

# Academic Freedom and Tenure

## AMERICAN INTERNATIONAL COLLEGE

### (Massachusetts)<sup>1</sup>

#### I. INTRODUCTION

**A**merican International College is a private institution located in the center of Springfield, Massachusetts. It enrolls about 200 students who are instructed by a faculty of approximately 150 in Schools of Arts and Sciences, Business Administration, and Psychology and Education, a Division of Nursing, and a College of Continuing and Graduate Studies. It offers a Bachelor of Arts degree, and additionally Bachelor of Science degrees in Business Administration and Human Services and Nursing. On the graduate level, it awards the M.A. degree in three fields, the degrees of M.A.T., M.B.A., M.Ed., and M.S. in Criminal Justice Studies, and a master's degree in Public Administration. This considerable variety of programs stems from what the College catalogue describes as "the best charter of any institution of higher learning in [Massachusetts]."

The College acquired its charter to "grant . . . and confer such honors, degrees, and diplomas as are granted or conferred by any university, college or seminary of learning in this commonwealth" in 1888, when, three years after its founding in Lowell, Massachusetts, as the French-Protestant College, it was offered financial aid and a site in Springfield to serve the French-Canadian population of the Connecticut Valley. Continuing to meet the needs of recent immigrants and decreasing its denominational emphasis, it changed its name to the French-American College in 1894. In 1905, it became known as American International College. Until the tide of immigration slackened in the 1920s, the College addressed itself to training in United States citizenship. It stressed instruction in the English language, American history and culture, and basic vocational skills. It survived a financial crisis over the next decade by redirecting its programs to meet the needs of native born students in its immediate geographical

area. By 1935, its 300 students were "predominantly American." The College was first accredited by the New England Association of Schools and Colleges in 1933.

The subsequent history of American International College reflects its continued adaptability. It established evening and summer schools in the 1940s. Servicing what it called its "zooming enrollment" after the Second World War, the College: created its graduate program in education in conjunction with the Springfield public schools in the late 1940s; ran two overseas branches during the 1950s for U.S. airmen stationed in Bermuda and the Azores; conducted a "training program for skilled artisans from Marshall Aid countries"; designed an executive development program leading to an M.B.A. in the late 1950s; and conducted degree-eligible courses for "several thousand" servicemen and civilians stationed at Westover Air Force Base in nearby Chicopee throughout the 1960s and until the base was "deactivated" in 1974. In the 1960s, like other colleges, it greatly expanded its physical facilities, adding eleven new buildings. In the 1970s, it added its programs in nursing and criminal justice as well as programs in special education, in learning disabilities, and, after acquiring an endowed Chair of Free Enterprise, in economic education.

Dr. Harry J. Cournotes, the current president of American International College, began there as a member of the faculty in 1946 and was appointed to his present position in 1969. He is accountable to a thirty-member board of trustees, twenty-seven of them men who are corporate and bank managers or officers and attorneys, all drawn from locally based firms; the three others are women who are identified simply as "community leader" or "educator."

#### II. POLICY ON TENURE AND THE CASE OF PROFESSOR PROVOST

Mr. Paul E. Provost was initially appointed to the American International College faculty, at the rank of instructor in the Department of Philosophy, for the

1967-68 academic year. He was then doing graduate work in philosophy at New York University. The policy on tenure in effect at the College at that time

<sup>1</sup>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 teacher at whose request the investigation was conducted, to the administration of American

International College, to the chapter president, 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 staff, the report has been revised for publication.

provided for continuous tenure for faculty members holding professorial ranks upon reappointment following a probationary period: four years for professors; five years for associate professors; and six years for assistant professors. In 1971, at the end of his fourth year of service, Mr. Provost was promoted to the rank of assistant professor and reappointed for a two-year term. President Cournotes, in notifying him of the promotion, referred to his lack of a master's degree (he had embarked on a doctoral program without it) and to his consequent inability to be continued at the College should he complete his probationary period without having completed the requirements for the doctorate and with nothing more than a bachelor's degree.

Through Professor Provost's first four or five years of service at American International College, tenure seems to have been granted to faculty members routinely upon the completion of their probationary periods. By 1972, however, student enrollment was no longer increasing and the size of the faculty was no longer expanding. President Cournotes wrote on September 28, 1972, to eight members of the faculty, including Professor Provost, who were approaching the end of their probationary service. He stated that virtually the entire current faculty would have tenure in another three years under existing policies and trends, according to projections, unless those becoming eligible for tenure were not retained. He informed them that the tenure system at the College was being reviewed to decide whether it should be eliminated or modified. He invited the eight faculty members "to waive any and all tenure rights under the present tenure provisions," in return for which all except Professor Provost would receive two-year contracts with no reduction in rank or salary and with notification by October 1 of the second year if the contract was not renewed.

Professor Provost was offered only a one-year contract because he lacked the master's degree. He had by then accumulated seventy-two course credits towards his doctorate, had passed his language requirements and comprehensive examinations, and had started work on his dissertation. The following year, New York University changed its position on awarding a master's degree to doctoral candidates and the degree was granted to Professor Provost. His lack of the degree until the 1973-74 academic year was not an issue in the events that followed.

The eight faculty members met among themselves, with President Cournotes, and with a local attorney. According to what some of them later said to the undersigned *ad hoc* investigating committee, they became convinced that the president would deny tenure to some among them and release them if they resisted the waiver. The attorney advised them that they had little legal recourse. They all signed the waiver. Within a few years, six of the eight faculty members were granted tenure, one was released following a severe decline in enrollments in his department, and Professor Provost, as will be explained, was serving annually on a "terminal" contract.

New tenure regulations for American International

College, with an extremely complex "Schedule for Decisions Concerning Tenure (with implications)" and an accompanying "place value lexical," were approved by the faculty on March 1, 1974, and became effective on September 1 of that year. The regulations state that a decision to extend an appointment beyond the ninth year of service, if neither tenure nor the issuance of a one-year "terminal" contract (as opposed to a multi-year renewable contract) has resulted by then, "will be a decision to grant tenure to the faculty member when a tenured position in his department becomes available. The determination of the availability of tenured positions is the sole responsibility of the administration." With respect to a "terminal" contract, the regulations state that although it "should be considered to be terminal, the administration reserves the prerogative to grant an extension of this or any subsequent contract." Accordingly, either through lack of an available tenured position as determined by the administration or through being placed on "terminal" status, a faculty member at the College can be retained indefinitely on term appointment at the administration's pleasure. The regulations specified that the service of Professor Provost, because he had signed a waiver of his tenure rights under the previous policy and because he had not been granted tenure or reappointed with a multiyear contract, would henceforth be terminal at the discretion of the administration.

Each year through 1979, Professor Provost was offered a one-year "terminal" contract which, until 1979, was annually renewed. On December 7, 1979, President Cournotes wrote to inform Professor Provost that he would not be offered a contract for the next academic year and that his affiliation with the College would end on July 31, 1980. Professor Provost thus received eight months of notice that his thirteenth year of continuous service to American International College would be his final year. His last seven contracts at the College had been "terminal."

Some months prior to the commencement of what proved to be Professor Provost's final year on the faculty, the local AAUP chapter at American International College had petitioned the National Labor Relations Board for certification as the faculty's exclusive representative for purposes of collective bargaining. A hearing on the petition was held by the board's regional office in Boston in April and May, 1979, with the College administration objecting to certification on grounds, like those asserted in the case of Yeshiva University, that the members of the faculty were essentially managerial. Even before the U.S. Supreme Court issued its decision on Yeshiva University in February, 1980, the board's regional office director referred the case of American International College to the board in Washington. At this writing, the case still remains undecided.

Professor Provost had played an active role in the AAUP chapter's presentation at the hearing on certification. When he received notice the following December that his current appointment would indeed be terminal—a notice against which he had no avenue of appeal within the College—the chapter in his behalf promptly filed a charge against the College administra-

tion of unfair labor practice, asserting that the action to terminate his services was violative of his rights under the National Labor Relations Act. In January, 1980, an investigator from the board's regional office visited the College for two days in connection with this and other charges. On February 8, the board's regional director found Professor Provost's charge justified and issued a complaint against the administration and a notice of hearing before an administrative law judge on July 15, 1980. The hearing was postponed at the request of counsel for the administration first until November and then, at the administration's further request, rescheduled until such time as the primary case over certification has been decided by the National Labor Relations Board. The complaint against the administration of an unfair labor practice in Professor Provost's case thus remains open and unheard.

Professor Provost also sought assistance from the American Association of University Professors. The Association's staff wrote to President Cournotes on January 31, 1980, setting forth its concern that the administration's action to terminate Professor Provost's services, taken long after those services had exceeded the seven years of probation permitted under the 1940 *Statement of Principles on Academic Freedom and Tenure* and unaccompanied by a statement of specific cause and opportunity for a hearing, appeared to deny Professor Provost his rights under the 1940 *Statement of Principles*. President Cournotes's reply, sent on March 12, was brief. He acknowledged the January 31 letter and went on to say that "in view of the fact that there is a complaint before the NLRB, which is in the process of adjudication, regarding Professor Provost, I do not believe it is appropriate to comment at this time."

Subsequent letters sent by the staff to President Cournotes, in April and in October, 1980, went unanswered. After several additional months, during which awaited actions by the National Labor Relations Board did not materialize, the Association's general secretary authorized an investigation, and President Cournotes was so notified by letter of July 21, 1981.

The undersigned *ad hoc* investigating committee was appointed, and its names were transmitted to President Cournotes on August 12. Six days later, the president telephoned the member of the staff who had been writing to him. He requested that the Association "disinvite" the investigating committee because he had been advised by counsel not to meet with the committee while the charge against the administration of unfair labor practice was pending.

With the administration unwilling to cooperate, the investigating committee relied on the president of the AAUP chapter, Professor Lawrence Habermehl, for arrangements for interviews. The committee, after examining the available documentation, made three day-long visits to American International College on November 6, 13, and 30, 1981. No member of the administration accepted an invitation to meet with the committee. Meetings were held, however, with Professor Provost, with four now-tenured faculty members who signed the 1972 waiver of tenure rights, with a member of the Faculty Steering Committee (the body responsible for, among other things, the processing of faculty grievances), with the secretary of the faculty during the period of transition from 1972 to 1974 and the adoption of the current tenure regulations, with the professor of mathematics who designed the "lexical" that tracks faculty appointments under the regulations, with the retired chairman of the Department of Philosophy who had initially recruited Professor Provost, and with Professor Habermehl, who is presently chairman of the department and its sole member. Although the faculty members who met with the committee were courteous and communicative, a number of interviews that had been arranged were cancelled, rescheduled, and cancelled again. The committee found that it was unable to speak with faculty members who were generally sympathetic with the administration's action until late in the day of its third and final visit, just as the committee was about to give up hope of any such contact.

### III. ISSUES

#### A. *Safeguards of Tenure and the Action Against Professor Provost*

The 1940 *Statement of Principles on Academic Freedom and Tenure* provides for continuous tenure after a probationary period that should not exceed seven years. Termination of tenure, except for retirement for age or under extraordinary circumstances because of financial exigency, can occur under the 1940 *Statement of Principles* only for adequate cause, with opportunity for a hearing before a faculty committee and with affordance of other safeguards of academic due process.

Professor Provost was in his thirteenth year of service when the administration notified him that he would not be retained beyond that year. As to cause for the action, President Cournotes's notification of December 7, 1979, stated simply that it was issued with

the concurrence of all of the academic administrators and that the decision was "part of our overall and continuing evaluation of personnel not on tenure and our review of all other pertinent factors concerning the College's teaching personnel requirements." Professor Provost requested a more specific explanation. President Cournotes, replying on December 21, stated that "in accordance with the Faculty Handbook, your contract is understood to be a terminal one, and there were no compelling reasons for the administration to renew it." He stated further that the administration, in its review of the contracts of all nontenured faculty members, considered three questions: the overall needs of the particular department; the comparative needs of other departments; and how, if a search for a new person were conducted, the qualifications of the current faculty would compare with those of others

who were available. "When the administration evaluated the answers to these questions in your particular case," President Courniotes stated to Professor Provost, "the answers were such as to result in the decision not to renew your contract." This was all that Professor Provost received from the administration by way of reasons for its decision not to retain him, and he had no opportunity for a hearing at American International College. The notice that he received was inadequate by several months when measured against the year of notice that the 1940 *Statement of Principles* provides.

The investigating committee appreciates that Professor Provost signed a waiver, written into each of his seven "terminal" contracts, of tenure rights such as those noted above. While the regulations of American International College may allow such a waiver, however, the 1940 *Statement of Principles* does not. It affords the rights of tenure to all full-time faculty members who are retained beyond the maximum period of probation. Moreover, Professor Provost's case was not one in which he sought out continued service without tenure because he anticipated that an impending evaluation of his qualifications for tenure would go against him on the merits. Rather, the College administration in 1972 went to him and to all others who were approaching the time for a decision on tenure, indicated to them that if they were candidates for tenure some might be denied it because too many of the current faculty were obtaining tenure, and invited them to avoid taking an immediate risk by signing a waiver of tenure rights in return for a period of assured further appointment while a new tenure policy was being formulated. The investigating committee rejects the proposition that Professor Provost, in signing the waiver together with the seven others as it was put to them by the administration, divorced himself for the next year and all the years that followed from the rights of tenure that prevail in the academic profession.

The investigating committee finds that the American International College administration acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* by dismissing Professor Provost at the end of his thirteenth year of service without stating specific cause for its action and without affording him the opportunity for a hearing and other protections of academic due process.

#### B. Professor Provost's Union Activities

As was stated earlier, Professor Provost has alleged that his activities to gain representation rights for the AAUP chapter for purposes of collective bargaining constituted the basis for the administration's decision not to renew his "terminal" contract for the 1979-80 academic year as it had renewed his six previous "terminal" contracts, and the AAUP chapter filed a charge of unfair labor practice on this matter which as of this writing still remains unadjudicated by the National Labor Relations Board and may never be adjudicated if the prior issue of certification is not resolved in the chapter's favor.

What constitutes protected conduct in labor organizing under the National Labor Relations Act may well involve considerations that are distinct from conduct protected by academic freedom under the 1940 *Statement of Principles*. Still, the investigating committee does not doubt that a professor who speaks out publicly in behalf of collective bargaining for faculty members at his institution is engaging in protected conduct under principles of academic freedom and that a serious issue of academic freedom is raised by Professor Provost's allegation.

The investigating committee, in examining this issue, notes that the administration retained Professor Provost year after year and dismissed him only after he became active in attempting to establish a faculty union. It notes also that the regional director of the National Labor Relations Board, after a preliminary investigation, found Professor Provost's allegation sufficiently justified so that he issued a complaint against the administration. The committee notes, on the other hand, that no hearing has been held on that complaint. It notes also that the administration did not replace Professor Provost in the Department of Philosophy, which is staffed now solely by Professor Habermehl, and that this suggests, as did President Courniotes's very general letter of explanation to Professor Provost, that the president's action was motivated at least in part by a wish to reduce the size of the department. The investigating committee discussed Professor Provost's allegation with him and with other faculty members, but it was unable to discuss it with President Courniotes or with other administrative officers who supported the president's action. The administration had declined to meet with the committee on grounds that the complaint against it of unfair labor practice in Professor Provost's case was under adjudication, and the committee can appreciate the administration's reluctance to talk with a committee of the Association about its reasons for acting against Professor Provost while a charge filed by the Association's local chapter with the National Labor Relations Board on this very matter remained unresolved. Conceivably, if the administration had been generally interested in cooperating with the Association's investigation, conditions for discussion could have been arranged that would have safeguarded the administration from any resulting damage to its position in the case before the labor board. In any event, the administration would not discuss the case with the investigating committee, and without having had the opportunity for that discussion the committee cannot reach a determination as to whether the action against Professor Provost was based significantly on considerations violative of his academic freedom.

A suspicion of violation of academic freedom nonetheless lingers, in the investigating committee's judgment, a suspicion which would not have arisen had the administration afforded Professor Provost the protections of academic due process. A hearing on stated charges, as called for by the 1940 *Statement of Principles*, would have allowed Professor Provost to pursue the academic freedom issue in presenting his defense. Professor Provost was, of course, not recognized at Ameri-

can International College as having attained tenure, but nontenured faculty members are entitled under the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* to the reasons for a decision against reappointment and to a hearing if they allege that the reasons were based on factors violative of their academic freedom. Professor Provost, however, in his longtime status at American International College as a "terminal" appointee, was denied any such procedural protections. As a result, the issue of whether or not the College administration violated his academic freedom has been allowed to remain open to speculation.

### C. The College Regulations and Conditions for Academic Freedom and Tenure

American International College, in the preamble to the tenure regulations that it adopted in 1974, holds that the regulations "do not compromise the tradition of tenure which the profession has, largely through the efforts of the AAUP, developed over the years." The investigating committee believes that those at the College who made this assertion are greatly mistaken. Prominent in the regulations is the highly complex "Schedule for Decisions Concerning Tenure (with implications)" that says little about qualitative decisions, emphasizes that affirmative decisions are the administration's prerogative, and concentrates on lengths of contracts, dates of notice, and how many months of "guaranteed job security" each decision on renewal

or nonrenewal will bring. The regulations allow nine years for a decision on whether a faculty member qualifies for tenure, and they allow for indefinite service without tenure after that time until the administration may decide, a determination which is its "sole responsibility," that a tenured position has become available. They allow, as has been seen in Professor Provost's case, for a paradoxically unlimited "terminal" appointment which, once initiated, can continue through the years at the administration's pleasure with no further entitlement to evaluations, reasons for eventual termination, or opportunity for review.

The investigating committee regrets that members of the faculty of American International College joined in formulating these arrangements and voted to adopt them. Whatever may have been their sense of insecurity, their action reflects a purchase of a limited amount of job security at the price of surrendering the long-range professional protections inherent in the 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative Association standards for academic due process. It is the investigating committee's judgment that under the current tenure regulations academic freedom at American International College cannot be assured.<sup>2</sup>

<sup>2</sup>The Association has long maintained that inadequate protections for principles of academic freedom and tenure are no more acceptable if adopted by action of the faculty than by that of the administration. See "Academic Freedom and Tenure: Smith College," *AAUP Bulletin*, Spring 1946, pp. 146, 147.

## IV. CONCLUSIONS

1. The administration of American International College acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* in the case of Professor Paul E. Provost by dismissing him after thirteen years of service without setting forth specific cause for its action and without offering him a hearing and other safeguards of academic due process.
2. The validity of Professor Provost's allegation that he was dismissed because of his activities in behalf of a faculty union, and thus the possibility that his academic freedom was violated by the American International College administration, has been permitted by the administration, in not allowing for a hearing on the matter, to remain open to speculation.
3. The current tenure regulations of American International College, by allowing indefinite faculty service without the protections of tenure and in some cases without even minimal procedural safeguards, leave academic freedom at the College unassured.

STANLEY J. YOUNG (Management),  
University of Massachusetts,  
Amherst, *chairman*

MARJORIE R. KAUFMAN (English)  
Mount Holyoke College

*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, *chairman*

MEMBERS: BERTRAM H. DAVIS (English), Florida State University; ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; WALTER P. METZGER (History), Columbia University; JACK L. NELSON (Education), Rutgers University; THOMAS M. SCANLON, JR. (Philosophy), Princeton University; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology; WILLIAM W. VAN ALSTYNE (Law), Duke University; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; IRVING J. SPITZBERG, JR. (Education and Policy Studies), Washington Office, *ex officio*; VICTOR J. STONE (Law), University of Illinois, *ex officio*; RALPH S. BROWN (Law), Yale University, *Consultant*; CLARK BYSE (Law), Harvard University, *Consultant*; PETER O. STEINER (Law), University of Michigan, *Consultant*; CAROL SIMPSON STERN (Interpretation), Northwestern University, *Consultant*.

# Developments Relating to Censure by the Association

**M**embers of the Association's staff, acting on behalf of Committee A on Academic Freedom and Tenure, communicate during the course of each year with administrations under censure. The staff offers its assistance and that of Committee A in bringing about developments at the institution which would enable the committee to recommend to the annual meeting that the censure be removed. A summary of developments at institutions on the list of censured administrations appears annually in the issue of *Academe* (prior to 1979, the *AAUP Bulletin*) that immediately precedes the annual meeting.

The statements that follow, in chronological order according to the date of imposition of censure, constitute my appraisal of developments at the listed institutions for the year preceding April 15, 1983. Relevant actions of significance which occur after April 15 will be reported to Committee A, the council, and the annual meeting at the sessions of these bodies in Washington, D.C., on June 13-18, 1983.

The list of censured administrations, appearing elsewhere in this issue, cites the published reports that were the basis for the censure in each case.

JORDAN E. KURLAND  
Associate General Secretary

## **South Dakota State Colleges and Universities under South Dakota Board of Regents<sup>1</sup>**

The forty-eighth annual meeting in 1962 directed censure against the Board of Regents of Education of the State of South Dakota. The censure followed an investigating committee's report on the regents' dismissal, without the protections of academic due process, of a professor who had been on the South Dakota State University faculty for fifteen years.

The Association's staff has continued over the past year to correspond with the administration of South Dakota State University, but no specific progress can be reported.

## **Grove City College (Pennsylvania)**

In 1963, the administration of Grove City College was censured by vote of the forty-ninth annual meeting after the administration dismissed an experienced professor without a hearing and other safeguards of academic due process.

<sup>1</sup>Censure was voted on the board of regents with respect to a case which occurred at South Dakota State University. The 1982 annual meeting determined that the regents also now have sole responsibility with respect to a case of summary dismissal which occurred in 1966 at Northern State College.

Dr. Charles S. MacKenzie, president of the College since 1971, has not responded to invitations from the staff this past year to provide a basis for discussion of the censure and its potential removal by furnishing a copy of the current official policies of Grove City College.

## **College of the Ozarks (Arkansas)<sup>2</sup>**

Censure was voted specifically on the Board of Trustees of the College of the Ozarks by action of the fiftieth annual meeting in 1964. The investigating committee's report preceding the censure found that the board had dismissed a professor without protections of academic due process as provided in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

The staff this past year has been in correspondence with the new president of the College of the Ozarks and with a faculty committee about prospective changes in revised College regulations. The case that initially occasioned investigation and censure remains unresolved.

## **Nebraska State Colleges<sup>3</sup>**

Censure was voted specifically against the governing board by the fifty-first annual meeting in 1965. The action followed a published report which found that the contract of a newly appointed instructor at Wayne State College was abrogated in violation of his academic freedom and without requisite safeguards of academic due process.

A new president of Wayne State College has been in communication with the staff about steps that might be taken to effect removal of the censure. The staff has provided a review of the current regulations relating to academic freedom and tenure. They remain seriously deficient when measured against applicable Association standards.

## **Amarillo College (Texas)**

The investigating committee's report on Amarillo College dealt with a series of actions against a faculty member with fifteen years of service. The report found that the administration acted, in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure*, first to reduce this faculty member to part-time status, then to suspend her, and then summarily to dismiss her. Censure was imposed in 1968 by the fifty-fourth annual meeting.

The staff has proposed modifications of the College regulations which would bring them into closer conformity with Association-supported standards, but President H. D. Yarbrough this past year informed the staff that a faculty committee has voted to retain the current regulations for the foreseeable future. The issue of redress for the dismissed faculty member remains unresolved.

<sup>2</sup>Censure was voted on the board of trustees.

<sup>3</sup>Censure was voted on the Board of Trustees of the Nebraska State Colleges with respect to a case which occurred at Wayne State College.

### **Southern University (Louisiana)**

The 1968 annual meeting voted censure on the administration of Southern University following a published report on one case of summary dismissal, two cases of broken commitments by the administration, and several cases of seriously late notice of nonreappointment. Two cases of summary dismissal in 1972 and additional cases of late notice were reported in succeeding years' accounts of "Developments Relating to Censure."

Faculty proposals for changes in the institutional regulations, noted last year, still await action by the Southern University administration. Issues of redress are as yet unresolved.

### **Troy State University (Alabama)**

The fifty-fifth annual meeting in 1969 imposed censure on the Troy State University administration pursuant to an investigating committee's report which found that the administration had terminated the services of a nontenured instructor for reasons which violated his academic freedom.

Last year's account of "Developments Relating to Censure" reported a new case that occasioned the Association's concern. A faculty member whose services had exceeded the maximum probationary period permitted under the 1940 *Statement of Principles* was released by the administration with only four months of notice.

Correspondence between the administration and the Association's staff has continued over the past twelve months. The administration has informed the staff that revisions in the University policies, proposed by the staff three years ago, are still under consideration.

### **Frank Phillips College (Texas)**

The 1969 annual meeting imposed censure on the Frank Phillips College administration following a published report on the summary dismissal of a faculty member as she was concluding her tenth year of service.

This year, as last, the staff's invitations to the president of Frank Phillips College to resume discussions of the censure have received no response.

### **Central State University (Oklahoma)**

The investigating committee's report concluded that the administration of Central State University dismissed a tenured professor for reasons which were in violation of his academic freedom. The fifty-fifth annual meeting placed the institution on the Association's list of censured administrations.

The staff has received no reply over the past year to its reiterated suggestions to President William J. Lillard for review of the outstanding issues relating to the censure.

### **Laredo Junior College (Texas)**

The fifty-seventh annual meeting in 1971 acted to impose censure on the Laredo Junior College administration. Censure was based on the findings of an investigating committee that a tenured faculty member was dismissed in violation of the 1940 *Statement of Principles* and of stated College policy.

The Laredo Junior College administration, this past year as in previous years, has been unresponsive to communications from the staff seeking to encourage discussion of outstanding issues.

### **Southern Arkansas University**

The Southern Arkansas University administration was placed on censure by the 1971 annual meeting after it terminated

the services of three faculty members. The investigating committee concluded that violations of academic freedom occurred in the dismissal of a tenured faculty member and in the nonreappointment of a probationary faculty member and that all three faculty members were denied requisite safeguards of academic due process.

Correspondence this past year between the staff and the president of the University has led to no change in position on the unsettled issue of redress. As reported in last year's "Developments Relating to Censure," the president has reiterated that the governing board is hostile to any expenditure of funds on the matter while the staff has reiterated its hope that the board can be persuaded to modify its stance.

### **Tennessee Wesleyan College**

The fifty-seventh annual meeting voted to censure in this case following a published report which concluded that a tenured professor had been dismissed without the protections of academic due process to which she was entitled under the 1940 *Statement of Principles* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

The official policies of the College, as has previously been reported, are in accord with applicable Association standards. Earlier this year the president took a step towards providing redress to the dismissed faculty member but the matter has not been resolved. Efforts to settle this issue are continuing.

### **Onondaga Community College (New York)**

By vote of the fifty-eighth annual meeting in 1972, the Onondaga Community College administration was censured for having terminated the services of a professor for reasons which the Association's investigating committee found to be violative of his academic freedom.

As a result of the staff's correspondence in recent months with President Andreas A. Paloumpis, the president's office has provided the staff with copies of the faculty handbook and the collective bargaining agreement currently in force at the College. The staff has prepared comments on the applicable provisions of these documents as a basis for discussion of the governing regulations on academic freedom and tenure.

### **Armstrong State College (Georgia)**

The administration of Armstrong State College was placed on censure by the 1972 annual meeting. The published report dealt with the suspension of a nontenured faculty member without demonstration of a threat of immediate harm, a suspension that was kept in force until the faculty member's appointment expired. The report concluded that the action was tantamount to a dismissal in violation of the 1940 *Statement of Principles*.

An interim president who took office within the past year moved quickly to address the outstanding issues relating to the censure. Agreement on a settlement of the case of the dismissed faculty member has been reached. Changes in the institutional regulations that were recommended by the staff have been made. Committee A will review current developments at Armstrong State College when it meets just prior to the annual meeting in June.

### **Colorado School of Mines**

The Colorado School of Mines was placed on the list of censured administrations in 1973 by the fifty-ninth annual meeting. The investigating committee's report found that a professor in his eighteenth year of service was released without the safeguards of academic due process. The report

concluded that the School lacked a recognizable system of academic tenure.

Last summer, following a visit by a staff member to the School of Mines, the staff provided the administration with a detailed critique of the current institutional regulations on academic freedom and tenure. The administration recently sent proposed revisions to the staff for its comments. The issue of redress remains unresolved.

#### **McKendree College (Illinois)**

This censure was imposed by the fifty-ninth annual meeting after the McKendree College administration dismissed a nontenured faculty member. The published report found that the faculty member had been denied academic due process and that his case raised serious issues concerning the climate for academic freedom at McKendree College.

As has been previously noted in "Developments Relating to Censure," the board of trustees has adopted Committee A's *Recommended Institutional Regulations on Academic Freedom and Tenure* as official College policy. The staff and the officers of the Association's Illinois conference have communicated with the College administration this past year on the unresolved issue of redress, but no specific progress can be reported.

#### **Rider College (New Jersey)**

The 1973 annual meeting placed the Rider College administration on censure after it acted to terminate the services of a professor at the conclusion of his thirteenth year on the faculty. The investigating committee's report found that the professor had been denied the safeguards of academic due process set forth in the 1940 *Statement of Principles* for faculty members who have served beyond a seven-year maximum period of probation.

The staff this past year has continued discussions with the administration and with the local AAUP chapter, which is the faculty's representative for collective bargaining. While the issue of redress is as yet unresolved, recent discussions have centered on official College policies, particularly the provisions in the collective bargaining agreement governing dismissal for cause. A new three-year agreement, like its predecessor, incorporates procedures which are deficient when measured against the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

#### **Camden County College (New Jersey)**

Camden County College was placed on the Association's list of censured administrations by action of the sixtieth annual meeting in 1974. Censure followed a published report describing the summary dismissal, with no further payment of salary, of an instructor in the middle of his initial year of appointment. A collective bargaining agreement in force at the College was found to be seriously deficient in affording academic due process.

As has been his pattern since censure was first imposed, President Otto R. Mauke has not responded to the staff's invitations this past year to open discussion of the censure and its potential removal.

#### **Voorhees College (South Carolina)**

The vote of the 1974 annual meeting to censure the Voorhees College administration resulted from an investigating committee's report on the abrupt dismissal of five faculty members after they had been given notice of nonreappointment. The report concluded that the administration had not

demonstrated adequate cause for dismissal and that one case raised a serious issue of academic freedom.

Shortly after the imposition of censure, the College policies on academic freedom and tenure were brought into substantial accord with applicable Association-supported standards. The College administration this past year has expressed interest to the staff in settling the outstanding issue of redress and has indicated that the matter will be raised with the board of trustees.

#### **Virginia Community College System**

The sixty-first annual meeting in 1975 imposed this censure, which followed a published report on actions by the chancellor and the State Board for Community Colleges to end any further granting of tenure in the twenty-three colleges comprising the Virginia Community College System. The report found that these actions were taken without previous faculty knowledge and contrary to manifest faculty will. It found also that new procedures governing faculty appointments left all faculty members in the system with much less procedural protection than they would receive under the Association's applicable recommended standards.

The current chancellor of the system, Dr. James H. Hinson, Jr., just recently informed the staff that he is leaving office in July but that he will refer his successor to recommendations for revisions in the system's policies that the staff proposed in 1980 as a potential basis for achieving removal of the censure.

#### **Concordia Seminary (Missouri)**

The investigating committee's report found that the services of a Concordia Seminary professor were terminated because external ecclesiastical authorities objected to the professor's beliefs on matters which were within his academic competence. The report concluded that the action violated the 1940 *Statement of Principles on Academic Freedom and Tenure*. The 1975 annual meeting voted to impose censure.

The staff this year has again informed the Concordia Seminary administration of its interest in pursuing substantive discussions on outstanding issues of concern, but no progress towards a resolution of these issues can be reported.

#### **Houston Baptist University**

The sixty-first annual meeting imposed censure on the Houston Baptist University administration pursuant to a published report on the termination of a professor's services, without stated cause and affordance of academic due process, after he had served beyond the maximum probationary period. The report dealt also with the abrogation of the institution's tenure system by the board of trustees.

The administration this past year has again not conveyed any interest in resolving the case that led to censure or in restoring the system of tenure at Houston Baptist University.

#### **Murray State University (Kentucky)**

Censure was voted in 1976 by the sixty-second annual meeting after an investigating committee reported on the termination, without showing of adequate cause, of the appointments of nine faculty members whose service had exceeded the seven years of probation allowed under the 1940 *Statement of Principles*. The report found that the Murray State University administration had taken these actions in disregard of the appropriate role of the faculty as set forth in the *Statement on Government of Colleges and Universities*.

Correspondence on the censure among the staff, the administration, and local AAUP representatives has con-



tinued through this year, and the staff met recently with the outgoing president of the University. Specific progress towards resolving outstanding issues is not yet evident, however.

#### **Arizona State University**

The 1976 annual meeting placed Arizona State University on the list of censured administrations as the result of a published report on action by the board of regents to dismiss a tenured professor. The report concluded that the dismissal violated the professor's academic freedom on several counts and that it was substantively and procedurally violative of the 1940 *Statement of Principles*.

Two years ago, the regulations governing Arizona State University were brought into substantial conformity with recommended Association standards relating to academic freedom and tenure. Subsequent discussions focused on the issue of redress. This past winter the University administration transmitted to the staff an offer of cash payment to the dismissed professor. The professor has informed the staff that he will accept the offer as settlement of his case. Committee A will review these developments at its June meeting.

#### **Blinn College (Texas)**

The administration of Blinn College was censured by vote of the sixty-second annual meeting following an investigation of the termination of the services of sixteen faculty members. Eight of the sixteen were found to have been entitled to the protections of tenure under the 1940 *Statement of Principles* yet were denied requisite academic due process. The other eight were found to have been denied the safeguards for nontenured faculty provided in the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*.

Again this past year, the staff has notified the president of Blinn College of its interest in commencing discussions on the censure. The president has remained unresponsive.

#### **Marquette University (Wisconsin)**

The published report which preceded censure describes the termination of a tenured professor's appointment following his resignation from a religious order and his release from religious vows. The report concluded that the Marquette University administration had not afforded the professor academic due process as required under the 1940 *Statement of Principles*. Censure was imposed by the 1976 annual meeting.

The staff's correspondence with the administration this past year has revealed no change in the administration's position that it acted properly in the case of concern.

#### **University of Texas Health Science Center at Houston**

This censure, voted by the sixty-third annual meeting in 1977, followed a published report on the summary suspension and dismissal of a faculty member who was engaged in laboratory research. The report found that the administration took these actions in violation of the 1940 *Statement of Principles* and in disregard for the safeguards set forth in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

The staff was informed a short time ago that there has been recent progress towards achieving a resolution of the case of the dismissed faculty member. Differences relating to the institution's regulations as compared with applicable Association standards governing academic freedom and tenure remain unresolved.

#### **City University of New York**

The 1977 annual meeting placed the City University of New York on the list of censured administrations on the basis of an investigating committee's report on the financial emergency confronting the City University during the 1975-76 academic year and the termination of the appointments of some 1000 full-time faculty members the following summer. The report, while recognizing the financial burden under which the University had to operate, emphasized severe deficiencies in the institution's official procedures for terminating appointments on grounds of financial exigency: inadequate faculty participation in decisions to terminate appointments; opportunity for review only on very limited issues; and assurance of only thirty days of notice.

Since the beginning of the 1982-83 academic year, the staff, the officers of the AAUP chapter (the Professional Staff Congress), and the University administration have held ongoing discussions in an effort to achieve requisite modifications in the University's procedures governing financial exigency. Significant progress has been made. These discussions are expected to continue in the weeks immediately ahead.

#### **University of Osteopathic Medicine and Health Sciences (Iowa)**

The Association's sixty-third annual meeting placed censure on the administration of the University of Osteopathic Medicine and Health Sciences. An investigating committee had found that the administration violated the 1940 *Statement of Principles* in summarily suspending and then dismissing a tenured professor and in banishing a nontenured professor from the campus.

President J. Leonard Azneer, responding this past year to a letter from the staff, stated that he considers the cases of the faculty members to be closed because litigation in their behalf proved unsuccessful. The staff has replied that the Association's concerns over violations of academic freedom and due process in these cases have not abated.

#### **Wilkes College (Pennsylvania)**

The investigating committee found that actions by the Wilkes College administration to terminate the services of four faculty members, each of whom had taught at the College for more than seven years, were in violation of the 1940 *Statement of Principles*. Cause was not demonstrated, nor were other protections of academic due process provided. Censure was voted by the 1977 annual meeting.

The staff has been informed of progress this past year at Wilkes College in bringing the official policies on academic freedom and tenure into closer conformity with the Association's recommended standards. Issues of redress remain unresolved.

#### **State University of New York**

The sixty-fourth annual meeting voted censure on the administration of the State University of New York in 1978 following a published report concerning the dismissal of more than one hundred tenured and nontenured faculty members. The report concluded that the administration had not demonstrated a *bona fide* financial exigency that required the termination of tenured appointments. It found that the dismissals, which occurred on several campuses, were overseen by the central administration with little concern for the rights of tenure, for the role of the faculty in academic government, and for adequate notice. The report found that the administration apparently acted in accordance with the provisions on retrenchment in the collective bargaining agree-

ment with the faculty. As the report emphasized, however, the fact that an action may be contractually permissible does not determine its soundness under widely accepted academic standards.

The chancellor of the State University of New York, in responding to letters from the Association's staff during the past year, has reiterated his previous refusal to engage in discussion with the Association on the merits of the collective bargaining agreement. Two additional cases of concern that came to the Association's attention after censure was imposed have not been resolved.

#### **University of Detroit**

The Association's sixty-fourth annual meeting acted to impose censure on the University of Detroit. The censure resulted from an investigating committee's report describing the administration's actions to terminate the appointments of some forty faculty members after the board of trustees declared a condition of financial exigency. The report found that the administration did not demonstrate the existence of a financial crisis so severe as to require the termination of tenured appointments and that faculty involvement in the decisions and subsequent hearings was inadequate.

Last year's "Developments Relating to Censure" noted the settlement of all but one of the cases that led to the censure. The staff's correspondence this year with the administration has revealed, however, that efforts to remove shortcomings in the University of Detroit collective bargaining agreement have continued to be unsuccessful.

#### **Phillips County Community College (Arkansas)**

The 1978 annual meeting voted censure on the administration of Phillips County Community College after an investigating committee concluded that the administration violated the 1940 *Statement of Principles* in dismissing a faculty member at the end of his tenth year of service. The investigating committee found that the College has no system of tenure and no stated policies that would assure academic freedom and due process.

As was noted last year, litigation entered by the dismissed faculty member was decided in his favor and his case has been satisfactorily settled. The staff has recently written to the president of Phillips County Community College to invite discussion on the institutional regulations.

#### **University of Maryland**

The published report, leading to the placement of the University of Maryland administration on censure by the sixty-fifth annual meeting in 1979, dealt with a decision not to approve a recommended professorial appointment. After the appointment had been recommended by a faculty search committee and the campus administration, the acting governor of Maryland and individual members of the board of regents took exception to it on grounds that the professor was a Marxist. A new president, who assumed office shortly after these events, decided not to approve the appointment. He asserted that his decision was based on the academic merits of the candidate and not on the candidate's political beliefs, but he declined to specify his grounds for reaching this judgment. The Association's investigating committee concluded that the president's refusal to provide a full explanation, in the face of the events that preceded his decision, left academic freedom at the University of Maryland under a cloud.

In early April the federal court of appeals affirmed the 1981 ruling of the trial court that no violation of the professor's constitutional rights had occurred. Two other cases at the

University of Maryland, noted in previous accounts in "Developments Relating to Censure," remain unresolved. Last fall the staff provided the University administration and the local AAUP chapter with a detailed evaluation of deficiencies in the current regulations of the University on academic freedom and tenure when measured against applicable Association standards.

#### **University of Texas of the Permian Basin**

The 1979 annual meeting voted to censure the administration of the University of Texas of the Permian Basin following a published report on the termination of two faculty appointments with financial exigency as the stated reason and on the nonreappointment of a third faculty member who alleged that the action violated his academic freedom. The report found that the administration had not shown that the institution's financial situation required the terminations, that the faculty members were not afforded academic due process, and that the nonreappointed faculty member's academic freedom had indeed been violated.

While the Association's staff has continued to correspond with the administration over the past twelve months, there are no substantive developments to report concerning the censure and its potential removal.

#### **Wingate College (North Carolina)**

The investigating committee's report described abrupt actions by the Wingate College administration to terminate the services of six faculty members. In three cases, the report found the actions to be summary dismissals in violation of the 1940 *Statement of Principles*. In the other three cases, the report found that the faculty members were denied the protections due them under the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*. The report concluded that at Wingate College there is no meaningful system of tenure and no discernible voice for the faculty in determinations of faculty status. Censure was imposed by the sixty-fifth annual meeting.

The staff's letters this past year to the Wingate College administration have elicited no response from the president, who recently submitted his resignation, or from other administrative officers.

#### **Olivet College (Michigan)**

The sixty-sixth annual meeting in 1980 voted to censure the Olivet College administration on the basis of a published report describing the summary dismissal of a visiting professor. The report also discussed the practice at Olivet College, implemented some years earlier, of placing senior faculty members on five-year renewable contracts rather than granting them continuous tenure. The report went on to discuss the case of a professor who under this system had been notified of nonreappointment after sixteen years of service. The report concluded that he was denied his rights under the 1940 *Statement of Principles on Academic Freedom and Tenure*.

As was reported last year, a settlement of the case of the visiting professor was achieved in the late spring of 1981. This past September, a settlement was reached in the case of the senior professor whose appointment was not renewed. President Donald A. Morris visited with the staff this February to discuss outstanding issues relating to the institutional regulations. The staff has agreed to propose ways in which important elements in the regulations might be brought into conformity with applicable Association standards.

### **Nichols College (Massachusetts)**

The 1980 annual meeting placed the Nichols College administration on censure following the dismissal of a nontenured member of the faculty in the middle of an academic year. The published report that was the basis for censure concluded that the administration's action deprived the faculty member of his academic freedom and speaks poorly for academic freedom at Nichols College.

Correspondence this past year between the staff and the president of the College has not reflected progress towards resolving outstanding issues.

### **Bridgewater State College (Massachusetts)**

The administration of Bridgewater State College was censured in 1981 by the sixty-seventh annual meeting. The action was preceded by an investigating committee's report on the dismissal of a tenured professor. The report found that the professor was denied academic due process and that the administration's charges against him did not warrant the extreme action of dismissal.

The staff's correspondence over the past year with the College administration reveals no new developments concerning the censure and its potential removal.

### **Harris-Stowe State College (Missouri)**

The 1981 annual meeting imposed censure on the Harris-Stowe State College administration pursuant to a published report on action by the Board of Trustees to dismiss nineteen faculty members on the occasion of the transfer of the College from municipal to state control. The report found that the College was the same institution after the transfer as before. It found that the board selected particular faculty members for dismissal by ignoring the faculty and academic administrators and relying wholly on an outside consultant who viewed tenure as a factor *against* retention. The report found in two specific cases that the dismissal of the faculty members was in violation of their rights under the 1940 *Statement of Principles*.

Last year's account in "Developments Relating to Censure" noted that one of the members whose specific case is reviewed in the report had initiated a lawsuit. Late last spring, following a trial, a federal district judge ruled that the faculty member was dismissed on impermissible grounds and ordered his reinstatement. The board of trustees appealed, and a month ago the trial court's decision was affirmed by the federal appellate court. The staff has writ-

ten to the president of the College to invite discussion of differences between existing institutional policies relating to academic freedom and tenure and applicable Association standards.

### **Yeshiva University (New York)**

By vote of the sixty-eighth annual meeting in 1982, Yeshiva University was placed on the Association's list of censured administrations. The action followed an investigating committee's finding that the administration, in terminating the appointments of three tenured professors on stated grounds of reorganization of academic programs and in placing them on involuntary suspension from further teaching responsibilities for the remainder of their appointments, had acted contrary to the applicable provisions of the 1940 *Statement of Principles*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*. The committee found that the administration had acted in the absence of a *bona fide* financial exigency, that there was inadequate opportunity for meaningful faculty participation in the administration's decisions, and that the administration declined to take responsibility for demonstrating its case at an appropriate hearing.

The Association's staff has written to the administration in an effort to initiate discussion of the censure, but no response has been received.

### **Eastern Oregon State College**

The annual meeting in 1982 voted to place Eastern Oregon State College on the Association's list of censured administrations, following an investigating committee's report on the case of a tenured professor who was removed from her position after eighteen years of service on grounds of "program reduction" arising out of a shortfall in budget. The administration retained the professor for an additional two years on a part-time basis and at a severely reduced salary, and at the end of that time released her entirely. The investigating committee found that the administration acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* by dismissing the professor without demonstration either of cause for dismissal or of a *bona fide* financial exigency.

The staff and the officers of the Association's Oregon Federation have written to a new president at Eastern Oregon State College to invite discussion of outstanding issues. The administration has just replied, indicating interest in pursuing the matter.