

# ACADEMIC FREEDOM AND TENURE: OUR LADY OF HOLY CROSS COLLEGE (LOUISIANA)<sup>1</sup>

This report deals with actions by the president of Our Lady of Holy Cross College to dismiss a member of the faculty, Professor Elroy W. Eckhardt, from any further academic responsibilities and to ban him from the campus.

## I. Background

The institution began in New Orleans in 1851 as a school for orphan girls, founded by a congregation of Catholic women religious, the Marianites of Holy Cross. It evolved into a normal school and then a teachers' college for nuns, awarding the bachelor of arts degree starting in 1942. Its name became Our Lady of Holy Cross College (OLHCC) in 1960, the same year the first lay student received her degree. The first male students were admitted in 1967, and in 1969, a newly established governing board selected the first president of the institution who was not the Marianite provincial superior. Accreditation by the Southern Association of Colleges and Schools was achieved in 1976, and a nursing program, established in the 1980s, was accredited by the National League for Nursing in 1989. Over 1,300 students are currently enrolled at the college. The current full-time faculty numbers approximately fifty, and there are some ninety adjuncts. An AAUP chapter, all of whose current members joined the Association within the last three years, had fourteen members as of the start of the 2006–07 academic year.

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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 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, the report was subsequently sent to the faculty member at whose request the investigation was conducted, to the administration of Our Lady of Holy Cross College, to the president of the AAUP chapter, and to other persons directly concerned in the report. In light of the responses received, and with the editorial assistance of the staff, this final report has been prepared for publication.

The current president of Our Lady of Holy Cross College, Rev. Anthony J. De Conciliis, CSC, PhD, took office in August 2005. Father De Conciliis had been president of Notre Dame College in New Hampshire from 2000 until 2002, when the college ceased operations. Between the Notre Dame presidency and his current position, he was at St. Francis University in Pennsylvania as acting vice president for academic affairs.

## II. The Case of Professor Eckhardt

Professor Eckhardt joined the OLHCC faculty in January 2002 after a career in business and industry that included nearly a decade of adjunct teaching at Tulane University. He served first at OLHCC as an adjunct for a semester and then full time for four years as assistant professor in business and computer information services. Early on, he took an interest in faculty affairs, volunteering for service on a Faculty Senate ad hoc committee on salary equity, helping to found the AAUP chapter, and in 2005 being elected president of the Faculty Senate for a two-year term. During the 2004–05 academic year, the acting vice president for academic affairs, Dr. Judith V. Miranti, continued an existing Faculty Salary Equity Committee, appointing Professor Eckhardt as chair. Using the AAUP salary survey and establishing a comparison group of other colleges in an eight-state area that shared OLHCC's institutional classification in the survey, he created a new salary schedule. With Dr. Miranti's support, it was accepted by the college's interim president, Dr. Paul V. Ceasar, and approved by the board of regents, finance committee in March 2005 for implementation over a three-year period. The first salary adjustments went into effect with the contracts issued to the faculty for 2005–06.

Father De Conciliis had indicated before being installed in office as president (two days before Hurricane Katrina struck) that he wanted to recruit a new academic vice president. The senate adopted a resolution that Dr. Miranti, who had been a thirty-year member of the faculty and then a dean before acting as

OLHCC's third academic vice president in five years, be retained in the position. Dr. Miranti chose not to apply for the position, and she announced her retirement, effective at the end of the 2005–06 academic year.

The college, located across the Mississippi River from the heavily flooded areas of New Orleans, suffered little direct damage from Hurricane Katrina but had to cease operations during fall 2005 because of the city's general disarray. Despite the closing, the new president saw to it that salaries continued to be paid. The fall semester began belatedly with the college's reopening in January 2006, and it concluded in April. The spring semester ran from May until August, and the 2006 summer session was cancelled.

Father De Conciliis, who had been away during the early fall, returned with Dr. Miranti continuing as academic vice president through the spring and with a newly engaged vice president for finances and operations, Mr. Wayne Plaisance. Professor Eckhardt had written to Father De Conciliis as incoming president during summer 2005 about the new salary schedule, and Professor Eckhardt reports having heard in January from others that the president had problems with the schedule. On February 9, 2006, he sent the president a nine-page single-spaced letter with eight pages of accompanying tables and graphs, signing the letter as senate president and providing copies to the full-time members of the faculty, in which he described salary equity as called for under Catholic principles of social justice and advocated the merits of the salary schedule he had formulated.

Professor Eckhardt's February 9 letter resulted in a conversation with Father De Conciliis, which led in turn to another lengthy Eckhardt letter with copies to the faculty dated February 22. This letter summarized and provided answers to questions Professor Eckhardt said were raised by the president, including OLHCC's comparability with the institutions whose salaries had been examined, the schedule's reliance on a study done by an in-house faculty committee, and adoption of the new salary schedule not by the full board of regents but only by the board's budget committee. The letter went on to urge continued implementation of the salary-equity plan with the issuance of the 2006–07 faculty contracts, asserting that the college's financial situation allowed for it, assuming satisfactory student enrollment for the spring semester. (As is suggested by Father De Conciliis's later decision to postpone issuing 2006–07 contracts until summer, he may well not have been as optimistic about the financial situation and future enrollment.) The February 22 letter concluded by warning that "legalistic attempts to claim that salary levels were not set properly with board appro-

val" would be interpreted by the faculty "as a bad-faith attempt to back away from what is already accepted."

Statements addressing the salary-equity plan continued to come forth as the customary time for issuing the next year's faculty contracts approached. Dr. Miranti issued a statement on March 8, confirming that she had commissioned a salary-equity study committee in August 2004, that the administration presented the committee's study and proposals to the board's budget committee in March 2005, that the interim president announced at a spring faculty meeting that the budget committee intended to recommend approval by the full board of the implementation of the proposed equity adjustments over a three-year period, and that the first of the three adjustments was reflected in the faculty contracts issued that April. She added that a meeting of the full board, scheduled for October, never occurred because of Hurricane Katrina, and that she understood that the budget committee was currently re-evaluating its recommendation and the board's final decision was still to come. A March 10 resolution issued by the Faculty Senate thanked Professor Eckhardt as senate president for the communications he had prepared on the salary-equity plan and expressed its full concurrence in the information and data that he had presented.

A March 17 "town hall meeting" that Father De Conciliis held with the faculty led to a March 22 Eckhardt e-mail to his faculty colleagues. Regarding the salary-equity plan, he reported the president's having spoken of "inheriting a controversy" that "was the result of a rogue committee action by the faculty that had been improperly implemented by the prior administration." He wrote that, at the meeting, he had rebutted the president's allegation that the previous administration had exceeded its authority in the matter but that, because he "did not think it appropriate in the setting," he stopped short of challenging the president's statement that he had inherited a controversy. There was no previous controversy, Professor Eckhardt asserted, but the president was "voiding the agreement and therefore causing a controversy" now.

A March 30 Eckhardt e-mail to Father De Conciliis refers to a meeting he had with the president and the new vice president for finances, Mr. Plaisance, at which he said the president indicated that "enough time had been spent discussing the salary-equity plan" and that he would be working with Mr. Plaisance on having an administrative committee examine salary issues. Professor Eckhardt wrote that he accepted the president's prerogative to decide as he did but that he was compelled to take issue with the president reportedly

saying that the equity plan was never adopted and one therefore could not refer to second- or third-year adjustments. After reiterating the series of events that resulted in the first-year adjustment, Professor Eckhardt asserted that the president was emphasizing the full board's lack of approval of the equity plan even though the board had never approved a budget before the fiscal year began and that entering into commitments beyond a budget cycle is a common practice. "We may have to agree to disagree on this issue," Professor Eckhardt wrote, but "the faculty is not pleased with your decision."

Professor Eckhardt's communications to Father De Conciliis were becoming increasingly direct in tone, but his next one, an April 17 e-mail signed as Faculty Senate president with copies to the full-time faculty, was still sharper in tone and also much sharper in substance. Responding to an announcement from Mr. Plaisance about delay until summer in issuing the 2006–07 faculty contracts, Professor Eckhardt alleged that the delay "breaches the college's contract with the faculty," that the breach had "a possible effect on accreditation," and that it subjected the institution "to an additional potential liability beyond that already faced in the salary-equity plan disagreement." He went on to write that he had checked with the deans and the academic vice president about the progress in creating the next year's budget and had learned that the chief financial officer was working on it without the involvement of "academic affairs." "It is highly unusual," he wrote, "for a budget to be created without the input of the largest segment of the organization and the one responsible for the mission of the organization." "My impression from conversations with numerous members," Professor Eckhardt concluded in his April 17 communication, "is that the faculty has serious reservations about the veracity and competence of the administration in the matters of the budget and contracts."

On April 19, Father De Conciliis had Dr. Miranti and Professor Eckhardt's dean, James A. Rabalais, brought to his office at 12:50 p.m. According to Dr. Miranti, the president told them that it was his decision to dismiss Professor Eckhardt and that he had been very patient regarding all of the communications that Professor Eckhardt had sent to him. Professor Eckhardt was called out of a meeting in order to meet at 1 p.m. with Father De Conciliis, who had Mr. Plaisance with him. To memorialize what transpired, Professor Eckhardt wrote to the president the next day as follows: "After a brief greeting, you told me that you had bad news. You stated that I was terminated at the college and would be required to leave immediately. You stated that my full

salary and benefits would be continued until the end of my contract. There was no further discussion or any reason associated with this termination."

In an April 24 letter to the members of the board of regents, Professor Eckhardt reported that, upon leaving the president's office, he went to the office of academic affairs, where he learned from Dr. Miranti and Professor Rabalais that their position on the matter had never been solicited, that the president had informed them of his decision a few minutes beforehand, and that Mr. Plaisance had told them the decision was "non-negotiable." As he left the academic affairs office, Professor Eckhardt stated, he was met by the college's security agent, who escorted him off campus and said he was not to return except to clean out his office, in which event he was to call in advance before he came.

In an April 21 letter that she sent to the full-time faculty, Dr. Miranti referred to the action against Professor Eckhardt as a "unilateral dismissal," about which she had never been consulted. "I attempted to tell Father that due process had not been followed," she wrote, "and that there were academic policies in the Faculty Handbook which govern dismissal, etc. I soon realized that I was only there to be told the decision, and nothing that I could have said or done would have changed that."

### III. The Association's Involvement

Professor Eckhardt wrote initially to the Association's Washington office on April 21, identifying himself as Faculty Senate president and AAUP chapter secretary, outlining the events leading to the action taken against him two days earlier and requesting assistance through Committee A's procedures. While no reason was stated for terminating his services, he wrote, "the unstated reason for my termination is that I have taken my job as Faculty Senate president very seriously and have represented the faculty in an ongoing dispute over our salary-equity plan and in a new dispute over the date of contract renewals. I was dismissed solely as punishment for my being an effective senate president."

Extensive documentation of his situation was submitted promptly by Professor Eckhardt, providing the basis for an April 26 letter from the AAUP staff to Father De Conciliis. The staff's letter conveyed the Association's concern over the president's action to remove Professor Eckhardt from his academic responsibilities without having afforded him opportunity for a hearing. The letter explained that meeting a contractual financial obligation by continuing salary payment for the duration of the appointment did not alleviate the concern regarding an apparent summary dismissal. The letter referred to

Professor Eckhardt's contention that the action, for which no reason had been given, resulted from differences with his position regarding appropriate faculty compensation and was thus in violation of his academic freedom. Unless the contention is rebutted through demonstration in a faculty hearing of permissible cause for dismissal, the letter asserted, the AAUP's concern regarding the summary action is compounded by its adverse ramifications for academic freedom. The letter invited the president's comments on Professor Eckhardt's case and urged, if the facts as presented were essentially accurate, that he be reinstated to his academic responsibilities and that any further action in the matter comport with academic due process.

The president's reply, following a May 10 reminder from the AAUP staff, was dated May 18. He stated that it was college policy "not to make public comments regarding employment-related matters," that the policy assures respect for "privacy issues" to the extent they may be implicated, and that it "serves to avoid any confusion or misinterpretation should a public statement be taken out of context regarding a faculty member or nonfaculty employee." Accordingly, the president wrote, a response "regarding specifics of the college's relationship with Mr. Elroy Eckhardt" will not be provided.

The Association's Special Committee on Hurricane Katrina and New Orleans Universities, at its initial meeting on May 24, discussed the Eckhardt case at OLHCC and concurred in the judgment of the AAUP staff that the hurricane's bearing on the case was relatively slight and therefore it should not come under the special committee's charge but rather should be pursued independently. The Association's general secretary then authorized an investigation of the issues presented by the action against Professor Eckhardt, and Father De Conciliis and other concerned parties were so notified by letter of June 14.

The ad hoc investigating committee was selected from among members of the special committee who were to be in New Orleans during August 6–9. The announcement of the investigation and of the forthcoming site visit brought forth expressions of interest from a fair number of individual OLHCC faculty members in being interviewed. It also brought forth a statement signed by seventeen members of the faculty informing the Association of their concern regarding a press release that Professor Eckhardt had issued on May 15.

Professor Eckhardt had sent the Association a copy of the release, regarding a May 12 meeting of the Faculty Senate, that he signed as senate president. The release begins with two lead sentences in boldface, the first stat-

ing that the senate had approved a motion of "no confidence" in the college president, Father De Conciliis, and the second stating that the senate had refused to remove its own president, Professor Eckhardt, from office. The first of three paragraphs that follow amplifies the second lead sentence, stating that Professor Eckhardt had been dismissed from his faculty position "because of his advocacy of the faculty" and that the senate, expressing "unqualified support of Mr. Eckhardt," voted to delay replacing him as its president while his current contract was still running. The second paragraph reports the vote of no confidence in Father De Conciliis but goes on to report that the vote was rescinded pending a faculty committee's investigation of the senate's grievances against him. The final paragraph states that it took "exceptional courage on the part of the faculty to confront the president of the college over his actions," given the fact that faculty contracts for the following year had not yet been awarded and several faculty members had been warned about their senate activities.

The statement from the seventeen faculty members asserted that the treatment in the release of the no-confidence vote is alternately misleading and inaccurate: the vote on the motion, which had not been on the meeting's agenda, was 19 to 18; it was immediately rescinded, not for the reason given in the press release (which would imply a revote on a future occasion) but rather, as stated by the person who forwarded the motion to rescind, because the vote showed how divided the senate was on the issue (which in effect meant a nullification of the adopted motion). Regarding the senate's alleged refusal to remove its president from office, the statement of the seventeen asserted that the question was whether to replace him, not whether to remove him, and that the motion was not adopted but rather tabled after an argument was made that it was moot because no more senate meetings were scheduled before the expiration of Professor Eckhardt's contract. The statement faulted the press release for indicating that the senate had taken a particular position (for example, "unqualified support of Mr. Eckhardt") when the position was not taken by senate action but rather was the substance of remarks by individual members. The statement also faulted the release for stating that the participants in the meeting showed "exceptional courage" because they did not yet have 2006–07 contracts, when in reality Father De Conciliis had seven days earlier stated publicly that all full-time faculty members would be receiving contracts for 2006–07. "Perhaps the most egregious" aspect of the release, according to the statement, was that Professor Eckhardt,

who was not at the meeting because he was banned from appearing on campus, “recorded as fact a description of events of which he relied on only second-hand reports, and then released a statement to the press and others without checking it by the body he represents and was reporting about.”

Professor Eckhardt on July 3 provided the Association with his comments on the statement from the seven-teen. In the days that followed, a half-dozen communications from OLHCC faculty members were received, some opposing Professor Eckhardt and others supporting him. Several additional members of the faculty wrote or telephoned to request meetings with the Association’s investigating committee during its visit. It became apparent to the investigating committee that it would be hearing sharply different faculty views on the Eckhardt case, and the committee on the eve of its arrival in New Orleans was pleased to learn that Father De Conciliis, despite his earlier statement that he was unwilling to say anything specific about the Eckhardt case, was receptive to a meeting.

The investigating committee visited the OLHCC campus on August 8, meeting first with Father De Conciliis who was accompanied by the new vice president for academic affairs, the vice president for finances, and other members of the president’s administrative cabinet. It also met on campus that afternoon with eight faculty members, one individually and the others in small groups. It previously had met off campus with Professor Eckhardt, and it subsequently held off-campus meetings with additional members of the faculty. Among those with whom the committee met were the just-retired acting academic vice president and the president of the AAUP chapter. The investigating committee appreciates the cordiality with which it was received and the candor of the discussions that ensued.

#### IV. Issues

The issues of concern the investigating committee identified in its interviews include campus procedures, the president’s reasons for dismissing Professor Eckhardt, and the effect of the dismissal on academic freedom at OLHCC.

##### 1. PROCEDURAL SAFEGUARDS FOR THE FACULTY

Under the provisions of the OLHCC Faculty Handbook, all full-time faculty members serve under term contracts awarded for one academic year (summer session services are engaged under separate contract), renewable only upon recommendation for reappointment and presuming no right to reappointment. The handbook specifies that nonreappointment is not grounds for

appeal, but it provides for an elected Faculty Grievance Committee that does have jurisdiction in cases of suspension or dismissal. As to grounds for suspension or dismissal, the handbook refers to “serious causes, layoff, or financial exigency.” In contrast to the provision in the joint AAUP and Association of American Colleges and Universities 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* that the grounds be provided “with reasonable particularity,” the OLHCC handbook is silent as to any obligation to inform the subject faculty member, even orally, of the grounds. The handbook, while affording the Faculty Grievance Committee jurisdiction in the matter, gives the committee authority to establish its internal operating procedures and is silent as to what kind of hearing, if any, is to be provided. It also gives the committee authority to make a recommendation regarding suspension or dismissal to the Faculty Judicial Board. The latter body, partially elected and partially appointed by the administration, also is given authority to establish its own procedures. It submits a recommendation to the president, whose decision on the matter is final.

Thus the faculty of OLHCC serve throughout their careers at the college on a year-by-year basis, being retained from one year to the next at the sole discretion of the president. If the decision is against retention, none of the safeguards called for in the Association’s *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* are available for the subject faculty member: adequate notice is not assured, the reasons for the decision against nonreappointment need not be given, and the decision is not subject to appeal. The drastic action of suspending or dismissing before an appointment’s academic year has run its course can be taken, not only without the administration first having demonstrated cause in a hearing of record before faculty peers as the 1958 *Statement* provides, but also without even stating the cause. The investigating committee views the system of faculty appointments at OLHCC as fundamentally at odds with the joint 1940 *Statement of Principles on Academic Freedom and Tenure*. It retains all faculty members indefinitely on renewable annual appointments yet does not provide even those procedural protections commonly associated with that status, thus creating an atmosphere in which academic freedom is in chronic jeopardy.

##### 2. PROCEDURES FOLLOWED IN PROFESSOR ECKHARDT’S CASE

The 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* calls as a first step,

when a professor's fitness to continue comes into question, for the appropriate administrative officers to discuss the matter with the professor. Father De Conciliis told the investigating committee when it met with him that Professor Eckhardt had received advance warning from his administrative superiors of his potential dismissal. During its meeting with the former academic vice president, who had made it clear that she had not been consulted about the action the president took, the investigating committee invited her comment on the alleged warning. Dr. Miranti denied emphatically that she had at any point conveyed a warning from Father De Conciliis. She provided the investigating committee with a copy of a letter she sent to the president two days after the Eckhardt dismissal in which she expressed her regret that she had not been consulted, her concern that Professor Eckhardt had not been notified of what was expected of him, and her worry about the negative impact of the decision on the morale of the faculty. She was asked about one brief sentence in her letter: "I did speak with Elroy and I did say to step back." That, she replied, was "friendly advice" and in no sense a warning.

If being warned is a significant component of academic due process and had Professor Eckhardt indeed been warned, it strikes the investigating committee that this would have been perhaps the only element of due process that was provided. In disregard of the applicable provisions of the 1940 and 1958 *Statements*, he was not informed in writing or orally of the grounds for dismissing him from his responsibilities prior to the expiration of his appointment and banning him from the campus; he was not afforded opportunity to contest the action in a hearing of any kind, before or after the dismissal, despite the stated existence of a Faculty Grievance Committee and a Faculty Review Board; and his being kept on the payroll for the remaining months of his contract did not provide him with adequate severance salary. The investigating committee accordingly finds that Professor Eckhardt was dismissed in violation of the procedural requirements enunciated in the 1940 *Statement of Principles* and derivative Association-recommended procedural standards.

### 3. THE PRESIDENT'S REASONS FOR THE DISMISSAL

As has been stated, Father De Conciliis did not provide Professor Eckhardt with any reason, either orally or in writing, for dismissing him from teaching and banning him from further appearance on campus. He declined to give a specific reason in explanation of his action at subsequent meetings with the faculty, in interviews with the local media, and in response to communications

from the Association's staff. He said on these occasions only that his action was "for the good of the college," that it was in concurrence with advice of legal counsel, and that his not discussing "personnel matters" was motivated by a concern for privacy.

At the outset of his meeting with the Association's investigating committee, Father De Conciliis stated that he would not be saying anything about specific features of the Eckhardt case. The investigating committee pressed him on the matter, however. Its arguments that elementary fairness would seem to require letting people know why they are dismissed apparently left him unmoved. A couple of times during the more than half an hour of discussion, the president used the word "threat," prompting the investigating committee to refer to the standard set forth in the 1958 *Statement*, threat of "immediate harm to the faculty member or others," for imposing a suspension. Father De Conciliis resisted comment on the magnitude as well as the nature of any threat Professor Eckhardt's continuance may have posed. Before departing, the investigating committee offered him and his fellow administrative officers its earnest advice that, whatever the outcome of the Eckhardt case, policy be adopted at OLHCC that affords professors subjected to dismissal a statement of cause and opportunity for a hearing.

The investigating committee's discussions with others, supporters and opponents of the president's action and Professor Eckhardt himself, did not bring forth any other considerations that the committee would think might have contributed significantly to the president's decision. Nothing was suggested regarding the professor's personal life, religious doctrine at this college with a strong church relationship, or any extramural social or political issues.

As to publicly known statements by Professor Eckhardt that could be construed as a "threat," he had referred in one of his e-mails to a heated discussion with the president during which he "almost came over the desk." Responding in a subsequent e-mail to an allegation that he had acknowledged threatening the president with physical harm, Professor Eckhardt stated that he had in no sense meant it literally and that the president spoke with him on later occasions when the conversation was quite civil. In addition, Professor Eckhardt in his e-mails and reportedly in his conversations with the president warned him that not continuing to implement the salary-equity plan would expose the college to legal liability. He also warned the president of legal vulnerability in not meeting the normal April 1 date for issuance of faculty contracts. Even if these warnings had been

construed by Father De Conciliis as indication that Professor Eckhardt would initiate litigation against the college or its president, the investigating committee does not see this as an explanation for Father De Conciliis's decision to act against Professor Eckhardt as he did. Summary dismissal in reaction to a threat of litigation would seem more likely to ensure litigation than prevent it.

Aware of no other credible explanation, the investigating committee is left with the opinion that Father De Conciliis's actions against Professor Eckhardt were triggered by the professor's persistent public dissent against the president's positions on the salary-equity plan and later also on postponing the date for issuing contracts, a dissent in which the professor identified himself as representing the OLHCC faculty. Professor Eckhardt remarked to the investigating committee that his intention was "to box Father in," and he reached the point in his increasingly sharp language in which he questioned Father De Conciliis's veracity as well as his judgment. As Dr. Miranti wrote, the relationship between Professor Eckhardt and the president, who told her that he "had been very patient regarding all of the communications," became unacceptable to the president. If Father De Conciliis's patience had run out and he was unwilling to put up with Professor Eckhardt for the remaining few months of his appointment while notifying him that he would not be reappointed, the investigating committee can in no way condone his having abruptly ended the relationship as he did. The drastic summary actions that he took are unacceptable to the Association and to the general academic community under virtually any circumstance. Professor Eckhardt acknowledges having been told by the president that "enough time had been spent discussing the salary equity plan," but the president could have responded to the professor pursuing the matter yet more vigorously with a written warning (there is a remarkable paucity of anything in writing directly from Father De Conciliis in the available paper record of this case) that the administration would have to take action if he did not desist. Assuming the essential accuracy of the investigating committee's opinion on the reasons for dismissing Professor Eckhardt, the committee finds that the president's move to dismiss him prior to the expiration of his appointment and banish him from the campus was a strong overreaction to the problem the president perceived.

#### 4. RAMIFICATIONS FOR ACADEMIC FREEDOM

Professor Eckhardt, in seeking the Association's assistance, asserted that his academic freedom had been violated through his dismissal from the faculty in retaliation for his effective endeavors as elected president of the Faculty

Senate in representing the faculty in disputes with the president over the salary-equity plan and the date for issuing contracts. (Questions have been raised about the extent to which Professor Eckhardt represented the faculty, as will be discussed briefly in the section that follows.) It is clear to the investigating committee that the Eckhardt dismissal has had adverse ramifications for academic freedom at OLHCC. A more complex question is whether the dismissal, however wrong the committee has found it to be procedurally and substantively, directly violated Professor Eckhardt's academic freedom.

The investigating committee has not encountered reason to believe that Professor Eckhardt would have suffered adverse consequences had he publicly stated and explained his opposition to the president's position on the equity plan (and later on the contract issuance date), had he procured the Faculty Senate's endorsement of his opposition, had he expressed regret for the president's not changing his position, and had that been that. The investigating committee sees Professor Eckhardt as having suffered dismissal not so much because of displeasure with his outspoken views on college issues as because of his insistence on continuing to press his views, not only disregarding the president's admonition that it was time to move on, but also publicly questioning the president's veracity. (Two staunch supporters of the president spoke disparagingly to the investigating committee about Professor Eckhardt's "disrespect for Father.")

The Association has consistently maintained that vigorously presenting one's views on matters of institutional policy, and indeed in reiterating those views more emphatically when they are resisted or ignored, warrants protection under principles of academic freedom. Professor Eckhardt's persistence doubtless annoyed the president and others, but the investigating committee does not see it as having approached the extreme dimension where its continuance would cease being protected speech.

Publicly challenging the veracity of the college president, however, if it were purposeful misrepresentation of fact, would certainly no more be protected by academic freedom in an intramural dispute than it would in scholarly discourse. If Father De Conciliis believed that Professor Eckhardt purposely made false accusations, he should have charged him with misconduct before a hearing body of faculty peers.

As indicated earlier, Professor Eckhardt's summary dismissal and his banishment from the campus, followed by the Faculty Senate's meeting on those actions and the Eckhardt press release (to be discussed below), struck the investigating committee as having made an already fragile atmosphere for academic freedom yet more precari-

ous. The investigating committee found itself meeting in New Orleans with OLHCC faculty members divided into two mutually hostile and mistrustful groups as a result of the Eckhardt case. The groups seemed to be about equal in size, as the Faculty Senate's 19 to 18 "no-confidence" vote in the president would suggest. The lesson to be drawn from the Eckhardt case, his supporters argued, is that academic freedom will exist at OLHCC only upon both adopting rules that provide tenure and due process and bringing about a sea change in campus attitudes. Father De Conciliis's supporters argued that those who served OLHCC with devotion would be one happy family if only others like Professor Eckhardt who regularly complained of things would also go away. The investigating committee fears that a relatively cohesive faculty at OLHCC with an appreciation for academic freedom will be a long time coming.

##### 5. THE ECKHARDT PRESS RELEASE

The press release and the reactions to it by nearly half of the full-time faculty have been described in some detail in part three of this report. Opponents of Professor Eckhardt, in their discussion with the investigating committee of his press release on the May Faculty Senate meeting, argued that, as senate president, he did not truly represent the faculty, despite his claim that he did and despite successive senate resolutions "unanimously" supporting an Eckhardt position. They argued that he dominated senate meetings to the extreme, insisting on having everything precisely his own way and showing contempt for and even humiliating those who ventured a different opinion. The result, they said, was that some stopped going to the meetings and others simply sat there silently, unwilling to experience the discomfort that would come from disagreeing with him. The investigating committee asked them whether the remedy for the situation they depicted should have been not the college president's dismissal of the senate president from the faculty but rather the faculty's voting no confidence (it could have been done by secret ballot) in the senate president they had elected.

As to the content of the press release (which was never published), the investigating committee did not hear much to rebut the argument that the release went beyond putting a pro-Eckhardt "spin" on the meeting. Professor Eckhardt's critics described it as irresponsibly deceptive, and people who otherwise supported him acknowledged that it was less than straightforward. The incident may have convinced some faculty members in retrospect that they should have put less credence in Professor Eckhardt's version of disputed facts and more in Father De Conciliis's, but no one seriously suggested

that the May Eckhardt press release justified the president's summary action against him in April.

## V. Conclusions

1. The Our Lady of Holy Cross College administration's actions to dismiss Professor Elroy W. Eckhardt from his academic responsibilities and ban him from further appearance on campus were taken in total disregard of the procedural requirements set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

2. The administration's move to dismiss Professor Eckhardt prior to the expiration of his appointment and to banish him from the college premises was a strong overreaction to the problems with Professor Eckhardt that the administration presumably perceived.

3. The atmosphere for academic freedom at Our Lady of Holy Cross College—fragile to begin with because all faculty members serve indefinitely on appointments for a single academic year renewable at the administration's discretion with nonrenewal not subject to appeal—became yet more precarious in the wake of the administration's actions against Professor Eckhardt.<sup>2</sup> ☞

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2. OLHCC's president, Father De Conciliis, responded to a pre-publication draft of this report with the following comments:

The college's position regarding personnel matters is very important to us, that is, personnel matters are private and are not to be discussed outside the college. I stand firm in my support of this position.

I am committed to the preservation of faculty and staff welfare in all matters, especially those that relate to human dignity and respect. I also expect that faculty and staff members respect the dignity of all at the college. I am committed to collaborative decision making; however, in some cases, the common good of the college must be primary. I am committed to the principles of academic freedom for the common growth of the college and its members. . . .

It seems that the report depends significantly on a very few people for information. Indeed, your conclusions do not seem to be supported by the majority of faculty at the college today, especially as they have had the time to reflect what was happening to the common good and on why the administration had to make such a difficult decision. . . .

Many agree with the decision I was forced to make for the common good of the college, which included the board members as well as my cabinet of administrators.



HIRSCHEL KASPER (Economics),  
Oberlin College, chair  
*Investigating Committee*

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

Chair: DAVID M. RABBAN (Law), University of Texas

Members: RONALD M. ATLAS (Chemistry), University of Louisville; LINDA COLLINS (Political Science), Los Medanos College; SHELDON KRIMSKY (Biomedical Ethics and Science Policy), Tufts University; SUSAN E. MEISENHELDER (English), California State University, San Bernardino; DAVID MONTGOMERY (History), Yale University; ROBERT C. POST (Law), Yale University; ADOLPH L. REED (Political Science), University of Pennsylvania; ANDREW T. ROSS (American Studies), New York University; CHRISTOPHER M. STORER (Philosophy), DeAnza College; ROGER W. BOWEN (Political Science), AAUP Washington Office, ex officio; MARY L. HEEN (Law), University of Richmond, ex officio; CARY NELSON (English), University of Illinois at Urbana-Champaign, ex officio; ERNST BENJAMIN (Political Science), Washington, D.C., consultant; JOAN E. BERTIN (Public Health), Columbia University, consultant; MATTHEW W. FINKIN (Law), University of Illinois, consultant; ROBERT A. GORMAN (Law), University of Pennsylvania, consultant; JEFFREY R. HALPERN (Anthropology), Rider University, consultant; LAWRENCE S. POSTON (English), University of Illinois at Chicago, consultant; MARTHA McCAUGHEY (Interdisciplinary Studies), Appalachian State University, liaison from Assembly of State Conferences.