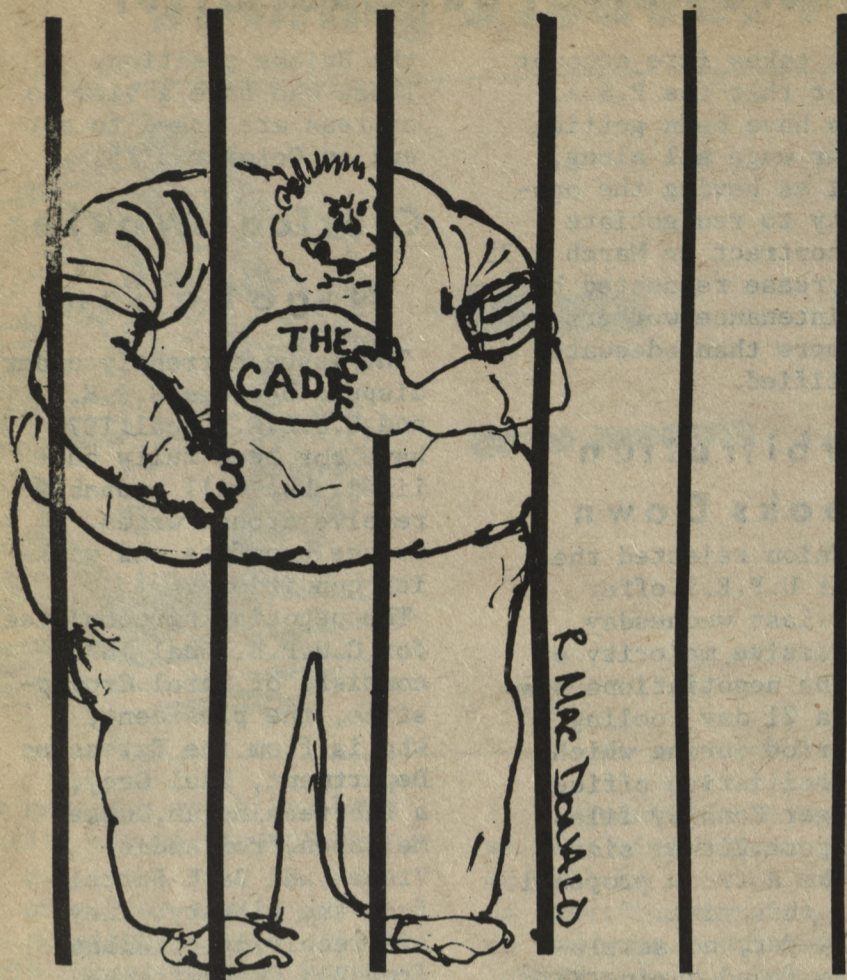


COU May Resort to Legal Action to Stop Pirated Term Papers



TORONTO (CUP) --- The Council of Ontario Universities (COU) may resort to legal action to stop the use of pirated term papers and essays by students.

Options now being considered by a special committee of COU, the official collective organization of Canadian universities, include laying criminal forgery charges against the companies who sell the papers, student newspaper editors who run the ads for the companies, and students who submit purchased term papers for academic credit.

But an analysis of the legal options open to universities presented at the May meeting of the COU states that "prior publicity and appropriate warning must be given before sanctions are applied," and before court action is contemplated.

The legal analysis was prepared by professor T.P. Chen, a member of the special COU committee studying the problem of pirated essays. The committee consists of legal and non-legal academics and was set up after an earlier committee of Law Faculty Deans failed to reach agreement on how to stop the use of pirated essays by students.

In his report, Chen had rejected the idea the deans had considered -- asking the government to enact legislation to regulate the research business and declare illegal the sale of papers for plagiarism purposes -- on the grounds that the seriousness of the problem did

not justify special legislative action.

According to a letter from COU secretary Grant Clarke, the COU council rejected his argument because "even if the number of fraudulent papers being submitted is small, the perception that the practice exists is very deleterious to the morale of the students, undermines the credibility and integrity of the academic process, and can drive the system back to an increasing reliance on examinations."

But the council apparently did accept Chen's alternate reason for rejecting legislative action -- that other existing remedies be exhausted before recourse is had to special legislative action.

According to Chen's analysis, the possibilities of universities being successful in breach of contract suits against students who use pirate essays, and companies who sell them, is low. The problem with taking such an action, Chen says, is that it is questionable that an enforceable contract exists between a university and a student which would rule out any claim of contract violation.

As for the possibility of charging the student or the companies with a common fraud, Chen said the difficulty would be to identify the injured party. American courts have ruled in the past that pirate essays constitute fraudulent action against the public, but Chen doubts that Canadian courts

would uphold this judgement.

Chen said the problem here is proving someone suffered damages from pirated papers, explaining that the legal definition of damage "must be personal injury or financial loss of some sort." He continued, "It seems to be farfetched to claim that the public, or even the educational institution involved, suffers such a damage when a term paper company engages in plagiarism activities."

Chen does feel, however, that "the educational authorities and the attorney general may be able to rely on the forgery provisions and the conspiracy sections of the Criminal Code to suppress plagiarism activities of term paper companies."

Chen says in his report that forgery, under the Criminal Code, consists "in the making of false document in order that it may be used as genuine" and that "this definition certainly includes a student term paper."

A company which prepares and sells such a paper "is therefore committing forgery under the Criminal Code, and thus, is guilty of an indictable offense liable to imprisonment for 14 years or less."

Additionally, a student who uses such a paper may be charged with uttering a forged document, according to Chen, and is liable to the same penalty. And "a student newspaper editor, or whoever, for that matter, knowingly publishes an advertisement soliciting preparation or purchase of such term papers may be held to be guilty of criminal conspiracy to commit forgery, and is liable to two years imprisonment."

Chen says that another avenue might be open to universities when Ontario Bill 55, dealing with "unfair business practices" is passed. This argument rests on an American precedent which indicates that pirate essays are unfair business because they deceive the educational institution, foster an unequal relationship between students, are unfair to employers who select students on the basis of academic achievement, and compete unfairly with firms involved in the legitimate sale of research aids.

Another possibility suggested by Chen is to apply to the Postmaster-General of Canada to issue a mail-stop order against companies involved with pirate term pa-

pers under the Post Office Act. Chen argues that a mail-stop order would "effectively intercept the illegal mails and, thus, nip these plagiarism activities in the bud."

Such action would be limited in its effectiveness, however, because most term paper companies are American based, and therefore, "beyond the reach of Canadian courts," according to the report.

Chen urges that universities not rush into serving writs against university students, or the companies. The first step, he suggests, is to publicize and warn against plagiarism activities and its possible consequences. Next, universities would seek court injunctions ordering term paper companies to desist in these activities. Only if these injunctions were violated would writs be served.

The COU council received the report of the special committee at its May meeting and has instructed the committee to further research its report and report back. According to COU spokesmen, no one knows for sure when the final report will be ready.

The ad below does not reflect Cadre policy. We are most adamantly opposed to the practice of falsifying term papers. However, in a society which feels that everything should be done for a reward (e.g. a student works for marks, the Cadre works for ad money) then we are forced into a position where, in order to survive as a newspaper, we not only have to deny our principles, but possibly break the law. Be it known to all that we do not enjoy being forced to transgress legal, and moral principles in order to gain the satisfaction of putting this newspaper out. We condemn the society which forces its members into such contradictions.

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