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## **Academic Freedom and Tenure Committee**

# **Report on the grievances of Professor J.C. Weldon and Professor A. Asimakopulos of McGill University**

October 1983



Canadian Association of University Teachers  
Association canadienne des professeures et professeurs d'université

[www.caut.ca](http://www.caut.ca)

The following account was prepared by the CAUT Academic Freedom and Tenure Committee. It is prefaced by a letter from the Past President of the CAUT, Kenneth L. McGovern, to Mr. Hugh C. Hallward, Chairman of the Board of Governors of McGill University. The Board of Governors rejected the suggestion contained in Professor McGovern's letter and the CAUT Board approved the publication of the report.

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Dear Mr. Hallward:

At its meeting on October 29-30, 1982 the CAUT Board received the attached report of the CAUT Academic Freedom and Tenure Committee into the grievances of Professors J.C. Weldon and A. Asimakopulos of the McGill Department of Economics. This report was prepared when repeated efforts to resolve the grievances over the past four years were unsuccessful. The report, which has already been sent to Senate is, I believe, an accurate account of the cases. I would, however, be glad to learn of any errors or misinterpretations which it contains. The Senate did not respond to a similar request.

The CAUT Board asked the McGill Senate on November 9, 1982 to reconsider its decision not to rescind the action which it took which was prejudicial to Professors Weldon and Asimakopulos nor to agree to submit the matters in dispute to arbitration. I learned recently that the Senate at its meeting on January 26, 1983 passed the following motion:

"Senate declines to take any further action in this matter and instructs the Secretary to inform CAUT that it does not wish to rescind the action which it took on November 11, 1978, nor does it agree that the matter should be submitted to binding arbitration."

In accordance with the wishes of the CAUT Board, I am writing now to ask that the Board of Governors of the University resolve this protracted dispute. Specifically we are asking that the Board act to remove the discredit brought on Professors Weldon and

Asimakopulos by the findings of the Senate Committee on Disclosure of Information (the Martin Committee), by Senate's endorsement of that report and by the distribution of the report and the publicity given this matter in The McGill Reporter (November 29, 1978) under the headline "Three Professors Reprimanded in Senate."

I or representatives of the CAUT Academic Freedom and Tenure Committee would be glad to discuss with you the modalities of an acceptable settlement. Alternatively, CAUT suggests that the entire dispute be submitted to binding arbitration under terms of reference to be negotiated with the Board of Governors. This method of dispute resolution is widely seen and is widely used in the academic community as a desirable way of resolving disagreements.

If we cannot reach agreement on a mechanism for resolving this dispute, I must advise you that the CAUT Board has authorized publication of the report in the CAUT Bulletin.

I would be grateful if you would bring this matter to the attention of the full Board of Governors at the earliest opportunity. I would, of course, be glad to meet with you at your convenience to discuss the dispute if you think that would be helpful.

Yours sincerely,

Kenneth L. McGovern  
President

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## Section I

Early in 1978 an associate professor in the Economics Department, Dr. X., decided to apply for promotion to the rank of Professor. The normal procedure in the university at that time was for the candidate's credentials for promotion to be considered first by the departmental promotion committee, which would then make a recommendation to the Dean of the Faculty who could then make a recommendation to the Principal for the setting up by Senate of a selection

committee. It is this selection committee, which is chaired by the Principal or his deputy, that makes a recommendation to the Board of Governors.

On January 16, 1977, Dr. X. wrote two letters, one to Professor Robert Vogel, then Dean of the Faculty of Arts, and the other to Professor Asimakopulos, then chairman of the Department of Economics. The letter to Dean Vogel requested that a selection committee, as specified in Section 3.4.3 of the University Statutes, be established to consider his promotion to the rank of professor. Copies of this letter were sent to Professor Asimakopulos, Vice-Principal Pedersen, and Professor Rubinstein, who was identified in an accompanying letter as his advisor on this matter.

The letter to Professor Asimakopulos referred to the request to Dean Vogel. Dr. X. also stated that he had a series of what he described as "sharp disagreements" with Professors Weldon and Asimakopulos, and asked that they recuse themselves from the Promotions and Tenure Committee if it were going to provide any advice on the question of his promotion. Copies of this letter were sent to Vice-Principal Pedersen, Dean Vogel, Professor Rubinstein, and the five full professors in the Department of Economics who, with Professor Asimakopulos, comprised the departmental Promotions and Tenure Committee.

Professor Asimakopulos replied to Dr. X. on January 17 and denied the statement that differences had created "an atmosphere of hostility." He told Dr. X that he would be pleased to raise his request for promotion with the departmental committee and asked him to provide an up-to-date curriculum vitae and copies of relevant publications. Dr. X declined to do so unless Professors Weldon and Asimakopulos recused themselves from the committee, and renewed his request to Dean Vogel for a statutory selection committee. The latter replied that he was waiting for advice from the department. The Department of Economics had placed all matters concerning promotions in the hands of its Committee on Promotions, and Professor Asimakopulos wrote to Dean Vogel that the advice of this committee - by a vote of 5 to 1 - was that normal university procedures should operate in the case of Dr. X as in any other

case. The Dean was also told that the committee was prepared to meet with Dr. X to consider his request for promotion.

Dr. X chose not to meet with the department's Committee on Promotions and Tenure, but the Dean decided nonetheless to proceed with the recommendation to Principal Bell for Senate to appoint a statutory selection committee. Professor Asimakopulos protested vigorously to Dean Vogel, and then to Vice-Principal Pedersen, and finally to Principal Bell that the setting up of a selection committee in this manner was unprecedented and contrary to the university's own guidelines on promotion procedures. He pointed out that if Dr. X were to appear before the departmental promotions committee, and felt that he had been treated unfairly, he had the right of appeal according to established procedures.

Professor Asimakopulos' protests were to no avail, and on May 26, 1978, the Senate adopted a report of its Nominating Committee that recommended the setting up of 6 selection committees, one of which was for Dr. X. A member of Senate is reported in the Minutes of Senate as having asked "whether the department had been involved in the normal way of recommending each of the candidates for these six statutory selection committees." When he was told by the Principal that this had not been the case for the candidate from the Department of Economics, he stated that this item should be tabled until Senate considered the procedural matters involved. After Dean Vogel had made a statement on the events leading up to this recommendation, another member of Senate summarized, on the basis of what he had heard Dean Vogel say, his understanding of what had occurred. The summary, as reported in the Minutes of Senate is:

"First, the department had refused to accede to the request of the candidate to be considered for promotion to full professor; Second, the candidate had approached the Dean who had himself allowed the department to consider the case; Third, the department had not responded to the Dean's request within the specified time; and

Fourth, the Dean had asked the Principal to establish a Statutory Selection Committee."

On the basis of this understanding of events which he did not know at the time to be false, this member of Senate moved, seconded by Vice-Principal Pedersen, that the question be called, and then the motion setting up the selection committee for Dr. X was passed.

Professor Weldon was at this point acting as department chairman during the temporary absence of Professor Asimakopulos, and decided to intervene before the Senate convened for its final meeting of the academic year. He could not approach the Senate Steering Committee, since it was not meeting. Instead, he sent a memorandum to all members of the Senate stating that they had voted for the selection committee under a misapprehension of the facts, and urging that they return the promotion to normal channels. To demonstrate his point, Professor Weldon circulated to the Senators about twenty memoranda and letters from departmental files. On June 1, Professor Asimakopulos made available for consultation a similar package for members of the Economics Department. It should be noted that none of the documents related to the merits of Dr. X's promotion, or to his academic or personal qualities. They all related to the manner in which his promotion was being handled.

Soon after these documents had been circulated, Dr. X wrote to the members of the Economics Department and Principal Bell suggesting that Professors Weldon and Asimakopulos had acted improperly. A further wave of correspondence ensued. Most importantly in the context of this report, Professor D. Rubinstein of the Biochemistry Department, a Senate member who had agreed to act as Dr. X's advisor in his promotion, sent a strongly critical memorandum to other Senators and Principal Bell (June 22, 1978). He stated that, in his view, the circulation of documents from departmental files was "an invasion of privacy, unethical, and an act of gross injustice to the faculty member concerned." The precedent was a disturbing one, and Senate should decide in the Fall

what should be done about this gross breach of privacy and ethics by the Chairman and Acting Chairman of the Department of Economics. This is a problem that must be dealt with now, if the university is to maintain any confidence in the discretion and fairness of the university appointed officers, from Chairmen up.

Dr. X was promoted by the Board of Governors on the recommendation of Principal Bell and the Statutory Selection Committee. It should be noted that Professors Weldon and Asimakopulos were extremely disturbed at the procedural decisions of the Senate and administration, and made this widely known. With reference to the circulation of documents, the Senate Steering Committee decided on September 28, that Professor Rubinstein's letter should be referred to the Senate Committee on Disclosure of Information. The Senate formally concurred on October 4. The Committee's terms of reference require it *inter alia* to act "as a consulting agency on such specific problems of confidentiality, as may be referred to it, to act as a "voice of concern", to offer advice to the Senate on issues of confidentiality and to develop further recommendations on policy and procedures in this area for consideration by Senate."

The Chairman agreed that the reference fell within its jurisdiction, but stated that an inquiry into the conduct of Professors Weldon and Asimakopulos "would not fall within either the mandate or the competence of my Committee. If such an inquiry is set up it should be set up with great care and at the highest level." (September 22, 1978) Principal Bell replied that the Senate Steering Committee "agreed with you that your committee is not conducting an enquiry into the conduct of the two professors ... Rather your committee is investigating the circulation of documents; if the facts brought forward by your committee should indicate that an enquiry into the conduct of the two professors is called for, then that enquiry would be decided upon and conducted later." (September 26, 1978)

The Committee apparently made little progress during October. At the November 1 meeting of

Senate, Professor Rubinstein presented the following motion:

On June 22, I circulated a letter to members of Senate expressing concern about the practice by the former Chairman of the Department of Economics of distributing correspondence in a faculty member's file to a wide circle of people within the university community. These mailings have since continued unabated. Since I strongly feel that files kept in Departmental offices are confidential even if the individual items are not specifically so marked, I believe that the copying and distribution of information from these files is an invasion of the privacy of the faculty members, and selection of material and its distribution, unethical.

To assure that similar incidents do not occur in the future, and to minimize further damage to the reputations of individuals who have been the subject of earlier distributions, I propose the following motion for the consideration of Senate.

1. Files and correspondence dealing with individual members of faculty are confidential and must be treated as such unless all parties concerned agree to their distribution or the information has been covered by the statutes of the university or by previous Senate rulings such as the Guidelines on Disclosure of Information.
2. Senate disapproves of the distribution of information from faculty members' files and from confidential Senate meetings which have already occurred and instructs the Chairman of the Department concerned to take all steps necessary to retrieve these documents and/or have them destroyed.
3. That Senate ask the committee(s) on Disclosure of Information and/or the Rights of Senate to report to Senate within one month, how Sections 1 and 2 can best be implemented and enforced.

D. Rubinstein  
Department of Biochemistry

After considerable discussion, this motion was also referred to the Committee on Disclosure.

The Committee met on November 9 to decide its procedures. Because of the wording of the final paragraph of Professor Rubinstein's motion, and some statements made during debate in the Senate, the Committee felt that it had to act with dispatch. It decided, therefore, that it would meet on Saturday, November 11, and invite Professors Asimakopulos, Weldon, Rubinstein, Malloch and Dr. X to appear before it, one after the other, for a series of interviews of up to forty minutes. The Chairman sent written notification of this decision to Professors Weldon and Asimakopulos on the same day. He also contacted them by telephone.

Professors Asimakopulos and Weldon were somewhat taken aback. In the first place, the date was inconvenient for both of them for practical reasons. Secondly, they were unsure whether they should appear at all until the committee had clarified its interpretation of its mandate and procedures. They were not aware of the exchange of letters between the Chairman and Principal Bell. These reservations were expressed in letters sent to the Chairman on November 13 (Professor Asimakopulos) and November 14 (Professor Weldon). They asked, for instance, whether the hearings were open; whether cross-questioning would be allowed; whether the Committee proposed to pass judgement on their behaviour, or to deal with rules about distribution of correspondence.

By the time the Chairman replied (November 14 and 16) the committee report had already been written. The Chairman had formed the impression that Professors Weldon and Asimakopulos did not wish to co-operate and saw no need to delay matters further. The report was therefore sent to Principal Bell on November 15, in time for the Senate meeting on November 22.

The report concluded that the circulation of the documents pertaining to the procedures followed for Dr. X's promotion, whether or not they were marked



confidential, constituted an invasion of privacy. "The circulation of the documents," the report went on,

particularly the manner of their circulation constituted a situation which must not become a precedent at McGill. These documents concern very personal matters and it was wrong to circulate them. In any case, circulation to the Board and to Chairmen of Departments of the Faculty of Arts was inexcusable. This action runs counter to the whole thrust of the work of the Committee on Disclosure since its inception. It is in stark contrast with accepted practice and is strangely at variance with the notable insistence of Professors Asimakopulos and Weldon on normalcy of procedures. It has done damage to the subject and to the department and for this there is little redress.

Quite apart from the damage already done in this case, we would be deeply concerned for the cause of privacy at McGill if this action should go unchecked.

The report was also critical of the circulation of a letter (dated 9 June) written by Professor Eric Kierans in which he quoted from a confidential letter written by Dr. X. This the Committee called "a breach of confidence and...unacceptable." The Committee recommended that the Senate direct the Secretary General

- a) to forward a copy of this report to the addressees of the letter written by Professor Asimakopulos on 28 August 1978 and
- b) to request that the recipients of the report destroy the documents which they had received.

The report was placed on the agenda for the Senate meeting of November 22. Professors Asimakopulos and Weldon were not invited to attend, nor to speak in reply to the report. The report was received and the Senate then passed an amendment (moved by Professor Rubinstein):

that Senate endorse the conclusions of the report of the Senate Committee on the Disclosure of Information on the 'Circulation of Documents'

and direct the Secretary General to forward a copy of this report to the addressees of the letter written by Professor Asimakopulos on the 28th day of August, 1978.

The addressees were members of the Board of Governors, members of the Senate, and Department Chairmen in the Faculty of Arts.

On November 29, The McGill Reporter, a house organ of the administration, published a summary of the report under the headline "Three Professors Reprimanded in Senate." The third was Professor Kierans, who had himself sent a letter to all Senators on 25 October, 1978 which quoted from a letter marked confidential.

## Section II

These events have been investigated by a CAUT Committee of Inquiry (into the case of Professor Weldon) and by the McGill Senate's Committee on Staff Grievances (into the case of Professor Asimakopulos.) The AF&T Committee has studied these reports, as well as a large amount of documentation accumulated during the course of the dispute. The AF&T Committee was not called upon to pass judgement on the conduct of Professors Weldon and Asimakopulos in circulating documents from departmental files, and is in no position to do so.

Professors Weldon and Asimakopulos have repeatedly indicated willingness to have the matters in dispute submitted to binding arbitration. On the question of the procedures used by the McGill Senate to handle the matter, the general conclusion of the AF&T Committee is that they were inadequate and inappropriate, and did not afford Professors Weldon and Asimakopulos fairness and justice.

The Senate was faced with a number of related questions. The first was the general principle involved. Should documents from departmental files be circulated under any circumstances? The second was the specific case at issue: what were the facts of the circulation of documents by Professors Weldon and Asimakopulos? The third was the question of the correctness or otherwise of the actions taken by

Professor Weldon and Asimakopulos. It was proper for the Senate to refer the first two questions to the Committee on Disclosure, whose mandate includes matters of this kind. Problems arose because, from the start, the third question became confused with the others.

The Committee on Disclosure had referred to Professor Rubinstein's letter of June 22, 1978, and his motion of November 1, 1978. These documents contained both statements of general principle and criticism of the conduct of Professors Weldon and Asimakopulos, who were charged with a "gross breach of privacy and ethics," "gross injustice" to Dr. X., and violations of confidentiality. The Senate failed to separate these two aspects of the matter, as it should have done.

The Committee on Disclosure recognized this confusion at the start of its work. As noted above, the Chairman clarified the point that his Committee could and should not inquire into the conduct of Professors Weldon and Asimakopulos. From then on, however, the Committee seems to have been unable to keep judgements of conduct separate from what should have been the only aspects of its investigation: mailers of principle and the clarification of fact. The Chairman's letter to Professors Weldon and Asimakopulos inviting them to attend hearings did not make clear what precisely the Committee intended to do. Professors Weldon and Asimakopulos were therefore justified in raising questions about the Committee's mandate, jurisdiction and procedures. It is most unfortunate that the Chairman interpreted such queries as evidence of unwillingness to cooperate. The nature of the committee's report retroactively justified Professor Weldon's and Professor Asimakopulos' caution. It did not shrink from making judgements on their conduct, in spite of the Chairman's earlier reservations, describing the circulation of the documents as "wrong" and "inexcusable." The tone of the report as a whole was strongly condemnatory.

The Committee's lack of clarity over its role affected its procedures. The succession of interviews which constituted the hearings might well have been

appropriate if the Committee had confined itself to matters of fact and principle. The Committee's assumption of a judgemental role rendered these procedures inadequate. At the very least, the Committee should not have issued a report of the kind it did without hearing Professors Weldon and Asimakopulos and providing them with an opportunity to make a defence.

As the CAUT Committee of Inquiry has pointed out, these serious procedural defects at the committee level could have been corrected in the Senate. The Senate, however, not only received and circulated the report of its Committee, it passed judgement on the behaviour of Professors Weldon and Asimakopulos by its amendment that endorsed the conclusions of that report. Senate did this without affording Professors Weldon and Asimakopulos an opportunity to conduct a proper defence of their actions.

If Senate considered that it was an inappropriate body for the hearing of such charges it should have, on receiving the Committee's report, referred them to a body which could have afforded Professors Weldon and Asimakopulos a proper and adequate hearing. The Senate did not do this and so compounded the procedural irregularities of its Committee. This action was damaging to the reputations of Professors Weldon and Asimakopulos and should not have been taken without a prior and impartial investigation following adequate procedures.

### Section III

Professors Weldon and Asimakopulos approached CAUT for assistance in the spring of 1979. The AF&T Committee took the view that they should exhaust internal procedures before seeking outside involvement, particularly after Principal Johnston had given assurances that a new grievance procedure instituted in November 1980, could lead to a resolution. Professors Weldon and Asimakopulos felt that this procedure was inappropriate, since the grievance committee was an emanation of Senate, the body against which their complaint was directed. In a sense the Senate would be judge in its own cause. Nevertheless, the AF&T Committee passed a motion on November 21 "That Professors Asimakopulos and

Weldon be advised to exhaust internal possibilities of redress by taking advantage of the new McGill grievance procedure before requesting further CAUT intervention."

Professor Asimakopulos decided with great reluctance to follow this advice. His complaint was before the Senate Committee on Staff Grievances in December, 1980. Professor Weldon decided to appear before the CAUT Board to have the AF&T recommendation altered. As a result, the Board (March 21, 1981) instructed AF&T to set up a Committee of Inquiry to investigate Professor Weldon's complaint.

Professor Asimakopulos prepared a written complaint dealing with the procedures used to judge and reprimand his behaviour which he sent to the Committee on Staff Grievances along with some supporting documents. The Committee accepted jurisdiction and sent copies of the complaint with its documents to the parties complained against, Senate and the Senate Committee on Disclosure of Information. A written response to Professor Asimakopulos' grievance was prepared in the name of Senate (by whom is unknown to us). It was presented first to the Senate Steering Committee, and then to Senate, in both cases without advance notice, along with Professor Asimakopulos' statement of grievance but without his accompanying documents. This response was approved by Senate. No mention was made of the exchange of letters between Professor Martin and Principal Bell referred to in section II above, which are important in considering the behaviour of the Senate Committee on the Disclosure of Information. This exchange was not known to Professor Asimakopulos at that time, nor presumably was it known to the Committee on Staff Grievances.

The Committee on Staff Grievances held hearings on March 27 and 28, 1981, at which Professor Asimakopulos appeared, and at which both Senate and the Committee on the Disclosure of Information were represented (though this Committee did not provide any written response to the complaint). The Committee's response was sent to Principal Johnston on May 21, 1981, with a copy to Professor Asimakopulos. The report concluded that Senate

erred in failing "to establish procedures appropriate to the seriousness of the matter of which it was seized." It recommended "that Senate be advised either: 1) to carry this matter to its logical conclusion by proffering charges of misconduct against Professor Asimakopulos and referring them to an appropriate quasi-judicial body for trial, or 2) to act to quash those sections of the report of the Committee on the Disclosure of Information which refer to the specific actions of individuals."

Professor Asimakopulos was critical of the report and the work of the Committee on Staff Grievances. He informed CAUT that the Committee included a member of the Senate whose action had led to his grievance, and that it was made clear during the hearings that at least 2 other members believed that he had circulated documents from Dr. X's personal file.

Professor Asimakopulos denied this during the hearings. He stated clearly that he did not accept the statement made in the report of the Committee on Disclosure of Information about the circulation of documents. In spite of this, the report gives the impression that Professor Asimakopulos did not dispute the 'facts' concerning the circulation of documents as reported by that Committee. He also criticized the report's conclusion that the Committee on Disclosure of Information had "extended reasonable opportunity to Professor Asimakopulos to attend its meetings" (See section I above).

He also considered the report's treatment of Senate to be faulty. It found Senate's action to be incomplete, and stated that the charges should have been referred to 'a quasi-judicial body which would ensure the application of procedures in accordance with the rules of natural justice.' This led to the first of the report's alternative recommendations noted above. Professor Asimakopulos argues that the Committee was mistaken, that when Senate acted to endorse the conclusions of the report of its Committee on the Disclosure of Information, it passed judgement on the behaviour of Professors Asimakopulos, Weldon and Kierans. Since its handling of this matter had been completed, it was not then free to pass on these charges for trial by another body. He was also critical



of the second of the Committee's alternative recommendations because of its vagueness. (In addition, by beginning its recommendations with the words 'Senate be advised...', the Committee may have contributed to the impasse which followed).

The report of the Committee on Staff Grievances went to Principal Johnston, as required by Section 10.7 of the University Regulations on Grievances. This section states: "The Committee on Staff Grievances shall report its findings of fact, conclusions and recommendations to the Principal for such actions as he may consider appropriate, with a copy to the grievor. The Principal is not required to hold a further hearing and his decision on reception of the report shall be final subject to provisions of the University Charter."

Principal Johnston met with Professor Asimakopulos on June 11, 1981, to discuss the report. On July 10 he wrote to Professor Asimakopulos stating that although "the report is given to me as Principal to act upon as I think appropriate, its recommendations are directed to Senate." As a result he had decided to give the report "to the Senate Steering Committee at its next meeting which will take place on September 2, 1981, for it to consider the communication of the recommendation ... to Senate."

In reply (July 27), Professor Asimakopulos clarified his position on the question of appropriate remedy, and then turned to the Principal's intention to communicate the report to the Senate. Citing section 10.7 (quoted above) he pointed out that such action "appears to be at variance with the intent of the grievance procedures," which state that copies of the report go to the Principal and the grievor. He also emphasized that the Principal's "decision on reception of the report was final."

This exchange illustrated a fundamental divergence between Professor Asimakopulos and Principal Johnston. The former held that it was up to the Principal to act on the report independently - indeed that it was his responsibility to do so. If he chose to communicate the report to Senate, then it would have to be on his own responsibility. The Principal, on the

other hand, maintained the position that action on the report rested with Senate, since this was the wording of the recommendation, even though Senate was the body complained against. The Principal also interpreted Professor Asimakopulos' repeated insistence on the wording of the grievance procedures to mean that he could not communicate the report to Senate without Professor Asimakopulos' explicit permission. This was a misapprehension of Professor Asimakopulos' position.

Principal Johnston went to the Senate Steering Committee on September 11, 1981 with the recommendation 'that it follow recommendation two of the Grievance Committee Report and that in addition Senate call to the attention of the McGill Reporter this action, and that in addition it request the Secretary-General to proceed in accordance with paragraph three of Professor Asimakopulos' letter of July 27, 1981'. This recommendation was not accepted by the Steering Committee. One of the reasons given was that it had not seen the report of the Committee on Staff Grievances.

At the Senate meeting of October 14, 1981, Principal Johnston circulated to Senate a summary of the Committee on Staff Grievance's report. He wrote to Professor Asimakopulos that "I reviewed the summary statement of the report with Senate and asked it to adopt one of the two recommendations set out on the last page of this document. After considerable deliberation, one Senator moved that this report be tabled *sine die*. The motion was carried by a substantial majority. I may observe that some Senators felt some difficulty in coming to a clear conclusion on one of the two recommendations in the absence of having the full grievance report before them."

On receiving this information, Professor Asimakopulos wrote to Principal Johnston requesting his final decision on the grievance, as required by the regulations. Principal Johnston replied that his decision had been to present the Committee's recommendations to Senate. He did not report his earlier recommendation to the Senate Steering Committee.

This is where the matter stands now. The grievance is unresolved, and Professor Asimakopulos is understandably dissatisfied. It should be noted that Professor Asimakopulos had turned to the internal grievance procedure only after Principal Johnston had convinced AF&T that the procedures were adequate to handle his complaint.

That an appellant should have to go through a lengthy and time-consuming grievance procedure with no result at the end of it is highly unsatisfactory, and reflects no credit on those whose responsibility it is to deal with this grievance. There are two main reasons for this situation.

The first is that the final decision on what action was to be taken on the grievance was left to Senate. Senate was called upon to admit that its earlier actions had been mistaken, and to take corrective action. It could not bring itself to do this, and Professor Asimakopulos' misgivings about using the procedure in his case have been proven justified. A recent opinion from the McGill University lawyer has advised that the Principal cannot receive a report on a grievance against himself (P.M. Laing university lawyer, to Colin M. McDougall, Secretary General, 18/12/81) and it is clear the same principle should have applied in this instance, especially since Vice-principal Freedman has stated that the committee is in no position to give orders to Senate." (22/6/82). If the Senate feels that it can take actions to which individuals may justifiably object, then the university should establish a procedure to handle such complaints which is totally separate from the Senate and produces binding rulings.

The second reason is the manner in which the report was handled by the Principal. Under section 10.7 of the grievance procedure he has the authority to take what actions he thinks fit, and the final decision is his. In this instance, then, the onus lay on him to ensure that the recommendation which he favoured was carried out. This involved using his influence and authority with the Senate. This he chose not to do. In particular, once it became clear that transmission of the report in its entirety was an important factor, he should have given it to the Senate, removed this

excuse for inaction, and pressed for acceptance of the second recommendation. Because he did not do this, the result has been deadlock — a very time and energy consuming deadlock — which negates the whole object of the procedures, which is to produce resolutions to grievances.

The AF&T Committee concludes that Principal Johnston and the McGill Senate mishandled the opportunity provided by Professor Asimakopulos' use of the internal procedures, after the Principal had stated that they could provide a remedy in his case, to undo the Senate's mishandling of the original controversy over the circulation of documents.

### **The McGill Board of Governors Responds on May 25, 1983 to CAUT President Ken McGovern's Letter**

Dear Professor McGovern,

I wish now to respond to your letter of February 16, 1983 concerning the grievances of Professors J.C. Weldon and A. Asimakopulos of McGill University. In doing so I shall deal with the questions raised in that letter and certain matters raised in the report on the matter prepared by the CAUT Academic Freedom and Tenure Committee submitted to the CAUT Board October 25, 1982.

It is important that the CAUT be aware at the outset that this response has resulted from a careful study by a Committee appointed by the Board of Governors of the University at its March 21, 1983 meeting, as well as by the Board itself at that meeting and at its meeting of May 24, 1983. This Committee had access to the voluminous documentation on the subject and the advice of the university's legal counsel. This response therefore has resulted from a thorough review of the circumstances.

### **The Academic Freedom and Tenure Committee Report**

In your letter you requested our views concerning the accuracy of this report.

There are two subjects dealt with in the report which we judge to be tendentious, and one subject whose

exclusion has, in our view, a similar effect upon the report.

The first of these subjects concerns the failure of Professors Asimakopulos and Weldon to meet with Professor Martin's Committee on Disclosure of Information in November 1978. In the view of the Board, the report does not reflect that the two professors seemed to offer no co-operation to the Martin Committee. It is thus unrealistic to state, as the report does, that the result of that committee's deliberations without the benefit of Professors Asimakopulos and Weldon's assistance retroactively justifies their refusal to assist.

The second of these subjects concerns two references in the report which strongly suggest that Principal Johnston gave "assurances" that the new grievance procedure in place at McGill would lead to a resolution of the matter. In fact the Board's study of various items of correspondence between the Principal and Dr. V.W. Sim of CAUT in 1980, and particularly of the letter of 11 November 1980, indicates that his strongly-held view was simply that McGill's internal grievance procedures should first be utilized prior to the use of external ones.

The third subject consists of what the Board finds to be an omission in the report of any mention of Professor Asimakopulos' attitude regarding the distribution of the report of the Committee on Staff Grievances. Our study of the events surrounding this question led us to conclude that Professor Asimakopulos' unwillingness to have this report made available to the Senate contributed significantly to the so-called "deadlock"; i.e. Senate's decision to table the matter *sine die* might well not have taken place had it been provided with the full report. Professor Asimakopulos' apparent attitude, coupled with his grievance against the Principal regarding the transmittal by the Principal of this Report to Dean Bernard Adell, in confidence and not for attribution, to enable the latter to carry out an investigation for CAUT in late 1981, indubitably influenced the Principal in the dispositions that he made with reference to procuring some form of action by the Senate. The Academic Freedom and

Tenure Committee report omits this matter entirely.

### **The McGill Senate Actions of November 22, 1978**

In your letter you request that the Board of Governors "act to remove the discredit brought on Professors Weldon and Asimakopulos by the findings of the Senate Committee on Disclosure of Information (the Martin Committee), by Senate's endorsement of that report ((on November 22, 1978)) and by the distribution of the report and the publicity given this matter in the McGill Reporter (November 29, 1978)..." More specifically, it is our understanding that you are requesting the Board of Governors to do what the University Senate at its meeting of January 26, 1983 declined to do, namely, to rescind the action which Senate took on November 22, 1978 or submit the matter to binding arbitration.

The Board has concluded that the actions taken by the Senate Committee on Disclosure of Information and the Senate in November 1978 fall entirely within Senate's field of jurisdiction according to the Statutes of the University. Thus, the Board further concludes that it should not intervene in those actions or Senate's subsequent action taken on January 26, 1983 not to rescind its earlier action nor submit the matter to binding arbitration.

As regards the McGill Reporter headline and article on Senate's actions, published in its November 29, 1978 issue, the Board is advised by Counsel that any claim resulting from this headline and article sounds in defamation and is prescribed absolutely by Articles 2262, and 2267 of the Civil Code of Quebec.

### **Other Considerations**

The Board wishes the CAUT to be aware of the fact that the entire issue of confidential personal documentation held by quasi-public institutions such as McGill University is currently undergoing a major review as a result of newly enacted provincial legislation respecting "Access to documents held by public bodies and the Protection of personal information," 1982 Statutes of Quebec Chapter 30 (Bill 65). This statute has caused the University to

initiate steps towards a review of its own policies regarding the accessibility, confidentiality and distribution of "nominative" (i.e. personal) information.

### Conclusion

On behalf of the Board of Governors of McGill University, I express the earnest hope that this matter may now be concluded.

Yours sincerely,

Hugh Hallward  
Chairman

## Professor Deutsch Comments to the CAUT on its Report on the Grievances of Professors Weldon and Asimakopulos

Dear Dr. Sim,\*

Thank you for the opportunity to submit comments on the report of October 25, 1982. As you know, this is my first real chance to do so.

The enclosed comments refer only to the story of my 1978 promotion discussed in the initial pages of the report. I list both significant errors of fact and important omissions and am giving you names of witnesses and references where you can find independent verification.

It would be a disservice to the Association to allow the Bulletin to print, knowingly, a story significantly at variance with known and demonstrable facts. I envisage your using my comments to make corrections in the October 25 report. You could, of course, run it in a box alongside the report (perhaps with names suppressed, but verification references retained).

Yours sincerely,

Antal Deutsch  
Professor of Economics  
McGill University

\*Dr. Victor Sim is Associate Executive Secretary of the CAUT.

### Paragraph two

- a) The "normal" procedure was subject to exceptions. There was another then recent case of a person whose credentials were considered by a statutory selection committee, without support from his department. That story, though formally unpublicized, was fairly well known on campus. (Check with the professor of the department concerned.)
- b) Senate does not appoint statutory selection committees at McGill. It names two members to a committee that is not complete until its other members are named elsewhere. The point is not trivial in the current context. My statutory selection committee was not complete until about five months after Professors Asimakopulos and Weldon started broadcasting "protests" about the committee having been appointed. (Check McGill University Statutes 3.4.3.).

### Paragraph five

A member of the promotions committee in Economics, presented a plan of adjudication by a neutral third party of my challenge to Asimakopulos and Weldon. I accepted this procedure. Asimakopulos and Weldon rejected it. The accounts broadcast by Asimakopulos and Weldon seem to make no reference to this very important procedural development. I find no mention of it in your report. (Check with the member of the promotion committee, files in the University Secretariat, files of V P. Academic).

### Paragraph six

"Dr. X. chose not to meet..." In reality, I never did receive a specific invitation which I could accept or reject until September 1978, when I accepted. I cannot now say how I would have treated an invitation early in 1978, but I never was troubled with having to make that decision. The statement as it stands in your report, and in much correspondence, is simply untrue. (Check your own files or with Asimakopulos and Weldon for any specific invitation to me).

### Paragraph eight

"...which he did not know at the time to be false..." suggests that the account given in the quoted paragraph is false, and that the Senator referred to subsequently so discovered. If you examine the Minutes of the Senate meeting of May 31st, 1978 (not a customary part of the Asimakopulos and Weldon kit) you will find a full discussion of the "Weldon charges Dean misleads Senate" issue. In a well-attended meeting (with the two senators present who had previously intervened), not one member of Senate was prepared to state that there is any evidence of impropriety. The explanation does not lie in an elaborate conspiracy involving many persons who do not even talk much to each other.

The key is in the Senate Minutes your report refers to. There was a wide-ranging discussion with many speakers, who had their remarks summarized in the draft minutes. The day after the meeting the Senator mentioned in your report appeared at the Secretariat and asked that the paragraph your report quotes be inserted with the minutes. The following day he took me aside in the Faculty Club and reported what he had done. He thought at the time that this was a good lark and would do me no harm. At the May 31st, 1978 meeting of Senate, he admitted in his reserved way that "...after the meeting he had been asked to write down what he had said." (From Senate Minutes, May 31st, 1978. The Senator is now dead. You can check the story with the Secretary of Senate).

### Paragraphs eight to ten

The precise extent of the circulation of materials by Asimakopulos and Weldon is known only to them. They have posted material on notice boards, circularized Chairmen, Senators, Governors, at one stage most if not all faculty members, alumni, selected students, other Departments of Economics, and various other persons the World over. They also made material available to the McGill Daily and addressed at least one student meeting assembled to discuss "the Deutsch affair". Check CAUT files, Asimakopulos to Principal Bell, July 10, 1978 "I urge you to return to normal procedures ... before great damage is done to the reputation of individuals and the university."

- a) "Dr. X was promoted..." I was promoted following the usual invocation of outside referees, and consideration by the promotions committees of the department (Asimakopulos and Weldon chose to resign from it), my Faculty, and by the statutory selection committee between September and December of 1978. A reader of your report is likely to gain the impression that the first steps were omitted. (Check with the University Secretariat, or the Chairman of the Department of Economics, or the Dean of the Faculty of Arts.)
- b) Following the initial uproar, during the summer of 1978, a former Dean of the Faculty of Law was appointed by the Steering Committee of Senate to look into this matter. Asimakopulos and Weldon refused to "...discuss the problem under investigation." (From the former Dean's report.) The former Dean's report was very conciliatory, but did not give Asimakopulos and Weldon everything they wanted. The packet of material circulated by Asimakopulos and Weldon, and your report, omits all references to this important attempt by Senate to restore tranquility. (Check with the former Dean or the University Secretariat).

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This report has been redesigned.*