

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO*Appeal of a department
sanction.*

IN THE MATTER OF an Appeal by *Mr. M.* from
the imposition of an Academic Penalty by the
Department of History under Section 16 (5) of
the Enactment.

This matter came before the Tribunal by way of Appeal
by the student *Mr. M.* from the imposition of an Academic
Penalty by the Department of History following an admitted incident
of plagiarism which will be referred to in more detail below.
Although informed of his right to be represented by Counsel or an
Agent, the student chose to appear in person. The University was
represented by Mr. John Laskin.

During the course of the student's submissions,
considerable reference was made to circumstances involving a
trucking business managed by the student and his father which led
to extensive and protracted legal proceedings commencing in 1982.
The student's father who sat with him throughout the proceedings
requested and was granted permission to address the tribunal on
behalf of his son and during the course of his remarks it was
disclosed for the first time that he and his son were clients of
a large Toronto legal firm, one of whose partners was sitting as
a member of the Appeal Tribunal. After recessing to consider the
matter of possible conflict of interest, the parties were recalled
and informed of the Tribunal's concern over the possibility of any
appearance of unfairness, lack of impartiality or conflict of

interest. Both Mr. Laskin for the University and the student and his father stated clearly that they had no reservations whatsoever with regard to this panel of the tribunal completing the hearing and rendering a decision.

Having given the matter further and careful consideration, we are satisfied that there is no real conflict of interest such as would prevent the Board from hearing and disposing of the Appeal, and the parties having expressly agreed that the Board is free to decide the matter, we are content to proceed to consider the merits.

In the 1982 fall term, the Appellant was enrolled in history H1S241F a half-year course in which the final course mark was a composite of marks awarded for the final examination (40%) term work and class participation (20%) and one essay (40%). Because of the circumstances alluded to above involving the family business, the Appellant found that he was not able to devote sufficient time to his studies and sought to withdraw from the course, and indeed he did withdraw from other courses. However because this particular course was a half-year course only, he found that the time for withdrawal had expired. Faced with the imminent deadline for submission of the mandatory essay, he chose to copy an essay in its entirety from another source and submitted it under his name as his own work. Some weeks later he was challenged by the course Instructor who suspected plagiarism and at that time readily admitted what he had done.

The Board is left with the impression however that the Appellant would have been quite content to allow the paper to be assessed and marked and had the deception not been discovered, it would not have been voluntarily disclosed.

The Department Officials had two courses of action open to them, apart from ignoring the matter entirely. The admitted facts would clearly have warranted a prosecution before the tribunal. This was rejected and instead, having heard and weighed the student's submissions as to the extenuating circumstances, he was permitted to submit a second essay for grading subject to the imposition of a penalty of one-half of the forty percent of the final mark that would represent the grade awarded for the essay; in other words, were he to be granted the highest possible mark on the essay, he would receive credit for only 20%, rather than 40% on the course total.

The student accepted this disposition of the matter and submitted a second essay. There is no suggestion before us that this was not entirely his own work. The grade assigned was a D plus or 58% which was reduced by reason of the penalty imposed to a credit of 11.6%. The grades assigned for the final examination and the term mark were 24.4% and 12% respectively with the result that his final course average was 48%. The main thrust of the student's appeal is not that the disposition of the matter within the Department of History was unfair; rather it is the ultimate result of his missing a bare passing

grade by 2% that is perceived as unfair and this Board is invited to modify the penalty imposed by the Department to in effect raise his course average to a passing grade.

It was pointed out during the course of the submissions before us that the result in terms of passing or failing the course is precisely the same as if the offending essay - the first one - had never been submitted.

This Board must review the action taken by the Department and the appropriateness of the penalty imposed in the light of all of the circumstances bearing in mind the range of penalties which the enactment empowers the Department to impose. Although the final result of the imposition of the penalty may be one of the circumstances to be considered, it is certainly not the prime circumstance.

We are faced here with admitted plagiarism; perhaps the most serious problem faced by any academic institution concerned with its reputation and integrity and the standards which it sets for its students. To accede to the Appellant's request would be in effect to ignore his offence. In our view the Department Officials dealt with the offence in a most lenient manner. We find no fault with the manner in which the Officials of the Department handled this affair nor do we see any reason whatsoever to interfere with the penalty which in their discretion they chose to impose. The Appeal is therefore dismissed.

Oral reasons delivered at the conclusion of
the Hearing June 21, 1983 by C.A. Keith, Q.C.
concurrent in by George W. Hately, Q.C. and
Gloria Klowak.