

# The Academic Mission: Principles and Institutional Responsibilities

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March 5, 2013

# Introduction

- Brief and selective historical introduction
- What are the links between university governance structures and AF
- Set out the environmental factors that in 2013 make this an ever more important component of the protection of AF
- Impediments to realisation of this objective
- Make some proposals for structural changes that will advance the cause, with particular reference to Queen's

# Historical Evolution

- *R. v. Chancellor of University of Cambridge (Dr. Bentley's Case)* (1723), 1 Str. 557, at 567
- Master of Trinity College, Cambridge and Regius Professor of Divinity – academically and fiscally controversial
- Stripped of degrees without a hearing, when refused to appear before Chancellor's Court on action to recover money from him
- “[E]ven God himself did not pass sentence upon Adam before he was called upon to make his defence (Fortescue J.)”

# Historical Evolution (cont.)

- “[S]ecurity given to a professor to pursue and expound his investigations”: Robert Falconer, President of U. of T., 1922 (See Cameron, “Academic Freedom the Canadian University”)
- Failure to recognize this right in individual professors that gave rise to the well-known cases in Canadian University history: Harry Crowe, Frank Underhill, *etc.*

# Historical Evolution (cont.)

- Primary if not exclusive focus of such historically and still influential policy guidelines as the original 1915 and still current 1940 AACU (as it is now named), Statement of Principles on Academic Freedom and Tenure
- Is seen to have achieved a relatively assured status with the cementing of tenure and right to fair tenure evaluation processes in 1960's and 1970's

# Historical Evolution (cont.)

- It is only with 1966 Duff-Berdahl Report, University Government in Canada, commissioned jointly by CAUT and AUCC, that participation in governance begins to emerge explicitly as a critical component of AF
- Faculty representation on governing bodies of university (student representation not considered but immediately raised at U of T by Bob Rae among others) and the strengthening of Senates as the primary academic policy-making body

## Historical Evolution (cont.)

- Energized universities – For some sense of Queen's, see Roberta Hamilton, Setting the Agenda – Jean Royce and the Shaping of Queen's University, at 151-54 – At least part of debate gets framed in AF terms – Debate over continued role of Principal as Chair of Senate
- Also produces what now seem unduly optimistic assessments

## Historical Evolution (cont.)

- “Reforms along the Duff-Berdahl lines have already penetrated the better Canadian universities, and where they have, the change has produced much goodwill: The President tends to be as much the Faculty’s man or woman as the governors’ and the suspicion between faculty and governors is dwindling”



# Historical Evolution (cont.)

- “I am sure that the battle is nearly won and that the dinosaurs will soon be seeking their bed of pitch.”

Kenneth Hare, 1967 Plaut Memorial Lecture

- Bora Laskin saw Boards becoming constitutional monarchies simply providing the funds for Senate academic initiatives

Girard, Bora Laskin: Bringing Law to Life, at 287

# Historical Evolution

- Also took hold in policies
- 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel – VI (B) – Rights and Freedoms of Higher-Education Teaching Personnel – Self-governance and Collegiality (CAUT, Canadian-influenced)
- Now explicitly in CAUT 2011, Policy Statement on Academic Freedom, Clause 5
- See also University and College Union (UK) 2009 Statement on Academic Freedom, Clause 2

# Historical Evolution (cont.)

- Nonetheless, the “golden age” was short-lived
- Girard’s assessment – Laskin’s optimism was misguided; flourished in Ontario only during the brief era of government largesse towards tertiary education
- Despite re-enforcement of Duff-Berdahl by 1993 CAUT-established Independent Study Group on University Governance, by 2001, in CAUT Bulletin, Tom Booth is reporting serious cracks in veneer and advocating collective bargaining

# Historical Evolution

- Have widened still further. Symptomatic of this is now public split between CAUT and AUCC resulting from AUCC's 2011 revision of its 1988 Statement of Academic Freedom
- 1988 not strong on participatory rights for faculty (or students) in academic governance, university administration, but even its reference to role of Senates has been eliminated from 2011 Statement

# Involvement in Governance as Component of Academic Freedom

- Instrumental

Vehicle for protection and furtherance of two historic limbs of AF – institutional autonomy of universities and individual freedoms of faculty (and students?)

- In its Own Right

Freedom in positive sense of forum for engagement with others in assessing claims and setting academic priorities

Eric Barendt, Academic Freedom and the Law: A Comparative Study (2010).

# Environmental Factors

- Current environment for Canadian Universities provides ample warrant for enhancement (restoration?) of faculty (student) involvement in governance, furthering in various ways all three components of governance as a critical element in academic freedom
- Some of the environmental challenges are not new (but generally with more complex dimensions); others are very recent
- Some can be classified as “threats” but, for my purposes, prefer “significant AF dimension”

# Environmental Factors (cont.)

- Growth in number of universities and student bodies
- Increasing emphasis by government and professional bodies on training students who are marketable
- Internationalization of programmes and participation in others' international programmes

# Environmental Factors (cont.)

- Outsourcing of teaching responsibilities
- Far greater engagement in commercial activities through public-private partnerships and collaborations with governments; licensing and sale of product of research
- Research funding tied specifically to needs of both government and private sectors and accountability based on their standards
- Greater dependency on philanthropy and *quid pro quos* of donors



# Environmental Factors (cont.)

- Government funding constraints - tough choices re curricula and research developments, class size, and growth in use of contract faculty and instructors
- Faculty unionization and pressures resulting from confrontational collective bargaining between faculty and administration; perception that the locale for academic decision-making has in part shifted from Senates
- More active governing boards, in part the result of greater sense of responsibility for fiscal oversight; in bicameral governance structures, Boards increasingly view every major academic decision as financial one for them (*cf* Laskin's pious hope)

# Environmental Factors (cont.)

- Growth of non-academic administrative class and resulting private sector management ethos
- Increasing accountability, through, *inter alia*, output and cost-benefit measurement and course content to government, including granting agencies, and professional regulators.
- Changing conceptions of moral and ethical standards of research both internal and external; limits on inquiry

# Environmental Factors (cont.)

- Greater diversity within the University and especially among the students
- (Re)emergence of religiously-based, privately funded universities
- Changing conceptions of limits on speech and other forms of expression (*Charter, Human Rights Codes*)
- An aging professoriate not constrained by mandatory retirement

# Environmental Factors (cont.)

- New modalities of learning and increased instructional reliance on ever-changing and radically different technologies. The death of the classroom and lecture?
- The loss of intimacy as reflected in public nature of all instruction and academic engagement – the ubiquitous camera and recording device; online notes and lectures; sharing not only with other students and members of university community but also the “world”

# Enhancing Participation in Governance

- Convincing AUCC that participation in Governance is critical component in AF and pushing for appropriate amendment to 2011 AUCC AF Statement – finding common cause again
- Creating an environment in which faculty are reenergized and seek out involvement in university governance. Eliminate the silo mindset
- Number and complexity of issues is reason for engagement - not for default; anticipate problems – don't wait for a crisis

# Enhancing Participation in Governance (cont.)

- Break deadlock that currently exists between Boards (and Administrators) and Faculty over governance prerogatives and differing conceptions of the line between financial decision-making and academic decision-making
- Recognize absence of bright-line distinctions between money and academic decision-making, and importance of creating joint Senate/Board policy and operational committees

# Enhancing Participation in Governance (cont.)

- Faculty (and students) might just know something about academic freedoms and threats to it
- Indeed, on some issues of intersection between academic and financial decision-making, faculty (and students) may be better located than lay boards
- Need to convince that assertion of participatory claims is altruistic more than self-serving

# Enhancing Participation in Governance (cont.)

- Learning from Past Engagements

In 1967, Claude Bissell, President of U. of T. reacted to Duff-Berdahl by suggesting a unicameral system of University governance. Led to unicameral Governing Council in 1971 . However, even earlier, he had a representative President's Council. How did that work? (See Martin Freedland, The University of Toronto: A History, at 527-28)

How did the stars align to lead AUCC and CAUT to jointly establish Duff-Berdahl? Did either regret it?



# Enhancing Participation in Governance (cont.)

- Heed recent advice

The Iacobucci Opinion on the Senate's Role in Queen's University Governance, November 12, 2012:

Although you have asked for my legal opinion, I feel obliged to point out, that the legalities...is ultimately not as important as encouraging both organs [Senate and Board] to be mindful of maintaining a relationship with each other that is in the nature of partnership. To do that is a better way of ensuring that individual disagreements do not become adversarial and divisive, making the attainment of a collegial or partnership relationship, very difficult, if not unattainable

# Enhancing Participation in Governance (cont.)

- Universities are/were traditionally “very good” at setting up committees to deal with issues large and small
- Academic freedom is a foundational issue affecting all members of the university community. Participation by faculty in governance is now surely an integral part of it.
- At a time when issues of academic freedom are becoming more prevalent than ever before and more complex, surely it is not too much to ask for the creation of a standing joint committee on AF to (i) explore issues of governance responsibilities, (ii) establish appropriate participatory modalities and parameters, and (iii) when in place, engage in forward-thinking analysis of emerging and changing problems?



