

Academic Freedom and Tenure: Saint Meinrad School of Theology (Indiana)¹

I. Introduction

The report which follows was occasioned by the dismissal of a faculty member from the Saint Meinrad School of Theology for having signed an open letter to Pope John Paul II asking that continued discussion be permitted concerning the question of ordaining women to the priesthood.

St. Meinrad is a small village in rural southwest Indiana, approximately seventy miles due west of Louisville and 140 miles southwest of Indianapolis. Since 1890 the School of Theology has been part of the Saint Meinrad Archabbey, which was founded in 1854 by Benedictine monks from Einsiedeln Abbey in Switzerland. In 1959 the school was incorporated separately as the Saint Meinrad School of Theology, but it continues under the jurisdiction of the archabbey's board of trustees and the archabbot, who serves as *ex officio* chair of the board and as ordinary of the School of Theology. The ordinary for the entire territory is the Roman Catholic archbishop of Indianapolis. In addition, a thirty-one-member board of overseers advises the president-rector, who serves as chief administrative officer of both the School of Theology and a separate College of Liberal Arts affiliated with the archabbey. The School of Theology, which has as its primary mission to train students for the priesthood or other ministries in the Catholic Church, has been accredited by the Association of Theological Schools since 1968 and by the North Central Association of Colleges and Schools since 1979. The ATS's accreditation was renewed most recently in 1994.

During most of the events recounted in this report, the archabbot was the Rt. Rev. Timothy Sweeney, OSB, and the president-rector was the Rev. Eugene Hensell, OSB, generally referred to as

Father Eugene. The archbishop of Indianapolis was the Most Rev. Daniel Mark Buechlein, OSB, a graduate of both Saint Meinrad College and the Saint Meinrad School of Theology who had served as president-rector from 1972 to 1987, when he became bishop of Memphis. Archabbot Sweeney was succeeded in June 1995 by the Rt. Rev. Lambert Reilly, OSB. Father Eugene, in the fourth year of his regulation five-year term, submitted his resignation as president-rector in February 1996, to become effective when a replacement was appointed. The Rev. Mark O'Keefe, OSB, former academic dean, took office in May 1996. There has been no change in the archbishopric.

The student population of about ninety is drawn from a wide area, including some thirty dioceses and half a dozen religious communities, with more students, understandably, from the Indiana or nearby dioceses than from any other region. About half of the full-time faculty of around twenty-five are members of the Benedictine community, but other clerical as well as nonclerical faculty have been welcomed; the academic dean who recently completed his term of office was not a member of the clergy. During President-Rector Buechlein's administration the 1940 *Statement of Principles on Academic Freedom and Tenure* was adopted as institutional policy. It is printed in full in the Faculty Handbook, without specification of any limitations on academic freedom and with an exception to its due process provisions noted only for excommunication, which is cited as cause for immediate dismissal. The preface to a section of the handbook entitled "Statement on Non-discriminatory Language," also adopted during the Buechlein administration, calls attention to the "changing needs of the Church," including "the urgent responsibility of recognizing women's roles in church and society."

At the start of the 1994-95 academic year there were two women in full-time teaching positions at the Saint Meinrad School of Theology. By the end of the year there were none.

II. The Case of Professor M. Carmel McEnroy, RSM

Professor Carmel McEnroy, a member of the Congregation of Sisters of Mercy of Ireland and South Africa, was awarded the B.A. by Marillac College in 1967 and the M.A. by the University of St. Michael's College, Toronto School of Theology, in 1976.

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 it was subsequently sent to the faculty member at whose request the inquiry was conducted, to the administration of Saint Meinrad School of Theology, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

She completed her work for the Ph.D. at the same institution in 1984. In May 1981, she was appointed by President-Rector Buechlein to a three-year term as an assistant professor at the Saint Meinrad School of Theology, with her attention called in the appointment letter to the provisions in the Faculty Constitution respecting academic freedom, responsibility, appointment, and dismissal. Her teaching was in the Department of Systematic Studies. On May 11, 1983, President-Rector Buechlein, acting upon the recommendation of the faculty's Personnel Committee, informed Professor McEnroy that she would be reappointed to a seven-year term upon the expiration of her initial appointment in the spring of 1984. "In a very short time," he wrote, "you have become a valuable member of our faculty and have won the genuine respect of our students."

In January 1987, President-Rector Buechlein was appointed bishop of Memphis, and his place as chief administrator was assumed by Father Eugene. On March 7, 1988, Father Eugene wrote to Professor McEnroy to inform her that he accepted the Personnel Committee's recommendation that she be given another seven-year contract: "Your teaching ability," he wrote, is

clearly appreciated by our students and your presence on the faculty over these past years has been an asset to the school. During these years of transition in the church, I realize that it is not easy being a woman theology teacher in a seminary. We all try to be aware [of] and sensitive to the various issues involved, and as a seminary we are committed to being open and plotting our course along a wide middle path....

I encourage you to feel "at home" on our faculty. You have manifested your ability as a faculty member and therefore you are encouraged to enjoy this very important work with a sense of confidence and a spirit of relaxation.²

From his new position in Memphis, Bishop Buechlein continued to display an interest in the Saint Meinrad School of Theology, which was attended by a few students from his new diocese. Early in 1989 he sent his vocation director to Saint Meinrad with a request that the Memphis students be exempted from taking the required course in Foundational Theology taught by Professor McEnroy. Father Eugene denied the request. In the following year, according to Professor McEnroy, a Memphis student in Foundational Theology complained to Bishop Buechlein about the text she was using, and the bishop withdrew him and another student from the school. When a bishop from another diocese complained about the teaching of one of Saint Meinrad's faculty members, Father Eugene assured the faculty that he would resign rather than permit outside interference with faculty teaching.

Professor McEnroy described herself to the undersigned investigating committee as a "moderate feminist" who was candid about

her views, and faculty members interviewed concurred in that description. In November 1988, without citing her academic or religious affiliations, she joined several thousand others in signing "A Call to Eliminate Sexism from the Church by the Year 2000" (*National Catholic Reporter*, November 18, 1988), and she acknowledged to the investigating committee her frustration in the summer of 1994, when she saw what she considered a deliberate use of sexist language in a new *Catechism* that had recently appeared.

Professor McEnroy believed that the most serious objection to her teaching might have been prompted by her use of Sallie McFague's *Models of God*, published in 1987, as a text in her course in Foundational Theology, which was required of all students. Writing for what she called an "Ecological, Nuclear Age" faced with the constant threat of nuclear destruction, Professor McFague—a Protestant theologian who had been dean of the Vanderbilt Divinity School—experimented, as an alternative or supplement to the traditional concept of the Trinity, with a theology in which the world was God's body and God was mother, lover, and friend.³ When Professor McEnroy offered to change texts, Dean Thomas Walters rejected the offer as insufficient to reduce the pressure brought by the bishops: she was a "lightning rod," he said, and her feminist perspective would be equated with the seminary's course in Foundational Theology, no matter what her assigned texts. As a consequence, according to Professor McEnroy, she gave up Foundational Theology and assumed responsibility for the fourth-year core course in Trinity.

Throughout this period Professor McEnroy seems to have enjoyed the support of Father Eugene, whatever his uneasiness about the reaction of his predecessor to her feminist views. On March 2, 1992, acting upon a recommendation of the faculty's Academic Committee, he wrote her a cordial letter approving her request for a sabbatical leave during the first five months of 1993 to conduct research on the women of Vatican II. "I am pleased that you are continuing to work on this project..." he commented. "Its completion will be a credit to you and a benefit to our school."⁴ Two and a half months later he wrote to inform her that the board of trustees had approved his recommendation that she be granted continuing appointment as an associate professor in the School of Theology: "Your faculty review was very positive and clear recognition was given to the gifts you bring to the School especially in the area of your teaching." Professor McEnroy signed the formal contract on May 19, 1992.

In September 1992, Bishop Buechlein was elevated to the archbishopric of Indianapolis, and early in November he made his first

³ A paper by Professor McFague, delivered during a study week at the papal summer residence in 1987, was included with the other papers in the book, *Physics, Philosophy, and Theology: A Common Quest for Understanding*, published in 1988 by the Vatican Observatory.

⁴ Professor McEnroy's book—*Guests in Their Own House: The Women of Vatican II*—was published by the Crossroad Publishing Company in May 1996.

² The Saint Meinrad practice is to make the reappointment decision after the fourth year of a seven-year contract.

formal visit to Saint Meinrad. At a faculty meeting shortly after the visit, Father Eugene reported the complaints made to him by the archbishop, one of which was that the theology faculty had a reputation for graduating students who questioned authority and gave open support to the ordination of women. Father Eugene also met separately with the women members of the faculty and assured them that he would continue to give them his support.

On May 30, 1994, Pope John Paul II issued an apostolic letter, *Ordinatio Sacerdotalis*, stating that "the church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the church's faithful." The reaction, particularly but by no means exclusively among women, was intense, and the *National Catholic Reporter* devoted much of its June 17, 1994, issue to it. The Women's Ordination Conference, understandably among the most vocal, undertook to secure signatures to an open letter addressed to the Pope and the U.S. Conference of Catholic Bishops. The letter, asking for continuing discussion of the question of women's ordination, was published in the November 4, 1994, issue of the *National Catholic Reporter* and was signed by well over a thousand individuals and groups.⁵ One of the signers was Professor McEnroy.

Early in 1995, the School of Theology was awaiting the arrival of a visitation team from the National Conference of Catholic Bishops (NCCB), and prior to the visit Father Eugene invited

⁵ The two opening and three closing paragraphs are here excerpted from the eight-paragraph letter:

Because a recent Vatican statement released on May 30th (the anniversary of the burning at the stake of St. Joan of Arc) has attempted to declare the question of women's ordination "definitively" closed, we are compelled to speak to you publicly. The denial of gender equality in our Church is a serious, ongoing scandal for faithful, believing Catholics such as ourselves. But this recent attempt to stifle discussion alarms us even more because it violates our human rights and baptismal rights. As gospel Catholics, we have a serious and lasting obligation to speak to one another and listen to one another on issues that concern us.

A discipleship of equals is the call of Scripture. Women as well as men were created in the image and likeness of God. Jesus practiced gender equality and respected human dignity. He called women as well as men to a variety of ministries we now call "priestly." In 1976, the Pontifical Biblical Commission, in a study requested by Pope Paul VI, concluded that there was nothing in Scripture which would forbid the ordination of women. The Church of England recently used that study in their discernment process when they voted to ordain women.

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The Easter message offers joy and liberation in Christ to all. "In Christ there is neither male nor female" (Gal. 3, 28). This must be reflected and manifested in Church structures.

We urge all of you to embrace the spirit of Pope John XXIII and open the windows of the Church to the fresh air of dialogue on the ordination of women as priests, bishops, and cardinals. Only then will women begin to experience the liberation which Jesus preached.

We rejoice in the call of women as well as men to feminist ministry and we look forward to the day when Roman Catholic women will be ordained.

Archbishop Buechlein to speak to the faculty on February 6. In response to questions after his talk, the archbishop said that the visitation team would be checking to see, among other things, how the seminary was using the new *Catechism*. He also said that the team might have questions about the teaching of a few individuals—a comment that is said to have startled some faculty members, since just two or three weeks earlier Father Eugene had denied a request from Bishop Edward Slattery of Tulsa for copies of all the publications of four Saint Meinrad faculty members, one of whom was Professor McEnroy.

The visitation was not mandatory. As Father Eugene informed the faculty at a February 14 meeting, the administration had invited the NCCB to send a team at the suggestion of Archbishop Buechlein, who stated that the visitation was nothing to worry about, since the school had recently undergone a successful review by the Association of Theological Schools and thus already had prepared itself for examination by an outside group, and that such a visit would be useful, since being among the first to gain NCCB approval would help it to attract students.

In a memorandum from the administration, the faculty was informed that the visitation was scheduled for March 6–10, 1995, and that the visitation team would base its judgments on the *Program for Priestly Formation*, which had been undergoing revision. The members of the team would be the Most Rev. Elden F. Curtiss, archbishop of Omaha, chair; the Most Rev. Sean O'Malley, OFMCap, bishop of Fall River; the Very Rev. Patrick Brennan, president-rector of the Mount Angel Seminary; and the Very Rev. Patrick Guidon, OMI, president of the Oblate School of Theology. By this time there seems to have been widespread concern that an effort might be made to dismiss Professor McEnroy.

After his arrival on March 6, Archbishop Curtiss is said to have mentioned privately to several people that he had been personally selected by Archbishop Buechlein to chair the visitation team. During the committee's visit, Archbishop Buechlein resided at the abbey. He is said to have spent so much time with the visiting team that some students complained to a faculty member about their difficulty in scheduling appointments with team members.⁶ At a March 8 meeting of his administrative advisory group—the President's Cabinet for the School of Theology—Father Eugene reported that the visitors acknowledged to him that they had come with a preordained agenda but that they refused to acknowledge that Archbishop Buechlein had played any role in their selection or agenda.

Before it left Saint Meinrad on March 9, the visiting team presented oral reports to Father Eugene's cabinet, with Archbishop Buechlein and Archabbot Sweeney in attendance. Each visiting team member confined his remarks to the area of seminary life as

⁶ Responding to a prepublication draft of this report, Archbishop Buechlein denied that he played a principal role in the decision to dismiss Professor McEnroy. With respect to the visiting team, he stated that his meetings with the team were limited in number and duration and were all required by the NCCB process. The archbishop's response appears in full as an addendum to this report.

signed to him: Spiritual Formation, Academic Formation, Student Life, and Administration. The last of these was presented by Archbishop Curtiss, who, when he came to Professor McEnroy's signing of the public letter, expressed surprise that action had not been taken on the matter months before.

In the summary or short form of the team's recommendations sent to the administration in April, the final paragraph—number 7 under "Administration"—appeared as follows:

No seminary faculty member can publicly dissent from the teaching of the church. Any faculty member who does so forfeits the right to be a member of the faculty. If such public dissent takes place the seminary must take action.

Only the short form appears to have been given to the Saint Meinrad administration. The long form was sent to Bishop Donald Wuerl of Pittsburgh, chair of the seminary division of the National Catholic Education Association.

Professor McEnroy states that on March 9, after the visiting team had left, she was told by Academic Dean Walters, who was passing on information given to him by Archbishop Curtiss, that every time this statement on public dissent came up for discussion her name was connected with it. This, she states, was the only time an administrative officer told her she was under investigation.

Later in the afternoon Father Eugene met with the faculty and informed it of the team's recommendations. He added that he had no alternative to implementing them, since a failure to do so would result in his replacement as president-rector by someone who would do as the team wished. At a faculty meeting on March 14, he said that the school would lose many students if it ignored the recommendations, and in response to questions he gave assurances that Professor McEnroy would be given due process if a decision was reached to seek her dismissal. During the meeting Professor McEnroy read assessments of her work from a number of her reappointment letters and asked why a team intent upon removing her had not interviewed her.

On March 24, during a meeting that she requested with Father Eugene, Professor McEnroy, who was accompanied by another faculty member, asked where Archbishop Curtiss got the statement about faculty dissent. "I think he made it up," she quoted Father Eugene as saying. When she asked what Father Eugene would do if it were left to him to deal with her, his response, she said, was that he would do no more than reprimand her; but it might not be in his hands.

On March 29, the investigating committee was told, Father Eugene informed his cabinet of advice given to him when he consulted the Saint Meinrad lawyer: specifically, that if Professor McEnroy was to be dismissed for an "ecclesial" reason, there would be fewer legal difficulties if the archabbot or the archbishop, rather than Father Eugene, ordered the dismissal.

In April Father Eugene was away much of the time, and he reported to his cabinet on April 26 that he had met several times

with Archbishop Buechlein and had worked out arrangements for responding to the report of the visiting team. The arrangements included dismissing Professor McEnroy. Only a summary of the NCCB report would be made available; the archabbot would assume the responsibility for the dismissal; and Archbishop Buechlein could continue to deny any involvement in the visitation, as he had done when a writer in the March 24 *National Catholic Reporter* made such a charge.

While the cabinet was in session on April 26, Archabbot Sweeney was already meeting with Professor McEnroy. The archabbot was accompanied by a member of the Benedictine order learned in canon law, and Professor McEnroy was accompanied by her faculty colleague, Dr. Bridget Clare McKeever, a member of the Sisters of St. Louis who was associate professor of pastoral care and counseling.

Archabbot Sweeney asked Professor McEnroy if she had signed the November 4 letter to Pope John Paul, and she replied that she had. He called what she had done "dissent" and said that he would ask Father Eugene to remove her from her teaching position at the end of the semester.⁷ When asked about due process, he said that nothing mattered: he would treat his monks in the same way in such a situation. She could appeal, but he did not know to whom—perhaps to Bishop Wuerl.

Within an hour after the two faculty members had left the archabbot's office, Professor McEnroy found the following letter in her mailbox:

Dear Dr. McEnroy:

The *Codex Iuris Canonici* 253 §3 indicates that "a teacher in a seminary who is seriously deficient in his or her duty is to be removed by the authority mentioned in §1" of the same canon, namely, by the "appropriate bishop or bishops" who appoint the teachers in that seminary. Our School of Theology is considered a "work of the Institute," as defined in the PPF (Program for Priestly Formation) of 1982, and referenced in the PPF of 1992 (pg. 84, §449, note 187 concerning the *Relationship of the Local Ordinary to the Seminary Owned and Operated by Religious*). These ecclesiastical documents give to me, as the religious ordinary of Saint Meinrad Archabbey, the ultimate responsibility for confirming and maintaining that the faculty of the School of Theology abides by and does not publicly dissent from Church teachings and positions.

In our meeting of April 26, 1995, you indicated to me that you did indeed sign "An Open Letter to Pope John Paul II," as published in the November 4, 1994, issue of the *National Catholic Reporter*, indicating dissent from the Apostolic Letter, *Ordinatio Sacerdotalis*, of Pope John Paul II.

⁷ Archbishop Buechlein stated in his response that he had warned Professor McEnroy when he was president-rector that public dissent would lead to his dismissing her. Professor McEnroy has denied receiving any such warning.

This published letter, signed by you, constitutes public dissent from the statement of Pope John Paul II that the ordination of women to the priesthood is not open to debate, and from his declaration "...that the church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the church's faithful" (*Ordinatio Sacerdotalis*, #4). I find your dissent a serious infraction of §502, 503, and 504 of the PPF of 1992. Hence, by this letter I am requiring the School of Theology to remove you from your faculty position. I am instructing Father Eugene, the President-Rector of our School of Theology, to take action to effect this directive.

Although I view this as an unfortunate situation, I must see to it that the faculty of our School of Theology "set forth Catholic doctrine as formulated by the authoritative teaching office of the Church" (PPF of 1992, §502).

Sincerely yours in Christ,
Rt. Rev. Timothy Sweeney, O.S.B.

On May 8, Father Eugene wrote to inform Professor McEnroy that her insurance benefits would be continued until May 31, 1996, and that she would be given severance pay. "This is truly an unfortunate situation," he wrote in closing. "In the name of the School of Theology, I thank you for your years on the faculty and the contributions you made to the School. I wish you the very best."

On May 10, Professor McKeever, the first woman to have been given tenure by the School of Theology, submitted her resignation, effective at the end of the spring semester. Her letter to Father Eugene included the following:

The model of the Church which the NCCB Visitation Committee exemplified and which, to my acute disappointment, St. Meinrad School of Theology also displayed in its response, is one with which I cannot identify and which I cannot support. The circumventing of the faculty constitution and the terminating of Dr. Carmel McEnroy's tenured contract without due process is, in my opinion, a breach of faith not only with Dr. McEnroy, but also with the entire faculty. Regardless of how these actions are rationalized, they are unjustified and unjust.

On May 11, Professor McKeever sent copies of her letter to her faculty colleagues, with a separate letter addressed to them:

The painful decision [she wrote in part] which I have made has been shaped gradually by the events of the past two months, but particularly by those of the past few weeks. The nadir of the whole experience was Carmel's dismissal without due process....

I believe I could have lived with the behavior and the report of the NCCB Visitation Committee, it being a hostile force outside of St. Meinrad. However, when Carmel's professional life and ministry was so obviously used as a bargain-

ing chip between ecclesiastical power brokers, I realized that my ethical boundaries were being stretched beyond their limits. I had no option but to resign.

In August 1995, Professor McEnroy sought the assistance of the American Association of University Professors. The staff's exchanges of correspondence with the Saint Meinrad administration having left the questions of concern to the Association unanswered, the undersigned committee was appointed to investigate Professor McEnroy's case. The committee visited Saint Meinrad on February 23, 1996. Although the administration refused to meet with or otherwise cooperate with it, the committee believes that the substantial documentation available to it, the statements provided by Professor McEnroy and a former associate dean of students who had been a member of the president-rector's cabinet, and the interviews the committee conducted with Professor McEnroy and with others long associated with the faculty have provided the comprehensive and detailed view essential for the writing of this report.

III. The Issues

1. Academic Due Process. Professor McEnroy's alleged offense, according to Church officials and the administration of the Saint Meinrad School of Theology, was that she had publicly dissented from the teaching of the Church and was therefore disqualified from continuing in her faculty position. She, on the other hand—rejecting the charge of dissent—insisted that, in signing the letter of the Women's Ordination Conference to Pope John Paul II, she was exercising her right as a citizen as outlined in the 1940 *Statement of Principles*. She believed also that she had observed the admonitions of that statement concerning public utterances.⁸ Thus she consid-

⁸ The applicable provisions of the 1940 *Statement of Principles* are as follows:

College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph (a)(4) of the section on Academic Tenure. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

ered herself entitled to the protections of academic due process that the 1940 *Statement* calls for when the administration believes that the admonitions have not been observed and grave doubts have been raised about the teacher's fitness to continue teaching.

The School of Theology policies on academic freedom and tenure, embedded firmly in the Faculty Constitution, had been much on the minds of faculty members after Archbishop Buechlein's concern about Professor McEnroy's teaching—first evidenced when he was bishop of Memphis—became more apparent. As the effort to remove her from her position gathered momentum and then reached a climax on April 26, 1995, the attention of faculty members was focused increasingly on the importance of academic due process. At the faculty meeting of March 14, 1995, Father Eugene was asked twice if Professor McEnroy would be accorded due process, and he gave repeated assurances that she would. At the April 26 meeting with Archabbot Sweeney, Professors McEnroy and McKeever asked about due process, but were told, in effect, that it was not relevant. It had seemed relevant to Father Eugene, however, when he informed Professor McEnroy on May 18, 1992, that the School of Theology's board of trustees had approved his recommendation that she be given tenure; the investigating committee was told that Father Eugene, after learning four months later that the bishop of Memphis had become the archbishop of Indianapolis, expressed relief that the question of Professor McEnroy's tenure already had been resolved.

After Professor McEnroy's dismissal, Professor Mark Ciganovich, who had served as chair of the faculty's Personnel Committee, announced at the August 30 faculty meeting that he would no longer serve on the committee, and on September 15 he sent a memorandum to the theology faculty and staff explaining his decision. Since in Professor McEnroy's case the committee was "not allowed to perform its proper function according to the Faculty Constitution," he wrote, he felt no obligation to continue to serve.

Professor Ciganovich was referring to Article 3.202 of the Faculty Constitution: "If the contract of a faculty member is to be terminated before its expiration date for 'grave cause,' the Personnel Committee will advise the President-Rector as to whether or not a 'grave cause' exists according to the 1940 AAUP *Statement of Principles*." Although unelaborated, this requirement of a hearing before a faculty committee was the School of Theology's key provision for academic due process, and by ignoring it the administration violated both the school's own Faculty Constitution and the 1940 *Statement of Principles*, which had been incorporated in that very article. Professor McEnroy, moreover, was given no statement of charges, as required under the 1940 *Statement* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, both of them joint formulations of the AAUP and the Association of American Colleges and Universities. She was simply asked if she had signed the November 4, 1994, letter to Pope John Paul II, and her simple affirmation was considered

sufficient to justify her dismissal. In short, she was denied academic due process. Initially she was given only a half-year of salary in severance pay, but in response to a letter from her attorney the administration agreed to pay her a full year's salary.

The administration insisted in its correspondence and public statements that the dismissal was not an academic matter at all: it was a Church matter, and thus the provisions for due process in the 1940 *Statement* and the Faculty Constitution did not apply. The decision to proceed on this basis seems to have been reached during Father Eugene's meetings with Archbishop Buechlein following the NCCB visitation.⁹ The president-rector had asserted his own commitment to academic due process more than once, and nothing in the record of this case suggests that he did not mean what he said. But by April 26, when, as part of the arrangement, Archabbot Sweeney assumed the role that Father Eugene could have been expected to play, Father Eugene was taking a different view. He informed his cabinet that he had been away trying to strike the best possible bargain for the School of Theology and expressed his resentment at having the Faculty Handbook and other documents thrown up at him, as though they made any difference in determining how things were done in a crisis.

The reason for following the course that was decided upon seems evident. The use of Church rather than academic procedures, particularly with the groundwork laid by the NCCB visiting team respecting what it called "public dissent," could be made to seem logical and appropriate for a school of theology. Thus Professor McEnroy was summoned before Archabbot Sweeney, whose judicial role gave the proceeding dignity and authority and whose citing of Church writ seemed to underscore the seriousness of Professor McEnroy's alleged offense. The proceeding went quickly. There was no need for a statement of charges or for opposing counsel who would ask or try to parry questions. Nothing mattered: explanations were not requested. All that was required from Professor McEnroy was a simple "Yes" or "No" in response to a simple question: Did she sign the letter to Pope John Paul II? And, since the answer she would give was already known, the let-

⁹ Father Eugene's response to a prepublication draft of this report included the following:

Archabbot Timothy, as the religious ordinary of St. Meinrad Archabbey, made the decision to remove Dr. McEnroy. Her position was subject to the Archabbot's authority over the School of Theology as a religious work of the Archabbey. The dispute here is not over whether the Archabbot has such authority over all of the Archabbey's activities, but rather concerns his exercise of that authority. This is a matter of Church law, and we understand that you do not accept our position on it.

As an institution whose mission is to prepare men for priesthood in the Roman Catholic Church, St. Meinrad School of Theology was created by the Church, is supported by the Church, is responsible to the Church, and in matters of theology, mission, programs, and Church law, is governed by the Church. The Church exercises its authority over the School through the person of the Archabbot. If the School and its faculty were to decline to follow that authority, then the School simply would no longer be a seminary.

ter of dismissal, obviously ready in advance, could be placed in her faculty mailbox within an hour.

In the judgment of the investigating committee, this procedure can only be termed a subterfuge designed to ensure Professor McEnroy's dismissal and, as the Saint Meinrad lawyer had advised, minimize the school's legal liability. The committee believes that it also had another consequence: it effectively obscured the role played by Archbishop Buechlein behind the scenes.

Beginning with her first appointment to the faculty of the School of Theology in 1981, Professor McEnroy had been made aware of the provisions for academic freedom and dismissal in the Faculty Constitution, where she would have found the 1940 *Statement of Principles* printed in full. At no time was she advised that procedures not mentioned in the constitution would be followed if she was thought guilty of something the administration considered a Church offense, the only exception noted in the handbook being excommunication, for which the penalty was immediate dismissal. Indeed, the emphasis in the constitution on the faculty role in conciliation and recommendation—even in Church matters—must have been gratifying to faculty members. In addition to the role of the Personnel Committee in dismissal cases cited earlier in this report, the constitution provides that the Academic Committee “will act as a committee of peers if a Roman Catholic faculty member should be accused of teaching material contrary to the doctrines of the Catholic Church. This committee shall then make a recommendation to the President-Rector” [252 (3)]. And, for the consideration of conflicts that arise “from statements or reported teaching of the faculty,” there should be “clearly defined procedures,” such as a mediation board “composed of members acceptable to the parties in conflict whereby an accused faculty member can receive a full and fair hearing” (252). This provision would seem to have been directly applicable to Professor McEnroy's signing of the letter to Pope John Paul II, which was looked upon by the NCCB team as a public statement of dissent.

Had the procedures prescribed in the Faculty Constitution been followed, the outcome of the case might have been quite different. But perhaps the crisis referred to by Father Eugene would not have been resolved and might even have intensified. For the crisis, which was not of his creation, could not have been resolved unilaterally by Father Eugene, who told Professor McEnroy that he would have been satisfied simply to give her a reprimand. Nor was the crisis caused by the NCCB visitors, who withdrew after they had submitted their report, or by Archabbot Sweeney, whose apparent role was to order, and lend credence to, the dismissal. The investigating committee believes that the crisis could have been created only by Archbishop Buechlein, the ordinary of the entire territory, who had kept close watch while the visitors did their work and then conferred privately with Father Eugene until a procedure was established that placed the responsibility for dismissing Professor McEnroy on Archabbot Sweeney. Archbishop Buechlein had withdrawn students from the School of Theology

when he was bishop of Memphis, and as archbishop of Indianapolis he was in a position to withdraw many more, with the likelihood that his actions would severely damage the reputation of the school and result in further loss of students.

Thus the crisis, as Father Eugene perceived it, threatened the School of Theology's survival, and resolving it required two things: the dismissal of Professor McEnroy and the concealing of any role that Archbishop Buechlein might have played in it. The second of these would hardly have been possible if she had been accorded due process as it was prescribed in the Faculty Constitution and in the 1940 *Statement of Principles*, since her case would have been heard by a faculty committee, and she would have been entitled, among other rights of due process, to a statement of charges, counsel of her choice, and the opportunity to speak in her defense. Had due process been afforded, the full story would probably have become known.

2. Academic Freedom. If Professor McEnroy had been affiliated with an institution other than a theological seminary, it seems unlikely that any question would have been raised about her fitness to remain in her position merely because she exercised what she considered was her role as a citizen to sign the November 4, 1994, letter to Pope John Paul II. Of the hundreds of signers, many, no doubt, were private citizens unaffiliated with any official Church organization. But a fair number of others appear to have been priests or members of religious orders, and probably some were faculty members at Catholic colleges and universities. The investigating committee, in any event, has not heard of action being taken against any of the other signers.

The committee has found no reason to conclude that Professor McEnroy failed to observe the applicable admonitions of the 1940 *Statement* concerning extramural utterances. It may be argued, however, that Professor McEnroy, much as she may have thought so, was not speaking out as a citizen: she was doing so as a member of the Catholic Church on an issue of concern to present and future members and dignitaries of the Church. The argument continues that she could not therefore claim a privilege which must have been intended by the framers of the 1940 *Statement* to apply to a community in which widespread participation is desired and expected, but not to a religious community in which participation is limited to its members.

The investigating committee has found no reason to consider this provision of the 1940 *Statement* so restrictive. Its manifest intent is to add to the protection of scholarly speech and writing a similar protection of the faculty member's public utterances, written or spoken, whatever the occasion. Professor McEnroy in this instance did not sign the letter as a theologian, but rather as an individual who shared the hope of many others that the ordination of women might continue to be discussed.

If there were to be limitations on the extramural utterances of Saint Meinrad faculty members, these should have been set forth in the Faculty Constitution, which provides only that freedom is

“understood in the context of the aims and purposes of the St. Meinrad School of Theology” [Faculty Handbook, p. 20]. As already noted, Professor McEnroy had signed at least one public statement earlier without any repercussions within the School of Theology. And even if it is conceded that the clause in question does not apply to a religious community, that concession would not release the Saint Meinrad administration from the obligation to accord Professor McEnroy the protections of due process called for in the school’s own Faculty Constitution.

The question that remains is whether or not the administration could reasonably find that Professor McEnroy’s signing of the letter to the Pope rendered her *ipso facto* unfit to remain in her teaching position. The NCCB visiting team presumably thought that it did. But in condemning what it considered to be public dissent, the visiting team gave a reason for taking action to dismiss a faculty member for which no one has cited a basis in official Church or School of Theology documents, and which Father Eugene reportedly surmised that Archbishop Curtiss had made up.

In his letter of dismissal, Archabbot Sweeney included the term “public dissent,” thereby linking the dismissal with the visiting team’s recommendation, and then added that he found her “dissent a serious infraction of §502, 503, and 504 of the PPF [*Program for Priestly Formation*] of 1992.” The following are the three sections of the PPF referred to by Archabbot Sweeney:

502: Faculty members should have a firm foundation in the teaching of the Church. A fundamental task of the faculty is to set forth Catholic doctrine as formulated by the authoritative teaching office of the Church.

503: The freedom of expression required by the exigencies of theological science should be respected as well as the ability to do the research required for its progress. Seminary statutes should provide for appropriate academic freedom that allows and encourages study and reflection in teaching and publishing. This freedom must be understood in the context of the purpose of the seminary and balanced by the rights of the students, the institution, and the Church. The freedom proper to theological research is exercised within the Church’s faith.... In theology this freedom of inquiry is the hallmark of a rational discipline whose object is given by revelation, handed on and interpreted in the Church under the authority of the magisterium, and received by faith.

504: Members of the faculty should be mindful of the varying degrees of theological certainty and carefully should distinguish between their own insights and other theological developments or opinions on the one hand and Catholic doctrine on the other.

In regard to the first of these, Professor McEnroy informed the investigating committee that, although she might have ideas of her own, her practice was always to inform students of the Church’s position. It could be argued that the second, with its

emphasis on academic freedom and freedom of inquiry, tends to provide support for Professor McEnroy’s signing of the letter rather than condemnation of it. As to the third, the committee found no reason to think her unmindful of these distinctions.

The important consideration, however, is that Professor McEnroy was charged with violating these provisions of the *Program for Priestly Formation* without being informed just how they applied to her signing of the letter and without being given an opportunity to respond.¹⁰ Incorporated as they were into the letter of dismissal, and later into a public announcement, they make it appear that the archabbot had given careful consideration to Professor McEnroy’s alleged offense before ordering her dismissal, when in fact the consideration had been entirely inadequate.

In the judgment of the investigating committee, the administration of the Saint Meinrad School of Theology, before it dismissed Professor McEnroy, failed to meet its obligation to demonstrate that her signing of the letter to Pope John Paul II rendered her unfit to retain her faculty position. In dismissing her, therefore, the administration violated her academic freedom.

3. Some Further Comments. The investigating committee cannot complete this report without expressing its dismay at the effect that this series of events has had upon the Saint Meinrad School of Theology. Saint Meinrad appears to have been, for many years, a happy and congenial place, moderate in its outlook, farsighted in its administration, and varied in its faculty composition. Highly qualified people shared a high degree of mutual trust, along with a determination—reflected at numerous places in the Faculty Constitution—to resolve problems quietly through counseling, consultation, mediation, and good will. The dismissal of Professor McEnroy, and particularly the way in which the dismissal was effected, violated not only the regulations, but also the very spirit of the school.

No one in the administration counseled Professor McEnroy or attempted mediation. Nor, in passing judgment on her, did those in authority consider her alleged offense in the context of her entire record, which periodically over fourteen years had won her praise from two president-rectors. The investigating committee considers the “hearing” before Archabbot Sweeney to have been a sham, a mere charade. Where was the good will that she had reason to expect? The members of the NCCB visiting team neither interviewed her nor asked to attend any of her classes. And, in taking a stand firmly against “public dissent” by a seminary faculty member, they gave no indication as to what they meant by dissent. The Catholic Theological Society of America, in a statement urging Professor McEnroy’s reinstatement pending the outcome of an appropriate hearing, noted that “in the Congregation of the

¹⁰ Relevant to this would have been the very next article (505) in the PPF: “Faculty Handbooks should contain clear procedures for the resolution of conflicts regarding the correctness of theological expression on the part of faculty members.”

Faith's 1990 instruction (*Donum Veritatis*, IV, B), *Dissent* is characterized by an attitude of general opposition to church teaching...[and] suggests public and persistent opposition to church authority" (*Origins*, July 27, 1995). No accusation of this sort was ever made against Professor McEnroy.

The case inevitably has left its mark on the Saint Meinrad School of Theology. Good will among faculty members has been diluted by fear and distrust, for what are academic freedom, tenure, and due process if they can simply be brushed aside at the discretion of the territorial ordinary or the administration? What freedom can a theologian count upon when years of intensive study at seminary and graduate school do not qualify her even to join her name inconspicuously with hundreds of others in a request to have the discussion of women's ordination continued? If faculty pride in Saint Meinrad has suffered a setback, the reason is evident, since few if any of the faculty could have imagined that their ecclesiastical and administrative superiors would commit such an injustice.

IV. Conclusions

1. By failing to give Professor M. Carmel McEnroy, RSM, an appropriate hearing on charges that she was guilty of "public dissent" for joining with more than 1,500 others in signing an open letter to Pope John Paul II, the administration of the Saint Meinrad School of Theology violated the due process provisions of both the 1940 *Statement of Principles on Academic Freedom and Tenure* and its own Faculty Constitution.

2. By dismissing Professor McEnroy without demonstrating that her signing of the open letter rendered her unfit to retain her faculty position, the administration violated her academic freedom—specifically, her rights as a citizen as provided in the 1940 *Statement of Principles*.

BERTRAM H. DAVIS (English)
Florida State University, *chair*
MARIE GABRIEL HUNGERMAN, IHM (Philosophy)
Western Michigan University

Investigating Committee

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

ROBERT M. O'NEIL (Law), University of Virginia, *Chair*

Members: ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; JEFFREY HALPERN (Anthropology), Rider University; THOMAS L. HASKELL (History), Rice University; DENISE TANGUAY HOYER (Management), Eastern Michigan University; JANE DINEEN PANEK (Education), Molloy College; IRWIN H. POLISHOOK (History), Herbert H. Lehman College, CUNY; LAWRENCE S. POSTON (English), University of Illinois at Chicago; JOAN WALLACH SCOTT (History), Institute for Advanced Study; LELAND WARE (Law), Saint Louis University; MARY A. BURGAN (English), AAUP Washington Office, *ex officio**; JORDAN E. KURLAND (History and Russian), AAUP Washington Office, *ex officio*; JAMES E. PERLEY (Biology), College of Wooster, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant**; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.

*Did not participate in the vote.

ADDENDUM

Comments by the Most Rev. Daniel M. Buechlein, O.S.B., Archbishop of Indianapolis May 14, 1996

I have received the draft report of your Committee A on Academic Freedom and Tenure concerning Saint Meinrad School of Theology. Thank you for the opportunity to comment on the draft's conclusions, which I find most disturbing.

Until now, I have made no public statement on Saint Meinrad's decision to remove Dr. Carmel McEnroy from the School of Theology's faculty (except to express, in very general terms, my pastoral support for all concerned). However, since your report falsely accuses me of playing a principal role in "subterfuge" to

hide my involvement, I think it is necessary for me to set the record straight.

The AAUP representatives who prepared the draft report you sent me have given undue credence to a conspiracy theory developed by one or more faculty members at Saint Meinrad. This theory alleges the following:

1. That the dismissal of Dr. McEnroy was the result of a "campaign against her" initiated by me several years ago
2. That I "manipulated" the selection of the members of the

National Conference of Catholic Bishops' Visitation Team and that I manipulated the outcome of their visit to Saint Meinrad

3. That I gave "direct orders" to the Archabbot and President-Rector to remove Dr. McEnroy under the threat of removing students from the Archdiocese of Indianapolis

4. That an elaborate cover-up was staged by Saint Meinrad to hide my involvement.

I would be less than honest if I did not communicate to you my sense of shock and amazement that your committee could come to these conclusions—especially since they bear no relation to the simple facts of the case. In an effort to dispel the committee's "findings," which are based solely on the conjecture, hearsay, and outright fabrication of one or more angry faculty members, let me offer for the record my response to each of these outrageous claims.

1. It is true that, for some time now, I have had concerns about the content of some of Dr. McEnroy's teaching. In the mid-1980s, when I was President-Rector at Saint Meinrad, I communicated my concerns directly to Dr. McEnroy (and to another Saint Meinrad faculty member). At this time, I informed both of them that if they ever taught or publicly assumed a position contrary to the teaching of the Church and the Pope, I would have to dismiss them. In subsequent years, as Bishop of Memphis and then as Archbishop of Indianapolis, I continued to have concerns about the content of Dr. McEnroy's teaching—as did other bishops. I communicated these concerns to the leadership at Saint Meinrad, but at no time did I "use my authority" to order her dismissal or threaten the withdrawal of students from Saint Meinrad.

2. Bishop Donald Wuerl, who chairs the National Conference of Catholic Bishops' Committee on Priestly Formation, will verify that I played no role in the selection of the NCCB Visitation Team. Like the Archabbot and President-Rector, I was informed in advance whom the team members would be, and I was given an opportunity to express any concerns I might have about the makeup of the team. Bishop Wuerl can also attest to the fact that I did not, at any time, offer comments about the team or suggest what they should look for in conducting their visit.

The statement that I monopolized the time of team members during their visit can be easily disproved—either by checking with team members or by examining my calendar during the three days of the NCCB visitation. As a matter of fact, my total involvement with the team members over the three days included the following: 25 minutes in an interview with the chair of the visitation team on Tuesday afternoon; a luncheon for trustees on Wednes-

day; a very brief overview of what was to be expected in the exit report; and attendance at the exit report on Thursday morning. All four functions are required by the NCCB process. As my calendar clearly shows, the rest of my time was spent either in pastoral duties in the area or in visiting with family and friends.

3. Fr. Timothy Sweeney, the former Archabbot of Saint Meinrad, and Fr. Eugene Hensell, President-Rector, will verify that at no time did I order Saint Meinrad to do anything. Your report does a grave injustice to the Saint Meinrad community and to the former Archabbot and President-Rector. Anyone who knows them will attest to the fact that they would never allow themselves, or the Benedictine community at Saint Meinrad, to be manipulated behind the scenes by a Machiavellian archbishop. The conspiracy theory developed by one or more angry faculty members, and subsequently adopted by your committee, is the stuff of melodrama or tabloid journalism, but it bears no relationship to reality.

4. Because I did not play the behind-the-scenes role attributed to me by one or more angry faculty members, there is little point in "denying" that there was an elaborate cover-up of my role in the dismissal of Dr. McEnroy. My role in this matter has been quite straightforward: I have supported the Archabbot and President-Rector of Saint Meinrad—both publicly and in private—in their actions on behalf of the Church. When asked by them, I have given my opinions and I have offered to help Saint Meinrad in any way that I can during this difficult time.

The AAUP committee members have chosen to dismiss out-of-hand Saint Meinrad's repeated statement that its decision to dismiss Dr. McEnroy was made not on academic grounds but on ecclesial grounds. If you do not accept that the former Archabbot, acting as the competent religious authority, freely chose to undertake an admittedly difficult and painful dismissal based solely on religious and ecclesiastical grounds, then it becomes necessary to find some other explanation for Dr. McEnroy's dismissal. The conspiracy theory related to you by one or more faculty members at Saint Meinrad provides the necessary scapegoat, but it stretches beyond all comprehension the actual facts of this case.

Before you embarrass the AAUP or make libelous statements about the leadership of Saint Meinrad School of Theology or me, I strongly urge you to check carefully the facts of this case. You will find that they are very different from what is contained in your draft report.

Once again, I thank you for the opportunity to comment on this report.