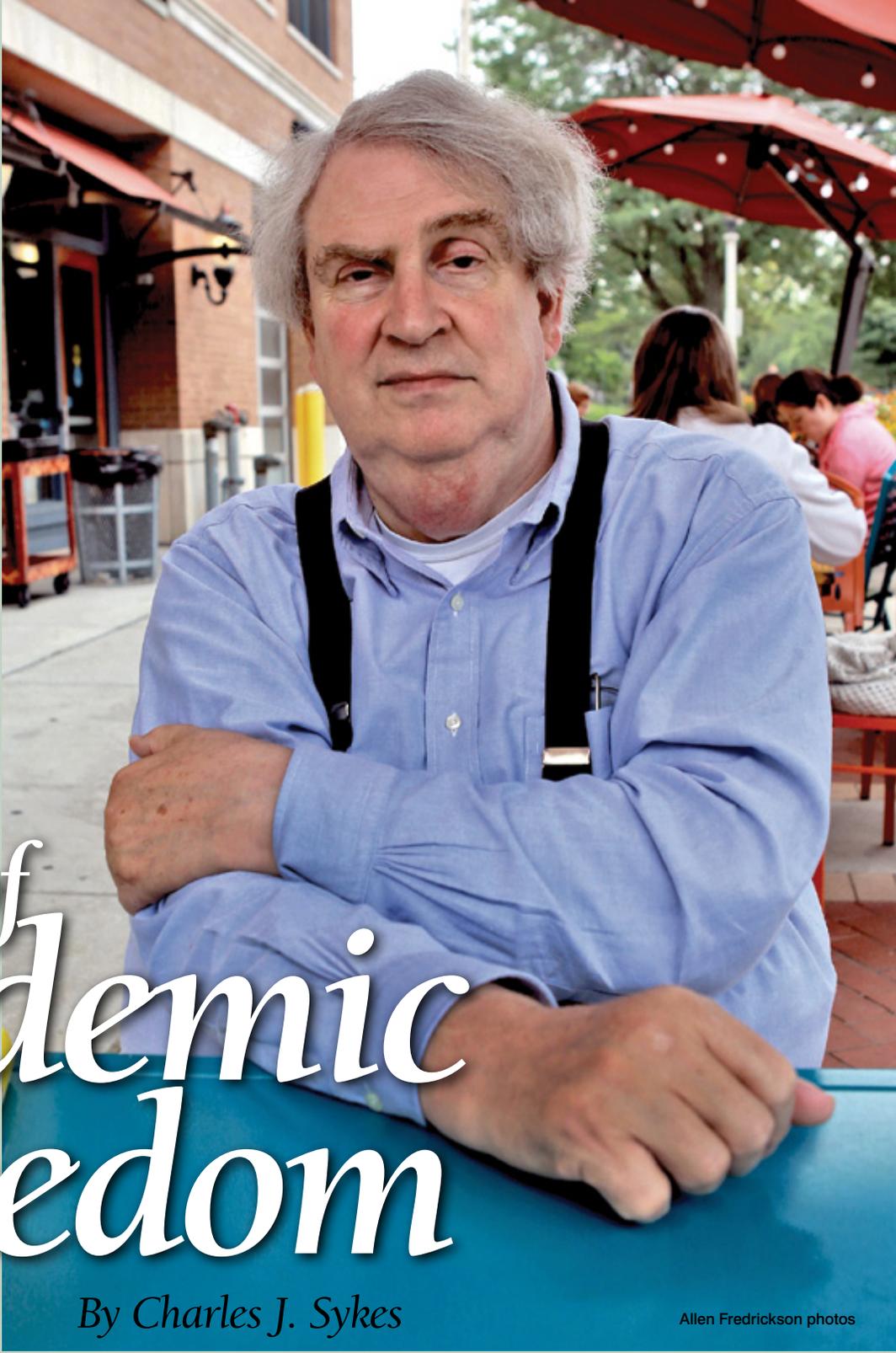


Even in an era
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A case of academic freedom

By Charles J. Sykes

Allen Fredrickson photos

As the fall semester began at Marquette University, one of its most senior faculty members sat at a Shorewood coffee shop, looking every inch a rumpled academic. John McAdams has taught at Marquette since 1977, but this year he has no classes to teach, no papers to grade, no office hours. McAdams is a man without a campus.

Since December, the political science professor has been banned from Marquette, stripped of his classes and suspended from his associate professorship.

In January, Marquette informed McAdams that it intends to fire him in the wake of a blog post he wrote that was critical of another instructor on campus.

McAdams spent the summer catching up on his reading and finishing his latest book, “The New Class in Post-Industrial Society,” which he describes as an “analysis of the elite liberal left.” In May, he helped expose a mural celebrating convicted cop killer Assata Shakur at Marquette’s Gender and Sexuality Resource Center. (It was later removed.) But he also spent much of the summer preparing for a hearing of a faculty committee that will recommend whether he be stripped of tenure.

“I’d much rather be there,” he says. “I’d much rather be teaching.”

At 69, McAdams could simply have gone quietly, as perhaps Marquette thought he would. But that’s not his nature. “First of all, I enjoy a good fight,” he says. “It is also a matter of principle. That is, some people need to be taught a lesson — people who think they can run roughshod over people’s academic freedom.”

How far will he take his fight to get his job back? “As far as necessary,” he says, “including a lawsuit.”

So McAdams finds himself at the center of what is shaping up to be one of the most unusual academic freedom cases in the country. Even in an era of rising political correctness — trigger

been the growing intolerance of what he calls the “authoritarian left” on campus and its attempts to narrow the limits of acceptable discourse.

The latest controversy started last fall when an undergraduate student told him of a galling incident of ideological censorship. After an Oct. 28, 2014, philosophy class, the student approached his instructor to tell her that he was disappointed that she had quickly passed over the issue of gay marriage in class, since the student wanted to argue against it. The instructor, graduate student Cheryl Abbate, told him that he would not be permitted to make “homophobic” comments, which would be “offensive” to any gay students in the class.

Advised that he could complain about the gag rule, the student took the issue to the College of Arts and Sciences dean’s office, which referred him to the Philosophy Department’s chairwoman. According to *The College Fix*, the student was merely seeking to have the school acknowledge that the instructor was wrong to tell him he couldn’t bring up gay marriage “and ensure that students in the future will be allowed to speak in similar classroom situations.”

Unable to get any such response, he took his story — and an audio recording of the conversation with the instructor — to McAdams. (See accompanying transcript.)

On Nov. 9, McAdams published a blog post on the incident under the headline: “Marquette Philosophy Instructor: ‘Gay Rights’ Can’t Be Discussed in Class Since Any Disagreement Would Offend Gay Students.”

“I doubt the administration at Madison would have done this.”

— John McAdams

warnings, speech codes and the battle against “micro-aggressions” — the decision to fire McAdams nearly stands alone. As far as anyone knows, no other major university has tried to fire a tenured professor for something that he wrote on a blog. “I have spoken to experts across the country,” says Richard Esenberg, president of the Wisconsin Institute for Law & Liberty and himself an adjunct professor of law at Marquette. “No one does this.”

The case will be costly to Marquette in both dollars and reputation, but it also will be a defining moment for the Jesuit school. “Marquette has to decide what kind of university it wants to be,” says Esenberg, who is providing McAdams with legal assistance. “Is it committed to free and open discourse? Or does it want to become ground zero in the battle over increasing intolerance on America’s campuses?”

Poking the bear

McAdams is hardly a stranger to controversy on campus. In addition to being a respected political scientist and a nationally known expert on the John F. Kennedy assassination, McAdams for years has published a blog called “Marquette Warrior,” which has been an irritant to the school’s administration because of his trenchant criticism of political correctness and what he sees as the school’s failure to uphold Catholic values. One of his favorite themes has

in the post, McAdams put the incident in the wider context of academic intolerance. “Abbate, of course, was just using a tactic typical among liberals now,” he wrote. “Opinions with which they disagree are not merely wrong, and are not to be argued against on their merits, but are deemed ‘offensive’ and need to be shut up.” (Abbate has since transferred from Marquette.)

As McAdams later recounted, “The post created a firestorm of controversy. First, people who were appalled at the instructor’s actions weighed in,” and then came the backlash from the left and Marquette’s administration, which felt McAdams had been unfair in criticizing the instructor.

The next month, Richard C. Holz, dean of the College of Arts and Sciences, informed McAdams that he was suspended and banned from campus. The letter gave no specific grounds for the action, but it soon became clear that McAdams was being disciplined solely for what he had written on his blog.

Marquette’s administrators — and McAdams’ leftist critics — were, in effect, accusing the veteran professor of cyberbullying a graduate student. McAdams claims that his blog was factually accurate, his language was restrained and that the grad student was acting as a faculty member. Technically, Abbate was not a teaching assistant but rather held a “lectureship.” McAdams explains: “For practical purposes, she was the professor. She contrived the syllabus.”

Analysis

bus. She taught the class. She assigned the grades. She conducted all of the classes. It was her class.”

The decision to suspend McAdams drew sharp criticism from both the right and left. One of Marquette’s most prominent liberal academics, Daniel Maguire (who has tangled with McAdams in the past), called the decision “bizarre, demeaning, and unjust.”

“In almost half a century in the academe,” Maguire wrote in an email to Marquette President Mike Lovell, “I have never seen a similar punishment imposed on a professor in this ‘blunt instrument’ fashion.”

But if members of the Marquette community thought that McAdams’ suspension was simply a one-time overreaction, they were quickly disabused. In late January, Holz sent McAdams a letter telling him that “we are commencing as of this date the procedures for revoking your tenure and dismissing you from the faculty.”

McAdams admits that he was shocked. “I was appalled. I was thinking, ‘How the hell do they think they can do this?’”

Even though he had poked the bear for years, he admits that he did not expect the administration to take such a draconian step. “No,” he says. “Because, it’s never happened before. Usually protections of academic freedom are pretty strong.

“I mean, Holocaust deniers routinely have their academic freedom protected,” he says. “9/11 truthers routinely have their academic freedom protected. There’s a guy in Florida who believes that the Sandy Hook massacre was a government operation to gin up support for gun control. He’s been widely denounced. Fair enough. But no one has tried to take his tenure away from him.”

Marquette, however, seemed oblivious to the implications of its decision to fire a tenured professor for something he had written. In a masterpiece of academic doublespeak, Lovell issued a statement insisting that the attempt to fire McAdams had nothing to do with academic freedom:

“The decisions here have everything to do with our guiding values and expectations of conduct toward each other and nothing to do with academic freedom, freedom of speech, or same-sex marriage. . . .”

McAdams was not impressed. “In real universities,” he later wrote, “administrators understand (or more likely grudgingly accept) that faculty will say controversial things, will criticize them and each other, and that people will complain about it. That sort of university is becoming rarer and rarer. Based on [the administration’s] actions, Marquette is certainly not such a place.”

The decision to fire McAdams drew national attention, and much of the criticism was withering. *The Atlantic* magazine called the move “an attack on academic freedom” and ridiculed Marquette’s

argument that McAdams should be held responsible for harassing and insulting emails that Abbate received from critics. By that logic, writer Conor Friedersdorf noted, no academic could criticize anyone because he or she could be stripped of tenure based on “nasty emails” written by third parties. “Only myopia can account for failure to see the threat to academic freedom.”

The case also drew the attention of the Foundation for Individual Rights in Education. “If Marquette can fire a tenured professor for criticizing a fellow teacher on a blog, then tenure at Marquette is worthless, as are freedom of speech and academic freedom,” declared Executive Director Robert Shibley. “While this is more than likely just an excuse to get rid of McAdams, the fact that McAdams’ supposed offense was criticizing a teacher for squelching dissenting opinions in class only makes Marquette’s utter contempt for dissenters more obvious.”

Esenberg is baffled by Marquette’s treatment of McAdams. “They banned him from campus and, for a while, refused to tell him why,” he says. “They suspended him without following their own procedures and have been extraordinarily difficult and evasive during the process to date.”

Indeed, it is not clear that Marquette realized it was plunging into a public relations, legal and financial morass. Esenberg believes McAdams has a strong legal case. “Marquette, like most other private research universities, contractually promises its tenured faculty that they cannot be fired for speech that would be constitutionally protected,” he says. “John is asking Marquette to live up to its part of the bargain.”

In fact, McAdams’ case appears exceptionally strong, based on Marquette’s own written policies.

According to Marquette’s Faculty Statute, a tenured professor can be subject to “discretionary” dismissal only for “serious instances of illegal, immoral, dishonorable, irresponsible, or incompetent conduct.” But the university’s rules make it clear that a tenured professor cannot be fired for anything that is protected by academic freedom:

“In no case, however, shall discretionary cause [for dismissal] be interpreted so as to impair the *full and free enjoyment of legitimate personal or academic freedoms of thought, doctrine, discourse, association, advocacy, or action.*” (Emphasis added.)

In case that is not explicit enough, the statute that lays out the causes of termination reiterates the school’s commitment to protecting academic freedom: “Dismissal will not be used to restrain faculty members *in their exercise of academic freedom or other rights guaranteed them by the United States Constitution.*” (Emphasis added.) In other words, even though the school is a private institution, Marquette’s professors are contractually entitled to the full



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Shut up, she explained

This is a partial transcript of the Oct. 28, 2014, recorded conversation between a Marquette University undergraduate and his instructor, Cheryl Abbate, that was the basis for professor John McAdams' Nov. 9, 2014, blog post.

Student: Regardless of why I'm against gay marriage, it's still wrong for the teacher of a class to completely discredit one person's opinion when they may have different opinions.

Abbate: OK, there are some opinions that are not appropriate, that are harmful, such as racist opinions, sexist opinions, and, quite honestly, do you know if anyone in the class is homosexual?

Student: No, I don't.

Abbate: And don't you think that that would be offensive to them if you were to raise your hand and challenge this?

Student: If I choose to challenge this, it's my right as an American citizen.

Abbate: OK, well, actually you don't have a right in this class, as — especially as an ethics professor, to make homophobic comments, racist comments, sexist comments —

Student: Homophobic comments? They're not. I'm not

saying that gays, that one guy can't like another girl or something like that. Or, one guy can't like another guy.

Abbate: This is about restricting rights and liberties of individuals. Um, and just as I would take offense if women can't serve in XYZ positions, because that is a sexist comment.

Student: I don't have any problem with women saying that. I don't have any problem with women joining anything like that.

Abbate: No, I'm saying that if you are going to make a comment like that, it would be similar to making a —

Student: Absolutely.

Abbate: How I would experience would be similar to how someone who is in this room and who is homosexual who would experience someone criticizing this.

Student: OK, so because they are homosexual, I can't have my opinions? And it's not being offensive towards them because I am just having my opinions on a very broad subject.

Abbate: You can have whatever opinions you want, but I can tell you right now, in this class, homophobic comments, racist comments and sexist comments will not be tolerated. If you don't like that, you are more than free to drop this class.

breadth of First Amendment protections.

Marquette spokesman Brian Dorrington says, "The university has been complying and will continue to comply with those statutes. Until the process runs its course, this is a personnel matter and we have no further elaboration."

The exile

It was a hot day in September, and the Shorewood coffee shop was full. McAdams was in a mood to reflect on the university's efforts to end his career. The decision to fire him is a defining moment for Lovell, who's in his second year at Marquette. Why did he pull the trigger?

McAdams has no doubt that the move is in retaliation for his past criticisms. "Sure," he says, "it is absolutely retaliation. I think they were terribly, terribly offended at how uppity McAdams was, how insolent McAdams was and 'How dare he criticize us?' I think it may be it's a little bit of arrogance that says, 'Who the hell does McAdams think he is?'"

He also thinks the decision reflects Marquette's parochialism, by which he means Lovell's "failure to understand the norms that prevail in secular academia about things like academic freedom. I doubt the administration at Madison would have done this.

"In other words, I think they are unsophisticated about this. They think they can invoke something like 'Catholic mission' and

get away with things that a state school or even a secular private school would not try to."

McAdams remains troubled by what he sees as the slide of Marquette into what he calls "Catholic Lite" but also by the growing climate of intolerance in higher education.

"I think we've got to distinguish between old-style liberals and leftists and the politically correct types," he says. "Old-style liberals wanted to argue and stand up and make their case. New-style liberals don't necessarily want to make their case; they simply want to shut people up."

Even as he gears up for possible litigation over the firing, Esenberg expresses hope that calmer heads may yet prevail. "Firing a professor for speech is something that serious universities do not do, and it is hard for me to believe that Marquette really intends to go ahead with it," he says. "Someone over there needs to exercise some judgment."

Meanwhile McAdams waits.

Knowing the hostile environment he would face, would he want to return to Marquette if he wins his fight? "I would," McAdams says without hesitation. "And continue to make trouble. Just to spite the authoritarians."

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