

Academic Freedom and Tenure

MARYLAND INSTITUTE, COLLEGE OF ART¹

I. INTRODUCTION

This report is concerned with the action taken by the administration of the Maryland Institute, College of Art, to terminate the services of Mr. Jan paul Miller after eighteen years of continuous full-time teaching on the college's faculty.

The Maryland Institute, College of Art, founded in 1826, is the nation's oldest degree-granting art college. Located in Baltimore, and accredited by the Middle States Association of Colleges and Universities and the National Association of Schools of Art and Design, the college is a private institution offering the bachelor of fine arts, the master of fine arts, and the master of arts in teaching degrees. Some 860 full-time students are enrolled in the college's fourteen academic programs, and there are nearly fifty full-time faculty members.

The college does not grant indefinite tenure to the members of its faculty. Faculty members who are retained beyond three probationary years serve subse-

quently on three-year renewable appointments.

Mr. Fred Lazarus IV became president of the Maryland Institute in 1978. He previously held administrative positions with the Washington Council for Equal Business Opportunity and the National Endowment for the Arts. Barbara Price became vice president for academic affairs and dean of academic affairs at the Maryland Institute in 1982.

Mr. Jan paul Miller did his undergraduate work at the University of Maryland, Baltimore County, and received an M.A. degree in English from Morgan State University (1972) and an M.Ed. degree, with an emphasis on the diagnosis of reading disabilities, from Loyola College of Maryland (1974). Mr. Miller joined the Department of Language and Literature at the Maryland Institute as a full-time English instructor in 1970 and served as chair of the department from 1982 to 1985.

II. THE CASE OF MR. MILLER

On several occasions during his three-year tenure as chair of the Department of Language and Literature, Mr. Miller clashed with Dean Price over issues of academic and administrative policy, including such matters as course schedules, release time, faculty development grants, and the expenditure of budgeted departmental funds. In the spring of 1985, Mr. Miller was called into the president's office, where the dean, asserting dissatisfaction with his performance as department chair, asked for and received his resignation from that position. Mr. Joseph Cardarelli was named acting chair.

The first indication of any complaint about Mr. Miller's performance as a faculty member rather than as chair appears to have surfaced in the fall of 1985, his sixteenth year on the faculty, when Mr. Cardarelli sent him a letter, dated September 25, in which he expressed concern that Mr. Miller was not keeping his posted office hours or attending department meetings called to discuss curricular and other academic matters. "Are you sending the department a signal that

you no longer want to be a full-time member of the department?" Mr. Cardarelli asked. "How are we going to keep the work that you have done in developing the department from crumbling if you are not here to help us?" He concluded: "You need to take your share of active participation directing our department. . . . I value your work in this college. This is really very serious; so let me know what gives." On January 21, 1986, with his concerns not having been satisfactorily resolved, he sent Mr. Miller a similar letter.

By memorandum of March 7, 1986, Dean Price requested that Mr. Miller reschedule his sabbatical leave, originally granted to him by the dean the previous October and planned for the fall of 1986, in order to accommodate Mr. Cardarelli, who had already twice postponed his own sabbatical leave. Mr. Miller declined, on grounds that he had already done extensive planning for the leave. Dean Price responded on March 31, proposing a meeting to discuss the sabbatical issue as well as questions about Mr. Miller's performance as a faculty member over the previous year.

Toward the end of March, Mr. Miller notified Mr. Cardarelli by memorandum that he would be out for surgery in early April and explained that a recurrence of medical problems had caused him to cancel a class and to miss, as a member of a departmental search committee, meetings with candidates being interviewed for a vacant position. He subsequently informed Mr. Cardarelli of his arrangements with fellow faculty members to cover his assigned classes while he

¹The 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 then edited by the Association's staff, and, as revised, with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A it was subsequently sent to the faculty member at whose request the inquiry was conducted, to the administration of The Maryland Institute, College of Art, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

was out, and he apologized for the inconvenience he was causing his colleagues. He also requested that Mr. Cardarelli not inform the administration of his medical problems.

On April 7, Mr. Cardarelli completed an evaluation form assessing Mr. Miller's performance. The evaluation was highly critical, particularly in the areas of teaching and institutional service. Two days later, having received a copy of the evaluation, Dean Price wrote Mr. Miller to inform him that the administration had decided to postpone his leave of absence. The dean stated that Mr. Miller, then in the second year of a three-year contract, would have to undergo a "proper review and evaluation" in the fall "in order that a suitable recommendation [on reappointment] be brought forward in late February [1987]. If your performance this academic year had not caused serious concern on the part of your chair, your colleagues, your students, and your dean," she stated, "the question of evaluation would not be so pressing." She concluded with the hope that Mr. Miller's "performance can be changed and we will see a different situation by the close of your evaluation period next year."

While recovering from his surgery, Mr. Miller met with Mr. Cardarelli on April 22 to discuss his evaluation. The next day Mr. Cardarelli sent Mr. Miller a memorandum in which he set out a series of steps—said to have been agreed to by Mr. Miller in the course of their meeting—for Mr. Miller to take in order to bring his academic performance up to a satisfactory level. A day later Mr. Miller responded, rejecting his department chair's characterization of the understandings reached during their meeting and questioning the need for improvement in the areas cited. He attached a point-by-point rebuttal of Mr. Cardarelli's evaluation, requesting correction of its "glaring errors." A further meeting between the two men took place a week later and was followed by yet another exchange of memoranda. "You are using your personal problems as an excuse," Mr. Cardarelli wrote to Mr. Miller. "You do what you want to do and don't do what you don't want to do. Do you think that you have been a member of the department? Do you think that the best and only way for members of a department to associate is through meetings with formal business? Do you think that pounds of computer printouts are proof that you are teaching well and meeting your duties to the school and department? Do you think I'm the only member of the department wondering about where you are and why we almost never see you?" After reiterating his concerns about Mr. Miller's performance and complaining about his rejection of "my constructive criticism and advice," Mr. Cardarelli nonetheless agreed to reconsider his evaluation. He revised upward several of the contested ratings and lowered some others. Mr. Miller responded with another vigorous rebuttal of each criticism leveled against him. "I will not have my integrity as a teacher impugned," he concluded.

Mr. Miller had meanwhile filed an appeal with the Faculty Committee on Policies and Procedures, protesting the dean's decision to postpone his sabbatical leave. On May 16, the committee recommended that he be allowed to go on leave as originally planned. Dean Price rejected the committee's recommendation, citing a need to accommodate Mr. Cardarelli's schedule. She indicated that Mr. Miller could take his leave in the spring of 1987.

In the fall, Mr. Miller resumed his efforts to reverse his department chair's negative evaluation of the previous spring. He wrote to Dean Price, stating that he wished to appeal. The dean suggested that Mr. Miller schedule a meeting with her and Mr. Cardarelli, upon the latter's return from a trip abroad, to discuss areas of concern.

At the end of October, Dean Price took Mr. Miller to task for having failed to submit his ballot for the purpose of ratifying Mr. Cardarelli's appointment to a regular three-year term as department chair. Mr. Miller responded that the regulations did not require him to vote. Also in late October Mr. Miller and Mr. Cardarelli exchanged yet another series of memoranda, this time relating to departmental policies and procedures. Mr. Miller criticized the curriculum in the Foundation English program, the method of testing reading and writing proficiencies, and the uses to which the writing laboratory was being put. He wrote to Mr. Cardarelli on October 31 that "you either do not know the particulars of a situation in the department or run to the Dean when asked to explain a policy. It is futile to have a serious discussion of very important topics with you when you run and hide. It is not just a question of frustration, but the fact that you ill serve our students."

By letter of January 15, 1987, Mr. Miller took his complaints to President Lazarus. "In order to defend myself from the pernicious charges leveled against me," he wrote, "I have repeatedly requested from Mr. Cardarelli and Mrs. Price substantive proof that what they charge is actually fact." Accusing his two administrative superiors of "stonewalling," he asserted that "I have performed my duties as a member of the faculty consistent with everything that is best about our Institute Community. I have been treated in such a shabby fashion by both Mrs. Price and Mr. Cardarelli that I now must appeal to you to intervene and bring this matter to a satisfactory conclusion." Responding on February 6, President Lazarus stated that, based on his review of the matter, he found Mr. Miller's allegations to be "without factual support and . . . otherwise misleading."

On February 13, Mr. Cardarelli sent Dean Price his recommendation concerning the renewal of Mr. Miller's appointment for another three-year term. After summarizing the criteria he had utilized in evaluating Mr. Miller, Mr. Cardarelli stated that his "performance over these past two years does not reflect an understanding nor a willingness to observe these criteria which have been articulated over and over again in our regular departmental meetings." Mr. Cardarelli further stated that he had consulted with the full-time members of the department and was recommending nonrenewal of Mr. Miller's contract. He concluded by recounting the deficiencies, as he perceived them, relating to Mr. Miller's academic performance both in and out of the classroom.

On February 26, not having yet seen Mr. Cardarelli's recommendation against reappointment, Mr. Miller wrote again to President Lazarus, asking him to intervene. A week later, by memorandum of March 2, Dean Price provided Mr. Miller with Mr. Cardarelli's February 13 evaluation and recommendation. She advised him to arrange a meeting with her and Mr. Cardarelli by the end of that week to discuss the evaluation and to provide him with an opportunity to respond before she made her own recommendation to the president.

Mr. Miller asked for additional time in order to prepare his defense and compile documentation. He also asked if he could have a lawyer accompany him to the meeting. The dean agreed to reschedule the meeting for a week later but rejected Mr. Miller's request to have a lawyer present.

The rescheduled meeting took place on March 12. Mr. Miller presented a twenty-five page document that contained a point-by-point rebuttal of all of the negative statements that had been made about his performance. As before, he challenged the procedures and criteria used in the evaluations and questioned the adequacy of the consideration that had been given to his qualifications.

The next day Dean Price notified Mr. Miller that she had decided against renewing his appointment because of his deficient performance, as previously described by Mr. Cardarelli. On March 20, Mr. Miller wrote to President Lazarus, requesting a hearing before an *ad hoc* faculty committee. His request was granted, and soon thereafter the Faculty Committee on Policies and Procedures selected five faculty members to serve on the hearing committee; Mr. W. Bowdoin Davis, an art historian, was elected committee chair. Mr. Miller was invited to appear before the committee on April 15.

Mr. Miller requested to have an attorney accompany him to the hearing, but his request was denied. A few days prior to his scheduled appearance before the committee he spoke to Mr. Davis about arrangements and procedures to be followed, asking among other things about the availability of Mr. Cardarelli and Dean Price for cross-examination and the right to call witnesses. Mr. Miller received no concrete assurances from Mr. Davis but, he wrote subsequently to the Association's staff, he was left with the clear impression that the April 15 meeting would be a preliminary session and that the committee considered itself to be only a "board of inquiry." His impression proved to be mistaken, however. The committee later outlined its procedures as consisting of reviewing the available documentation, interviewing Mr. Miller and unspecified other members of the faculty and members of the administration, and deliberating on the information gathered.

On April 27, the hearing committee presented its report to the president. It stated that "Jan paul Miller demonstrates a consistent lack of constructive participation in the ongoing functioning of the Language and Literature Department," and that a "consensus" had been reached in support of nonrenewal of his appointment. President Lazarus invited Mr. Miller to provide him with additional information for review before he reached a final decision. In a letter to the president dated May 18, Mr. Miller once more set forth his objections to the spring 1986 evaluation; he also questioned the procedures followed in the hearing and challenged the committee's recommendation. The following day President Lazarus wrote to inform Mr. Miller that he was sustaining the decision against renewal of appointment for the reasons given by Mr. Cardarelli, Dean Price, and the hearing committee. He offered Mr. Miller the opportunity to take a paid leave of absence during the terminal year of his appointment to enable him to find another position. Mr. Miller declined the offer. Further correspondence between Mr. Miller and the president and another appeal filed

by Mr. Miller with the Faculty Committee on Policies and Procedures did not lead to any change in the decision.

The Association's staff wrote initially to President Lazarus on April 6, conveying the Association's concerns about the adequacy of the procedures available to Mr. Miller to contest the dean's decision. The staff took the position that Mr. Miller had a claim to tenure under the 1940 *Statement of Principles on Academic Freedom and Tenure* by virtue of the length of his service, and that he was accordingly entitled to the safeguards of academic due process that accrue with tenure. Responding on April 13, President Lazarus stated that the institute's faculty handbook, adopted with faculty approval, makes no provision for tenure, and that Mr. Miller was being afforded the procedural protections assured him under the institutional regulations.

The staff, writing again to the president on April 20, urged that the notice to Mr. Miller be allowed to stand only if the administration first demonstrated adequate cause for releasing a faculty member whose service had long ago exceeded any reasonable period of probation.

On August 19, with the faculty committee's having concurred in the decision that Mr. Miller's appointment not be renewed, and with the president's having sustained the decision, the staff wrote once more to President Lazarus. The staff questioned whether the grounds stated for terminating Mr. Miller's services, when viewed in the context of his entire record at the Maryland Institute, would be seen by the general academic community as constituting adequate cause for his dismissal. The president was urged to reconsider.

"I would submit to you," President Lazarus wrote in reply, "that Mr. Miller's case has received a fair and impartial review by those more familiar with the facts—not just Mr. Miller's version of the facts—than the AAUP."

Noting a report that a stenographer had been present for a portion of Mr. Miller's hearing before the faculty committee and that the remainder had been recorded on tape, the staff wrote on October 16 to President Lazarus to request an opportunity to review the hearing record. The staff also offered to meet with him to discuss the Association's continuing concerns. The institute's attorney replied on December 1, rejecting the request and declining to comment further on grounds that Mr. Miller had retained a lawyer and threatened litigation. Informed by the staff that Mr. Miller had stated that he was not planning to litigate, the attorney asked if Mr. Miller was willing to provide a written statement that he would not pursue any claims. Mr. Miller subsequently declined to enter into any such agreement.

On December 15, with the Association's concerns in this matter remaining unresolved, the staff wrote to inform President Lazarus that the general secretary had authorized the appointment of an investigating committee. By letter of December 22, President Lazarus stated in response that he could "see no reason why Mr. Miller's case should be relitigated and the work of the school's own faculty disregarded" and that the administration would not participate in the investigation.

The investigating committee went to Baltimore on February 16, 1988, basing itself in a hotel close to the institute when the administration denied the commit-

tee access to the campus. It met with Mr. Miller and interviewed nine other past and present faculty members, part-time as well as full-time, two of them current department chairs. Despite the regrettable refusals of President Lazarus, Dean Price, Mr. Cardarelli, and

several others involved in this case to meet with the investigating committee, the members of the committee believe that the available written record and the testimony of those interviewed are sufficient to support the findings and conclusions that follow.

III. ISSUES

A. Tenure and Applicable Standards.

The 1940 *Statement of Principles on Academic Freedom and Tenure* calls for a maximum period of probation not to exceed seven years of full-time faculty service, irrespective of rank, with service beyond the probationary period constituting continuous appointment or tenure. Upon continuance of full-time service beyond a maximum probationary period, faculty members who so serve are entitled under the 1940 *Statement* to the protections of tenure.

Under the Maryland Institute's faculty handbook, faculty members upon successfully completing a period of probationary service (generally no longer than three years) are not granted tenure but instead receive three-year term appointments that are renewable indefinitely at the administration's discretion. Mr. Miller was completing his seventeenth year of teaching at the Maryland Institute when he was notified by President Lazarus that his contract would not be renewed beyond the 1987-88 academic year. Mr. Miller plainly had attained continuous tenure under the provisions of the 1940 *Statement of Principles* and accordingly was entitled through length of service under these provisions to the safeguards of academic due process that accrue with tenure in any action to terminate his services.

In correspondence with the Association's staff, President Lazarus has stated that the institute's faculty has expressly—and repeatedly—rejected a system of tenure. The staff has referred, in response, to an Association position going back at least to a 1946 report on an investigation of a case at Smith College. The report, after noting a letter from a Smith College faculty member questioning the Association's interest in a dismissal that had been effected pursuant to policies adopted democratically by the faculty, quoted approvingly from the reply sent by the Association's secretariat:

When a faculty acts with reference to academic tenure, the principles of good academic practice apply just as they apply to actions of administrative officers affecting tenure. The principles of academic freedom and tenure are for the protection of individual teachers. In that respect these principles are analogous to the Bill of Rights of the Constitution of the United States. The Bill of Rights in our constitutional system is intended to protect the individual against infringements of certain rights believed to be too important to be invaded even in accordance with the will of the majority. Thus, the Bill of Rights places restrictions upon the freedom of the majority to do what it wishes, and to that extent places a limitation upon the democratic process. Principles of academic freedom and tenure are likewise intended to protect individual rights, rights relating to tenure, even against the action of the majority of a teacher's colleagues. To put the matter in specific context, the majority of the Smith College faculty can err in judgment or depart from recognized principles just as could the administrative officers of the college acting independently of the faculty.

Whatever the reasons for the Maryland Institute faculty's rejection of a system of tenure, that rejection does not relieve the administration of its responsibility to ensure that Mr. Miller's rights under the 1940 *Statement* are respected.

B. Procedural Standards in a Dismissal for Cause.

The 1940 *Statement* provides that, "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." Under the policies of the Maryland Institute, Mr. Miller served his probationary period during his initial three years on the faculty, and his many subsequent years of service were under renewable three-year appointments. Although the administration's action to terminate his services was in the form of nonrenewal of a contract, the investigating committee finds that the action was tantamount to a dismissal for cause relating to his fitness to continue.

The 1940 *Statement of Principles* calls for the following safeguards of academic due process in cases involving dismissal for cause:

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 on incompetence the testimony should include that of teachers and scholars either from his own or from other institutions.

These due process requirements are elaborated in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, like the 1940 *Statement* a joint statement of AAUP and the Association of American Colleges, and in Regulations 5 and 6 of AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. Of special relevance in this case are the requirements of (1) a statement of charges, framed with reasonable particularity, of the grounds proposed for the dismissal; (2) a hearing of record before a duly constituted faculty committee, with the faculty member to be afforded the opportunity to examine all evidence and to confront and cross-examine all witnesses; and (3) the administration's bearing the burden of demonstrating that adequate cause for dismissal exists.

Under the institute's faculty handbook, a faculty member who receives notice that his or her appointment will not be renewed may request a review of the decision in a "formal hearing" before a five-member

ad hoc faculty committee. There are no specific procedures set forth in the handbook to which the committee must conform; the committee is given responsibility for establishing "its own rules of procedure." (The handbook also sets forth a dismissal-for-cause procedure that comports in large measure with Association-supported standards, but it applies only when the administration seeks to terminate a faculty member's services "during a contract period.")

Prior to the hearing the administration failed to provide Mr. Miller with a statement of charges, nor did it advise him of the material evidence adduced against him. The hearing committee's report to the president concurring in the action against Mr. Miller said very little about the procedures the committee followed and still less about its particular substantive findings. Mr. Miller, however, has sharply questioned the adequacy of the hearing conducted by the committee. From the outset he complained about the committee's refusal to allow him to be accompanied by his attorney. He has stated to the investigating committee that in his appearance before the hearing committee he was told that there were additional "charges" against him which the committee declined to specify, that he was asked about events—including incidents that occurred during his tenure as department chair—which had not been discussed with him previously, and that he was not permitted to examine evidence bearing upon the action against him and available to the members of the committee. Mr. Miller has also stated that his department chair and dean, who initiated the action against him, were not present during his meeting with the committee, and that he thus had no opportunity to confront and cross-examine them. He has further stated that other individuals were called to testify before the committee but that he was not told either their identity or the substance of their testimony. A stenographer was present for a portion of the hearing and the remainder of the hearing was reportedly recorded on audiotape, but neither the committee nor the administration would make the hearing record available to Mr. Miller.

The investigating committee finds that the procedural protections afforded Mr. Miller were seriously deficient when measured against those called for in the 1940 *Statement of Principles*, the 1958 *Statement on Procedural Standards*, and the Association's *Recommended Institutional Regulations*.

C. Cause for the Administration's Action.

Under Association-supported standards, as specified in Regulation 5 of the *Recommended Institutional Regulations*, the Maryland Institute administration should have carried the burden of demonstrating adequacy of cause for terminating Mr. Miller's services. Regulation 5 further provides that "Adequate cause for dismissal will be related, directly and substantially, to the fitness of the faculty member as a teacher or researcher."

The investigating committee does not doubt that the administration believed it had adequate cause for its action, as is evidenced by the extensive record of evaluations and memoranda prepared by Mr. Miller's department chair and dean, setting forth various concerns about his academic performance in and out of the classroom. In his memorandum of February 13, 1987, to Dean Price, recommending that Mr. Miller's appointment not be renewed, Mr. Cardarelli, head of

the Department of Language and Literature, identified several perceived deficiencies with respect to Mr. Miller's teaching effectiveness, his service to the department, and his professional activity. In May 1986, he had evaluated Mr. Miller's overall performance as "just average or lower, about C-." It is not clear whether Mr. Cardarelli's February 1987 memorandum to Dean Price refers to events and circumstances that occurred before or after May 1986. In any event, accepting the contents of Mr. Cardarelli's February 1987 memorandum as setting forth grounds for terminating Mr. Miller's services that were accepted as such by Dean Price, the faculty hearing committee, and President Lazarus, the investigating committee finds that the administration did not demonstrate that these grounds constituted adequate cause for terminating Mr. Miller's services.

The investigating committee has endeavored to assess whether the stated grounds, albeit sustained by those who reviewed them at the institute, would be viewed by the general academic community as being of sufficient gravity to warrant Mr. Miller's dismissal. (In making its assessment the committee was mindful of the administration's statement to the Association's staff that facts bearing on Mr. Miller's situation, to which the staff is not privy, support the administration's action. The staff, it should be noted, requested that the administration provide this additional information, including the record of the hearing, but the administration declined to do so.) As noted above, the administration has cited perceived deficiencies in Mr. Miller's teaching performance as one of the grounds for terminating his services. Such evidence about his teaching as was available to the investigating committee, however, casts doubt on the administration's allegations in this regard. Other faculty members reported on student enthusiasm about Mr. Miller's teaching. Student evaluations of his courses were quite positive; his students seem to have viewed Mr. Miller as a stimulating, demanding teacher who puts an unusual amount of effort into his work. They nominated him for a teaching award in 1984.

As for Mr. Miller's performance in other areas—institutional/departmental service and professional development—in which the administration found him wanting, the investigating committee is in a weaker position to comment on the validity of the criticism. It is evident to the investigating committee, however, that already strained relationships between Mr. Miller, on the one hand, and his departmental colleagues and senior administrative officers, on the other, had by 1987 deteriorated almost to the breaking point. Tensions had become almost unbearable. The veritable blizzard of paper exchanged between and among the antagonists had to have distracted them from more constructive endeavors. Indeed, the intensity and sheer relentlessness of the often petty internal bickering must have interfered in no small measure with the department's functioning. The investigating committee, not having had the opportunity to meet with the institute's administrative officers or with any of the other long-time members of the language and literature department besides Mr. Miller, is unable to render a judgment on who bears major responsibility for this state of affairs. After Mr. Miller came increasingly to be viewed as the "thread of discontent" within the department, however, the administration seems to

have seen his removal from the faculty as the only way to resolve the situation. Not considering itself obliged to shoulder the burden of demonstrating adequacy of cause for terminating Mr. Miller's services, the administration could dispose of what came to be known as "the Miller problem" merely by not issuing him another contract. Assuming the accuracy of this assessment, the investigating committee finds it especially lamentable that the administration, in acting against Mr. Miller because of the breakdown in collegial relationships, apparently felt a need to strengthen its case by denigrating his teaching without bearing the burden of demonstrating its inadequacy.

D. The Absence of Tenure and the Climate for Academic Freedom.

The investigating committee was told by several present and former faculty members at the Maryland Institute that Mr. Miller's case is by no means aberrant, that in recent years a fair number of other teachers with many years of service have not had their contracts renewed or have otherwise been encouraged to leave. The committee was informed that typically in these cases the affected individual had incurred the administration's displeasure for having dissented on matters of general educational policy or for having been critical of the administration and its operation of the institution. Of one of these former instructors Dean Price was quoted in a community newspaper as having stated that he "likes to be obstreperous. He has a philosophy of confrontation, and such a person can create conflict within an institution." The experience of this individ-

ual, and that of others with whom the investigating committee spoke, left the committee with disquieting indications of an inhospitable atmosphere at the institute for criticizing the administration and its policies. Continuing members of the faculty voiced concern about what might happen to them should they speak out. They reported that Dean Price, aware of an increasing sense of insecurity among senior faculty members, met with them and sought to assure them that there was not some kind of plot by the administration to lower costs by replacing long-term members of the faculty with part-time and junior instructors. Her assurances were apparently not persuasive to at least one faculty member, who stated to the investigating committee that "We are treated as if everyone is replaceable now. . . . She wants us to feel that way."

The investigating committee, in hearing from these senior faculty members at the Maryland Institute, could not avoid the impression that their sense of unease was aggravated, if not created, by their serving on appointments only for a limited term, renewable at the administration's pleasure. The committee can well appreciate that their insecurity inhibits them from being identified as dissenters against the administration and its policies. The American Association of University Professors, since its inception over seven decades ago, has held that faculty tenure is an essential bulwark for academic freedom. This investigating committee is convinced that academic freedom suffers at the Maryland Institute because the protections of tenure are absent.²

IV. CONCLUSIONS

1. The administration of the Maryland Institute, College of Art, acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* in dismissing Mr. Jan paul Miller after eighteen years of full-time service without having demonstrated adequate cause for its action in a hearing of record before a duly constituted faculty committee.

2. The regulations of the Maryland Institute do not provide for tenure and instead allow faculty members to serve indefinitely on renewable term appointments, thereby inhibiting them in their exercise of academic freedom.

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Hollins College, *Chair*

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Oakland University

Investigating Committee

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

MATTHEW W. FINKIN (Law), Southern Methodist University, *Chair*.

MEMBERS: JOAN S. GIRGUS (Psychology), Princeton University; PAUL A. KETCHUM (Biology), Oakland University;

DANIEL C. MAGUIRE (Theology), Marquette University; THOMAS D. MORRIS (History), Portland State University; JOEL T. ROSENTHAL (History), State University of New York at Stony Brook; EDWARD F. SHERMAN (Law), University of Texas at Austin; CAROL SIMPSON STERN (Performance Studies), Northwestern University; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology; SAUL TOUSTER (Legal Studies), Brandeis University; WILLIAM W. VAN ALSTYNE (Law), Duke University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; JULIUS G. GETMAN (Law), University of Texas at Austin, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; MARY W. GRAY (Mathematics), American University, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.

²Responding to a draft text of this report sent to him prior to publication, President Fred Lazarus IV, while declining to address specific points in the report, expressed strong disagreement with its "treatment of the issues, selective reporting and characterization of factual material, and certainly with [its] conclusions." The president went on to assert that "The nonrenewal of Mr. Miller's contract was initiated by the faculty. The recommendation of nonrenewal was reviewed by an independent, unbiased *ad hoc* faculty committee acting without any interference from the school's administration. Mr. Miller was evaluated and judged by his peers, applying standards and following procedures determined to be appropriate by the faculty.