

**IN THE MATTER OF AN ABRITRATION**

BETWEEN

**UNIVERSITY OF OTTAWA**  
("the University")

AND

**ASSOCIATION OF PROFESSORS OF THE UNIVERSITY OF OTTAWA**  
("the Association")

**RE: DISCIPLINE GRIEVANCE OF PROFESSOR DENIS RANCOURT**

**SOLE ARBITRATOR:** Michel G. Picher

**APPEARING FOR THE UNIVERSITY:**

Michelle Flaherty - Counsel

Louise Pagé-Valin - Associate Vice-President, Human Resources

**APPEARING FOR THE ASSOCIATION:**

Sean McGee - Counsel

Renata Green - Administrator APUO

Denis Rancourt - Grievor

The hearings in this matter were held in Ottawa, Ontario on November 5, 8, 14 and 26, 2007.

## AWARD

This is an arbitration against discipline. On December 19, 2005 Professor Denis Rancourt of the University's Physics Department in the Faculty of Science received a written reprimand from his Dean, Professor Christian Detellier. In essence, the reprimand was in response to the University's view, as expressed by the Dean, that the grievor, Professor Rancourt, had independently published, on the internet, information about one of his courses, PHY 1703, which knowingly contained incorrect information with respect to the name, format, language and content of that course. However, in light of an agreement reached between Professor Rancourt and his Dean, including undertakings made with respect to the content of the course, the reprimand was effectively adjusted so as not to include any objection with respect to the actual course content.

PHY 1703 is a required course for students in Environmental Studies. Entitled "Physique et l'environnement" it was conceived as a vehicle for the basic scientific orientation of students specializing in the Environmental Studies program which is administered within the Faculty of Arts. Offered in French, the course is scheduled in alternate years, being replaced every other year with a required chemistry course, given in English. The general purpose is to provide students of Environmental Studies a certain basic understanding of physics and chemistry to enhance their grasp of environmental problems and solutions.

The facts and issues giving rise to the discipline against Professor Rancourt are, to some degree, reflected in the letter of reprimand itself, dated December 19, 2005. It reads as follows:

M. Rancourt,

Cette lettre fait suite à ma lettre datée du 24 octobre, dans laquelle je vous faisais part de mes préoccupations concernant le cours PHY 1703 dont vous aviez la responsabilité à l'automne 2005.

Selon l'article 39.4.2 de la Convention Collective, nous avons eu une réunion informelle le 12 décembre dernier, où vous vous êtes expliqué. Vous m'aviez aussi déjà envoyé une réponse en ce sens dans un courriel daté du 7 décembre.

Comme je ne suis pas satisfait par vos explications verbales et écrites, cette lettre constitue une réprimande écrite, selon 39.2.2.2 (b) et elle est basée sur les prémisses suivantes.

Lorsque l'Université vous confie la responsabilité d'un cours, l'institution s'attend à ce que vous respectiez le contenu du cours tel qu'il a été approuvé par le Senat universitaire ainsi que les procédures et règlements académiques. Dans ma lettre du 24 octobre, je replaçais le cours PHY 1703 dans son contexte, j'en reprenais la description telle qu'elle apparaît dans l'annuaire, et je rappelais les circonstances sous lesquelles j'ai dû suspendre le cours le 21 septembre dernier. Je passais ensuite en revue une série de préoccupations que j'avais sur vos actions dans le cadre des cours PHY 1703 et PHY 8391D.

En prenant en considération une lettre ouverte que vous m'avez envoyée le 26 septembre, ainsi que votre réponse écrite du 7 décembre et la teneur de notre discussion lors de la réunion du 12 décembre, je suis obligé de constater que plusieurs de vos actions nécessitent une réprimande écrite.

1. Vous avez publicisé le cours PHY 1703 en l'annonçant comme un nouveau cours, comme un cours bilingue, sous un titre différent du titre approuvé par le Senat universitaire,

et avec un contenu radicalement différent du contenu auquel on est en droit de s'attendre sur la base de la description officielle du cours.

2. Dans les jours qui ont suivi la suspension du cours, une entente a été signée entre l'APUO et l'Université qui, entre autres, indiquait que: "Professor Rancourt assures that he undertakes to cover the fundamental science concepts as described in the official course description, using the beta-1 version of his book Science for Activists, for the environmental studies students registered in PHY 1703, Fall 2005." Par conséquent, je prendrai pour acquis que cette clause de l'entente a été respectée, même si vous n'avez pas voulu me produire de preuves à cet effet, comme, par exemple, des copies de travaux des étudiants, ou une copie de l'examen final. Cette lettre de réprimande ne s'adresse donc pas au contenu du cours.

Vous devrez, à l'avenir, respecter les règlements académiques de l'Université, et respecter le contenu des cours dont vous avez la responsabilité, tels qu'ils ont été approuvés par le Sénat.

Je vous prie de noter qu'un manquement à cet égard à l'avenir serait assujéti à une mesure disciplinaire plus sévère. Je vous engage donc, fortement, à l'avenir, à consulter votre comité du curriculum et votre directeur de département, lorsque vous comptez apporter des changements majeurs au contenu de vos cours ou à d'autres aspects de ceux-ci, comme l'échelle de notation, par exemple.

Je ne doute pas que le cours que vous avez offert a présenté un certain intérêt pour les étudiants en études de l'environnement ainsi que pour d'autres étudiants qui s'y sont inscrits. Il est certain aussi que notre Université encourage les innovations pédagogiques et des approches originales à l'enseignement.

Mais celle-ci doivent se faire dans le respect des règlements et dans la collégialité sur laquelle est basée tout le système universitaire. Un professeur qui a la responsabilité d'offrir un cours ne peut pas unilatéralement, sans consultation avec ses collègues et sans suivre les procédures administratives académiques, en changer l'esprit, le contenu ou la fonction.

Veillez recevoir, M. Rancourt, l'expression de mes sentiments les plus distingués

Christian Detellier  
Doyen  
Faculté des sciences

PHY 1703 "Physique et l'environnement" along with its sister course, CHM 1100 "Chemistry and Human Environment" were duly approved by the Executive Committee of the Senate of the University. On May 24, 1995 by resolution E-94-95.132 the Executive Committee approved both PHY 1703 and CHM 1100 to be administered by the Faculty of Science and given within the framework of the bachelors' degree with specialization in Environmental Studies of the Faculty of Arts. The titles and descriptions of the two courses, as passed by the Senate, were as follows:

**NOUVEAUX COURS:**

**PHY 1703 PHYSIQUE ET ENVIRONNEMENT**

**(3 h.p.s.s. – 3 cr.)** Cours conçu pour le programme d'études environnementales. Ce cours introduit les concepts physiques fondamentaux utiles pour l'étude de l'impact de l'activité humaine sur l'environnement: principes de conservation, notion d'énergie, sources d'énergie; limite physique sur le rendement des transformations énergétiques; transport des contaminants; pollution sonore; énergie nucléaire, effets de la radioactivité et du rayonnement. Ce cours ne peut être crédité aux étudiants inscrits aux facultés de Sciences et de Génie.

**CHM 1100 CHEMISTRY AND HUMAN ENVIRONMENT (3 h.p.w.t. – 3 cr.)** Chemical principles useful for environmental studies and everyday life. The chemistry of water, air, food, human health and new materials. This course cannot be taken for credit by students in the Faculties of Science and Engineering.

Professor Rancourt holds the rank of full professor, has taught in the University for some 21 years within the Faculty of Science and has been tenured for over 10 years. He first taught PHY 1703 in 1997. He was in charge of that course again in 1999, 2001 and 2005, having taken a sabbatical leave in 2003 when it was assigned to another professor. The evidence establishes that at its inception within the Department of Environmental Studies, the course was spearheaded by then Director Professor Rolf Wescher. After his retirement the role of coordinator of the course was taken over by Professor Daniel Lagarec who also held the position of Director of the Department of Geography from July of 2000 to June of 2006. He oversaw the course from July of 1999 through December 2003, and resumed oversight in 2006. At the time of the events giving rise to this grievance, in 2005, the coordinator's responsibility rested with Professor Michelle Driedger. According to the evidence of Professor Lagarec, Professor Driedger, who was relatively junior, oversaw the course for only a short time, having left the University in 2006. Professor Lagarec nevertheless stressed that during 2005, although he was not directly responsible for PHY 1703, he kept a relatively close eye on what was happening.

During the course of his testimony Professor Rancourt explained that during his sabbatical, in 2003, he had become particularly interested in the pedagogy of science and had gained a considerably broader perspective through his participation in the discussions of a group of academics from several universities which he referred to as the "Cambridge Study Group". He relates that he became a good friend of author and physicist Jeff Schmidt, who wrote a work entitled, *Disciplined Minds*. At the risk of over-

simplification, it appears that Professor Rancourt came to subscribe to a growing school of thought which holds that students do not come to truly appreciate or grasp science if they are forced to it by the rote learning of scientific principles. The better way to promote the learning of science, he came to believe, is to draw students towards science by first presenting them with materials and speakers dealing with political, social and economic problems which will more naturally interest them, moving them to examine and absorb both the process and substance of science which has some relation to the issues that genuinely interest them. The central tenet of this pedagogical school of thought is that science learned in that way, by personal investment and problem-solving relevant to concerns which are meaningful to the student, is by far the better path to a true understanding of science. In the result, prompted by the perspective which he gained through the Cambridge Study Group, and the encouragement of Professor Schmidt who advised him that “none of this will work if you grade the students”, Professor Rancourt resolved to reorient the course materials in PHY 1703 towards social, economic and political activism as a gateway to learning science in a way that is ultimately more meaningful, without traditional grading.

Professor Rancourt went about his task of bringing changes to PHY 1703 with no shortage of enthusiasm. Apart from introducing the satisfactory/not-satisfactory grading system, he made several significant changes to the way in which the course material would be presented and handled by the students. Firstly, he considered the dynamics of the class makeup and the learning structure to be important. He therefore implemented a group discussion system, premised on the view that students cannot

learn science in a vacuum, and that any meaningful learning must be society based. He also sought to broaden the array of students in the course, attracting mature students and activists both from on campus and from the larger community. He wanted the presence of those people in his class as an influence on the Environmental Studies students for whom the course was a requisite, as a way of promoting an understanding of the connection between the scientific material within the course and community issues.

As Professor Rancourt explained it, he left it to students to choose and make up their own groups, with the possibility of them moving among the groups, in a process which he described as intended not to be static. Professor Rancourt's objective was to prompt the students to become involved in activist issues presented through guest speakers, selected readings and his own influence so as to direct themselves to identifying and pursuing learning about the science most relevant to those issues. From the beginning of PHY 1703 in the late 90's students were to have available to them the basic textbook on physics designed for liberal arts students *Physics – Concepts and Connections* by Art Hobson. Among other suggested physics readings were *Six Easy Pieces (Essentials of Physics Explained by Its Most Brilliant Teacher)* by R.P. Feynman; *The Flying Circus of Physics (With Answers)* by J. Walker; *Thinking Physics (Practical Lessons in Critical Thinking)* by L.C. Epstein; *Physics of the Environment (Emphasis on Global Changes Due to Energy Use)* by T.A. Leadwell; *Misunderstanding Science? (The Public Reconstruction of Science and Technology)* by A. Irwin and B. Wynne; *Cold Fusion (The Scientific Fiasco of the Century)* by J.R. Huizenga; *Environmental Physics*

by E. Boeker and R. van Grondelle, John Wiley. The readings always also included a list of books whose focus is more social than scientific, including: *How Many People Can the Earth Support?* by Joel E. Cohen; *Guns, Germs and Steel (The States of Human Societies)* by Jared Diamond; *On Power and Ideology* by Noam Chomsky; *When Corporations Rule the World* by David C. Korten; *Representations of the Intellectual* by Edward W. Said and *School of Assassins* by Jack Nelson-Pallmeyer. In 2005 Professor Rancourt decided to move the course in a decidedly different pedagogical direction by enlisting community activists, using independent study groups and introducing the “satisfactory/not-satisfactory” marking scheme.

Professor Rancourt described his own role as that of a catalyst. Explaining that he worked within each group, he required the groups to make periodic progress reports to him. Describing himself as a “gatekeeper” he relates that he would use dialogue, discourse and his own interaction, urging the students at all times to say things in their own words. He indicated that he would also keep the groups abreast of what other groups were doing, in what he characterized as a self-organizing system. He came to the conclusion that the system was a good one, noting that students were reading and asking questions. As he put it: “From all the evidence I saw, students were learning the science.” Nor did Professor Rancourt view his initiative as particularly revolutionary. According to his testimony a similar approach was adopted with the approval of his colleagues within the Physics Department in a course entitled, “Science and Society”, a graduate course offered in the Physics Department.

Nor did Professor Rancourt feel that there was anything untoward by his characterizing the course as “bilingual” rather than as a French course. Professor Rancourt gave his account of the history of the language of the course. He acknowledges that at its inception the course was designated as “French”. He recalls, however, that a problem arose in the very first year of the course. At that time the only textbook which was available was in English. Although Professor Rancourt had proposed the course to be given in French, in addition to the textbook, a number of the guest speakers who were available to contribute were English speaking. According to him, that resulted in some student complaints, principally relating to the fact that the course did not have a French textbook. At that time those complaints found their way to Professor Rolf Wescher.

Professor Rancourt explains that after discussions between Professor Wescher and himself, it was decided that the course would in fact be counted as a second language credit for both English students and French students. That, he recalls, is what went into effect. Accordingly, in his own mind, from the outset he considered the course to in fact be a bilingual course, a designation which would gain second language credit for both linguistic groups. It is his understanding that that is the way the course has been credited over the years. He therefore registered considerable surprise when the Dean asserted a strong insistence that the course be recognized as a French course in any materials distributed to students, and be administered as a French course.

The difficulties which arose in relation to PHY 1703 as it was presented in the fall of 2005 flow principally from the efforts of Professor Rancourt to publicize the course by his own internet postings. The related rights and responsibilities of faculty members are dealt with at some length within article 21 of the collective agreement. Article 21.1.2 reads, in part, as follows:

21.1.2 Every faculty member shall have the right and responsibility:

- (a) to adopt reasonable means to foster and maintain a productive and orderly learning environment in the courses assigned to her;
- (b) to organize course content and classroom or laboratory activities and employ methodology and didactic material, including textbooks, for the courses assigned to her, in a manner appropriate to the course and consistent with relevant academic standards and course descriptions approved by Senate, it being understood that in the case of multi-section courses the chair and the departmental assembly may jointly choose common didactic materials, including textbooks, where it can be shown that this choice is justified by valid academic reasons and does not impose ideological conformity on the members concerned;

Article 21.1.3 further provides:

21.1.3 A faculty member shall:

- (a) in accordance with the course description as adopted by Senate, teach the courses assigned to her on the date, at the times, and in the places designated by the competent authority, except where changed by mutual agreement of the member and her dean or the dean's delegate;
- (b) determine a reasonable number of regularly scheduled office hours when she will be available to students for

consultation, post these at her office door, and communicate them to the students and to her chair;

- (c) inform her students, at the beginning of a course, regarding course requirements, instructional and evaluation methods, and the nature and timing of assignments, projects and examinations;

As will become evident, the University became concerned that the foregoing requirements were not being properly observed by Professor Rancourt, at least at the level of the information which he was providing to students about PHY 1703 at the commencement of the fall term in 2005.

In his opening statement, counsel for the grievor also referred to other provisions of the collective agreement, arguing that the discipline registered against Professor Rancourt strikes at the heart of academic freedom. He referred the Arbitrator to the provisions of section 20.3 of the collective agreement, dealing with scholarly activities. In that regard he stressed in particular the definition of scholarly activities as found in section 20.3.1.1:

20.3.1.1 Scholarly activities are those which contribute:

- (a) through research, to the advancement of knowledge in a discipline;
- (b) through artistic or literary creation, to the advancement of the arts and the letters;
- (c) through various professional activities, to the advancement of a profession.

Counsel further noted that the concept of research as defined within section 20.3 of the collective agreement involves the exploration of new pedagogical methods and materials: in that regard he adverted to section 20.3.2.1 (f) which states:

20.3.2.1 Research includes the following activities ...

- (f) preparing innovative textbooks, and developing innovative teaching materials or methods, which may be used by others;

In his opening, counsel also made reference to the obligation of a faculty member to communicate to students, at the outset of the course, the course requirements, its instructional and evaluation methods as well as the nature of assignments and projects.

The perspective and concerns of the University were voiced through the testimony of Professor Christian Detellier, Dean of the Faculty of Science from 1997 through 2006, and as such the person responsible for overseeing the professional activities of Professor Rancourt in the fall of 2005.

Professor Detellier related the history of PHY 1703 back to 1996. He noted that in 1995 he was the Department Head for chemistry, and had some indirect involvement in establishing CHM 1100 as a required course for Environmental Studies in the Faculty of Arts. While both courses were given in the Faculty of Arts, and could not be taken for credit by students of the Faculty of Science, they nevertheless remained under the supervision of the Dean of the Faculty of Science. Former Dean Detellier explained the

numeration system for the course, designated as 1703. He explained that the first digit indicates that the course is intended for first year, the second digit, number 7, indicates that it is a French language course and the last two digits, 03, indicates that it is a “cours de lecture”. According to his testimony the Faculty of Science bears the ultimate responsibility of seeing that any course under its supervision is given in accordance with its description as provided by the Senate of the University.

Former Dean Detellier relates that in 2005 he received no indication from Professor Rancourt that he intended to make any substantial changes to PHY 1703. He states that it would have been the obligation of Professor Rancourt to consult with the head of the Department of Physics to ensure that any changes in the course would be acceptable. According to his understanding there was no communication with the then Department Head, Professor Richard Hodson.

As he recalls, Professor Detellier first realized there might be a problem with Professor Rancourt’s course when he heard, by way of an email from the director of the department, that at least one student had registered some unhappiness. That complaint seems to have been made after the initial session of the course. The next class was scheduled for the evening of September 21, 2005. On that date then Dean Detellier received a telephone call from Academic Vice-Rector and Provost, Robert Major. According to his account, the Provost indicated that he had concerns as to whether the course being presented by Professor Rancourt was in fact true to the approved description of the course, asking him to review certain website postings made

by Professor Rancourt. The Provost also faxed to Professor Detellier an email posted by Professor Rancourt to his students describing the class scheduled for September 21. The email advised the students that the guest speaker at the 7:00 p.m. class on that date would be Professor Michel Chossudovsky of the Department of Economics of the University of Ottawa. Students are advised “Do your homework...” and are instructed to Google “Chossudovsky” and also to Google “Shit List Jew” with a link to a website apparently aimed at attacking Jews who oppose the policies of Israel. The headline from the website, “Masada2000.org” states:

Jewish Leftists today serve as Jews-for-hire for every anti-Semitic and Israel-hating organization, magazine and web site on earth. These Jews who hate their own people are a tiny minority. Perhaps a mere five percent. **But they get around!**

(Emphasis in the original.)

Dean Detellier relates that he reviewed the materials sent by the Provost, which it appears were brought to the attention of the Provost by a person registered in Professor Rancourt’s course who is not himself a regular university student, but rather an outside registrant from the community. The Dean then examined the website postings of Professor Rancourt and formed the opinion that the course which he described did not conform to PHY 1703 as it had been approved by the Senate. Professor Detellier had reference to two kinds of websites. The first is the official website of the Faculty of Science, where professors normally post information with respect to their courses. The

second is an independent website, titled "Alternative Voices" developed separately by Professor Rancourt.

A posting on the Faculty website, under the heading "Activism Course" reads, in part, as follows:

**RE: Changes to PHY 1703** (you must register for the course e-mail list: [dgr@physics.uottawa.ca](mailto:dgr@physics.uottawa.ca))

Dear students of the Environmental Studies program:

I am the professor (Denis Rancourt) who originally developed your required physics course (PHY 1703 "Physique et environnement") that is offered as a French-language course (with textbook and many invited talks in English) every two years.

I have given this course every time EXCEPT last time (Fall 2003) when it was given by substitute teacher Prof. Jean-Yves Harnois because I was on sabbatical leave. I (Denis Rancourt) will be giving it again this year, Fall 2005, although with some important modifications (see below).

For a description of how this course was ORIGINALLY designed, with weekly invited lecturers and using the "Concepts and Connections" textbook, see: <http://www.science.uottawa.ca/phy/profs/Rancourt/teaching2.html>

**IMPORTANT CHANGES TO PHY 1703, starting this Fall 2005 term:**

In my work as a university professor, as a scientific researcher (environmental science, environmental mineralogy, boreal forest lakes), and as an activist and community worker ([www.alternativevoices.ca](http://www.alternativevoices.ca)), I have come to the conclusion that social and political aspects of the environmental issues are much more important than scientific aspects. Enough science is needed to be able to

defend one's self intellectually and to recognise when science is being used to manipulate public opinion but the central questions are not scientific ones.

As a result of this long awaited realization, and as a result of my research into education itself (role in society, student motivation, learning process), I have decided to take what was already a very non-conventional university physics course and radicalise it further. Here is a summary of the main changes (that you will suffer).

1. There will be no evaluation or marking. The satisfactory (S) or not satisfactory (NS) grading system will be used. This is a recognized university grading system. S/NS marks are not counted in GPA calculations. To obtain a S grade, you need only demonstrate that you participated in the course, to the best of your ability, starting from your background, in good faith. This system removes the motivation based on alpha numeric grades and allows each student to find his/her own motivation.
2. The course will largely be administered by a process called "participatory democracy" (PD). This means that the students themselves can (democratically and by consensus) decide on much of the course content, methods, invited speakers, class activities, readings, etc. All such decisions can be revisited periodically and the course curriculum and administration can be adjusted as we go. This means that the course can be greatly tailored to the needs and interests of the students.
3. The broad overlying theme of the course will be "L'activisme: Comprendre le pouvoir et ses contextes" (sic) ("Activism: Understanding Power and its Contexts"). The idea is that the course will be geared towards the activism perspective, in the broad sense. This perspective is characterized by questions such as: What are effective strategies for change? Where does true power reside and what are the power structures? What roles do governments, corporations, financial institutions, and civil society play?
4. **We can learn as much science as the students would like**, covering all the basics that allow one to appreciate current issues such as: environmental degradation, energy use, nuclear power, climate change, risk analysis, genetic

engineering, toxicity, etc. Or we can decide to spend more time on other basic knowledge items.

5. The course will double as a lecture series (with weekly invited speakers and workshop leaders, as before) and will be open to the outside community. Contributing members from the community will be invited to fully participate in the course. This will allow direct interactions between the registered students and their social environment and will allow the broader community to appreciate the university setting. A broader array of views will thereby be sampled and benefited from.

I hope that the students of the Environmental Studies program will embrace these changes, as a promising experiment, and will enjoy the new course.

(Emphasis added.)

Dean Detellier also made reference to postings on "Alternative Voices", the independent website operated by Professor Rancourt. A posting on that site reads, in part:

ATTENTION ALL CAMPUS AND COMMUNITY ACTIVISTS  
AND CONCERNED CITIZENS

Announcing a new bilingual undergraduate and graduate (cross listed) course that you might like to take this Fall-term 2005:

**"L'activisme: Comprendre le pouvoir et ses contextes"**

(sic)

**"Activism Course: Understanding Power and its Contexts"**

*(Campus activists and socially minded students this course is for you!)*

*Please join the course information e-mail list now:*

[dgr@physics.uottawa.ca](mailto:dgr@physics.uottawa.ca)

...

Language: Most of the lectures will be given in French. Many of the invited speakers will deliver in English. Class discussions will mostly be in French, but also English, or mixed, depending on the circumstances. The two recommended textbooks and most of the research reading are in English. (The plan is that every year it alternate from this bilingual format to English.)

...

Course Plan: The concerned student who wishes to participate in making the world a better place is faced with the formidable problem of first evaluating and understanding the situation, so that informed and optimized strategic decisions can be made. We will consider the proposition that the main root causes of both environmental degradation and of social injustice are institutionalized and power-based and that the solutions must be primarily political (in the broad sense) rather than scientific or technological. **We may learn some science** (risk analysis, nuclear technology, ozone chemistry, greenhouse effect, etc.) and see how science is often misused to maintain the status quo rather than help elucidate the situation. Mostly though, we will try to “understand power”, so that we have a clear picture of what progressive citizens are up against. We will also explore avenues for change and collaboration. Several dynamic keynote speakers will address the class on these and other topics.

...

Course content and schedule: The idea is that students will be able to follow their own interests and largely determine class content and direction, via a participatory democracy town hall-type process. Participation and interaction with others is what matters, at a level consistent with each student’s background and interests. Please be prepared to say what you think is most important and would be most profitable to explore and to tentatively suggest how we might do that.

(Emphasis added.)

Based on these web postings, Dean Detellier articulated a number of his concerns. According to his evidence the first was the name of the course. Secondly, he expressed concern about the course being described as “new” as well as “bilingual” and “graduate”, all of which he maintains it is not. Thirdly, he noted that the central focus, activism and understanding power, does not easily correlate with the content of the course as approved by the Senate. He stated that a concern obviously flowed from the suggestion that students “may” learn some science, an indication, in his view, that the purpose of the course was not directed to scientific content. He noted that given the overall tenor of the website postings, the second textbook dealing with Chomsky’s work effectively becomes the principal text of the course. He observed, in addition, that the invited speakers are, virtually without exception, not persons knowledgeable in physics or intended to speak about physics. He stated that while the course might well be interesting, it is difficult to see how it can be characterized as a physics course. Making an indirect allusion to a blog subsequently published by Professor Rancourt entitled, “Academic Squatting – A Democratic Method of Curriculum Development”, Dean Detellier expressed his strong view that “squatting” is not an appropriate means to implement curriculum change within a university. It is from that perspective that he determined to go forward on September 21, 2005.

Former Dean Detellier related that, based on his examination of the website entries, he decided that he would suspend the course scheduled to be given that evening at 7:00 p.m., September 21, 2005. At approximately 5:00 p.m. he went to Professor Rancourt’s office to express to him his concerns about the course. That

meeting, which lasted some 20 to 25 minutes, obviously concluded with the Dean and Professor Rancourt holding very disparate views. Shortly after the meeting, and before the class, Dean Detellier wrote the following email to Professor Rancourt:

Denis,

Ce courriel fait suite à la rencontre que nous venons d'avoir. Tu es en charge, ce trimestre, d'un cours de physique principalement destiné aux étudiants en études de l'environnement, PHY 1703 ("Physique et Environnement"). La description de ce cours se trouve dans l'annuaire de la Faculté des sciences. Le cours se donne le mercredi de 7 :00 à 10 :00 pm, à Montpetit 203. Manifestement, le contenu de ce cours tel que tu veux le donner, et tel qu'il est décrit sur le site web [http://www.alternativevoices.ca/ac\\_book.htm](http://www.alternativevoices.ca/ac_book.htm) "L'activisme: Comprendre le pouvoir et ses contextes"; "Activism Course : Understanding Power and its Contexts", ne correspond pas à la description du cours telle qu'elle a été approuvée par le Sénat. D'autre part, le cours s'adresse aussi à des étudiants inscrits à PHY 8391 ("Selected topics in physics (PhD)"). Il me paraît inconcevable que le même cours puisse être offert simultanément à deux populations d'étudiants aussi distinctes que celle de PHY 1703 (étudiants non inscrits en sciences ou en génie) et celle de PHY 8391 (étudiants au doctorat en physique). A très court terme, je te confirme que ces deux cours, PHY 1703 et PHY 8391, sont suspendus jusqu'à ce que leur contenu soit rendu acceptable d'un point de vue académique. Par conséquent, ces cours n'auront pas lieu aujourd'hui mercredi 21 septembre, à 7 :00 p.m. Il est entendu que la présentation par un invité qui était prévue pourra se donner si tu le désires, mais en dehors du cadre des cours PHY. Je serai présent à 7 :00 pm pour l'annoncer aux étudiants. Le cours PHY 1703 devra reprendre la semaine prochaine en suivant le contenu approuvé par le Sénat. Par conséquent, en fonction de l'article 21.1.2.b de la convention collective, je te demande de me fournir des explications sur la situation actuelle, et te demande de reprendre le cours dès la semaine prochaine en suivant le contenu approuvé par le Sénat. De plus, un cours adapté au niveau des étudiants au doctorat devra être offert séparément, et le contenu de ce cours approuvé par les

autorités compétentes. Étant données les contraintes de temps, il serait apprécié que ta réponse me parvienne pour lundi matin prochain, le 26 septembre, au plus tard. Sincèrement Christian.

The evidence of Professor Detellier, as well as that of Professor Rancourt, confirms that the Dean attended at the commencement of the class scheduled for 7:00 p.m. September 21, 2005. While there is some conflict in precisely what was said and the overall tenor of the Dean's intervention, it does not appear disputed that the Dean communicated directly with the students, advising them that the course was effectively suspended until further notice, although he apparently said that the invited lecture of Professor Chossudovsky could proceed as an independent event, although not one which could properly be viewed as part of the course.

It is an understatement to say that the intervention of the Dean provoked a strong reaction in Professor Rancourt. That is partly reflected in a written response which he made to the Dean by way of a letter dated September 26, 2005. That letter well articulates the convictions and intentions of Professor Rancourt as reflected in his evidence before the Arbitrator. It reads, in part, as follows:

Dear Professor Detellier,

On September 21, 2005, you barged in to my PHY 1703 class, the second class of the Fall term, unannounced to the students, and proclaimed that the class was cancelled in view of your judgement that the course content is inappropriate. You then not answered four questions from the students and left, despite many raised hands and requests to be heard. Fortunately, your attempt to cancel the class failed and we proceeded with the class as planned.

You have asked me to explain myself and to describe the contents of my two courses PHY 1703 "Physique et environnement" and PHY 8391 section-D "Science et Société / Science and Society" in view of the academic freedom and course description paragraph 21.1.2.b of the Collective Agreement between the university and the faculty.

I wish you would have asked me this and given me an appropriate time to respond before you decided to cancel the second class of PHY 1703, after only one class and one student complaint and without consulting the other almost 100 registered students and many community participants.

I also wish you would have given me prompt and proper formal notification of the student complaint and its content and asked me to respond to the complaint, as is the usual procedure, before any action from your office was initiated.

...

### THE NATURE AND EVOLUTION OF PHY 1703

I was originally asked to design PHY 1703 as a required course for the Environmental Studies (ES) program (Arts Faculty) in 1996, and given full latitude to do so. I called it "Physique et environnement" and wrote the first tentative course description (which is in the Faculty of Science calendar and which you read to my class on September 21) before the course had ever been given and before an appropriate textbook had been found, as is common practice. The first time PHY 1703 was actually given, in 1997, it was already quite different from the original description, which was never meant as either a road map or as an instrument to limit the scope of the course. As of 1997, PHY 1703 has always had weekly invited speakers who addressed the wider socio-political and economic as well as the technical aspects of environmental problems, as had been suggested to me by the ES program director of the time. The speakers have included politicians, NGO representatives, civil servants involved in policy development, scientists, media and communication experts, and, yes, activists. The original textbook (Physics, Concepts and Connections; by Art Hobson) also was not a traditional physics textbook. All sciences being introduced as needed to treat such topics as global warming, ozone depletion, human consumption patterns, risk analysis, etc. This

version of PHY 1703 has been described on my departmental web page since 1997 or 98 and this part of my web page has not been updated since. No one has ever complained that it was not identical to the “Senate approved description”. (There should be a prison for professors who allow web-rot and who don’t update their official course descriptions.)

...

#### BIRTH OF ‘ACTIVISM COURSE’

Benefiting from a sabbatical and knowing I would recover PHY 1703 on my return to teaching, but also over the last several years, I have consulted a large number of researchers in the field of ‘socially responsible science education’, from several countries. I have also consulted our own university teacher resource centre, followed workshops, borrowed videos, and read several articles and books on ‘learning in science’ and large class teaching methods. (I was the one who first introduced my physics colleagues to Peer Instruction, a method that several colleagues have used or tried or adapted.)

I developed the plan for what I have unofficially called ‘Activism Course’ (AC). I did not do this in isolation. I have benefited at every step from a large network of educators and researchers who have and continue to make invaluable suggestions (and kind warnings about probable institutional resistance to such novelty). This ‘international advisory team’ includes professors from the University of Manitoba, Carleton university, Cambridge University, and many US universities and universities from around the world, who continue to follow the Ottawa AC experiment with great interest and who are inspired by it.

...

#### STRUCTURE AND PHILOSOPHY OF ‘ACTIVISM COURSE’

In the context of PHY 1703 in the ES program, it has become clear to me that ‘activism’ (broadly defined and including the actions of citizens, citizen groups, advocacy groups, NGOs, and employees working for non-sanctioned reforms from within society’s institutions” plays a key role in

environmental issues and their broader socio-economic and political contexts. (I will not cite the literature that establishes this without a doubt.) It has also become clear to me that activism can provide a powerful vehicle for student involvement and motivation and that the degree of personal involvement arising from activism can be a powerful catalyst for true learning, as long as we address real problems and do not attempt to co-opt student activism as a mere motivational tool to learn compartmentalized and 'approved' content.

At the same time, we are said to be concerned with teaching students 'how to learn' and sometimes told that this should be our main educational emphasis, more than controlled content. One method of encouraging student experiments with the learning process is to let them find the problem that they wish to understand and interact with: Student involvement in the curriculum itself is vital. In contrast, I have been stunned by the widespread institutional belief (and post-learning rationalization) that learning comes from a well-designed program structure and well-designed course content. This flies in the face of the huge and documented differences between what different students get from the same class or from the same program of study. More than once in my career I have had to correct tenured professors teaching first year physics on the meaning of Newton's laws and every year I witness the extent to which many of our physics graduate student TAs have not understood most elements of first year physics. Yet many first year students themselves have perfectly well understood many of these deep concepts, as I also witness every year. It is time we put aside the illusion of directed learning and admit that the curriculum is only a broad guide and that what matters most is student and professor commitment to personal growth and to each other. This will give us students who learn how to learn.

In AC, therefore, there is much room for student-determined content. We also admit that all students need not see the same subject matter or do the same readings, unlike most Science courses. We are now forming working clusters that will largely be independent and that students can change between.

These clusters will benefit from the broad experience and different backgrounds of the students, including community

members and educators. Many advanced students have already offered to coordinate/lead clusters. Some will learn by teaching (e.g., in the sense of Peer Instruction) and others will benefit directly. These clusters report to the class and to me. It has already become clear that everyone will be challenged. And the students who know me know me to be very demanding in my challenges of their views and proposals. (The value of confrontation is based on physics education research that shows that in learning it is not enough to simply be presented a new idea, one must reorganize or reconsider one's internal value structure, given our beliefs that conflict with the new idea. The person who has learned to learn has developed this self-controlled flexibility.)

It was important that the course be as tied to the real world as possible, which is why I have made a broad appeal to the community and have invited members of the community to attend without necessarily officially registering. I wanted the students to be exposed to a broad cross section of community agents for positive change. This also has the effect of tying the university to its community.

Institutional evaluation (marking) is another difficulty with direct impact on learning and motivation. Again, my views here are based on educational research literature. I chose the S/NS (satisfactory/not-satisfactory) scheme. In my considered opinion, the best way to remove the numbing influence of grade-based motivation is to remove the alpha-numeric grading system. This allows the needed space for personal and group motivation. If we further remove the possibility of a NS evaluation, the learning experience becomes personal and interests can be followed and, of course, these interests are modulated by the group interactions and the stated overall theme of the course. I then ask each student (by small groups or individual) to give me regular reports on what they have chosen to do in the course and how it is progressing. I also ask the students to make such reports to their work clusters.

Finally I have asked all students to keep a written record of their progress and of their work and I have requested specific readings. You appreciate that this is not a scientific calculation or laboratory course.

...

In addition, I believe that it is of great education benefit to BOTH the undergraduate students in PHY 1703 and the graduate course students to interact in the same forum. The guiding principle here is that, if the subject matter is rich enough, all participants derive something different from it, in proportion to their personal background knowledge. Students learn from where they are and, therefore, to the extent that graduate students are more advanced than undergraduates, they derive more advanced learning from the same stimulus. I also believe that there is far more variation in background and ability to learn between students than between the 'average graduate student' and the 'average undergraduate student', as we have all had plenty of occasion to observe. (It would be time for our institutional structures to start recognising this: As I have expressed in my contributions to the recent Vision 2010 exercise.)

Therefore, I have asked the PHY 8391-D students to participate in all PHY 1703 activities, including the Friday films. This does not mean that their course is limited to an undergraduate level class since I ask all students to interact with me in keeping me informed of their progress. Obviously, I will be more demanding of more advanced students. I am simply following the canonical rule of education which is to take students where they are and help them go as far as they can. It's a lot more work than a traditional class but I rationalize it by considering that it is also part of my research duties.

In addition, I have reserved a special smaller room for just the graduate students; that we will use either at their request or if I evaluate that they need more directed attention to attain the ill-defined 'graduate standard'.

...

I understand how the [www.aternativevoices.ca](http://www.aternativevoices.ca) website could have upset you, as I understand how the student who complained could have been unsettled by the first class, given its novelty. The unofficial website description largely correctly describes the course from the activism perspective but was intended primarily as (a possibly over-enthusiastic) advertisement to attract willing participants in an exciting experiment.

It should not be interpreted as reflecting negatively on my commitment to education and to the highest possible academic standards. Indeed, I would hope that the above information (and my 19-year records as a teacher, researcher, and supervisor of graduate students) would bring you to appreciate the large amount of effort and thought that has gone into these projects and maybe even to embrace the approach.

The two things that most hurt me about your intervention were: (1) the signs of distress and of possible negative impact on some of the students, and (2) your underlying assumption that I must be crazy or incompetent, despite much evidence to the contrary and without bothering to investigate more deeply. In particular, your public in-class comparison between my efforts in PHY 1703 and your own personal interest in cartoon characters were not warranted.

Finally, in my opinion, and having not yet consulted the APUO, both PHY 1703 and PHY 8391-D satisfy the requirements of paragraph 21.2.2b of the Collective Agreement. The course contents are “compatible/consistent-with” the official course descriptions, in that everything mentioned in the official descriptions is done in the courses. The fact that more is also done (that is directly relevant) should not be an issue.

Sincerely,  
Denis Rancourt  
Professor of Physics

The above correspondence was copied to students, colleagues and also to the media, causing the issue of Professor Rancourt’s course to become something of a “cause célèbre”.

Fortunately, notwithstanding the obvious differences between Dean Detellier and Professor Rancourt, the University and the APUO succeeded in working out a Memorandum of Agreement as a basis upon which PHY 1703 could continue for the

term. That agreement, signed on September 28, 2005 by the University and the Association, reads as follows:

Concerning course PHY 1703, a course assigned to Professor Denis Rancourt for the Fall2005 session.

The employer is concerned that Professor Rancourt developed course content that did not reflect the approved title and description of the course, which Professor Rancourt disputes.

To resolve the immediate issue of dealing with course PHY1703 offered on Wednesday, 28 September and subsequent weeks in the fall of 2005;

- a) Professor Rancourt assures that he undertakes to cover the fundamental science concepts as described in the official course description, using the Beta-1 version of his book Science of Activists, for the environmental studies students registered in PHY1703, Fall 2005.
- b) The course will be taught in French, although conferences may be given in English.
- c) The course will be delivered by means of a work group structure during the official class time and this will be directly overseen by Professor Rancourt
- d) The course descriptions appearing on [www.alternativevoices.ca](http://www.alternativevoices.ca) will be removed.
- e) Professor Rancourt's letter of 27 September 2005 is withdrawn and replaced by this memorandum of agreement.
- f) Both parties reserve the right to pursue their concerns further.

Notwithstanding the “settlement” there ensued a communications campaign which appears to have still further raised the profile of the disagreement between the grievor and his Dean. On October 2, 2005 Professor Rancourt issued a general communication to physics professors and physics students, to explain the events surrounding PHY 1703. It would seem that in that missive he attached the text of his letter of September 26, 2005. On October 24, 2005 Dean Detellier wrote to Professor Rancourt reiterating his concerns with the events surrounding PHY 1703, with some amplification of the difficulties he saw with respect to graduate students participating in the course. That prompted a response from Professor Rancourt dated December 7, 2005. The tenor of that communication, also copied to others, is to some degree reflected in the following excerpts:

(2) It is common for professors to experiment with content and methods in their courses, without having a new course description approved by the required six committees each time. Otherwise, the kind of teaching innovation promoted in Vision 2010 would be quite difficult. Most courses do not exactly follow the official course descriptions and many do not cover the stated topics each year. At a teaching seminar I once attended sponsored by our Teaching Services, we were told that depth and understanding and taking the students where they are are more important than the amount covered and the exact curriculum. In the case of PHY 1703, we covered everything in the official course description and more. We have always covered more (broad societal topics) since I first gave it in 1997, as I have already explained.

(3) The dean brings up the question of the French official status of PHY 1703. Ever since the first class in 1997, the course has used an English textbook. The first year the course was given this caused some students to complain. A solution was found immediately by the Environmental Studies director of the time: The course would count for official second language credits for all students. I was

informed of this by the program director and all were happy. This is the first year that the (new) program director has informed me that an official change in language status was never made as I believed and have assumed each previous year I have given the course. I discussed this situation at length with the new program director before the fall 2005 session. The unofficial web page was written before this conversation. At any rate, the class and I discussed the language issue at length (for about 30 minutes) at the first F2005 class and we came to a unanimous consensus: That French would be the privileged language in the course, that I would use French in doing the class, but that individual students could choose to ask questions or make comments in the language they felt most comfortable with. If this is not satisfactory to the dean, then I might suggest the dean explain to the class that our consensus process was not legitimate. Again, this illustrates the problem with judging a course on the basis of an unofficial promotional web page rather than its actual properties.

(4) The dean claims "vous indiquez très clairement sur le site Web que vous changez fondamentalement, radicalement, unilatéralement et de façon noncollégiale puisque c'est sans consultation avec vos collègues, le contenu du cours". This is a statement of interpretation of the unofficial promotional web page. Should not the dean concern himself more with actual pedagogical value and actual content of courses? I have already described (September 26, 2005, letter) that the F2005 changes to PHY 1703 are not as dramatic as the dean perceives – based only on a web site that has clearly unsettled the dean.

Nonetheless, let me point out that F2005 changes to PHY 1703 were communicated in detail to all students of the Environment Studies program and to the Chairman of Geography who oversees the program, well in advance of the start of the F2005 term. All the responses from the students were positive and several students consequently registered that were not planning to do so this year. The only initial feedback from the Geography chairman was an e-mail note that the course had an officially French code. This led to my above mentioned discussion with the program director. When I followed up for more feedback with the Geography chairman and finally reached him by telephone, he confirmed that he had read my message. When I asked if he had any more feedback, he indicated that the S/NS

making method might not be to the students' advantage. I explained that I chose this method because I felt that it was beneficial to the students. We left it at that.

Therefore, contrary to the dean's web-based impressions, I have not dramatically modified PHY 1703 in terms of the Environmental Studies requirements and I had consulted the key players well in advance of the start of classes.

(5) The dean's statement that "il ne s'agit certainement pas d'un cours de physique, et l'annoncer sous PHY 1703 constitue un détournement majeur des intentions du cours 'Physique et Environnement'" is misplaced in two regards. One cannot use the attack that PHY 1703 as I am presently giving it is 'not a physics course' because it has never been anything like a Faculty of Science first year physics course. It has always included broad social issues. It was designed for an Arts program and it cannot be counted as credit for Science students. Secondly, I believe (and this has not been challenged by the Environmental Studies officials or any student except maybe the one or few who have submitted undisclosed complaint to the dean) that I am providing the best possible PHY 1703 course for Environmental Studies students and that my course is consistent with the aspirations of that program. I have done this to the best of my ability and the dean's actions have not helped.

It appears that an informal meeting between the parties occurred on December 12, 2005. That was shortly followed by the letter of reprimand of December 19, 2005, which is the subject of this grievance.

The Arbitrator considers it important to clearly define the issues to be addressed. Firstly, it should be stressed that the University did not discipline Professor Rancourt by reason of any ultimate dissatisfaction with the content of his course as it was ultimately delivered to the students following the Memorandum of Agreement of September 28,

2005. That is expressly recognized in numbered paragraph 2 of the letter of reprimand of December 19, 2005 authored by Dean Detellier.

To complete the chronology, it should also be noted that the initial letter of discipline, dated December 19, 2005, was subsequently amended and reissued on February 8, 2006. The substance of the amendment in the second letter was the withdrawal of the University's objection to the satisfactory/not-satisfactory grading scheme which Professor Rancourt used. The position of the University appears to be that there was sufficient ambiguity in the governing rules so as to raise doubt that discipline could be assessed on that basis. It may also be noted that a separate grievance was filed by Professor Rancourt, challenging the intervention of Dean Detellier in his classroom on September 21, 2005. That grievance, dated October 11, 2005, was apparently settled by the execution of a memorandum of settlement signed by the University on November 7, 2007 and by the Association on November 6, 2007.

On February 27, 2006, Professor Rancourt filed a Notice of Grievance which was the commencement of the instant dispute. With respect to the issue of the representations made by Professor Rancourt on the web, the only grounds upon which he was disciplined, Professor Rancourt's Notice of Grievance states the following:

**WEB CRIME: PROMOTION OF PHY 1703**

The Dean's point-1 refers to the promotion I have made of PHY 1703 on the independent [www.alternativevoice.ca](http://www.alternativevoice.ca) web site. (This promotion and my choice to use the S/NS grading scheme are the only two accusations in the entire letter.) As far as I know, there are no regulations that a professor

cannot promote a course on an unofficial web site and using material other than the official course description. According to the CAUT's public position, any such regulation would be a fundamental challenge to the general principle of academic freedom. I did suggest an **alternative course title** but I also stated what the official title was and that it was the official title. At no place on the site did I state that the official material of the Senate-approved course description would not be covered. The web page was *consistent* with (compatible with, not contradictory with) the course description. The promotional web page was intended to attract a broader range of class participants, to enrich the learning environment for all, and was intended to challenge the minimalist view of the role of science in environmental issues. The latter is part of a political perspective that I am entitled to express (9(a)). Again, all this has been amply explained in my letters to the employer. By all accounts, from all students who followed the course and all community participants, including two University of Ottawa professors who were regular student participants, the course was a complete success and exceeded the requirements stated in the official course description. This includes all the students in the Environmental Studies (ES) program for whom it was a required course. There were also no complaints from any ES officers who were made aware well before the start of term of the independent web page content. Indeed, the Dean created a new section of PHY 1703 in September for anyone dissatisfied with my course and not a single student registered for it, nor did the ES program officers recommend it.

The end result of my web promotion initiative was that the official enrolment in the class was more than double what it would have been with just the ES students, to more than 80. The varied enrolment plus the significant non-officially registered auditors and participants from all walks of life – that my promotion attracted – (community centre employees, NGO employees, lawyers, teachers, government employees, etc.) helped to make the course one of the most vibrant learning environments on campus. These were the consequences of the legitimate promotion that so bothered the employer.

(Emphasis added.)

As became clear from the evidence, much of the University's concern stems from the content displayed on the "Alternative Voices" website. Professor Rancourt referred to it as his website, although he indicated that he did not manage it on a day-to-day basis, but rather was the overseer of it. According to him "it was pretty much student operated". In his testimony he stressed that the "Alternative Voices" website is not part of any official website and that its contents are not sent to any list of university students. The postings on that website which he made concerning the "Activism Course", as he described PHY 1703, in the fall of 2005, were intended to be what he characterized as a "call out" to the activist community outside the university. His objective, as he explained it, was to attract community activists and mature students whose very presence in the class would enrich the discussion and act as a catalyst to the Environmental Studies students, for whom the course was a requirement. The fact that Professor Rancourt had two separate audiences is to some degree confirmed by the structure of the second page of the posting. While it begins with bold script which states: "ATTENTION ALL CAMPUS AND COMMUNITY ACTIVISTS AND CONCERNED CITIZENS" shortly followed by the pitch "*Campus activists and socially minded students this course is for you!*" there follow two link buttons, the first of which bears the title "Information for students of the Environmental Studies program". There was, in other words, a form of two-track communication being engaged in by Professor Rancourt, part of which was to call out to the broader activist community, whether inside or outside the university, to increase the registration for PHY 1703 and attract a richer mix of people, in the sense that the "regular" students in the Environmental Studies program would work in groups that also included a wider range of social activists drawn from the community at large. It

does not appear disputed that these promotional efforts of Professor Rancourt were very successful, as ultimately reflected in the high number of registrants for his course. He noted that in fact the registration for 2005, which totalled 87 persons, was comprised of some 40 Environmental Studies students and approximately 47 persons from outside the Environmental Studies program.

During his examination in-chief he was asked about the content of a web posting made on the department's website, and in particular a statement addressed to students in the Environmental Studies program:

We can learn as much science as the students would like, covering all the basics that allow one to appreciate current issues such as: environmental degradation, energy use, nuclear power, climate change, risk analysis, genetic engineering, toxicity, etc. or we can decide to spend more time on other basic knowledge items.

Professor Rancourt stated: "I was saying that students could learn as much as they want beyond the minimum requirements." He rejected the suggestion that the statement was intended to convey or would have been interpreted so as to suggest the converse proposition, that students could learn as little science as they would like.

As the record confirms, there were at least two student complaints about the course, complaints which prompted a review of the website postings. One, made at higher administrative levels of the university, was made by a student from the community, not enrolled in Environmental Studies, apparently taking exception to the

lecture of Professor Chossudovsky which was to take issue with the pro-Israel lobby. The second is a written complaint made by a student registered in the Environmental Studies program, emailed to the Chair of the Physics Department. That message contained an attachment in the form of a student's reply to a request by Professor Rancourt stating that he was looking for "...irate or frustrated or angry or discouraged or depressed graduate or undergraduate students..." The student in question responded that she was frustrated at having expended her hard earned money "...pour une folie comme ce cours." She expressed a number of strong sentiments, including her view that the classroom discussions seemed to her to be devoid of any sense or direction. It is true, of course, that student displeasure is a freely available commodity in any university. The evidence nevertheless indicates that while PHY 1703 as presented in the fall of 2005 gained substantial popularity, as reflected in its enrolment, it prompted at least enough student criticism to draw the attention of the administration and the Dean.

I turn to consider the submissions of counsel for both parties. Counsel for the University stresses that while Professor Rancourt is a physics professor assigned to a compulsory physics class, what he publicized on his web postings was not a physics class. As she put it, what appears there is better characterized as a course in activism with an optional science component. Stressing that the University is accountable to ensure that students receive appropriate training, she notes that one of the devices to achieve that end is the collegial and multi-layered process for developing approved course descriptions. She submits that it is simply not fair to students to disappoint their legitimate expectations, whether they sign up for a course on activism to be confronted

with compulsory science, or sign up for a course on science to be forced into an examination of activism. Fundamentally, she submits, it is simply not open for a person in the position of Professor Rancourt to transform what was conceived as a physics class into a social activism class.

She characterizes the issue as whether Professor Rancourt in effect advertized a course which simply does not correspond to the University's approved description. The narrow issue, she submits, is whether there was just cause for the reprimand registered against Professor Rancourt. In that regard she draws the Arbitrator's attention to article 39 of the collective agreement, and in particular article 39.1.1.1 (c). Article 39.1.1.1 reads as follows:

- 39.1.1.1                    A member may be disciplined for just and sufficient cause; in particular:
- (a) For violation of the provisions of article 10, pursuant to the provisions of section 39.2; or
  - (b) For deficient performance of workload duties, pursuant to the provisions of 39.3; or
  - (c) For other just and sufficient cause, which cannot be considered to be a cause as described in (a) or (b) above, pursuant to the provisions of 39.4.

Counsel also makes reference to section 5.3.2 of the collective agreement, which falls under the management rights clause and reads as follows:

- 5.3.2 Subject to this agreement, the Association acknowledges that it is the exclusive function of the employer to hire, appoint, promote, transfer and classify employees and it is the exclusive right of the employer to dismiss, suspend or otherwise discipline any employee for just and sufficient cause.

Finally, counsel makes reference to section 21.1.3 (a) of the collective agreement which provides:

21.1.3 A faculty member shall:

- (a) in accordance with the course description as adopted by Senate, teach the courses assigned to her on the date, at the times, and in the places designated by the competent authority, except where changed by mutual agreement of the member and her dean or the dean's delegate; ...

Counsel for the University strongly disputes the suggestion, raised in the evidence of Professor Rancourt, that the complaint from a student who was not a registered student in the Environmental Studies program, which caused Dean Detellier to intervene at the class scheduled to hear Professor Chossudovsky on September 21, 2005, was political. The grievor characterized the complaint, which contains a statement charging him with having said that "...Zionism intimidates free thinkers", as suggesting that the real motivation for intervening in his class was a political response to the wishes of the pro-Israel lobby. Counsel stresses that while the complaint may have been the occasion for the intervention in his course, the University did not act on the substance of the complaint and did not prevent the classroom lecture from proceeding. She stresses that if that had been the case an entire panoply of notice and

fact finding would have been launched under the provisions of section 39.1.2.1 of the collective agreement, which did not occur. She emphasizes that the only complaint that the University acted upon had to do with the substance of the material on the websites circulated to the class. The student's complaint led to a closer examination of the "Alternate Voices" website and raised subsequent concerns which have nothing to do with any political agenda.

Counsel for the University is emphatic that this grievance is not about academic freedom. She notes that Professor Rancourt acknowledges that it is his duty to teach what is within the Senate approved course description. Nor is the dispute about the pedagogical methods adopted by Professor Rancourt or, ultimately, the content of his course. She stresses that in no aspect of the discipline does the University take issue with the concept of guest speakers, the choice of texts and readings, or the political and social context utilized as a learning tool. There is, very simply, no attack on the pedagogical method adopted by Professor Rancourt. Her submission is relatively simple: there were changes made to the course description by Professor Rancourt in his online publications and the University is entitled to invoke discipline for his having failed to follow the Senate approved descriptions.

Counsel dismisses the suggestions of Professor Rancourt that the entries which appear in "Alternative Voices" are not an altered course description but merely a "call out" or a "course plan". She submits that semantics are not relevant and the inevitable conclusion is that he published information about the course which is simply not

consistent with the Senate approved course description. Noting that the information on the website continued to be available as the course progressed, counsel suggests that it was intended as more than a mere “call out” document.

Counsel stresses that the factual elements placed in evidence confirm, beyond doubt, that Professor Rancourt drafted and published public documents whose content are clearly inconsistent with the course description. She states that the web posting of Professor Rancourt is simply false in its assertion that the course PHY 1703 for the fall of 2005 is a “new” course. She also questions the reference to language, describing the course as “bilingual” when it was in fact approved as a French course. She questions the sentence which reads “The plan is that every year it alternate from this bilingual format to English.”, noting that Professor Rancourt conceded in his evidence that there was in fact no institutional plan to that effect, but there was merely an intention or wish in the back of his own mind. She emphasizes that there can be no doubt as to Professor Rancourt’s understanding of the Senate’s intention, as one posting on the “Alternative Voices” site states, in part, that the course is “offered as a French language course...” Counsel questions whether, in the overall context, given the reference to the plan to give the course in English in alternate years, students might be misled into waiting for it to become available as an English language course.

Counsel next attacks the fact that Professor Rancourt effectively changed the title in his web posting, discarding the title “Physique et l’environnement” for “L’activisme: Comprendre le pouvoir et ses contexts” (sic) or, in English, “Activism

Course: Understanding Power and its Contexts". These titles, appearing in bold characters on the web publication are not, counsel submits, mere unofficial terms to attract students. She submits that they are conceived and intended to rename the course in a manner not contemplated by the original approval of the Senate. Counsel disputes the suggestion of Professor Rancourt, expressed within his notice of grievance, that he merely suggested "an alternative course title".

Counsel for the University refers to the original description of the course and its title appearing on the Department's website prior to 2005. It is evident, she submits, from that posting that the course did always contain a political and social activist component. But, with the new postings in 2005, she submits that effectively a course which was about science with a vestige of activism became a course on activism with a vestige of science and where, in fact, science appeared to be optional. How else, she argues, are we to understand the statement in the fall 2005 posting on "Alternative Voices" stating "We may learn some science ... mostly we will try to understand power."? To the same effect she stresses the statement, "We can learn as much science as the students would like ... or we can spend more time on other basic knowledge items." She similarly questions expressions such as the invitation to students to "follow their interests" in accordance with a "town hall process" in a framework of "participatory democracy".

Counsel submits that the evidence so reviewed is conclusive that the University did have reasonable cause to discipline Professor Rancourt. Counsel maintains that

the University has discharged the burden to establish that the grievor published information effectively changing the name of the course, its language of instruction and its mandatory requirement of scientific content in a manner entirely inconsistent with the original Senate approved description of the course. That, she submits, is grounds for discipline and involves no infringement on the academic freedom of Professor Rancourt.

Counsel for the grievor takes a substantially different view. He maintains that academic freedom is very much at issue in this grievance. He submits that the issue is whether Professor Rancourt was entitled to do exactly what he did without the interference of discipline on the part of the University. He submits it is about whether Professor Rancourt has the right to hold opinions about politics and teaching methodology, without interference, including pedagogical experimentation that brings members of the community into a course to enrich his classroom and courses.

Counsel stresses the contractual context of the collective agreement, and its protection of the concept of academic freedom. In that regard he refers to article 9, entitled "ACADEMIC FREEDOM" which provides as follows:

- 1) The parties agree neither to infringe nor abridge the academic freedom of the members. Academic freedom is the right of reasonable exercise of civil liberties and responsibilities in an academic setting. As such it protects each member's freedom to disseminate her opinions both inside and outside the classroom, to practice her profession as teacher and scholar, librarian, or counsellor, to carry out such scholarly and teaching activities as she believes will contribute to and disseminate knowledge, and to express and disseminate the results of her scholarly activities in a

reasonable manner, to select, acquire, disseminate and use documents in the exercise of her professional responsibilities, without interference from the employer, its agents, or any outside bodies. All the above-mentioned activities are to be conducted with due and proper regard for the academic freedom of others and without contravening the provisions of this agreement. Academic freedom does not require neutrality on the part of the member, but rather makes commitment possible. However, academic freedom does not confer legal immunity, nor does it diminish the obligations of members to meet their duties and responsibilities.

- 2) The parties agree that no censorship based on moral, religious, or political values shall be exercised or allowed against any material which a member desires to be placed in the library collections of the University of Ottawa.

Counsel also draws the Arbitrator's attention to parts of the collective agreement dealing with collegiality, including article 5.4.1 which provides:

**5.4.1 Collegial process** The parties recognize that the collegial process is a fundamental element of university life. The parties undertake to respect that principle and thus recognize the right and responsibility of members to participate individually, each in accordance with her own responsibilities, in the formulation of policies and procedures for the functioning of the University of Ottawa and take part in the work of appropriate committees, councils and assemblies.

Counsel questions the means by which the University handled the complaint which ultimately led to the discipline against Professor Rancourt. He notes that the written complaint against the class dealing with the pro-Israel lobby was never in fact provided to Professor Rancourt before it was filed as evidence in these arbitration

proceedings. He questions whether that is a violation of the procedural requirements of the collective agreement, as evidenced in article 39.1.2.1 (c). Counsel traces the trail of the complaint filed against Professor Rancourt's class on the pro-Israel lobby, noting that it went first to a professor, it was then passed on to the Vice-Rector of University Relations and finally reached Robert Major, the Provost and Vice-Rector Academic. The implicit suggestion is that that context explains and may justify the concerns of Professor Rancourt that in fact Dean Detellier's intervention in his class was politically motivated.

Counsel stresses that from the beginning, PHY 1703 was conceived as having a heavy load of political and social issues, using speakers to address those issues. He notes that no one contradicts the fact that the course was so structured from its very outset, since 1996. He notes that based on his experience with the "Cambridge Study Group" Professor Rancourt progressed to a view that rote learning and standard grades were not the means to promote real learning among students in the teaching of science.

He stresses that the University does not challenge the activism perspective of the course, as was conceded in the evidence of Dean Detellier. He emphasizes that Professor Rancourt simply hoped that the activist perspective would prompt students to see the need to know science. Counsel also questions the University's suggestion that the tone of the postings on "Alternative Voices" is that the learning of science would be "optional". He submits that the University fails to understand the pedagogical basis for Professor Rancourt's whole approach, namely that he wants the Environmental Studies

students to learn science but knows that he cannot draw them to what is presented as a dry science course. For that reason he pitched the course to the broader activist community. He submits that if one reads the whole of the website posting it is clear that the intention is that students will have little choice but to understand that learning some basic science is the goal of the course.

Counsel stresses that Professor Rancourt engaged in an academic experiment, in pursuit of his expectation that through an examination of activist issues, issues of science would be brought up and that, in the end, science would be learned at a more meaningful level. Counsel submits that that endeavour is protected by academic freedom, no matter what the result might be. He argues that as long as the strategy was thought out and involves a reasoned approach and pedagogy, the professor who adopts that approach is “allowed to fail”. Counsel refers to the provisions of the collective agreement governing the protection of academic activities, within article 20 of that document. He points out that article 20.3.2.1 gives some definition of research and notes that research includes:

(b) conceiving, developing and carrying out critical analyses of existing knowledge;

...

(d) preparing reports, articles, chapters or books presenting results of the member’s research or critical studies, including works published in collaboration with others;

...

- (f) preparing innovative textbooks, and developing innovative teaching materials or methods, which may be used by others;

Counsel also stresses the content of article 21.1.2 of the collective agreement, which describes the right and responsibility of every faculty member to organize course content and employ methodology "...in a manner appropriate to the course and consistent with relevant academic standards and course descriptions approved by Senate...".

Against that background, counsel for the Association stresses that in 2005 Professor Rancourt did engage in a legitimate pedagogical experiment. For the first time, he instituted a parallel group learning structure. To enhance that effort he adopted a new marking system and engaged in significant efforts at reaching out to the activist community beyond the University. With respect to his characterization of the language of the course in that outreach effort, counsel submits that referring to it as a bilingual course is indeed consistent with the prior content of the University's own website over the previous four or five years. He notes what appears to an unchallenged longstanding posting which states, in part: "This bilingual course is given in French and uses an English textbook and mostly English documents. ... It counts as second language credits for both French and English students." Counsel therefore questions to what degree the posting of Professor Rancourt in the fall of 2005 on "Alternative Voices" can fairly be said to differ from the University's own posting prior to and at the same time.

Counsel next stresses the fact that Professor Rancourt was in fact communicating with two very different groups: students within the Environmental Studies program and persons being drawn into the course from the broader activist community within and outside the University. Counsel questions how the Memorandum of Agreement reached on September 28, 2005 really differs that substantially from Professor Rancourt's online posting to Environmental Studies students.

Counsel submits that the disciplinary reaction of the Dean was inappropriate, and suggests that to the extent that it attacked the issue of bilingualism and the language of the course, in fact it was petty. With respect to the Dean's actions, he submits that at the very least the Dean's intervention should have been such as to allow Professor Rancourt to pursue his objective but to put him on notice that any "call out" for the course must respect the terms of the course description. Counsel stresses that a board of arbitration may well not necessarily agree with the methodology adopted by Professor Rancourt, but it must recognize his right to engage in legitimate pedagogical experimentation. In support of his submissions, counsel refers the Arbitrator to a prior arbitration award dealing with issues of academic freedom, *York University and York University Faculty Association*, an apparently unreported decision of Arbitrator Russell Goodfellow, dated September 26, 2007.

Counsel submits that there is simply no basis to assess discipline against Professor Rancourt in all of the circumstances. For example, the suggestion that he attempted to change the course's name is not in fact borne out on the evidence. In that

regard he notes that the “Alternative Voices” website refers students to the University’s own website, and in the segment on “How to register” draws to the students’ attention that the official title of the course is “Physique et l’environnement”.

In her reply submission counsel for the University questions the suggestion of the Association that the University might have resorted to merely counselling Professor Rancourt that his web postings must be more consistent with the approved Senate description of PHY 1703. She submits that that is a questionable alternative, given the ensuing correspondence and unchanging position of Professor Rancourt. She submits that academic freedom cannot be invoked as a form of legal immunity or as a concept that trumps a professor’s obligation, recognized within the collective agreement, to teach his or her courses in a manner consistent with the description of the course as approved by the Senate. She stresses that the University has a legitimate concern to see that students are given fair information, and that discipline was justified in the circumstances.

I turn to consider the merits of this dispute. Before examining the evidence and submissions of the parties, the Arbitrator considers it important to reflect on the concept of academic freedom. That issue was central to the arbitration decision in the *York University* case, cited above. At pp. 17-19 of his award, Arbitrator Goodfellow provides the following insightful comment on the nature of academic freedom and the balancing of interests as between the rights of academics and the rights of the university:

There are few concepts or principles more important to the healthy and vibrant functioning of a university than academic freedom. The academy is and must be a bulwark against conventional thought and received opinion not just for the benefit of its members but for society at large. It is through free thought, investigation, and the development and dissemination of ideas that society advances and progress is made. Today's accepted practices and beliefs become tomorrow's discredited notions and out-moded ideas when exposed to the freedom of public debate and scientific scrutiny. The university has an essential role to play in this process – a role that can only be fulfilled if academic freedom is broadly defined and jealously guarded.

The present parties appear to have taken these concepts to heart in the terms of their Collective Agreement. Article 10.01 defines academic freedom, and identifies the parties' obligations in relation to it, in extremely broad terms. The Article begins with a statement as to what it is that the parties must do and why it is that they must do it: continue the practice of "upholding, protecting, and promoting academic freedom as essential to the pursuit of truth and the fulfillment of the University's objectives". This statement of high purpose conditions the approach to be taken to the balance of the Article and requires one to ask, in a given case, whether the parties have lived up to that obligation in relation to the various aspects of academic freedom.

"Academic freedom" has been defined by the parties as the freedom of the "employee" (defined as a member of the YUFA bargaining unit) to engage in the widest possible variety of intellectual and practical pursuits associated with the scholarly enterprise. Such pursuits include: examining, questioning, teaching and learning; disseminating opinion on questions related to teaching and research both inside and outside of the classroom; pursuing, without interference or reprisal, research or creative activities; the ability to freely publish and make public the results of such research and creative activities; and the ability to criticize the University or society at large.

Defining academic freedom in this way does not, however, deprive the University of its own freedom of speech. Simply because a matter emerges from the pen or computer of a faculty member does not mean that the University is barred from addressing it. The University has

the right to take positions, including public positions, on whatever matters it chooses. Necessarily, this includes the right to defend itself against any challenges that it may perceive to its functioning as an open and welcoming learning community and to the public reputations of those who volunteer their time and effort to support it.

In approaching the instant grievance the Arbitrator considers it important to reiterate what this case is not about. It is not about the content of PHY 1703 as it was presented by Professor Rancourt in the fall of 2005. While there may be some scepticism running between the lines of the second numbered paragraph of the letter of reprimand authored by Dean Detellier, the University does not in fact maintain that the course failed to meet the expectations and standards of the original Senate document. In the result, the sole issue in this arbitration is whether the website statements of Professor Rancourt effectively misrepresented the title, language and content of the course to be given in PHY 1703.

Nor, with the greatest respect to the contrary view of Professor Rancourt, is this grievance about interference with the exercise of political freedom within the University. As he indicated during the course of his testimony, and reiterated during argument, Professor Rancourt questions the real motive behind the attempt of Dean Detellier to effectively cancel his class on the evening of September 21, 2005. The topic of the lecture was the power of the pro-Israel lobby and alleged concerted attempts to brand as anti-Semitic those who voice opposition to policies of the government of Israel. Whatever the views of Professor Rancourt or Professor Chossudovsky on Zionism and the exercise of power and influence by the supporters of Israel, there is nothing in the

evidence to establish that the motivation for interfering with his course on the day in question was grounded in a political agenda either favouring or opposing Israeli government policy or the activities of pro-Israel organizations. It is true that the “Shit List Jews” reading prompted the student complaint which eventually found its way to the desk of the Vice-Rector. However that was merely the catalyst for the Vice-Rector, and eventually the Dean, to examine more closely the postings of Professor Rancourt on his personal website, “Alternative Voices”. That, in turn, gave rise to the concerns about the name, language and content of the course which became the real substance of the Dean’s concerns, the discipline and of this grievance. Whatever Professor Rancourt may suspect or believe, there is no suggestion before the Arbitrator that he was disciplined for the content of the readings he prescribed for his students or the substance of Professor Chossudovsky’s guest lecture. In that regard it is not insignificant, as stressed by Dean Detellier during the course of his own testimony, that the Dean made no effort to prevent the guest lecture of September 21, 2005 from proceeding, save that the students were advised that the course was effectively suspended until further notice and that the evening’s activities would not be for course credit. As noted above, shortly thereafter the settlement of September 28, 2005 put the course back on the rails, to the ostensible satisfaction of both the University and Professor Rancourt.

Nor does this grievance concern the pedagogical innovations introduced by Professor Rancourt into his course in the fall of 2005. As noted above, the University withdrew any objection to the new grading system which he used. Nor has it disciplined

him for advertising or using the notion of “participatory democracy”, the “town hall meeting”, or the innovative pedagogical tool whereby students are given some initiative in identifying and pursuing topics of interest in a system based on independent study groups. Again, while those concepts appear to have raised the eyebrows of the Dean, they do not form any part of the discipline as reflected in the letter of reprimand either in its first iteration of December 19, 2005 or in its amended form of February 8, 2006. It is important to stress that the University takes no exception to the pedagogical innovations introduced by Professor Rancourt in the fall of 2005. Again, it would appear that the settlement document of September 28, 2005 gave to the University the assurances which it required with respect to the science content that would be delivered within the course. Nor is any exception taken to the use of activism and social and political issues as catalysts to learning. As is evident from the evidence recited above, social and political issues and the writings of thinkers such as Noam Chomsky have been an essential part of PHY 1703 since its inception.

What this grievance and arbitration are about is whether Professor Rancourt exceeded the bounds of academic freedom and his duty to the University and his students by the content of his website postings developed for PHY 1703 as it was to be given in the fall of 2005. In so framing the issue the Arbitrator recognizes that a component of academic freedom is the latitude of a professor to communicate with his or her students without undue interference from the University. In the advancement of their research and teaching professors may well resort to imaginative, innovative and even provocative statements and communications to their students. To the extent that

such statements are not unlawful, or materially false and misleading, they should generally have the protection of academic freedom. That would not appear to be disputed by either party before the Arbitrator.

I consider firstly whether the communications of Professor Rancourt with respect to the language of the course merited discipline by the University. If that issue were viewed through the narrow lens of the originating document issued by the Senate in May of 1995, including the numeric code for the course, it would be difficult to conclude other than Professor Rancourt provided false information to his students about the language of the course. That approach, however, would fail to take into account the reality of the course as it apparently evolved over a period of some ten years before the fall of 2005. The unchallenged evidence of Professor Rancourt is that from the first year the course was given, with himself being in charge, concerns were expressed as to the high degree of English content, both at the level of the principal textbook and the guest speakers. His evidence, which the Arbitrator accepts, is that at the time he discussed with the then Director of Environmental Studies, Professor Wescher, how to deal with the problem. The solution, as he explained it, was to treat the course as being a second language credit for both English speaking and French speaking students. While it does appear that there was never an official amendment converting the course from a French language course to a bilingual course, Professor Rancourt appears to have believed that that had been done. To the extent that bilingual credit was in fact given to students who took the course – a proposition not challenged in evidence by the University – the

fact that Professor Rancourt referred to the course as being “bilingual” may, to some degree, be mitigated.

However, from an objective perspective, there is cause for concern in the communications made about the language of the course by Professor Rancourt. In the posting which he made on “Alternative Voices” Professor Rancourt described PHY 1703 as “...a new bilingual undergraduate and graduate (cross listed) course...” However, his posting on the Department website under the heading “Activism Course” describing “Changes to PHY 1703” describes the course as one “...that is offered as a French-language course (with textbook and many invited talks in English) every two years.” There is nothing in the ensuing explanation on the Department website to suggest that the course is in fact anything other than a French language course. On the face of it, therefore, Professor Rancourt must be viewed as having knowingly issued contradictory website statements with respect to the language of the course.

Unfortunately, on further examination the candour of his communication to the larger community appears even more questionable. In his “Alternative Voices” posting, writing under the heading of “Language” he inserts the statement “The plan is that every year it alternate from this bilingual format to English.” In the Arbitrator’s view a reasonable person reading that representation would form the view that a plan had been adopted, presumably at the level of a responsible University committee, to introduce alternate offerings of the course in English. That could well impact on a student’s course selection planning. For Professor Rancourt to explain, as he did in his

testimony, that in fact what he really meant to express was that in his own mind he had hopes that such an innovation might be introduced sometime in the future is, very simply, to be reckless with the truth. The sentence which appears on his website is radically different from an accurate sentence which might have said: "It is my hope that we might some day be able to offer the course in English in alternate years." In an online statement introducing a "new course", making such an unqualified reference to "the plan" can only be viewed as calculated to lead the unsuspecting reader in a false direction, or to create false expectations.

Can it be argued that, to the extent that the impugned posting is on a website other than a University website, that the employer can have no interest in the accuracy of what is communicated? I think not. While Professor Rancourt may have believed that he was engaging in a two-track system of communication, aiming his private website postings at the larger community, while gearing the University's own website to communications aimed at the students in the Environmental Studies program, the fact remains that what was posted on "Alternative Voices" is entirely for and about PHY 1703 and intended for the consumption of students interested in registering for the course. The representations made by Professor Rancourt about the language of the course plainly go to critical facts in respect of PHY 1703 which the University has a legitimate interest to protect.

The University of Ottawa is a unique institution in Canada, to the extent that it offers courses in English, courses in French and courses that are designated as

bilingual. The University is understandably sensitive to maintaining an appropriate balance in respect of its language offerings, a balance which is obviously closely considered and carefully weighed at the level of Senate approval for all of the courses offered within the University. In that context it has every interest in ensuring that the course which has been approved as an English course not be publicized as a French course or, as in the instant case, that a course approved for presentation in French not be described as “bilingual”, much less to be subject to a “plan” for alternate year presentation in English.

In the Arbitrator’s view it makes little difference that Professor Rancourt characterizes his posting on “Alternative Voices” as a “call out” or a mere attempt to drum up interest in his course outside the University among members of the broader community. There is no suggestion that he is not fully free to undertake the initiative of seeking to attract persons from the broader community into his classroom. In doing so he may be forgiven for introducing a promotional edge that includes a Barnum and Bailey tone. However, the Arbitrator is aware of no principle of academic freedom which would permit any professor to publicly misrepresent any important aspect of his or her course in such communications. In the result, the Arbitrator is compelled to conclude that Professor Rancourt did publicly misrepresent the language of instruction for PHY 1703 in the fall of 2005 and that the University had a legitimate interest in seeking to correct that misinformation.

The same can be said of the representation made in “Alternative Voices” to the effect that the course is an “undergraduate and graduate (cross listed) course...” While the evidence suggests that Professor Rancourt encouraged graduate students in science to participate in the course as part of their own educational development and as catalysts for the other students, the suggestion that the course has in some fashion been approved for graduate credit by the Senate is simply not true. It is notable that there is no suggestion in the posting made by Professor Rancourt on the Department website that the course is to be described in any way as a graduate course. While it may be that, in keeping with Professor Rancourt’s notion of his two-track communication, the separate characterization of the course as undergraduate and graduate for the consumption of people in the broader community might promote greater interest and attract a higher rate of registration, to carry promotion and advertising to that point crosses the line, insofar as the University’s legitimate interest in the integrity of its academic program, and the public perception of that program, is concerned. The fact that graduate students might audit the course or might participate in it as part of their fulfillment of another graduate course cannot convert an undergraduate course into a graduate course. On that further basis, Professor Rancourt’s description of the course in his posting on his private website is incorrect, and is misleading in a way which the University has a legitimate interest in correcting. Again, the Arbitrator is compelled to conclude that the University did have just cause to respond to Professor Rancourt’s actions as regards his description of PHY 1703 communicated through his posting on “Alternative Voices”.

Did the University have just cause to discipline Professor Rancourt on the separate grounds that his web postings effectively removed the scientific content from the description of the course to in effect convert a course on science into a course on social activism? Bearing in mind the broad principles of academic freedom touched upon above, the Arbitrator has more difficulty with this aspect of the University's case. Firstly, the posting on the Department website, intended for students of the Environmental Studies program, obviously puts additional stress on the component of social activism. But it does not, in the Arbitrator's view, do so in such a way as to suggest that the Environmental Studies students can expect to learn little or no science. As paragraph 3 of that posting indicates, the heading "Activism: Understanding Power and its Contexts" is described as "the broad overlying theme of the course". However, the following paragraph, albeit in less than clear terms, conveys that learning science will be part of the process. While Professor Rancourt obviously asserts that students could learn as much science as they would like, he also asserts that the course will cover "...all the basics that allow one to appreciate current issues such as: environment degradation, energy use, nuclear power, climate change, risk analysis, genetic engineering, toxicity, etc." Additionally, Professor Rancourt's description of the alternative "...to spend more time on other basic knowledge items" is clearly consistent with the prospect of students familiarizing themselves with certain basic scientific concepts.

In approaching this aspect of the case the Arbitrator considers it important to appreciate that Professor Rancourt was involved in legitimate pedagogical innovation, in

pursuance of his conviction that students achieve a better grasp of science by coming to it through social, economic and political issues that are of immediate concern to them. While the Dean or another academic may have preferred not to pursue that method, and to describe the course differently, it is difficult for this Arbitrator to conclude that it was inappropriate or beyond the bounds of academic freedom for Professor Rancourt to have framed the description of the course in the terms he chose. By his own account, those terms were intended to attract persons who might otherwise be science averse. It is noteworthy that Professor Rancourt's posting on the Department website does not describe the course as "new", but rather speaks to "important changes to PHY 1703" and expressly refers to it by its official title "Physique et l'environnement".

To be sure, the posting to the general community made on "Alternative Voices" is somewhat more freewheeling. That announcement does speak in terms of the "new" course and places the title "Activism Course: Understanding Power and its Contexts" in such a way as to leave the possible impression that it is the course name. That communication also contains the comment "We may learn some science". However, in the Arbitrator's view those aspects of the communication must be taken in context. Clearly, when it is coupled with the posting made by Professor Rancourt on the Departmental website, it is not misleading, and is reasonably accurate as to the pedagogical innovation being introduced into PHY 1703.

While there is obviously a fair load of salesmanship in the posting on "Alternative Voices", the overall message does not, in the Arbitrator's view, fundamentally mislead

the prospective student with respect to the actual content of the course. It is, in my view, also significant that the “Alternative Voices” posting does in fact refer students to the official title of PHY 1703 as “Physique et l’environnement”.

Upon a careful examination of all of these materials, the Arbitrator is not persuaded of the University’s position to the effect that describing PHY 1703 as it was to be offered in the fall of 2005 as a “new course” or making use of such subtitles as “Activism Course” constitutes a material misrepresentation or an offence against the Senate approval which merits discipline against Professor Rancourt. Many university courses are subject to the evolution of both their content and format over the years, without necessarily requiring an amendment of the original course name or description. While it is clear that academic freedom does not extend to allowing a professor to introduce changes which effectively contradict or radically depart from the fundamental concept of the course as originally established, there must be some latitude for flexibility both as to the teaching methods and specific content of a course. In my view the communications of Professor Rancourt, insofar as those communications deal with the science that the course is intended to address, did not materially misrepresent the essence of the course and did not give the University cause for discipline, on that basis.

The assertion, made in the first numbered paragraph of the letter of discipline from Dean Detellier, to the effect that the publicized descriptions of the course contained a “radically different content” as compared to what was contemplated in the official description of the course cannot be sustained by the Arbitrator. In considering

this aspect it is important to recall that from its inception PHY 1703 contained a substantial load of lectures and readings around social, economic and political issues. The Noam Chomsky perspective was an integral part of the course well before the fall of 2005.

If it were necessary to so find, I would conclude that the University effectively acquiesced in the evolution of the course, from 1997 onwards, to include lecture based socio-economic and political issues and interests as a vehicle of introduction to science. While it may be understandable how Dean Detellier might have trouble seeing the relationship between “Shit List Jews” and any meaningful aspect of physics, the practice of close to ten years in the presentation of PHY 1703, and the failure of any prior objection by the administration, would in my view be tantamount to a tacit acceptance of the pedagogical methods adopted by Professor Rancourt so as to call into question the University’s ability to now discipline the Professor for essentially describing the course in terms which reflect the general way in which it has been presented. In my view there is simply no equitable basis upon which the University, or Dean Detellier, could assert, as was done in the letter of reprimand, that Professor Rancourt “...brought major changes to the content of his courses...” (Arbitrator’s translation). While Dean Detellier’s concern might be understandable, the evidence before this tribunal confirms that the course content was not in fact changed and that if there were any differences in nuance in the online publications made by Professor Rancourt, they fell legitimately within the scope of his academic freedom in pursuing a different pedagogical approach to draw students into the learning of science. To the extent that the letter of reprimand

would appear to reproach Professor Rancourt for changing “l’esprit, le contenu ou la fonction” of PHY 1703, that position cannot be sustained by the Arbitrator.

In the result, the grievance must be allowed, in part. The Arbitrator finds and declares that the University did have just cause to issue a written reprimand to Professor Rancourt for having, on his personal website, incorrectly described PHY 1703 both as a bilingual course and as a graduate course. Professor Rancourt knew, or reasonably should have known, that to describe PHY 1703 in those terms was incorrect. Given the sensitive nature of the University as a bilingual institution, and the importance of protecting its integrity as a degree granting body in graduate studies, both of those inaccuracies were of substantial and legitimate concern to the University.

For the reasons related above, however, the Arbitrator cannot sustain the position of the University that the actions of Professor Rancourt, in respect of his publicizing PHY 1703 in the fall of 2005, gave just cause for discipline insofar as the description of the course and course content is concerned. As noted above, the course content remained relatively the same as it had been in years previous, the major change being with respect to the pedagogical innovation of independent group studies, the involvement of the students themselves in identifying areas of interest and the introduction of the satisfactory/not-satisfactory grading system. The Arbitrator is satisfied that those pedagogical initiatives were legitimately within the purview of the academic freedom enjoyed by Professor Rancourt, and most importantly that they did

not contradict or materially depart from the description or purpose of PHY 1703 as conceived and approved by the Senate of the University on May 24, 1995.

The Arbitrator has given some consideration to whether this is an appropriate case to exercise the discretion conferred upon the Arbitrator to reduce the measure of discipline, notwithstanding the finding that the University did have just cause to act. That discretion, which is provided to the Arbitrator under the terms of the *Ontario Labour Relations Act*, is one to be exercised advisedly, with close regard to both mitigating and aggravating factors. Certainly a major mitigating factor in the case at hand is the settlement which the parties themselves reached by executing the Memorandum of Agreement as signed on September 28, 2005. From a certain viewpoint, that document would indicate that the University essentially achieved what it needed, by obtaining the assurances of Professor Rancourt that fundamental science concepts would be taught, principally using his book *Science of Activists*, that it would be taught in French and that the course descriptions on "Alternative Voices" would be removed. Given those corrective actions, was it necessary for the University to go further, by issuing its letter of reprimand?

After careful reflection the Arbitrator is compelled to conclude that the University did need to get its position on the record and that it is not appropriate to direct that the letter of reprimand be entirely withdrawn. The reason for that conclusion is that there appears to be no recognition, certainly no articulated admission, on the part of Professor Rancourt that he did anything wrong. At no point in the proceedings can the

Arbitrator identify a point at which Professor Rancourt expresses recognition that he was incorrect in publicly describing PHY 1703 as a bilingual course, or that his description in that regard in “Alternative Voices” was clearly contrary to his own description made on the Department’s website, where the course is acknowledged as being a French language course. Nor is the Arbitrator impressed with Professor Rancourt’s apparent indifference at having stated publicly that “the plan” is to offer the course in English in alternate years when in fact that concept is nothing more than a hope or intention in the back of his own mind. Additionally, the evidence before the Arbitrator is without any indication on the part of Professor Rancourt that he believed it to be misleading or incorrect to describe PHY 1703 as a graduate course. While Professor Rancourt is obviously possessed of a fine and discerning mind, these misrepresentations with respect to PHY 1703 are not nuances that are difficult to grasp. The grievor’s failure to acknowledge that he was wrong in so misrepresenting the course, whether on a personal website or otherwise, is a cause for concern that the Arbitrator cannot responsibly disregard. For these reasons I do not consider that the written reprimand issued by the University should be entirely withdrawn.

The Arbitrator therefore directs that the University redraft the letter of reprimand placed on Professor Rancourt’s record. The redrafted letter of reprimand shall identify Professor Rancourt’s description of PHY 1703 as being a bilingual course, which is planned to be available as an English course in alternate years, and a graduate course as incorrect and misleading statements which are damaging to the University’s legitimate interests. The letter of reprimand shall, however, have removed from it any

reference to Professor Rancourt's communications being false or misleading with respect to the content of the course itself.

The matter of the redrafting of the letter of reprimand is remitted to the parties. Should the Association be of the view that the revised letter of reprimand proposed by the University is not in keeping with this award, I retain jurisdiction to resolve any dispute in that regard and, if necessary, to determine the ultimate wording of the amended letter of reprimand to be placed upon Professor Rancourt's record.

Dated at Ottawa, Ontario this 25<sup>th</sup> day of June, 2008.

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Michel G. Picher

Arbitrator