

ACADEMIC FREEDOM AND THE DUTY OF LOYALTY

STAKES AND STRATEGIES IN THE CURRENT CONJUNCTURE



TERRITORIAL ACKNOWLEDGEMENT

- I am speaking to you from Saskatoon, in Treaty Six territory and the traditional homeland of the Métis ... and the temporary home of the worst provincial government in Canada ever, bar none.
- Now even over ZOOM, through muted microphones even, I can hear some of you objecting; “No, no, Len! Our provincial government is worse than yours—by a country mile, or several city blocks!” This might prove my point about variable leadership across the Canadian federation, and at least equally evident in the varying quality of “leadership” across the Canadian post-secondary sector, a sector globally admired and emulated, but provincially bullied, pillaged, and stigmatized

OVERVIEW

- The stakes and strategies re. the Academic Duty of Loyalty pre-COVID
- The stakes in the current conjuncture
- The strategies of libertarian mobilization: **taking liberties with freedom**
- The society of the libertarian spectacle: after Sartre, Debord, Foucault
- **Alienation Improv** and **Carnival-as-Routine**: capturing freedom for an agglomerative 'politics' of 'liberation'
- The **duty of loyalty** case for academic labour conformity with Organized Labour as such
- The **duty of loyalty** case for academic labour exceptionalism
- The national and provincial picture: heed your educators and researchers or follow your favourite ignoramus-influencer
- Strategies against appeasement: within the frame of "The Levers of the Law," the anti-lumpen agency of "The Leaven of Justice," and across the shifting terrain and mediascape of lawlessness

ACADEMIC DUTY OF LOYALTY PRE-COVID

- The growing unionization of academic staff in post-secondary institutions in face of increasingly imperious academic managerialism, led individuals with a claim to academic freedom to defend that claim wherever and however they could;
- While refusing to be treated as “hired hands,” they used two principal sites to affirm their status as **employees-plus**: shared collegial governance, and negotiation with management of mutually binding collective agreements recognized by, and subject to, labour law;
- From the beginning of this process of organizing academic labour beyond hegemonic **bourgeois male gentility, class collegiality**, and their **ur-formation** in European church and court cultures, many ceased seeking the ear of the prince, principal, or president, recognizing that their academic freedom (and obligation) to criticize the employer had been justified once and for all in the *Fowke-Laskin Report* (1959)

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- The *Report* notes: “Dean Freeman [of Theology] said that when he first read the letter [written to a colleague by Professor Harry Crowe] he was of the opinion that anyone on the faculty was **duty bound** to take it to the Principal [Lockhart] (p.24; emphasis added);
- This ancient and persistent version of the Duty of Loyalty infantilizes “faculty” while affirming a snitch culture tied to a rigid ecclesiastical hierarchy in the name of United College. This apparently justifies reading other people’s mail, and is certainly still relevant today as academic staff continue to assert custody and control of their correspondence in the age of surveillance capitalism, managerial prescription of **duties**, and response to even the faintest murmur of off-message critique as **‘disloyalty’**;
- But surely the **structures** underlying Dean Freeman’s **dutiful loyalty** and its punitive results are long gone, in the course of a linear progression without relapse? Not so.

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- “Academic freedom is a central, **arguably** the central **value**, of university **life**. Anything which **interferes** with it has to be **justified** by reference to prior and higher values. I can **think** of very few, other than **perhaps** the protection of human life: **certainly** not **institutional solidarity**; **certainly** not **institutional reputation.**” (Harry Arthurs, “Academic Freedom: When and Where?”: notes for an AUCC panel at its annual conference, Halifax, 1995; emphasis added);
- **Whew!** A former Law Dean and university president (York, 1985-92) is talking to his successors, and sounding just like a scholar figuring things out in ‘public’, unfiltered and free. ““Maybe this portends that the kids, and their teachers, are alright!”
- **But not so fast!** Which presidents do this now, today, in the age of Big Brander, risk aversion of several kinds, rankings fetishism, lavishly compensated “CEOs,” and the plutocratic academic fiduciary?

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- Before COVID hit Canada, there was a shared recognition by administrators and academic staff that academic freedom was indispensable to teaching and research; however, there was far less agreement between these two groups about its scope and relevance in the areas of intramural and extramural speech: i.e., the right to criticize the institutional leadership and their favoured policies, and the right of academic staff to contribute to public debates on matters of public concern;
- The (then) AUCC 's new 2011 “Statement on Academic Freedom” was widely seen as retrograde, remiss in some of its assertions and in some of its silences; an exchange of public statements between CAUT and AUCC ensued, and foreshadows some of the enduring problems;

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- The whole exchange between AUCC and CAUT merits careful and recurrent scrutiny, not least for the former's **insinuation** that, beyond disciplinary speech on disciplinary matters, academic staff would do well to self-censor, or they would risk violating their Duty of Loyalty to their employer;
- Here is a sample insinuation from Stephen Toope and Paul Davidson in response to Wayne Peters and Jim Turk: "The responsibility of an institution **to organize its mission is an appropriate constraint on academic freedom.** For example, a university's responsibility to schedule classes and exams and prepare the academic calendar should not be encumbered by a loose definition of academic freedom." Oh Harry Arthurs, Bora Laskin and Vernon Fowke, where art thou to decode and denounce such deceptively anodyne "organization" of the university's "mission"?! One can almost hear an administrative Sybil insisting, "Don't mention the war, Basil."
- At least David Naylor of U of T could smell a rat in the new AUCC Statement and refused to sign on. **But not so fast.** The U of T's excellent statement on Academic Freedom is not enforceable from within a collective agreement but from within the managerial miasma that envelops the understanding and implementation of institutional policy. Am I being unfair? Ask Dr. Azarova or her U of T supporters for a current take on this. Or, dare I say, ask CAUT!
- Trouble at degree mill has continued unabated since 2011, and now unilaterally imposed COVID protocols have added substantially to the worries of academic staff and their associations., while Alex Usher and his ilk descend from the mountain, tablets in hand, to tell their clients how to Build Back Bitter.

THE STAKES FOR ACADEMIC FREEDOM NOW

- The notion of a shared core of commitment to Academic Freedom, plus contested ancillaries or peripheries, was challenging enough pre-Covid, and especially after 2011;
- The enhanced risk **now** is that **all versions of freedom**, including academic freedom, will be ingested, transformed, and weaponized by aggrieved libertarians to subvert or invert those versions and traditions of freedom hitherto espoused, promoted, and robustly critiqued as part of the democratic way;
- Academic freedom's connections to excellence are already being repurposed as proof of the undeserved privilege of a pampered left-wing "elite" who serve those even more privileged than themselves; time, then, for libertarians to uncouple science, high culture, high-handed "cancel culture," and hand-wringing "wokeism" from freedom of any kind, and reduce academic freedom to a wedge to split the academy as thoroughly as it is dividing society, and equally simplistically.

TAKING LIBERTIES WITH FREEDOM: THE HUBRIS OF FREEDOM CONVOYEURISM

- The meaning of **freedom** is a site of prodigious struggle historically and currently, and at the moment an illustrious term is simultaneously emptied of meaning so as to function as a libertarian, self-evident good, and caused to function as a cornucopia of ever-morphing complaints and accusations whose lack of definition and coherence protects them from the customary expectations of rational citizens and academic authorities who do their work **dutifully**, in an anti-authoritarian, anti-Lysenkoist **loyalty** to discipline, evidence, and expertise;
- You have of course heard of (or maybe even seen) the emperor's new clothes; now scrutinize the blustering opportunist's iconographic delirium affirmed in flags, patches, tattoos, the insignia of the brainless harlequin packing heat, and the branchplant animus of Canadian Trumpians. And consider how this process is legitimated by some Conservative MPs and Senators, and by premiers like Scott Moe conducting his latest composition, **Concerto for Truckhorn, Dogwhistle, Oil Drum, and Superspreader Chorus**.



THE SOCIETY OF THE LIBERTARIAN SPECTACLE

- The Sartrean lense:-“We are condemned to be free”-- offers an existential irony and dialectical duty tied to responsibility for human actions, not a never-go-to-jail card for free-wheeling libertarians;
- Guy Debord’s nightmare: The Society of the Spectacle was bad enough in the 1960s, and he eventually admitted it could and would get worse, while affirming that human “separation is the alpha and omega of the spectacle,” a place where alone social “atoms” can feel connected to some version of “the One”: white settler Christian nation, national flag, or whatever. What would Debord make of the binding of social atoms into volatile compounds being done in the name “of the alpha and **omicron** of the spectacle”? What would Harry Arthurs make of this “[**anti**]institutional solidarity”?
- What would Foucault make of the “Freedom Convoy’s” version of **parrhesia** (fearless speech addressed to power) as speaking in tongues in the public square, or the threatened eclipse of the “specific intellectual’ as “no longer the rhapsodist of the eternal, but the strategist of life and death,” by the new barbarism’s **generic anti-intellectual**?
- Such questions are my **shorthand** for the kind of work we have a **Duty of Loyalty** to undertake, if we wish to maintain and expand connections between academic freedom and democratic values and institutions.

ALIENATION IMPROV AND CARNIVAL-AS-ROUTINE

- These are symptoms of desperation and vulnerability; performative freedom seems like Mardi Gras on retrograde racist steroids, while survivor skills and supports enabling an impromptu/planned occupation show a dangerous contempt for the law, and for that less formal sense of leavening justice which prides itself in attentiveness to the rights of residents and neighbourhoods, and the needs of the unhoused;
- The longer you outstay your tepid, wary welcome, the more inevitable it becomes that considerations of sustainability, occupation, rights, and freedoms, will expose and counter the self-serving incoherence of your understanding of what freedom means and legitimates—as when the academic tourist—student or potential donor or government functionary--arrives on campus and gets that sinking feeling: “Shit, this is serious. These people **are** serious about what they do whatever that is.”

THE DUTY OF LOYALTY AND ACADEMIC LABOUR

- The case for accepting Duty of Loyalty as applying to academic staff, as well as to formal fiduciaries serving on the Board of Governors, needs to recognize that employee status brings prescriptive letters of appointment and ongoing contractual obligations, but need not concede two claims wont to be made in such contexts by employers: first, that the Duty of Loyalty of academic staff is owed to the interests of the institution **as defined by its managers** (the subtextual AUCC/UC position); second, the assimilation of academic labour to labour in general (as exemplified by other campus unions) enables other, **collegial bodies**, to function more ‘properly’ and ‘freely’ because dominated by and uncritical of **management** (which usually calls itself **leadership** in such settings);
- But a trade-off made to secure the advantages of certification (including clarity, enforceability, and access to grievance and arbitration procedures) does not restrict academic staff’s rights to determine **where** their fuller **loyalty** lies and **how** they understand and act upon their sense of **duty**.

THE DUTY OF LOYALTY AND ACADEMIC EXCEPTIONALISM

- The Duty of Loyalty, when aligned with a cautionary history of institutional autonomy and faculty purges, helps clarify why this Duty needs to be emphatically refused when it threatens to function as a trojan horse for the corporate, capitalist university;
- Its strategically narrow acceptance and transcendence help **reveal** and **legitimate** the migration of key collegial rights and obligations from stacked Senates, Councils, and committees acting as management's echo-chamber and Star Chamber, to sites of collective bargaining where stewardship and enforceability are better guarantors of academic integrity, sound policy conceived and reconceived in the public interest, and academic freedom as defined, promoted, and protected by CAUT.

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- To be sure, academic exceptionalism can be readily attacked as mere guild privilege;
- However, such attacks need to be anticipated and dealt with boldly when they occur, not by smug or defensive credentialism, but with strategic reference to the astonishing contributions the Canadian academy makes in ordinary times but also *in extremis*: in time of COVID and similarly extreme challenges—a good many of them made *pro bono*, and all of them made in contexts of reward that throw into bold relief obscene accumulation by compradors, parasites, profiteers, and managers.
- Academic staff are not getting rich but getting sick, and haunted by fears of ineffectiveness and inauthenticity, during the pandemic. And yes, there should be a “law” against that!

A NEW ACADEMIC FRONT IN FORMATION

- The national picture, **Not books in dumpsters! Or trucks blocking the agora!**: rather, **an unspectacular coalition of informed concern**: CAUT; The Royal Society of Canada; Universities Canada; the Federal Granting Councils; Canadian Federation of Students; Canadian Federation of Labour populating and performing the idea of public education, K-to-Postdoc and into a properly compensated and enabled professoriate, as key to any democratic advantage worthy of the name, in any democracy other than “illiberal” ones;
- Your provincial picture: All campus unions in all post-secondary institutions and your provincial Federation of Labour working together for the common good.

AGAINST APPEASING WILFUL IGNORANCE

- Academic freedom, combined with the Duty of Loyalty in its narrow legal and broader justice senses, levers and leaven, offers an indispensable basis for taking on Unreason in its currently virulent forms;
- And this must be done by academic staff members, irrespective of employment status or disciplinary seniority, all secure in an understanding of the nature of the current stakes and the lessons of the past both recent and distant;
- **Dare to know**, certainly; but also **dare to share that knowledge** in ways that underline the difference between educated courage and uninformed audacity, and do so with an expectation of informed critique, but no fear of (even more) reprisal.