



ACADEMIC FREEDOM AND TENURE

Wingate College (North Carolina)¹

Wingate College, located in the North Carolina piedmont a few miles from Charlotte, is one of the seven colleges and universities which are affiliated with the North Carolina Baptist State Convention. Founded as a preparatory school in 1895, Wingate added a two-year college division in 1923 and was granted accreditation by the Southern Association of Colleges and Schools in 1952. Over the last quarter of a century, the College has substantially expanded its physical plant, student enrollment, faculty and programs. For the 1977-78 academic year the College enrolled 1342 students and listed 69 full-time teachers. It established baccalaureate programs in business, human services, and music in the fall of 1977 and is awarding its first four-year degrees in May, 1979. Dr. Budd E. Smith was President of Wingate College from 1953 until 1974, when he was succeeded in office by Dr. Thomas E. Corts.

THE DISMISSALS

On December 7, 1977, six members of the Wingate College faculty received telephone calls from the President's secretary informing them that President Corts wished to see them the following day. During brief individual meetings on December 8, President Corts told the six faculty members that their appointments would not be extended beyond the 1977-78

¹ The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was sent to the Association's Committee A on Academic Freedom and Tenure, to the teachers at whose request the investigation was conducted, to the administration of Wingate College, and to other persons directly concerned in the report. In the light of the suggestions received, and with the editorial assistance of the Association's Washington Office staff, the report has been revised for publication.

academic year. Two of the six were in their twelfth year of service at Wingate College; one was in her eleventh year; and three were in their seventh year. The six faculty members were offered the choice of going on paid leave of absence for their final term. President Corts expressly refused, then and thereafter, to state cause or offer any explanation for the dismissals. He took the position that he was simply not renewing one-year contracts. Letters of resignation were proposed by the President. At least two of the faculty members, Mr. Garth Ferguson and Dr. Jerry Hass, refused to submit the proposed resignation, and at least one, Mr. Jay Taylor, did comply with the proposal. Mr. Ferguson, Dr. Hass, and Mr. Taylor sought assistance from the Association, and they subsequently discussed their cases with the undersigned *ad hoc* investigating committee.

Mr. Garth Ferguson, who has an M.A. degree in Art History, joined the faculty of Wingate College as Instructor in Art in the fall of 1966. The son of a Baptist minister who had been a frequent speaker at Wingate College, Mr. Ferguson informed the investigating committee that he first came to the College with visiting church groups as a child and had expected to spend his life there. According to Mr. Ferguson, he had regularly received merit pay increases up to the time of his dismissal. He stated that he had been selected "teacher of the year" and given a cash award by the administration in 1972.

Mr. Ferguson reports that on December 1, 1977, seven days prior to his dismissal, he met with his division chairman, Dr. Kenneth C. Murray, for the purpose of reviewing his status at the College. He planned to buy a new automobile and wanted assurances about his future before obligating himself to meet car payments. According to Mr. Ferguson, Dr. Murray assured him that the recommendation for re-

newal of his appointment had already gone forward and that he and Dr. O. Suthern Sims, Jr., Vice-President and Dean of the College, were pleased with Mr. Ferguson's work. Mr. Ferguson stated that he went on to discuss with Dr. Murray his plans for additional graduate work and then left the meeting and bought a car.

Preregistration for the spring term was conducted two days prior to the dismissals; according to Mr. Ferguson, 247 students registered for his courses. The Board of Trustees of the College was scheduled to meet on December 16. On the morning of that day, Mr. Ferguson submitted a written request for a hearing before the Trustees. He states that he received a call at noon from President Corts's secretary, who told him that the Trustees would be unable to see him at their meeting but that a few of the Trustees would arrive early and he could meet with them. Six Trustees, including the Chairman, Mr. William L. Mills, Jr., did meet with him. He was informed that they could give him ten minutes to say what he wanted. The Trustees listened to his informal presentation without comment. At the end of the meeting, according to Mr. Ferguson, he asked that the Trustees please not deny Wingate faculty members some kind of job security and Chairman Mills indicated that he would convey this request to the entire Board. The next morning he received the first written word of his dismissal: a certified letter from President Corts reading in its entirety as follows: "We hereby notify you that your contract will not be renewed."

Mr. Ferguson states that all subsequent efforts to obtain an explanation for his dismissal have been unsuccessful, that questions to his division chairman were turned aside with the response: "I cannot legally answer that." Mr. Ferguson, who has accepted temporary employment as a waiter in Charlotte, says that he continues to be puzzled by his dismissal, but speculates that it may have been related to his having disagreed with President Corts on two matters. The first concerned the President's announcement to the faculty of plans for establishing a new program which in part would include travel by qualified students to London for ten days each December. In response to a request from the President during a faculty meeting for opinions of the project, Mr. Ferguson says that he apparently displeased President Corts by observing that December was not a good time for sightseeing in London and that he would not want to use his Christmas holiday looking after students for no pay. Mr. Ferguson says that he was also critical of the purchase by the College of a

large wooden statue which was installed in front of the art building without consulting the art department, that he had criticized the statue in his art classes and explained why he did not believe it was "art." These incidents, as Professor Ferguson has reported them, raise the question of whether considerations violative of his academic freedom were involved in President Corts's decision to dismiss him.

While the President and the other administrative officials have consistently refused to offer any explanations for the dismissals of Mr. Ferguson and the others, faculty members say they assume that the administration, with the College now a four-year institution, is attempting to increase the percentage of faculty members who hold the doctorate. Only one of the six faculty whose appointments were terminated, Dr. Hass, has the terminal degree in his field. The College administration sought applications for seven faculty positions in an advertisement in *The Chronicle of Higher Education* (February 21, 1978), listing the doctorate as a requirement for five of the seven positions and not soliciting applications in Dr. Hass's field. The advertisement for a replacement for Mr. Ferguson stated that the doctorate was "preferred" but not required, suggesting that, whatever the reason or reasons for dismissing him, his lack of the doctorate was not in itself decisive.

Dr. Jerry Hass began his service at Wingate College in the fall of 1971 as an Instructor in Biology. He stated to the investigating committee that with the arrival of President Corts in 1974 there were increased pressures on faculty members to pursue doctoral degrees. Dr. Hass had been pursuing his doctorate by attending summer sessions at the University of Southern Mississippi. He requested and was granted leave of absence for the 1975-76 academic year in order to complete the requirements for the doctorate in science education. The College did not pay his salary that year but lent him \$3,000 towards his expenses, to be repaid in extra service over a two-year period. President Corts also wrote letters to the Education Commission of the Southern Baptist Convention and to the Dean of the Graduate School of the University of Southern Mississippi, seeking additional financial assistance for him. President Corts described him as "a very valuable faculty member" who was on "paid leave of absence" and who was expected to return to Wingate College. Dr. Hass did return in the fall of 1976 after having completed his doctorate.

Dr. Hass stated to the investigating committee that he believes that his dismissal may have resulted from his conflicts with his divisional chairman, Dr. E. Lea

Hadden, Jr., who had come to the College while Dr. Hass was on leave. According to Dr. Hass, he was assigned to teach a course in anatomy and physiology for which he felt unprepared. He taught the course but complained when Dr. Hadden refused to approve the purchase of a cassette-film-strip series to assist him. He also complained that Dr. Hadden had assigned to him a heavier load than to his colleagues for the fall semester of the 1977-78 academic year. After he complained, he reports, Dr. Hadden relieved him of responsibility for an anatomy course and hired Mrs. Hadden to teach that course.

Dr. Hass states that during his meeting with President Corts on December 8 he asked why he was being dismissed and was told by the President that he had been advised not to give reasons because he "might have to back it up in court." Dr. Hass also reports having been told by the President that, if he submitted a resignation, he would receive a favorable recommendation and assistance in relocating. (Dr. Hass and Mr. Ferguson did later retain legal counsel, in May, 1978, but no suit has been filed.)

Mr. Jay Taylor came to Wingate College as an Instructor in Science in the fall of 1966 and taught biology and/or physical science full time each year until his dismissal. He stated to the investigating committee that he had received increases in salary every year but not merit pay. He reported that he had some difficulties with Dr. Hadden over requests for equipment but had received no indication prior to his dismissal that his work may have been viewed as unsatisfactory. Subsequent to his dismissal, he said, he learned that the science requirement for graduation had been reduced from two terms to one.

Mr. Taylor said that during his meeting with President Corts he was told that, if he resigned, the President would help him relocate and could say to a prospective employer, "Yes, he taught here, but he resigned." The President told him, Mr. Taylor reports, that unless he resigned the reason for his dismissal would become a part of his permanent record. These were the circumstances, Mr. Taylor said, which led him to submit a letter of resignation.

According to press accounts, 505 (approximately one third of the student body) signed a petition protesting the dismissal of the six instructors. They were permitted to present it informally to fifteen Trustees at the time of the Board meeting on December 16. The petition asked that the six faculty members be retained "because of their high esteem and proven ability."

In addition to seeking the assistance of the American Association of University Professors, Mr. Fergu-

son wrote on February 23, 1978, to the Southern Association of Colleges and Schools. He did so, he says, on the grounds that the Wingate College administration had violated the standards of the Southern Association and had acted, in effecting the dismissals, contrary to the asserted policies of the College as set forth in the self-evaluations prepared for the accrediting association. A staff member of the Southern Association's Commission on Colleges responded by letter of February 28, informing Mr. Ferguson that he would be visiting Wingate College during the spring and would look into the matter. The staff member did visit the College during March, 1978, and he later stated to a member of the AAUP staff who telephoned him that he had raised the matter of the dismissals with the Wingate College administration but had not sought a meeting with Mr. Ferguson or the other dismissed faculty members. He suggested that whatever policy Wingate College might in future adopt would not be retroactive to the six faculty members who were dismissed. He said that he did not consider the previous communication from Mr. Ferguson to constitute a formal complaint and that he would not pursue the matter unless a formal complaint were filed. Mr. Ferguson states that he did not contact the Southern Association again.

The AAUP Washington Office staff repeatedly approached President Corts (by telegram dated March 9, by letters dated March 20 and April 7, and by one more telegram dated May 5, 1978), conveying the Association's basic concerns over the dismissals in terms of the 1940 *Statement of Principles on Academic Freedom and Tenure*: that faculty members who had served beyond the seven-year maximum probationary period were being dismissed at Wingate College without being afforded any of the requisite protections of academic due process. The staff urged reinstatement of the affected faculty members pending the implementation of appropriate procedures. The only reply to these communications was a brief letter from President Corts dated April 3, 1978, in which he did not provide substantive response, stating only that "we have sought to act responsibly and in the best interest of all concerned."

On June 13, 1978, President Corts was informed that the General Secretary had authorized an investigation; on July 19, he was further informed of the composition of the *ad hoc* investigating committee and its wish to meet with him during a visit to Wingate College on September 17 and 18, 1978. President Corts stated to the Association, by letter dated August 11, that "it is the intention of Wingate College not to participate in, nor to cooperate with" the in-

vestigation. He added that "this is a studied position, reached with careful attention to all concerns, and in light of proposed litigation." He stated further that "in letter and in spirit, the College has sought to be fair, even protecting the confidentiality of these personnel matters so as not to injure individuals' chances for future employment nor to cause them public embarrassment."

Having been refused meeting space at the College by the President, the investigating committee conducted its business on September 17-18 at a motel near the campus. Mr. Ferguson, Dr. Hass, Mr. Taylor, and other faculty members met with the committee. The chairman of the committee telephoned President Corts on September 18 and requested an appointment. The President agreed, but with the proviso that matters bearing on the dismissals could not be discussed. The investigating committee had a cordial visit with President Corts and Dean Sims, but efforts to convince them to provide information germane to the dismissals were unproductive.

THE ISSUES

Tenure

The 1940 *Statement of Principles on Academic Freedom and Tenure* declares:

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their services should be terminated only for adequate cause. . . . Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years. . . .

Three of the dismissed faculty members at Wingate College—Mr. Ferguson and Mr. Taylor, who were in their twelfth year of full-time service; and Ms.____, who was in her eleventh year—thus had attained continuous tenure under the 1940 *Statement of Principles* and should have been subject to dismissal only upon demonstration of adequate cause.

Tenure as a matter of policy at Wingate College has had a somewhat ambiguous history. The *Faculty and Staff Guide of Wingate College 1977-1978* makes no reference to tenure, and for many years the practice has been one of providing all faculty members with one-year contracts which were renewable each spring. There is evidence, however, that the College did have a tenure policy until 1974, and that under that policy tenure should have been conferred upon the three faculty members whose service exceeded seven years.

In October, 1963, Wingate College completed a self-evaluation for the Southern Association which

included the following statement:

Faculty members are initially employed on a one-year basis. Tenure begins after four years of satisfactory employment. Termination of employment is based on inefficiency, insubordination, and complete disloyalty to College policies. (*Self-Study and Evaluation of Wingate Junior College, Inc.* Conducted by Trustees, Administration, Faculty, and Students of Wingate College, October, 1963.)

The contracts signed by Mr. Ferguson and Mr. Taylor in 1966 and in 1967, and by Ms.____ in 1967, make no reference to tenure, but the contracts which were issued by the College for the academic years 1968-69 and 1969-70 contain the following statement, *inter alia*, in a section labelled "POLICY": "Academic faculty are given tenure upon completion of four (4) years of satisfactory service to Wingate College." When the three faculty members who signed those contracts completed the specified four years, without their service having been judged other than satisfactory, they should have achieved tenure if the contracts meant what they said.

Beginning with the 1970-71 academic year, the Wingate College contracts were changed to read: "Academic faculty *may be* given tenure upon completion of *four to seven* (4-7) years of satisfactory service to Wingate College" (emphasis added). These changes were reflected in the self-evaluation for the Southern Association prepared during the 1972-73 academic year:

As to faculty employment and procedures involved in dismissals, it is stated in a recent bulletin that:

1. Faculty members who have completed seven years of continuous service are considered permanent employees if student enrollment requires that courses are needed in the field of qualification. . . .
2. Those teachers who have not completed seven years of satisfactory work are considered to be on one-year appointments.

The investigating committee is not aware of any case in which Wingate College ever formally awarded tenure to a faculty member. On the other hand, several persons told the committee of a general understanding that faculty members who had been retained for "several" years were considered permanent appointees, and the *Self-Study and Evaluation of Wingate College 1972-1973* notes that "there have been no dismissals for five years when the basic requirements have been met."

The investigating committee questions whether President Corts himself considered the decision to terminate the services of the six faculty members to be no more than not renewing one-year contracts.

The offer of paid leave for the spring semester, whether an act of generosity toward faculty members who had long served Wingate College or a desire to be rid of them quickly, was not an ordinary gesture. Neither was his proposal to them about letters of resignation. Proposing the resignations suggests to the investigating committee some concern by the President that the faculty members had a stronger claim to expectation of continuance at Wingate College than the duration of a one-year contract.

The three faculty members who began at Wingate College in the fall of 1971 were, at the time they received notice, in the last year of the maximum seven-year probationary period specified on the contracts which they had signed during each of the first four years of their service. Thus their service did not exceed the probationary period stated by the College and permitted by the 1940 *Statement of Principles on Academic Freedom and Tenure*.

Academic Due Process

Under the 1940 *Statement of Principles*, the services of a tenured faculty member "... should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigency." The 1940 *Statement* further provides:

Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an adviser of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

Detailed procedures for academic due process are set forth in the complementary 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, like the 1940 *Statement* a joint document of AAUP and the Association of American Colleges. Under these procedures, the administration, after consulting with the faculty member and then with an elected

faculty committee, is to formulate a statement on the grounds for dismissal and demonstrate adequacy of cause through a full adjudicative hearing before a duly constituted faculty hearing body.

The three faculty members who were entitled to the protections of tenure were informed orally on December 8 that their services were being terminated, and they received written notice on December 16, 1977. No written or oral explanation for the President's action was provided to them then or at any time thereafter. Requests for explanations were made by the faculty members and, subsequently, by the Association's staff and then by the investigating committee, but all such requests have been denied. President Corts told the investigating committee that his decision not to offer any explanations was based on the advice of legal counsel. Except for Mr. Ferguson's brief and informal appearance before six of the Trustees, at which they said nothing of substance, none of the faculty members was offered any semblance of a hearing. The investigating committee, which was unable to discover any evidence of adequate cause for dismissal, finds that the President summarily dismissed these three faculty members, depriving them of the procedural safeguards to which they were entitled under the standards for academic due process accepted by the general community of American higher education.

The three faculty members whose services had not exceeded seven years were entitled, under the standards supported by the Association, to procedural protection as set forth in the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*. Under these standards they should upon request have been advised orally of the reasons for notice of nonretention, should upon further request have been provided with a written statement of reasons, and should have had the opportunity for a review of the decision by a faculty body on the issue of adequacy of consideration in reaching the decision. These faculty members, however, were given no explanation, written or oral, for the notices, nor were they afforded any opportunity for review of the decisions.

Adequacy of Notice

The 1940 *Statement of Principles*, as has been noted, provides that faculty members dismissed from continuous tenure should receive at least a year of notice or severance salary. The 1940 *Statement* provides also for at least a year of notice for probationary faculty members who are not to be retained beyond the probationary period. The six faculty members whose

services were terminated at Wingate College were all entitled to a year of notice under these provisions. Instead, they were notified in December, 1977, of termination of services effective upon the conclusion of the 1977-78 academic year five months hence.

Conditions for Academic Freedom

Despite the arguable existence of an implied policy on tenure at Wingate College, the overall record, including the administration's actions in the cases that have been discussed, demonstrates that the College has no meaningful tenure system, no formal or informal provisions for academic due process, and no discernible provisions for effective participation by the faculty in matters involving faculty status or faculty concerns. A retired faculty member remarked to the investigating committee: "It has always been true that the man at the top ran the College." In the case at least of Mr. Ferguson, the decision to dismiss him was made by President Corts and Dean Sims. As has been stated earlier, Professor Ferguson's dismissal, from what the investigating committee could learn of its possible cause, raises the question of whether his academic freedom may have been violated in the process.

In a letter of February 23, 1978, to the Association, Mr. Ferguson described his meeting with President Corts on December 8 and included the following passage:

I asked Dr. Corts, "Are you ever going to give Wingate faculty any kind of tenure?" He answered simply, "No." Then he added, "The trustees feel very strongly about that." That was my exact question and the exact reply.

With the status of the faculty from year to year left to the pleasure of the President, the security of academic freedom at Wingate College cannot be assumed.²

² President Corts, provided with a prepublication draft of this report and invited to comment on it, replied that he had not taken offense over Mr. Ferguson's remarks about the travel abroad and that he did not know Mr. Ferguson was displeased with the wooden statue. While he asserted that the action against Mr. Ferguson was not in violation of his academic freedom, he continued to be silent about why he terminated his services and those of the other faculty members.

Taking issue with the committee's finding that academic freedom at Wingate College cannot be assumed, President Corts stated that the College has a statement on academic freedom and also a detailed policy of professional security.

CONCLUSIONS

1. The administration of Wingate College violated the 1940 *Statement of Principles on Academic Freedom and Tenure* in dismissing three faculty members, entitled to the protections of tenure under the 1940 *Statement of Principles* and statements in their contracts, without stated cause and without opportunity for a hearing and other basic safeguards of academic due process.

2. The administration in not renewing the appointments of three other faculty members denied them procedural protection as called for in the *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*.

3. Notice in the case of all six faculty members was inadequate under the 1940 *Statement of Principles*.

4. Academic freedom at Wingate College—with no meaningful tenure system, no provisions for academic due process, and no discernible faculty voice in matters involving faculty status—is insecure.

John H. Gilbert (Political Science), North Carolina State University, *Chairman*

Daniel B. McGee (Religion), Baylor University

Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

Bertram H. Davis (English), Florida State University, *Chairman*

Members: Morton S. Baratz (Economics), Washington Office, *ex officio*; Ralph S. Brown, Jr. (Law), Yale University; Clark Byse (Law), Harvard University; Jesse H. Choper (Law), University of California, Berkeley; Peter Falley (Mathematics), Fairleigh Dickinson University; Martha Friedman (Library), University of Illinois, Urbana, *ex officio*; Mary W. Gray (Mathematics), American University; Jordan E. Kurland (History and Russian), Washington Office; Walter P. Metzger (History), Columbia University; Carol Simpson Stern (Interpretation), Northwestern University; Judith J. Thomson (Philosophy), Massachusetts Institute of Technology; Darwin T. Turner (English and Afro-American Studies), University of Iowa; William W. Van Alstyne (Law), Duke University.