court decision. The following statement of the Committee's position was unanimously adopted:

The C.A.U.T. takes the view that the propriety of Dr. Strax's suspension by the President of the University of N.B. as confirmed by the Board of Governors ought to have been made the immediate subject of review in arbitration proceedings. Instead, as a result of the decisions and the acts of Dr. Strax and the University the propriety of the suspension was put in issue in an action in the Supreme Court of New Brunswick, in which the University claimed a declaration that Dr. Strax's was "duly and regularly suspended". While the C.A.U.T. disapproves this choice of methods of determining issues between the parties to such disputes the fact remains that a matter relating to academic freedom was involved. The Committee on Academic Freedom and Tenure therefore recommends that the C.A.U.T. contribute up to \$1,500 to defray the costs of Dr. Strax's legal representation in the proceedings to date, the money to be paid to Dr. Strax's lawyers at the conclusion of the case in proportion to their respective accounts. The C.A.U.T. continues to take the view that arbitration of the dispute is urgently required and that the proceedings in the courts ought not to be continued to the appeal level. In the meantime the C.A.U.T. is unable to express any opinion on whether there were valid grounds for suspension.

In addition, the following recommendations were made:

- a) that this Committee ask the C.A.U.T. President (or his delegate) and the Executive Secretary to go to the University of New Brunswick to further the setting up of arbitration procedures in the Strax case, along the lines of those recommended by the C.A.U.T., and to take such other action as they may find appropriate;
- b) that we do not support an appeal of Prof. Strax's case because of our view that (i) such problems as raised by Strax's conduct should not be resolved through court action, and (ii) we ought not to take the considerable risk of adding status to the definition of suspension effected by the judgment of Mr. Justice Barry in the event that an appeal should prove unsuccessful;
- c) that we publish for the information of C.A.U.T. members a careful account of the actions of this Committee in respect to the Strax case, and the reasons for them, and
- d) that, as a means to this end, we recommend that the Executive and Finance Committee acquire a copy of the transcript of the court proceedings;
- e) finally, it was proposed that the C.A.U.T. President should send a letter to President Mackay pointing out strongly the dissatisfaction of the Committee which [*sic*] the McAllister Committee report. The letter should in addition make the following points:
 - i. that the decision of the court had done nothing to solve the problem, and that the urgency for appropriate action within the University was greater than ever,
 - ii. that despite the repeated demands of the Association that suitable adjudicative procedures be established, the resolution of

4. It was established at the trial on 20 November that Prof. Strax had been in the student cafeteria of U.N.B. on 11 November, in violation of the court injunction. He was sentenced to 30 days in jail plus \$500 or an additional 15 days, and taken to York County Jail on the same date to be in his sentence.

condemnation by the Council, and the supporting resolutions of the A.U.N.B.T., the U.N.B. administration and Board had nonetheless pursued their cause through the courts and by doing so had not only caused increased and protracted hardship for Strax, but had delayed the institution of acceptable procedures for so long as to have jeopardized the possibility of their being established at all.

On Sunday evening, 12 January, following the A. F. & T. meeting, Professors Macpherson, Milner, Smith and Berland discussed at length these decisions. Professors Macpherson and Milner then drafted a letter to President Mackay which was sent on 17 January and to which President Mackay replied on 23 January (see Appendix 6).

On 29 January Professor Macpherson, after telephone conversations with the President of the A.U.N.B.T. and with the Executive Secretary, sent a telegram to President Mackay, in Ottawa for a meeting of the Board of the A.U.C.C., of which he is President (see Appendix 7). President Mackay had initially offered to meet Professor Macpherson in Ottawa for a discussion; as Professor Macpherson's telegram makes clear he felt that such a meeting at this late date, without representation of the Board of Governors and the A.U.N.B.T., would serve little purpose. President Mackay reported by telephone on 31 January that since he regarded all Board members as equal he could not presume to select individual members of the Board as "influential" for a meeting in Fredericton before 8 February (the date of the next meeting of the C.A.U.T. Executive and Finance Committee), as proposed by Professor Macpherson.⁵ Further response was delayed until President Mackay's return from a short trip to Europe. During this period President Mackay's main concern appeared to be that some 4 months after the University's actions against Prof. Strax had begun - the C.A.U.T. should take "no precipitous action".

On approximately 6 February Prof. Strax telephoned the Executive Secretary and reported that although he could not afford a lawyer, or the purchase of the transcript of the original court proceedings, he was attempting an Appeal. As a result of his court case he owed U.N.B. \$4,336, and his lawyers \$3,809 (these figures do not include the \$500 fine for contempt of court). The University continued to regard itself unable to consider further its own actions in regard to Prof. Strax, claiming the possibility of a Court Appeal kept the case *sub judice*. Nevertheless, the University had presented its bill to Prof. Strax, and he believed that they would enforce payment if his attempted appeal was denied on 11 February, and that he would be dispossessed of his scanty belongings and deported.⁶ The Appeal was postponed (on a technical point) until 21 February, and then until April.

At the meeting of the E. & F. Committee in Ottawa on 8-9 February, Professor Macpherson reported that after lengthy negotiations he had arranged with President Mackay that a committee of three, including himself and the Chairman of the A.F. & T. Committee, should visit Fredericton on 19-20 February. The committee planned to meet with the President, and with the A.U.N.B.T. The Board of Governors was to meet in Fredericton on 20 February; while President Mackay would make no commitment that the Board (of which he is Chairman) would meet with the C.A.U.T., the committee planned to hold itself in readiness for such a meeting.

The following resolution was adopted by the E. & F. Committee:

That a special meeting of the C.A.U.T. Council be called for 15 March at which the Executive and Finance Committee will recommend that Council censure the President and Board of Governors of the University of New Brunswick unless satisfactory measures in relation to Professor Strax have been taken by the President and Board by that time.

5. Since the U.N.B. Board of Governors has a legally constituted Executive, the C.A.U.T. found itself perplexed by this democratic scruple on the part of the President, who is by the terms of the University Act also Chairman of the Board.

6. C.A.U.T. later discovered that Prof. Strax, lacking legal counsel, had assumed that the court's judgment on costs and damages recently delivered to him was the University's demand for payment. As of 15 March, to the best of our knowledge, that demand had not yet been made.

A telegram was sent on 9 February to President Mackay to inform him of this action, and in preparation for the visit to Fredericton on 19-20 February; and a press release was issued (see Appendix 8). The only response from the U.N.B. administration to these lengthy and detailed communications was a letter from President Mackay dated 12 February in which he regretted the impression that he was not prepared to meet (in Ottawa) with the C.A.U.T. (see Appendix 9).

Professors C. B. Macpherson, J. B. Milner, and A. Berland visited Fredericton from the evening of 18 February to 20 February. They discussed various aspects of the case with Prof. Strax during the morning of the 19th, and then met in the afternoon with President Mackay, the Executive of the A.U.N.B.T., Prof. G. McAllister, and Vice-President Bailey. The terms proposed in Prof. Macpherson's letter of 17 January were discussed at great length. The C.A.U.T. delegation explained in some detail why they felt strongly that the lifting of the permanent court injunction against Prof. Strax must accompany any agreement to enter into arbitration. Concern was expressed that a court appeal by Prof. Strax would complicate, or even make impossible, an academic arbitration procedure. It was agreed that pursuit of both a legal appeal and an academic arbitration on the same or similar issues was unreasonable, and that Prof. Strax should be willing to drop the court appeal if agreement was reached on suitable arbitration procedures.⁷ It was only at the end of this meeting, at approximately 5 p.m., that President Mackay felt he could give some assurance that the Board would probably agree to meet with the C.A.U.T. delegation.

The A.U.N.B.T. held an informal meeting on the evening of 19 February which was primarily a question-and-answer discussion of the C.A.U.T. recommendations, its Policy Statement on Academic Appointments and Tenure, and particular aspects of the Strax case. It was obvious to the C.A.U.T.

delegation that five months of complicated transaction had sharply polarized local attitudes toward the Strax case. Perhaps the most unfortunate aspect of this polarization was, in the view of the C.A.U.T. delegation, the tendency to confuse the C.A.U.T. insistence on due process with a defense of the particular actions and beliefs of Prof. Strax. The C.A.U.T. delegation emphasized, both to the A.U.N.B.T. and to the Board of Governors the next day, that the C.A.U.T. was not acting as personal counsel for Prof. Strax; that it was not advocating or condemning the kind of actions that should or should not have led to Prof. Strax's suspension; that indeed these were precisely the questions considered to be appropriate to an arbitration procedure along the lines of the C.A.U.T. Policy Statement.

When the C.A.U.T. delegation, together with the President of the A.U.N.B.T., met with the Board of Governors on 20 February the same topics were discussed. The discussions with the Board were quite open and general. No one person appeared to speak for the Board; rather, a number of Board members raised questions or points of discussion as individuals. Much time was given, again, to the question of the injunction, and to possible terms of reference for arbitration. It was agreed, on the latter point, that the C.A.U.T. would make specific recommendations on appropriate terms of reference and on the possible constitution of an arbitration committee. C.A.U.T. indicated (as it had the day before) its willingness to have the issue of legal costs and damages presently assessed against Prof. Strax [be]included in arbitration, rather than as a necessary step preceding arbitration.

The meeting with the Board lasted approximately two hours; at the end of that time the C.A.U.T. delegation was informed that the responses or recommendations of the Board would be communicated at a later date. At this time, the C.A.U.T. had no idea of what position the Board of Governors - as opposed to the

7. Prof. Strax later assured the 3-man C.A.U.T. delegation that he preferred academic arbitration to a legal appeal, and that he had undertaken the appeal primarily as a means of delaying the court judgment on costs and damages which he was convinced would lead to his bankruptcy and deportation. He assured the C.A.U.T. further that he would willingly abandon his legal appeal if suitable academic arbitration was offered. These expressions of Prof. Strax's attitudes were clearly communicated to the Board of Governors at the meeting of 20 February.

expressions of opinion by several individual board members - might take. Professor Macpherson suggested that in view of the Special Meeting of the C.A.U.T. Council called for 15 March, and the necessity to provide ample time for delegates to study the documentation on the Strax case and to discuss it with their local associations if they wished to do so, an appropriate deadline for the Board's proposals would be 1 March.

On 21 February, Professor Milner wrote to Prof. Brewer, as President of the A.U.N.B.T., with a copy to President Mackay, his recommendations on suitable arbitration procedures. He reviewed again the C.A.U.T. position relative to the court injunction (see Appendix 10).

On 24 February the National Office issued a press release clarifying its recommendations, particularly since the issues involved were being somewhat misrepresented in the New Brunswick newspapers (see Appendix 11).

President Mackay on 25 February addressed a letter to Prof. Macpherson outlining the decisions of the Board of Governors. The offer of arbitration was defined most ambiguously as to terms; it was defined, further as "non-binding", with no indication whatsoever that the Board was prepared to accept such arbitration as "morally" if not "legally" binding. Further, in rejecting the C.A.U.T. proposals on the issues of the court injunction and legal costs, no indication was given as to what the Board did in fact propose to do about these matters at any time (see Appendix 12).

Professor Macpherson therefore wrote to President Mackay on 5 March to explain why he found the Board's proposals unacceptable (see Appendix 13). Because President Mackay had released his letter of 25 February to the press, C.A.U.T. issued its own press release on 7 March to make known the C.A.U.T. decision to go forward with the Special Meeting of 15 March (see Appendix 14).

A second letter from President Mackay dated 10 March essentially repeated proposals of the first letter, without specifically meeting the objections raised by Professor Macpherson in his letter of 5 March.

Professor Macpherson replied by telegram on 13 March, primarily to question President Mackay's interpretation of the C.A.U.T. attitude toward the civil courts (see Appendix 15). In the last several days preceding (and even during) the special Council meeting, C.A.U.T. received a number of letters and telegrams from Fredericton, from both individuals and groups of faculty and students. It is not possible to summarize these without entering at undue length into all the arguments that were adduced in these messages both in support of, and opposed to, a possible motion of censure. What did emerge from these messages and from several telephone calls from concerned individuals at U.N.B. was the fact that neither the general faculty nor members of A.U.N.B.T. had been sufficiently informed of recent developments before being called on to make decisions or to vote on resolutions related to recommendations to C.A.U.T. In particular, faculty had not been made aware of the contents of either the letter from Prof. Milner on 21 February, outlining the C.A.U.T. position on the court injunction and on proposed terms for arbitration, or Prof. Macpherson's response of 5 March to the Board proposals as these were communicated by President Mackay on 25 February. Perhaps the most significant documents received from U.N.B. immediately prior to the Council meeting was a telegram signed by Dr. Desmond Pacey as Secretary of Faculty, to which Prof. Macpherson replied, and a copy of a petition signed by some 83 faculty members (see Appendix 16).

The Executive and Finance Committee met for two hours prior to the meeting of Council on 15 March, reviewed the events in the Strax case since its meeting of 8-9 February, and discussed the extensive documentation it had received. Its decision was to recommend to Council a resolution of censure against the President and Board of Governors of the University of New Brunswick.

Forty members of the C.A.U.T. Council met from 11 a.m. to approximately 4:30 p.m. on 15 March. The Acting President of the A.U.N.B.T. presented an account of his Association's actions in the Strax case and commented on these. He was followed by two observers from U.N.B. who had requested permission

to address the Council. Dean Desmond Pacey, Secretary of the General Faculty, presented his views with particular reference to a meeting of the General Faculty held on 10th; and Prof. R. McKinnell spoke on behalf of those faculty members who had signed the petition referred to above. These presentations were followed by a very full and wide-ranging discussion, which centred on the following major issues: the appropriateness of censure; the timing of the proposed censure; the steps required to lift censure once imposed; the implications of the three requirements stated by the Executive & Finance Committee as conditions for not proceeding with a motion to censure; the response to these of the U.N.B. President and Board, particularly the "offer" to enter into "non-binding arbitration" on "limited issues"; the appropriateness of the requirement that the injunction be lifted prior to or simultaneously with agreement to arbitrate fully; whether the pending appeal of Prof. Strax against the court judgment substantially affected efforts to proceed with academic arbitration; and whether the insistence by the C.A.U.T. that the injunction be lifted constituted an Association policy constraining universities from ever having recourse to the courts.⁸

The motion of censure resulted in a vote of 36 in favour of the resolution, 3 against, with 1 abstaining. The resolution of censure follows:

That this Council censure the President and the Board of Governors of the University of New Brunswick for suspending a faculty member from all rights and privileges in the University without stating charges against him and providing for an academic adjudicative hearing, and for resorting to and maintaining an injunction and a civil law-suit on limited issues without first providing for an adjudicative hearing, and using the existence of that law-suit as a reason for preventing any full academic adjudicative hearing on all issues.

That censure of the President and the Board of Governors of the University of New Brunswick take the following form:

Immediate public release of the text of the motion of censure.

Publication in the next issue of the Bulletin of a detailed account of the history of the Strax case and of the steps leading to censure.

Publication in the Bulletin of the recommendation that members of C.A.U.T. should not accept employment at U.N.B. at the present time.

Notification to other Faculty Associations (e.g. A.A.U.P., A.U.T., etc.) of these actions with recommendation that their members request further information from C.A.U.T. before accepting employment at U.N.B.

Publication of advertisement of these actions in leading educational and professional journals in Canada, the Commonwealth, and the United States.

That the Executive and Finance Committee be empowered to administer items (iii), (iv), and (v) above in the light of further developments, and be instructed to report its action to the next Council meeting.

Alwyn BERLAND

Executive Secretary Designate.

Originally published in the CAUT Bulletin (April 1969 edition, pages 20 to 64).

This report has been redesigned.

8. In connection with this last point, it is important to point out, as did Prof. J. B. Milner, Chairman of the A.F. & T. Committee, during the Council debate, that actions and judgments relative to an individual case, within its specific context, should never be construed as necessarily establishing Association policy. The question of a university's recourse to civil courts under variously conceivable circumstances is a much larger question than that raised by the specific dispute between Prof. Strax and U.N.B.

Appendix 1

Dr. Colin B. Mackay (PERSONAL),
President and Chairman,
Board of Governors,
University of New Brunswick,
Fredericton, N.B.

Professor George McAllister (PERSONAL),
University of New Brunswick,
Fredericton, N.B.

Professor Douglas Brewer (PERSONAL),
University of New Brunswick,
Fredericton, N.B.

Professor Norman Strax has appealed to the Academic Freedom and Tenure Committee of the Canadian Association of University Teachers for assistance in connection with his suspension and what followed it. While this Committee acknowledges the importance of an inquiry by a committee of faculty members into the facts, it is seriously disturbed by your reported failure when the suspension was announced to provide Professor Strax with reasons for his dismissal and an adjudicative procedure that would enable him to answer specific charges and debate the appropriateness of the penalty. If you do not see fit to lift the suspension by Wednesday noon next and absolve Professor Strax of any wrongdoing, this Committee considers that fairness to Professor Strax demands that you assure him by that time of an opportunity to submit all charges against him by U.N.B. to arbitration in a proceeding conducted in conformity with Part C, Dismissal Procedures of the C.A.U.T. Policy Statement on Academic Appointments and Tenure. Unless one or the other of such courses has been adopted or an acceptable explanation received by Wednesday noon October 9 the Chairman and the Executive Secretary will confer with the President of the C.A.U.T. on the publication of a statement of the C.A.U.T.'s position and possible further action. Until then no such public statement will be made by us. While this Committee has every desire to protect the good name of U.N.B., it must take appropriate action to protect Professor Strax from an apparent threat to his academic freedom. This telegram is confidential, but copies are being sent to Professors McAllister and Brewer and Mr. Kelly, through whom Professor Strax appealed to this Committee. Please address your reply [to] C.A.U.T. Executive Secretary, 77 Metcalfe Street, Ottawa 4, Ontario.

J. B. Milner,
Chairman,
C.A.U.T. Academic Freedom and Tenure Committee.

Appendix 2

C.A.U.T. Executive Secretary,
77 Metcalfe Street, Ottawa, Ontario.

In answer to your confidential telegram in regard to Dr. Norman Strax I acted in accordance with section 59 sub-section I paragraph (A) of the University of New Brunswick Act 1968 and that in accordance with the provision of paragraph (A) of this sub-section the Board of Governors of the University of New Brunswick now is seized of the matter. As you know a fact-finding Committee of faculty members has been constituted to review and report on the circumstances of this suspension. After considering this reply and before taking further action in this matter I would appreciate the courtesy of your communicating with me.

Colin B. Mackay,
President,
University of New Brunswick.

Appendix 3

Professor Douglas Brewer,
President, A.U.N.B.T.,
Department of Chemistry, U.N.B.,
Fredericton, N.B.

Committee on Academic Freedom and Tenure is seriously disturbed by suspension of Professor Strax without previous hearing or charges. Committee urges that matter be brought to arbitration quickly in accordance as far as possible with procedures defined in Policy Statement on Academic Appointments and Tenure.

J. Percy Smith,
Executive Secretary,
C.A.U.T.

Press Release

The Canadian Association of University Teachers has urged the University of New Brunswick to bring the case of Professor Norman Strax to arbitration quickly.

Professor C. Brough Macpherson, President of the Association, said today that the C.A.U.T. Committee on Academic Freedom and Tenure has had before it the case of Dr. Strax, a physics professor who was suspended from his duties at the University on September 24 and was subsequently forced off the campus by a court injunction.

The Committee has sent telegrams to the President of the University, Dr. Colin Mackay, and the President of the faculty association, expressing its concern over the fact that the suspension was imposed without a hearing having been held or charges having been laid. It has urged that arbitration procedures be set up at the earliest possible time.

Professor Macpherson said that the C.A.U.T. recognized the good intent of the Board of Governors of the University in setting up a committee of faculty members to investigate the circumstances of the suspension. However, the Association regretted that the Board had not followed the spirit of the C.A.U.T. Policy Statement on Academic Appointments and Tenure, which clearly calls for mediation and arbitration in the present circumstances.

Appendix 4

20 November 1968

Mr. J. Percy Smith,
Executive Secretary,
Canadian Association of University Teachers,
77 Metcalfe Street, Ottawa 4, Ontario.

Dear Mr. Smith;

The Board of Governors of the University of New Brunswick has received the report of the Committee which was constituted to review the circumstances of the suspension of Dr. Norman Strax.

However, no action has been taken since the matter is now before the courts. Pending the outcome of this action, the Board felt it should defer consideration of the report until a future meeting.

The report is considered as still being of a confidential nature. However, members of the Board recognize that your Executive would like to have a copy as soon as possible and they have asked that I send the enclosed along to you at this time.

Yours most sincerely,
Colin B. Mackay,
President.

Appendix 5

Motions passed by A.U.N.B.T. General Meeting

November 26, 1968

- 1) The A.U.N.B.T. once again deplores the delay by the University Administration in establishing prompt and just procedures consistent with those outlined by the A.U.N.B.T. and the C.A.U.T., for investigation and adjudication of the charges of misconduct made against Professor Norman Strax, and insists that such procedures be at once established.

The A.U.N.B.T. regards the precipitous and continuing resort to legal proceedings as an abdication by the University of its proper authority, and condemns that abdication of authority as unworthy of the principles to which the University is dedicated.

At the same time, however, the A.U.N.B.T. equally deplores any deliberate obstruction by individuals of the proper business of the University, namely education and research, especially when dictated by a deliberate refusal to employ the established channels of University and Student Government.

Therefore, the A.U.N.B.T. calls on the University Administration to do all in its power to return any outstanding cases of possible student or faculty misconduct to within the framework of the University's various governing bodies, including the faculty association and the student government, where they rightly belong, and calls on the University Administration to institute proper University adjudication of these cases.

- 2) That this Association call upon the C.A.U.T. to assist in establishing a three-member board to investigate the conduct or misconduct of Dr. Strax in order to arrive at a just and final settlement of the case within the academic community.

Appendix 6

January 17, 1969.

Dr. Colin B. Mackay,
President,
University of New Brunswick,
Fredericton, New Brunswick, Canada.

Dear President Mackay :

It is more than fourteen weeks since the Chairman of our Academic Freedom and Tenure Committee wired you urgently requesting that you offer Professor Norman Strax the opportunity to arbitrate all disputes between the University and Professor Strax before a professorial committee. It is eight weeks since that request was confirmed by the Council of the C.A.U.T. at its meeting on November 17, when it also condemned the action of the University of New Brunswick in suspending a faculty member without stated charges or provisions for an adjudicative hearing. Since then the report of your Board's Investigation Committee has been received and Mr. Justice Barry has issued his decision in the action the University brought against Professor Strax. Still Professor Strax has not been offered an opportunity to arbitrate your differences. I write now to express the increasing concern of the C.A.U.T. with this protracted disregard of what we regard as Professor Strax's procedural rights.

We have now had an ample opportunity to examine the Report of your Board's Committee. It has been seen by most members of the Academic Freedom and Tenure Committee and by the Associate Executive Secretary, Professor Berland and myself. We are unanimous in our agreement that in respect of the issue which has concerned us from the beginning, namely the procedural rights of a faculty member, it is irrelevant. It disposes of no charges, and it contains a serious misstatement about the Policy Statement of this Association. In paragraph 130 the Report says that the procedures to be followed by the Committee ... were in substantial accord with the procedures expressed in the Policy Statement. Not only are the procedures not in accord, but one of the two additional procedural benefits open to Professor Strax according to paragraph 130 is wrongly stated. Under the C.A.U.T. Policy Statement the arbitration committee is to be jointly appointed by the University and the Faculty Member. It does not provide for a right of either party to nominate one member. Moreover, the procedures advocated in the guidelines of our Policy Statement call for an arbitration committee, not an investigating committee, and the President is to inform the Faculty Member in writing of the charges against him in sufficient detail to enable him to prepare his defence. These vitally different elements make the procedures followed by your Board unacceptable to the C.A.U.T.

Paragraph 143 of the Report further mis-states the Policy Statement by observing that "C.A.U.T. procedures relate only to 'dismissal'". Part C of the Policy Statement relates to dismissal, but Part D2 (which the Report selectively reproduces in Appendix "B") relates to any form of harassment - what is [sic] calls "unreasonably discriminated against" - and incorporates Part C procedures by reference.

I should say, parenthetically, that if the Report of your Board's Committee is published more widely the C.A.U.T. will have to publish a correction and explanation of errors just identified.

We have also had an ample opportunity to examine Mr. Justice Barry's judgment in the case of U.N.B. v. Strax. It is quite clear from the judgment and the statement of claim that nowhere in that law suit was a charge related to his suspension stated against Professor Strax in any form in which he could defend himself against it. Like the Report of your Board's Committee, Mr. Justice Barry's decision is irrelevant to the issue which is of concern to the university community.

It would seem that the only acceptable course of action, still, is an adjudication before an arbitration committee established along the lines of the C.A.U.T. Policy Statement in which all disputes between the University of New Brunswick and Professor Strax can be settled once and for all.

But more than this now appears to us to be needed to restore the good name of the University of New Brunswick in the Canadian academic community. The injunction which restrains Professor Strax from setting foot in the University in effect turns his suspension into a dismissal. To keep it in force now, while there has still been no adjudicative hearing of any charges arising out of the matters that in the opinion of the University made the suspension necessary, appears to be a denial of elementary justice. Moreover, during all this time in which he has not been given an adjudicative hearing on any such charges, he has been put to heavy expenses in the law suit brought against him by the University including now the costs of both parties and the "exemplary damages" awarded against him, none of which need have been incurred if the University had, simultaneously with the suspension, granted an academic adjudicative hearing of charges against him. Because these expenses, now falling on Professor Strax, are the result of the University's failure to proceed in the normal academic way, it seems reasonable that the University should assume these expenses.

For these reasons it appears to us that the University, in order to restore its standing in the academic community, will have to take immediate steps

- i. to institute arbitration proceedings along the lines of the C.A.U.T. Policy Statement in which arbitration of all claims by the University against Professor Strax and by Professor Strax against the University are submitted for settlement;
- ii. to dissolve the injunction against Professor Strax; and,
- iii. to assume the entire costs of the litigation and to release Professor Strax from all liability for the damages and costs in your case against him.

I know you will realize that time is running out. On February 8 the Executive and Finance Committee of the C.A.U.T. will meet for a regular business session. At that meeting I must report to the Committee on the state of the Strax affair. If I cannot report that an adequate response has been made by the University to the proposals made in the preceding paragraph of this letter, I shall have no choice but to recommend to the Committee that it in turn recommend to the C.A.U.T. Council that the President and Board of Governors of the University of New Brunswick be censured.

I would make this extreme recommendation with great reluctance, but I know that the academic community in Canada expects the University of New Brunswick to recognize and apply the standards adopted by the C.A.U.T. in its Policy Statement. The consensus of the academic community has already been expressed in the condemnation by the C.A.U.T. Council of the University of New Brunswick's actions in this matter, and I note that the A.U.N.B.T., in its two resolutions of November 26, also condemned the University's resort to legal proceedings, called for an academic adjudication, and asked the C.A.U.T. to assist in establishing an adjudicative body. Clearly the matter cannot be left where it is.

It may be that the Board has already taken some action on these matters of which neither I nor the President of the A.U.N.B.T. (with whom I spoke yesterday afternoon and evening by telephone) is aware. If it has taken such action as would make this letter unnecessary I shall be happy. If not, I trust that you will be able to persuade the Board to take the action requested.

Yours sincerely,
C. Brough Macpherson,
President.

January 23, 1969.

Prof. C. Brough Macpherson,
President,
Canadian Association of University Teachers,
233 Gilmour Street, Ottawa 4, Ontario.

Dear Prof. Macpherson :

This is to acknowledge receipt of your letter of January 17th in regard to the activities of Professor Norman Strax of this University and action taken to date by Members of the Board of Governors in the matter.

While it is not customary for the Board to meet each month, since the Strax affair this has been the case. At a meeting in mid-December, it was agreed no further action be taken at that time since Mr. Justice Barry had not delivered his judgment. I was instructed to so advise the A.U.N.B.T., pointing out that Members of the Board did not wish to take any further action with regard to the suspension of Dr. Strax while the matter was still before the Court.

At its meeting on January 16th the Board again resolved to take no action until its next meeting in mid-February. The Members had a lengthy discussion but felt that until the time for an appeal had elapsed they should await for the outcome of such a possibility. If this did take place then the matter would still be before the Courts.

In your letter you state that the report of the Committee contains a serious mis-statement about the Policy Statement of your Association. Professor George A. McAllister was the Chairman of this Committee. In view of your comments, I have taken the liberty of sending them along to him with the request that he write directly to you in regard to this criticism.

I had hoped to have the opportunity to go over this matter with you when the representatives of the C.A.U.T. meet with the representatives of the A.U.C.C. on January 24th to discuss, amongst other matters, your Policy Statement of February, 1968. Unfortunately, as I have advised your Executive Secretary, I have had a commitment for January 24th for the past year and so it is not possible for me to be in Ottawa on that date. I had hoped the meeting could be set for the 25th but Dr. Andrew advised it was unsatisfactory in so far as you are concerned. I am coming to Ottawa on January 29th and will be there until the afternoon of the 31st. Would it be possible to meet with you and Mr. Smith at any time during that period to discuss this whole matter? I do hope this might be possible.

Our University Committee, made up of non-faculty members of the Board of Governors, members of the faculty appointed by the Senate and others appointed by the A.U.N.B.T., has begun a series of meetings to discuss and draft new terms and conditions of employment for this University. (Such a procedure was agreed upon in the spring of last year after the same Committee met for several months to produce the new University Act.) As I believe you know, a detailed document on this matter was prepared and approved by the Association of the University of New Brunswick Teachers. It is being used as the basis for our discussions and, at the same time, the Committee will take into consideration the Policy Statement of the C.A.U.T. However, as I believe you also know, your Policy Statement has not been adopted or accepted by either the Board of Governors or the Senate of this University. In so far as the Board is concerned, I expect that its members will want to know the outcome of the discussions and deliberations between the A.U.C.C. and the C.A.U.T. before adopting, either in whole or in part, the Policy Statement of the C.A.U.T.

Yours most sincerely,
Colin B. Mackay,
President.

Appendix 7

President C. B. Mackay

If your Board is not prepared to take any action until mid-February I do not see what purpose could be served by my coming to Ottawa to meet you this week. If your Board could be made to realize that I must act by February 8 and that the consequences might affect them I should propose a meeting of some influential Board Members, some C.A.U.T. and A.U.N.B.T. Officers and ourselves in Fredericton before that date. If you judge this feasible would February 3 be an agreeable date? Alternately February 4, 5 or 6 would be possible for me. Please reply if convenient (416) 928-3344.

C. B. Macpherson

Appendix 8

President Colin Mackay,
University of New Brunswick,
Fredericton.

I have to tell you that the C.A.U.T. Executive and Finance Committee, while approving our proposed meeting in Fredericton on February 19 and 20, were determined to make clear their intention of preparing for further action without delay thereafter, if that should seem to them necessary. They have therefore resolved to call a special meeting of the C.A.U.T. Council for March 15, and to inform the press now. The text of the press release to be issued this afternoon follows.

I should add that the satisfactory measures referred to in the resolution are of course what the visiting committee hopes to discuss with the Board on February 20. A copy of this telegram is going to Professor Brewer, President of the A.U.N.B.T.

C. B. Macpherson

Press Release

Ottawa, Ontario.
February 10, 1969.

Preparations have been made which would enable the Canadian Association of University Teachers to censure the President and Board of the University of New Brunswick. A special meeting of the full Council of the Association is being called by the Association executive at the earliest possible date. The Council will be asked to censure the President and Board of the University of New Brunswick unless they have before then taken satisfactory measures in relation to Professor Norman Strax. Since a Council meeting cannot be called without thirty days' notice to the heads of all the constituent faculty associations, the Council is to be convened on March 15.

The C.A.U.T. and the Association of University of New Brunswick Teachers have repeatedly protested against the action of the University President and Board in suspending Professor Strax without any charges or any provision for an adjudicative hearing, and have requested the Board to agree to such a hearing. The Board has still not done so.

On January 17, the President of the National Association, Dr. C. B. Macpherson, on the advice of the Association's Committee on Academic Freedom and Tenure, wrote to Dr. Colin Mackay, President of the University, urging that action be taken before the C.A.U.T. Executive meeting on February 8, and proposing a meeting of some influential members of the Board with some officers of the national and local Associations before that date. Dr. Mackay would not undertake to arrange such a meeting either then or later, but readily agreed to meet some officers of the two Associations on February 19, the day before the next meeting of the University of New Brunswick Board. The President of the U.N.B. Teachers' Association was also anxious that the C.A.U.T. should send some of its officers to Fredericton. Accordingly, it was arranged that three C.A.U.T. officers, Professor Macpherson, Professor J. B. Milner, and Professor Percy Smith, will be in Fredericton on February 19 and 20 to hold discussions with Dr. Mackay and the U.N.B. Teachers' Association, and to be available to the Board at the time of its meeting.

The C.A.U.T. Executive, in session in Ottawa this weekend, endorsed that arrangement, but believed that such talks might lead only to further delay unless the University was made fully aware of the urgent view that the C.A.U.T. Executive took. Accordingly, the Executive passed the following resolution:

"That a special meeting of the C.A.U.T. Council be called for March 15, at which the Executive and Finance Committee will recommend that the Council censure the President and Board of the University of New Brunswick unless satisfactory measures in relation to Dr. Norman Strax have been taken by the President and Board by that time."

The letter to Dr. Mackay on January 17 had said that the University, in order to restore its good name, should now not only agree to an adjudicative hearing, but should also take two other steps. The letter stated:

"It would seem that the only acceptable course of action, still, is an adjudication before an arbitration committee established along the lines of the C.A.U.T. Policy Statement in which all disputes between the University of New Brunswick and Professor Strax can be settled once and for all.

"But more than this now appears to us to be needed to restore the good name of the University of New Brunswick in the Canadian academic community. The injunction which restrains Professor Strax from setting foot in the University in effect turns his suspension into a dismissal. To keep it in force now, while there has still been no adjudicative hearing of any charges arising out of the matters that in the opinion of the University made the suspension necessary, appears to be a denial of elementary justice. Moreover, during all this time in which he has not been given an adjudicative hearing on any such charges, he has been put to heavy expenses in the law suit brought against him by the University, including now the costs of both parties and the 'exemplary damages' awarded against him, none of which need have been incurred if the University had, simultaneously with the suspension, granted an academic adjudicative hearing of charges against him. Because these expenses, now falling on Professor Strax, are the result of the University's failure to proceed in the normal academic way, it seems reasonable that the University should assume these expenses.

"For these reasons it appears to us that the University, in order to restore its standing in the academic community, will have to take immediate steps

- i. to institute arbitration proceedings along the lines of the C.A.U.T. Policy Statement in which arbitration of all claims by the University against Professor Strax and by Professor Strax against the University are submitted to settlement;
- ii. to dissolve the injunction against Professor Strax; and,
- iii. to assume the entire costs of the litigation and to release Professor Strax from all liability for the damages and costs in your case against him."

The costs of the litigation, for all of which Professor Strax is liable unless he should succeed in an appeal, already amount to over six thousand dollars. Still more would be needed to prepare a case for an appeal, which Professor Strax has so far been unable to do.

Censure by the C.A.U.T. Council would mean that all members of the C.A.U.T. outside the University of New Brunswick would be advised not to accept appointments there, and that others considering appointments there would be advised to inform themselves of the C.A.U.T.'s reasons for the censure.

Appendix 9

February 12, 1969.

Prof. C. Brough Macpherson,
President,
Canadian Association of University Teachers,
233 Gilmour Street, Suite 700, Ottawa 4, Ontario.

Dear Professor Macpherson :

This is to acknowledge receipt of your most recent telegram which reached my office on Monday, February 10th. I regret that it could leave the impression that I was not prepared to arrange any meeting with the C.A.U.T. As you know (and readily admitted in our conversation over the telephone) it would not have been practical or possible for me to pick "some influential members of the Board" to meet with officers of the C.A.U.T. and of the A.U.N.B.T.

I was quite prepared to meet with you and Percy Smith while I was in Ottawa from January 29th to the 31st, but you expressed the view that such a meeting could serve no useful purpose. I would agree that the telegram may be strictly accurate in so far as it refers to the type of meeting suggested in your earlier communication, but unfortunately it does leave the impression that I was not prepared to meet with you before February 19th.

Yours most sincerely,
Colin B. Mackay,
President.

Appendix 10

February 21, 1969

Professor Douglas Brewer,
Chairman, Faculty Association,
University of New Brunswick,
Fredericton, N.B.

Dear Professor Brewer:

In view of the uncertainties still apparent when we left the Board meeting yesterday Professor Macpherson, Professor Berland and I thought it might be helpful to you if we set down on paper our position as we see it. I am sending a photocopy of this letter to President Mackay as well. I have written this from Professor Macpherson's and my own notes, but Professor Macpherson has not seen it. He is in Colorado this weekend and we thought it best not to wait for his return. I have read the letter over the phone to Professor Berland and he concurs.

The visiting C.A.U.T. committee would recommend to the Executive and Finance Committee and to the Council of the C.A.U.T. that censure not be imposed if

- 1) the Board of Governors offers Professor Strax arbitration along the following lines, subject, of course, to any different terms freely agreed between Professor Strax and the University, and
- 2) the University takes immediate steps to have the injunction dissolved when Professor Strax and the University agree in principle to arbitration.

Before setting out "the following lines" that represent the kind of offer to arbitrate that we think the C.A.U.T. would regard as discharging the Board's moral obligation to Professor Strax, perhaps I should record, as I understand them, Professor Macpherson's points about the injunction.

His first point was that while the Board might feel that the injunction gives it security against further disturbance, it has not in fact done so. Indeed, the existence of the injunction quite possibly aggravated the causes of last week's "sit-in". On the other hand, if Professor Strax is allowed back on the campus, with an arbitration agreed to, he is most unlikely to start any disruptive tactics that would prejudice his case.

Professor Macpherson's major point of principle, however, was that an injunction is not a proper weapon for a university to use in disputes between a professor and the administration. The C.A.U.T. is bound to challenge it. If the injunction remains unchallenged, more and more universities are likely to resort to it, given the tendency of one university to copy another's practice if it appears successful, superficially at least.

In the present situation the injunction was thought to necessitate a law suit to establish that Professor Strax was a trespasser, and the existence of the law suit has been used by the Board to justify its inaction in granting an adjudicative hearing of the main issue - the justice and propriety of the suspension itself, and the appropriate action to follow it. It seems not to have been realized that the University could discontinue its law suit at any time by agreement with Professor Strax. Hence we believe that the existence of the law suit does not justify that inaction, and never has done so. Nevertheless the law suit has been so used. This is the really serious matter that the C.A.U.T. is bound to resist. If it is not challenged, this use of the injunction and civil suits could become a pattern for any Canadian university that wished to delay a proper adjudicative hearing, or indeed any adjudicative hearing, until it was too late to be effective - too late to afford the individual any justice.

The C.A.U.T. has consistently, throughout its discussions about the Strax affair, maintained its policy that disputes should be settled by institutions within the university community where the community's ethic could be applied rather than standards designed by the common law for other occasions.

If the University is prepared to apply to dissolve the injunction immediately upon reaching agreement in principle to arbitrate with Professor Strax, the visiting committee would consider that the Board has discharged its obligation if in good faith it offers arbitration along these lines:

- 1) The issue should be stated as the appropriate penalty, if any, to be imposed on Professor Strax for his part in the Library incidents. In deciding the issue the arbitrators should have regard to their university community and not to the principles of the common law.
- 2) In determining the facts the arbitrators should have a transcript of the evidence taken at the Board Committee's hearing and at the trial of *U.N.B. vs. Strax*, and this evidence should be accepted, but further evidence should be allowed from either side if it is relevant to the determination of the appropriate penalty, that is the mitigation or aggravation of the penalty.
- 3) The arbitrators should be explicitly authorized to decide only
 - a) that the University was justified in its suspension and to award that the University dismiss Professor Strax with his full salary or at least to the date of the award, or some lesser penalty that in the opinion of the arbitrators is justified in the circumstances established by the evidence, or
 - b) that the University is not justified in its suspension and to award Professor Strax full reinstatement with restoration of all his rights and privileges as a member of the Faculty.
- 4) The arbitrators should be selected from outside the University of New Brunswick, unless Professor Strax agrees to a committee of arbitrators otherwise composed, whether of members wholly or partly from within the University of New Brunswick.
- 5) In all other respects the guidelines of the C.A.U.T. Policy Statement should be applied in principle.

In our discussion with the Board yesterday we did not touch on the other "requirement" of the visiting Committee (and the Executive and Finance Committee) that the University assume the costs of the litigation and surrender its claim to the judgment of \$2,000. That remains, of course, the Executive and Finance Committee's requirement, but, as we indicated on Wednesday when we met with President Mackay, the visiting Committee was prepared to consider a proposal to arbitrate those items, rather than require them to be settled as a pre-requisite to arbitration.

If the University insists that they be put in issue in the arbitration, then the issue referred to in paragraph (2) above should be stated to include the matter of the judgment for \$2,000 exemplary damages and the costs in the action of *U.N.B. vs. Strax*. This issue might be regarded in a sense as an appeal from the court decision, not to the Court of Appeal (as Professor Strax is presently attempting) but to arbitrators from the university community instead, and the arbitrators, on this issue as well, should be guided by their notions of the general sense of equity in the Canadian university community.

The C.A.U.T. does not support Professor Strax in his appeal to the Court of Appeal and it has so advised him. It would quite agree that he should have to elect to proceed by arbitration or the Court of Appeal, but most certainly not both. We believe that Professor Strax fully understands and accepts this, and the offer of arbitration could so state the election.

May I repeat what I said yesterday to the Board, because I am not sure that the Board understood me clearly. The C.A.U.T. does not act as Professor Strax's advocate. The C.A.U.T. is concerned about Professor Strax as part of the Canadian academic community, over 10,000 of whose members are also members of the C.A.U.T. In asking the Board to offer arbitration and to withdraw the injunction, it speaks for the community, not for Professor Strax. In no way can it bind Professor Strax. It can only assure the Board that it will withdraw its public opposition to the Board if the Board complies with the C.A.U.T. suggestions. The outcome of fair arbitration is not involved in the discussion. Professor Strax may win or lose.

I hope this letter may be helpful in bringing about an acceptable solution of the Strax affair.

Yours sincerely,
J. B. Milner,
Chairman.

Appendix 11

Press Release

Ottawa, Ontario.
February 24, 1969.

Attention of C.A.U.T. has been called to recent inaccurate press statements on the issues involved in the meetings of representatives of C.A.U.T. with President Mackay, the Board of Governors and the Association of University Teachers at New Brunswick on 19-20 February in connection with the special meeting of the C.A.U.T. Council called for 15 March to consider censure of the administration of U.N.B. Since 17 January President Mackay and the Board of Governors have been aware that the C.A.U.T. which represents some 11 thousand professors in Canadian universities feels most strongly that several steps must be taken by the University of New Brunswick to correct its present relationship to Professor Norman Strax. C.A.U.T. has insisted that proper academic arbitration procedures be established to deal with the disputes between the University administration and Professor Strax and that the court injunction which presently prohibits Professor Strax from setting foot on campus be lifted. C.A.U.T. has argued that at the present time this injunction is not useful in that it cannot achieve its proposed end of eliminating dangers of disruption on campus. More important it is an undesirable and extremely dangerous precedent to establish in Canada, which can lead to serious abuses and which furthermore can delay or prevent the proper guarantees of equity as these are understood in the Canadian Academic Community. C.A.U.T. has urged that the court injunction be lifted when general terms of reference for arbitration have been agreed upon by President Mackay and Professor Strax. A third consideration has been the issue of legal costs and damages assessed to Professor Strax as a result of court actions to date. C.A.U.T. is willing to have this matter of costs subject of recommendation by the Academic Arbitration Committee.

Appendix 12

25 February 1969

Professor C. Brough Macpherson,
President,
Canadian Association of University Teachers,
233 Gilmour Street, Suite 700, Ottawa, Ontario.

Dear Professor Macpherson:

I was glad that you were able to come to the University on Wednesday and Thursday of last week to discuss matters arising out of the suspension of Professor Norman Strax. On Wednesday, I met with you and your associates, Professors A. Berland and J. B. Milner, and with the Executive members of the A.U.N.B.T. on this campus; Vice-President A. G. Bailey and Professor George McAllister were present at the meeting. On Thursday, you had an opportunity, together with your associates and the President of the A.U.N.B.T., to meet with the Board of Governors; you requested a reply to your representations by the end of the month.

As was mentioned in our discussions, as well as in our correspondence, the Board has been kept fully informed of the C.A.U.T. representations; in particular, copies of your letter of January 17th and your telegram of February 10th were sent to the members in advance of the meeting. Both in your letters and in your telegram you requested the Board to take three "immediate steps" :

- 1) to institute proceedings along the lines of the C.A.U.T. Policy Statement in which arbitration of all claims by the University against Professor Strax and by Professor Strax against the University are submitted to settlement;
- 2) to dissolve the injunction against Professor Strax, and,
- 3) to assume the entire costs of the litigation and to release Professor Strax from all liability for the damages and costs in your case against him.

In your letter you required an adequate response to the steps and in your telegram you required that satisfactory measures be taken.

The members of the Board discussed and gave the most careful consideration to each of the three steps, both in the light of the situation present and in the light of your representations. As you know, the Board is very much concerned that procedures of general application should be adopted to govern cases of suspension and dismissal and the matter is before a Joint Committee of the Board, the University Senate, and the A.U.N.B.T. As you also know, the Board has taken the position that the court action arose out of the exigencies of the situation it faced. In that action, the University claimed an injunction and damages; it also placed in issue as such its right to suspend Professor Strax. The court found the suspension lawful on the basis of evidence adduced at a trial lasting some four and one-half days.

Your discussions with me and with the Board canvassed the widest ambit of matters in relation to the suspension, the nature and stage of the litigation, the right of Professor Strax to appeal, the procedural and substantive aspects of an arbitration and the powers that might be given to an arbitration board under the provisions of the University Act. I am authorized to advise you that the Board would be prepared to accede to a non-binding arbitration on certain aspects of the suspension (viz. aspects of the redress or disciplinary action open to the University) which you feel were not in issue or sufficiently in issue in the litigation provided satisfactory arrangements can be established between the parties. However, the Board is not able to accede to your proposal that it take steps to dissolve or vacate the injunction and to your further proposal as expressed in step (3).

As you may know, Professor Strax appeared before the Court of Appeal on Friday, February 21st, and stated his intention to appeal the decision; he was granted an extension of time to file the appropriate papers and my understanding is that the case has been set over until the April sitting of the Court. The University solicitor has advised that in these circumstances the case should be considered *sub judice*. In the discussions with me on February 19th and with the Board on February 20th, it was indicated to you that the Board could undertake no step at that time which could be construed as prejudicing or compromising Professor Strax's right to an appeal or that would compromise or prejudice the right of the University on any such appeal. I know the Board would expect me to reiterate this point of view in the light of the present stage of the appeal and of Professor Strax's expressed intention to appeal.

I hope that you will feel that the willingness of the Board to meet in part your request for an arbitration is an "adequate" or "satisfactory" response in the circumstances present. The Board's willingness to go ahead was based on the matters which were brought out in your discussions with me and with the Board; in particular agreement would first have to be reached on the terms of the reference or submission to a board and on the powers of any such board. I think we all were agreed that these matters are quite complex and would require a precise definition; if the proposal made is acceptable in principle, the agreement would have to be worked out in the light of the litigation and the substantive points expressed to you in the discussions. As I indicated above, the discussions also canvassed a number of the procedural aspects of such an arbitration including the composition of a board.

I would hope that all such matters could be approached in good faith with an agreement worked out and reached as expeditiously as possible. Professor Strax was not a party to the discussions and you indicated to the Board that you could not speak for him in any way. The Board, let me say, fully appreciates that you were speaking only for the C.A.U.T.; reciprocally, the response made by the Board should be understood as a response to the C.A.U.T. I would appreciate receiving your views at an early date so that, if the proposal made is acceptable, the necessary discussions can be set up at once.

A copy of this letter will be sent to Professor D. G. Brewer, the President of the A.U.N.B.T., and, for his information, to Professor Strax.

Since I am being asked for the Board's reaction to your proposals, I feel we should release a copy of this letter to the press on Thursday afternoon.

Yours most sincerely,
Colin B. Mackay,
President.

Appendix 13

March 5, 1969.

Dr. Colin B. Mackay,
President,
The University of New Brunswick,
Fredericton, New Brunswick.

Dear Dr. Mackay :

This will acknowledge your letter of February 25 in which you set out the position taken by the Board of Governors of the University of New Brunswick in response to the proposals made by the Executive of the C.A.U.T., which had been conveyed to you and the Board in my letter of January 17 and my telegram of February 10, and which I and Professor Milner (the chairman of the C.A.U.T. Committee on Academic Freedom and Tenure) and Professor Berland (the Executive Secretary Designate of the C.A.U.T.) discussed with you and the Board in Fredericton on February 19 and 20. You will no doubt have been made aware already of my disappointment with the position the Board has taken, since as soon as your letter was released to the press on February 27 I was asked for, and gave, interviews to the C.B.C. and independent radio stations in Fredericton and to the St. John Telegraph-Journal, all of whom I presume would then have been in touch with you about this. I want now to set out the reasons why we find the Board's position unacceptable, although the fact that it is unacceptable can come as no surprise to you or the Board after our full and frank discussions on February 19 and 20.

We made it clear then, I had thought, that each of the three "immediate steps" we had requested the Board to take (as quoted in the second paragraph of your letter of February 25) left some leeway as to timing and method of handling. We said that we were perfectly willing to have (3), the matter of the costs of the litigation, put into arbitration rather than treated as a separate step. We said that we regarded (2), the dissolution of the injunction against Professor Strax, as a matter of principle which we were bound to challenge, and that we could not accept anything less than a dissolution of the injunction prior to the arbitration. As to (1), the setting up of arbitration, we agreed that the terms of reference would have to be defined, and we went some way towards saying what we would consider satisfactory terms. Our position on this was set out more fully, the day following our meeting with the Board, in a letter from Professor Milner to Professor Brewer, the president of the A.U.N.B.T., on February 21, a copy of which went to you.

The Board's response to our three proposals as modified in our discussions on February 19 and 20, is, as I understand it from your letter of February 25, that they will do nothing at all about (2) or (3), and would accede only in part to (1).

As to (2) and (3), your statement that "the Board is not able to accede to your proposal that it take steps to dissolve or vacate the injunction and to your further proposals as expressed in step (3) means, I presume, that they are unwilling to commit themselves to dissolving the injunction at any time, and are unwilling either to assume all or part of the costs of litigation or to have the matter of those costs put into the arbitration.

The Board's response to (1) is to offer an arbitration the limits and effectiveness of which are, to say the least, left in great doubt. You say "the Board would be prepared to accede to a non-binding arbitration on certain aspects of the suspension (viz. aspects of the redress or disciplinary action left open to the University) which you feel were not in issue or not sufficiently in issue in the litigation..."

It may be that by "non-binding" the Board meant only to say that it would not accede to an arbitration the result of which could be enforced on the Board in the courts but that it would accede to an arbitration the result of which the Board would regard as morally binding on itself. But that is not what your letter says.

Again, it may be that the Board's willingness to have only "certain aspects of the suspension" submitted to arbitration is not too far removed from our willingness to limit the arbitration in certain ways. But that the aspects submitted to arbitration should be limited to "aspects of the redress or disciplinary action open to the University" is surely extraordinarily narrow: indeed it appears derisory.

Possibly these questions about the scope and sanctions of an acceptable arbitration could be resolved by clarification. But I have to say that, as long as the Board is unwilling to do anything about the injunction, there is in our view no point in seeking such clarification.

I cannot emphasize too strongly that in our view an injunction is not a proper weapon for a university to invoke in disputes between a professor and the administration. We must challenge it, for if it went unchallenged it would stand as a precedent for any other Canadian university. And when, as in this case, the injunction is accompanied by a civil law suit, the precedent is even more undesirable. The injunction against Professor Strax was thought by the Board to necessitate a law suit to establish that Professor Strax was a trespasser, and the existence of the law suit has been used by the Board to justify its inaction in granting an adjudicative hearing of the main issue - the justice and propriety of the suspension itself, and the appropriate action to follow it. It seems not to have been realized that the University could discontinue its law suit at any time by agreement with Professor Strax. Hence we believe that the existence of the law suits does not justify that inaction, and never has done so. Nevertheless the law suit has been so used. This is the really serious matter that the C.A.U.T. is bound to resist. If it is not challenged, this use of the injunction and civil suits could become a pattern for any Canadian university that wished to delay a proper adjudicative hearing, or indeed any adjudicative hearing, until it was too late to be effective - too late to afford the individual any justice.

I should say also that the Board's continued reservations about what action is now possible in view of the fact that Professor Strax had stated his intention of appealing the decision in Court of Appeal, do not appear to us to be well-based. We did assure you that in our understanding Professor Strax was perfectly willing to drop the appeal if he was assured of a satisfactory kind of academic arbitration. Since he is the sole author of the appeal, surely the decision whether to drop it should be his decision. The Board's expression of continued concern about the appeal appears, in these circumstances, to be somewhat unrealistic.

Copies of your letter of February 25 and of this letter will go to all the members of the C.A.U.T. Council, and they will be asked to make a decision about censure at the Council meeting on March 15.

Copies of this letter are being sent to Professor Brewer, the president of the A.U.N.B.T., and, for his information, to Professor Strax, and will be released to the press tomorrow.

Yours sincerely,
C. B. Macpherson,
President.

Appendix 14

Press Release

7 March 1969 : Not to be released before 12 noon.

The Canadian Association of University Teachers today indicated that the settlement of the case of Professor Norman Strax recently proposed by the President and Board of Governors of the University of New Brunswick is regarded as unsatisfactory. The Council of the C.A.U.T. has been called together for a special meeting on March 15 in Montreal to make a decision about censure of the President and Board of U.N.B.

The Strax Case has been active since last September. The University of New Brunswick suspended Prof. Strax on 24 September for what it considered disruption of library procedures when he persistently refused to show his ID Card to withdraw books from the university library. In suspending Prof. Strax the University did not then state formal reasons or provide opportunity for arbitration or an adjudicative hearing. When Prof. Strax refused to vacate his office and leave the campus within 24 hours, as he was ordered to do, the University obtained a court injunction and initiated a civil suit. Both the C.A.U.T., a national organization of university professors representing some 12,000 members at 46 Canadian colleges and universities, and the U.N.B. Faculty Association have pressed the University President and Board for over 4 months to agree to a standard procedure of university arbitration. The University has preferred to press its case against Prof. Strax in the civil courts, which in December ordered the injunction to be made permanent, and assessed against Prof. Strax all legal costs and exemplary damages to the University of \$2,000.

During a visit by a 3-man delegation from the C.A.U.T. to the U.N.B. campus in Fredericton on 19-20 February, 3 steps were proposed to the University as the conditions for avoiding the official censure of the C.A.U.T.

These were that the University agree to an academic arbitration in the spirit of the policies of the C.A.U.T.; second, that they request the courts to lift the permanent injunction which prevents Prof. Strax from ever setting foot on the campus; and third that the University assume the extensive legal costs and damages assessed against Prof. Strax in the University's civil suit. C.A.U.T. has indicated its willingness to allow an arbitration committee to consider the issue of legal costs and damages as well as to adjudicate the question of the appropriate penalty, if any, to be imposed on Prof. Strax for his part in the library incidents, in keeping with the general sense of equity in the Canadian university community.

President Mackay of U.N.B. has stated in a letter dated 25 February, to Prof. C. B. Macpherson, President of C.A.U.T., that he and the Board are willing to undertake only a non-binding arbitration on limited aspects of the Strax case. He stated further that the Board "is not able to accede to your proposal that it take steps to dissolve or vacate the injunction" or to the proposal on court costs. No reasons for these decisions have been given.

President C. B. Macpherson of C.A.U.T. has now replied to President Mackay that he regards this proposed settlement as unsatisfactory. In a detailed letter to President Mackay on 5 March Prof. Macpherson set out the reasons why C.A.U.T. finds the Board's position unacceptable, although, Prof. Macpherson states, "the fact that it is unacceptable can come as no surprise to you or the Board after our full and frank discussions on February 19 and 20".

The C.A.U.T. Council which now meets on 15 March consists of the National Executive and the Presidents of the 46 local faculty associations that make up the C.A.U.T. They will be asked to consider a vote of censure against the President and Board of Governors of the University of New Brunswick. If this censure is approved, U.N.B. will be the second university administration officially censured by the C.A.U.T. in its 20 years of existence. The first university President and Board officially censured was that of Simon Fraser University in 1968.

The text of Prof. C. B. Macpherson's letter to President Mackay follows: (This is printed in Appendix 13.)

Appendix 15

March 10, 1969.

Professor C. Brough Macpherson,
President,
Canadian Association of University Teachers,
233 Gilmour Street, Suite 700, Ottawa 4, Ontario.

Dear Professor Macpherson :

This will acknowledge your letter of March 5th, in which you set out your position in response to my letter of February 25th. I conveyed the views of the Board of Governors on the "immediate steps" proposed by you and by your Executive Committee, to bring about a resolution of issues arising out of the suspension of Professor Norman Strax. As you state in your letter, the C.A.U.T. position on a number of points expressed to the Board was more fully set out in a letter from Professor J. B. Milner to Professor D. G. Brewer, the then President of the A.U.N.B.T., under date of February 21st. A copy of that letter was sent to me by Professor Milner.

In your letter of March 5th, you make certain comments on the response of the Board to "steps" (1) and (3); viz., the institution or arbitration proceedings and the assumption of costs. You state that "possibly" your "questions: about the scope and sanctions of an acceptable arbitration could be resolved by clarification." In the light of your discussions with the Board and in the light of Professor Milner's letter to Professor Brewer, I am quite sure that matters in these areas could be resolved by clarification. You will note that in my letter of February 25th, with respect to "step" (1), I expressed the hope that all such matters could be approached in good faith with an agreement worked out and reached as expeditiously as possible. With respect to "step" (3), you will note that my letter of February 25th indicated that the Board could not accede to your proposal "as expressed" in that step.

The substantial difference between the C.A.U.T. and the Board at this time would appear to arise in relation to "step" (2): viz. your proposal that the Board should dissolve or vacate the injunction against Professor Strax as a condition precedent to some form of arbitration. There was no suggestion in my letter that the Board would be unprepared to dissolve or vacate the injunction at any time. You will recall that in your discussions with me, as well as in your discussions with the Board, a suggestion was considered that it might be an acceptable resolution to maintain the injunction pending the outcome of some form of arbitration. The view of the Board, as expressed to you, was that it could not accede to your proposal that the injunction be dissolved or vacated as a condition precedent to arbitration or simultaneous with an arbitration. In addition, as was stated to you and expressed in my letter of February 25th, the litigation is *sub judice*; Professor Strax has stated his intention to appeal the decision, and the views of the Board in this context are fully set out in the fifth paragraph of my letter of February 25th.

In expressing your insistence with respect to the dissolution of the injunction, you state, "We must challenge it, for if it went unchallenged it would stand as a precedent for any other Canadian university." Professor Milner, in his letter to Professor Brewer, states that "the C.A.U.T. is bound to challenge it" (the injunction). In effect, your position would appear to be that a university should never resort to the processes of the law, and if it does it will incur censure. Therefore, the C.A.U.T. now must censure the University of New Brunswick because it has used the normal processes of the law. Surely, this position is indefensible in principle and a censure, in the present circumstances, when other matters appear to be capable of satisfactory resolution, is unwarranted.

Your reasons make it clear that, if censure is imposed, it will be because of your insistence that the University give up or forego its legal rights and remedies as a matter of C.A.U.T. policy or proposed policy as such. But, this is a right open to every citizen and any organization. In the present instance the C.A.U.T. appears to be attempting to deny

such a right to any university. The reasons you have expressed are independent of and extraneous to the issues of the suspension. I believe your insistence on "step" (2) goes too far and, with respect to the circumstances and issues of the suspension, beyond any requirements for an acceptable resolution.

I have noted particularly your statement that, in your understanding, Professor Strax is willing to drop the appeal if assured of a satisfactory kind of academic arbitration and your statement that, "since he is the sole author of the appeal, . . . the decision whether to drop it should be his decision." In your presentation to the Board you indicated that the C.A.U.T. would not support Professor Strax's appeal because, among other reasons, the C.A.U.T. was unprepared to take the risk of adding status to the definition of suspension effected by the judgment in the event an appeal should prove unsuccessful. Also, I have noted that Professor Milner, in his letter to Professor Brewer, stated that "the C.A.U.T. does not support Professor Strax in his appeal. . . and it has to [sic] advised him." Professor Milner continues that Professor Strax "should have to elect to proceed by arbitration or to the Court of Appeal, but most certainly not both." I would further note that, in your presentation to the Board, you stated that you could not speak for Professor Strax. A similar reservation is expressed by Professor Milner: "In asking the Board to offer arbitration and to withdraw the injunction, it (C.A.U.T.) speaks for the community, not for Professor Strax. In no way can it bind Professor Strax. It can only assure the Board that it will withdraw the public opposition to the Board if the Board complies with the C.A.U.T. suggestions."

The case is, as I have stated above, *sub judice*; nevertheless, I think it proper to point out that the several statements bear serious implications. Also, I would add that they reflect on the strength of the C.A.U.T. case against the University, on the fairness of the repeated condemnations, on the propriety of the public threat of censure prior to any discussion with the Board, and on the responsibility for censure if imposed. The record is clear as to when you sought a meeting with the Board, as to your refusal to meet with me in Ottawa for preliminary discussions, and as to your view that "there is . . . no point in seeking . . . clarification" with respect to step (I) in areas where agreement would appear possible.

The members of the Board of Governors are very much concerned to find an acceptable and fair solution to the issues arising out of the suspension, as I indicated to you in my letter of February 25th. They gave the most careful consideration to each of the "steps" proposed by C.A.U.T. both in the light of the situation present and in the light of your representations. I expressed the hope that you would feel that the willingness of the Board to meet in part your request for an arbitration would be considered an "adequate" or "satisfactory" response in the present circumstances. I would hope that on reconsideration you will find the response to have been "adequate" in the circumstances. As I indicated in my letter of February 25th, the Board's willingness to go ahead was based on the matters which were brought out in your discussions with me and with the Board. I think we were all agreed that these matters were quite complex, and I think we would agree that there were common understandings. Let me assure you that the University is prepared to go ahead at once on the basis proposed to you.

It has been suggested that a Committee of the A.U.C.C. might be set up to examine into and report on the procedures appropriate in circumstances where a university finds it necessary to resort to litigation. Perhaps you might care to comment on such a suggestion.

Yours most sincerely,
Colin B. Mackay,
President.

Ottawa, Ontario,
March 13, 1969.

President Colin B. Mackay,
University of New Brunswick,
Fredericton, N.B.

Acknowledging your letter of March 10, I must offer a crucial correction. Our position has never been that "a university should never resort to the processes of the law, and if it does so it will incur censure". Our position, which is on the use of the injunction and civil suits in disputes between a professor and the university administration, is stated in my letter of March 5 and is far from the position you impute. If A.U.C.C. should study the general problem, I hope it will clearly understand this. I do not find in the rest of your letter anything which brings closer a resolution of the remaining differences between us and between the Board and Professor Strax.

C. B. Macpherson

Appendix 16

Fredericton, N.B.
March 11, 1969.

Dr. J. Percy Smith,
C.A.U.T. National Office,
233 Gilmour Street, Ottawa 4, Ontario.

The General Faculty of the University of New Brunswick (inclusive of all full-time faculty members) urges all C.A.U.T. Council members to give utmost consideration to dealing immediately and effectively with the matter of arbitration in the case of Professor Strax as previously requested by C.A.U.T. and agreed by the Board of Governors. We feel definitely assured that such arbitration broadly based as to terms will be accepted as morally binding and will resolve to a decision by an independent group of Professor Strax's peers.

The General Faculty at a meeting March 10 almost unanimously (two opposing votes only) requested its Secretary to forward the above statement to all members of the C.A.U.T. Council in order to ensure that everything possible be done to avoid censure at this time and to emphasize that the essence of the request for arbitration has been agreed to, which request has been the pivotal point for C.A.U.T. and A.U.N.B.T. in its concern that academic procedures be available to Professor Strax.

Desmond Pacey,
Secretary of U.N.B. Faculty.

Dean Desmond Pacey,
University of New Brunswick,
Fredericton, N.B.

Re your telegram of March 11, I understand text of my letter to President Mackay dated 5 March was not before the general faculty meeting, although a copy had been sent to A.U.N.B.T. president and it had been released to the press on March 6. The lack of information at the meeting is reflected in the burden of your telegram. The arbitration offered by the Board according to President Mackay's letter of 25 February was only on "certain aspects of the suspension (viz. aspects of the redress or disciplinary action open to the University) which you feel were not in issue or sufficiently in issue in the litigation". I do not regard this as "broadly based". Moreover the Board has refused to dissolve the injunction simultaneously with entering arbitration. My letter stated that we consider that dissolution essential and explained why. Was the general faculty aware of this?

C. B. Macpherson

The following statements [*sic*] was signed by 83 members of the Faculties of Arts and Science at the University of New Brunswick, and delivered to the Chairman of the Board of Governors on Friday, March 14, 1969.

To the Board of Governors of the University of New Brunswick:

We call upon the Board of Governors of the University of New Brunswick to institute, immediately, wide-ranging and morally-binding arbitration, to vacate the injunction against Professor Strax and to meet with the University Faculty at once to discuss the Board's position in the Strax's affair.

R. T. McKinnell
March 13, 1969