



feature LEANING LEFT

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David Mandel, a University of Quebec substitute professor, tried to fight McGill University when he was refused a tenure-track position in 1980 because of his political beliefs. He has just written a book on his battle with McGill with Allen Fenichel, a McGill professor, titled *The Academic Corporation: Justice, Freedom and the University*. While the book looks specifically at Mandel's case, it also examines the inadequacies of the process universities use to hire academics.

Mandel was teaching Soviet and East European politics at McGill on a one-year appointment when he applied for a tenure-track position in the same field. Once a candidate holds a tenure-track position, the university will either let the candidate continue in a tenure-track position, award a tenure position, or not renew the contract at all. Highly qualified, with an excellent publications record, Mandel made the short list of candidates for the McGill position.

Despite his qualifications and a recommendation from the Appointments Committee of the Political Science department, the department rejected Mandel and hired Joan Debardeleben, an American, who now holds the position.

The department violated Canadian Association of University Teachers (CAUT) regulations and federal immigration laws on hiring Canadian professors first by hiring Debardeleben.

While the department offered no official reason for his rejection at first, Mandel heard the real reasons were political.

"Mandel is a Marxist in a department where his view is not held by many," said professor Sam Noumoff.

Noumoff, also a Marxist, can attest that the department does not have a history of fairness toward Marxists in their midst. He has been teaching in the Political Science department since 1967 but did not get tenure until 1981.

Noumoff also said Mandel's views on the Middle East conflicted sharply with those of some members of the department. As well, Mandel had cancelled his classes during a strike by McGill maintenance workers and was one of few in the department to respect the picket lines, which also made him unpopular.

After he was refused tenure, Mandel spoke with the McGill Association of University Professors (MAUT). The chair of the committee, Irwin Gopnik, now the Dean of Students, told him there were no procedures for appeal in the case of hiring. So Mandel decided to pursue his complaint with the Academic Freedom and Tenure Committee of the CAUT. But the committee refused to take up his case, saying they had neither the mandate nor the guidelines with which to investigate cases of hiring.

Mandel appealed to the CAUT board, which, after one year of consideration, decided to launch its own

fact-finding investigation.

Mandel also appealed to the Quebec Human Rights Commission, which began its own investigation in October 1981, compiling over 50 hours of interviews during the one-year investigation.

Throughout this period, the McGill administration resisted an outside inquiry, saying it threatened the university's independence and academic freedom.

The CAUT fact-finding commission, named after its chair, Dale Gibson, gave its final report in October 1982. The report came out in favour of Mandel, saying none of the reasons offered by the members of the Political Science department who testified were credible. The Gibson report said that in a case like Mandel's, the burden of proof should lie with the university.

While the committee did not find actual evidence of political discrimination, they did say "the department has failed to persuade us political bias was not a factor."

But the Human Rights Commission report went further in its condemnation of the department. After conducting a thorough investigation, Claude Trudel wrote, "There were, in this particular case, political elements that, in the full sense of the term, intervened in the collective decision of the department."

The CAUT report recommended that McGill publicly acknowledge its unfair treatment of Mandel and that the Gibson report be made public to help restore Mandel's reputation. They further recommended that Mandel be given the job he was originally denied if he still wanted it and that he be financially compensated for losses resulting from his unfair treatment.

But instead of pressuring McGill to abide by the report, the CAUT merely called for a joint inquiry with McGill. The CAUT board shelved the Gibson report on Mandel's case without ever voting to adopt it.

For its part, the Human Rights Commission rejected Trudel's report because it did not contain enough evidence to take to trial.

But Mandel and Fenichel are not surprised.

"It's very difficult to get evidence of discrimination which will hold up in court. No witness will tell you, 'Yes, I discriminated against him,'" said Fenichel.

Finally, four years after Mandel was rejected by the Political Science department, the CAUT published the Gibson report in its publication, *University Affairs*. But this was all they would do for Mandel.

Fenichel and Mandel claim that while the CAUT has a mandate to protect academic freedom, in this case they did nothing to accomplish this other than defend the 'closed shop' attitude of the university facilities.

"The feeling I get about the CAUT is that it has not fulfilled its mandate. However, even if they had, they would have been unable to do anything," said Fenichel, noting that while the CAUT can censure a university, its capacity is limited.

"To censure a university is to make a university a pariah — a serious thing — but their will and ability to

enforce censure is limited," Fenichel said.

Mandel is also critical of the CAUT and said he believes the association shirked its mandate on his case.

"It (CAUT) was basically unwilling to go up against the McGill administration," said Mandel.

But CAUT has worked to defend professors who were denied a position or a contract renewal because of their political views.

In the fall of 1985, the CAUT Academic Freedom and Tenure Committee acted as an intermediary between Carleton professor Robin Mathews and the administration at Simon Fraser University in Vancouver. Mathews claimed he was denied a teaching post at SFU because the university administration and faculty did not approve of his Canadian nationalistic views.

The CAUT committee examined Mathews' complaint and the Canadian Studies department at SFU attempted to settle the dispute by offering Mathews the opportunity to teach at SFU. But SFU maintained, as the McGill administration did in Mandel's case, that the professor's political views were never the issue.

But as Jerald Zaslove, chair of SFU's English department, said in a letter to Dougland Waurtele, Carleton's English department chair, "Robin Mathews' views about cultural and literary nationalism were deeply offensive to many faculty, and these faculty just did not want to take the chance he would use the department as a platform."

Gregg MacDonald, an assistant to the SFU administration president William Saywell, said they offered the teaching position to Mathews to resolve the dispute, but it was not an admission that SFU had hampered academic freedom by rejecting him in the first place.

While Fenichel doubts a CAUT censure would affect a university's hiring process, other professors say CAUT was effective in protecting academic freedom at their university.

The CAUT imposed a censure on Memorial University of Newfoundland in May 1981 for its 1977 firing of Social Work professor Marlene Webber. Webber had been accused of using the classroom for promoting her Marxist beliefs.

The dispute between Memorial and CAUT went on until January 1986, when the administration decided to change the agreement governing the terms and conditions of employment at Memorial. The proposed changes included an exhaustive list of anti-discrimination clauses, and for the first time provided a detailed grievance, appeal and arbitration procedure. The amendments guaranteed academic freedom for faculty by asserting "faculty have the right to teach, discuss or hold any belief without conformity to any prescribed doctrine". As well, the CAUT proposed a settlement with Webber to cover damages.

"Webber's settlement was a fair resolution as far as we're concerned, and Webber said she can accept this settlement," said Mark Graesser, president of the Memorial University of Newfoundland Faculty Association.

"The main thing this [the Memor-

ial administration's new policy] shows is that the influence of the censure is significant. Some people have the idea that it doesn't matter, that CAUT censure may just be an unpleasant label," said Graesser.

But Memorial University felt the ramifications of a CAUT censure. In May 1985, Memorial was forced to withdraw its invitation to host the prestigious 1987 Learned Societies Conference when many individual societies passed resolutions not to attend because of the censure.

While other academics have successfully contested universities who discriminated against them because of their political views, David Mandel has decided to give up his case against McGill University. He said the CAUT was not the only group who failed to support him. He calls the Human Rights Commission "something of a paper organization. It makes you think you've got somewhere to go, but in reality you just have to go to court anyway. The Human Rights Commission is just another procedure to go up against."

But Mandel and Fenichel hope their book will educate people about the injustices that take place in Canadian universities, not just at McGill.

Fenichel says the book is not meant as an attack on the Political Science department at McGill, but rather "an attack on the behaviour of some members of the department in Mandel's case, and it's a situation we don't feel is unique."

Mandel blames the university system itself, particularly at McGill, where "collegiality" is the governing principle.

Samuel Freedom, vice-president academic at McGill, defines collegiality as "the attitude that the members of this community will participate in the decision-making process of the university and through their participation in its collective activities, help to fashion its attitudes."

But Fenichel and Mandel have a different interpretation.

"Collegiality is an authoritarian power structure, not subject to any internal or external control. Those who cooperate with the powers that be can obtain personal benefits but cannot claim academic freedom."

Mandel obviously did not fit into this system. He and Fenichel criticize the structure of the current tenure system for not protecting academic freedom at the hiring level.

"If universities are careful enough in their initial hiring, there will be no need to fire people later on for non-academic reasons. 'Deviant' who make it through the graduate school selection process are left unprotected as they seek employment," write Fenichel and Mandel.

"One reason [for writing *The Academic Corporation*] is to open people's eyes to what's going on. University is surrounded by this aura. It's supposed to be the crème de la crème of society, the height of intellectual achievement. To de-mystify this would be healthy," said Mandel.

"It might also teach students to be a little more critical of what they're taught in the classrooms. If [professors] will say some of the lies that they did in the public hearing, why wouldn't they lie in the classroom?"

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