

Report

Academic Freedom and Tenure

Clarkson College (Nebraska)¹

This report deals with action taken by the Clarkson College administration in May 1992 to terminate the services of six members of the college's full-time faculty, including, in order of seniority, Professors Elizabeth Ann Blake, Anne M. Larson, Cynthia Hromek, and Jane Hokanson Hawks.

I. Introduction

The origins of Clarkson College are found in the late nineteenth century, when it was established in Omaha, Nebraska, as the Bishop Clarkson School of Nursing in conjunction with the Bishop Clarkson Hospital. The school and the hospital were named for Bishop Robert H. Clarkson of the Episcopal Church, and both were governed until recently by the same board of directors. The school was forced to close for five years in the late 1950s, when the Bishop Clarkson Hospital moved to a new site near the University of Nebraska Medical Center and the old hospital and nurses' home were sold. In 1960 the Bishop Clarkson School of Nursing was reopened in a new building adjacent to the Medical Center, still as a three-year, diploma-granting institution. Adjusting to nationwide changes taking place in the education of nurses, the school was transformed in 1981 into a baccalaureate degree-granting college. In 1987 the school's name was changed to Bishop Clarkson College, and it acquired its own board of directors, although relations with the hospital are still close and the college cannot accurately be described as fully independent of the hospital. Four members of the college's board of directors are also members of the hospital's board, and the college and the hospital are both subsidiary corporations of Bishop Clarkson Corporation, which, the undersigned investigating committee was told, has its own board of directors and chief executive officer above those of the college and the hospital. The 1990-92 Clarkson College catalogue lists

Eugene A. Conley as the chair of the board of directors of the college. Recently, "Bishop" was dropped from the college's name, leaving it simply Clarkson College.

Thus, Clarkson College currently is a private, coeducational institution offering the degrees of Bachelor of Science in Nursing, Master of Science in Nursing, Master of Science in Health Services Management, Associate and Bachelor of Science in Radiology, and Associate of Science in Physical Therapy Assistant. Within the past decade, the college has gained accreditation (for the bachelor's degree in 1984, and in 1991 for all of its programs) by the North Central Association of Colleges and Schools, the Nebraska State Board of Nursing (1984), and the National League for Nursing (1988). Clarkson College students can pursue general education courses at other accredited institutions and transfer those credits for application to their degree.

Patricia Book Perry (R.N., Ph.D.) was appointed director of nursing education of the Bishop Clarkson School of Nursing in 1976, becoming dean of the college after the transition in 1981 and then president in 1988. She, along with Gloria J. Gross (R.N., Ph.D.), who became dean when Dr. Perry was elevated to the presidency, played an important role in the institution's transition from a diploma-granting school to a college granting the baccalaureate degree. In July 1990, Dr. Perry resigned, and Dr. Gross served as acting president for the 1990-91 academic year. Dr. Fay Bower (D.N.Sc., F.A.A.N.), formerly dean of nursing, interim vice-president, and director of university planning and institutional research at the University of San Francisco, assumed the office of president in October 1991, with Dr. Gross becoming academic vice-president. In September 1992, Dr. Gross, after seventeen years at Clarkson, resigned and, at the time of the investigating committee's visit in late November, had not been replaced. Dr. Sherry L. Mustapha (R.N., Ed.D) serves now as dean of nursing.

The transition to an accredited baccalaureate college was achieved with some difficulty. The National League for Nursing gave the college its accreditation only after two previous applications had been rejected. The change to a college involved not only a new corporate organization, but also changes in the curriculum and, in the words of one faculty member, the adoption of a quite different "academic culture." The tensions resulting from these changes may have had a bearing on the events to be discussed in this report.

¹The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the Association's staff, and as revised, with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A it was subsequently sent to the faculty members at whose request the investigation was conducted, to the administration of Clarkson College, 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.

II. The Actions of May 1992

Shortly before President Bower took office, and after the 1991–92 academic year had begun, each faculty member at Clarkson College was asked to sign a “Faculty Employment Agreement,” which stated that the faculty member was being employed by the college for that academic year beginning on a particular date in August 1991 and running until a date in late May or early June 1992. Although there had been earlier discussions between some faculty members and Drs. Perry and Gross about instituting contracts, the agreement in the form presented to the faculty had not been reviewed by any faculty body. The employment agreement states, *inter alia*:

5. *Renewal.* Reemployment under this Agreement shall be considered automatic unless the Faculty Member is notified to the contrary not later than the 15th day of May....

6. *Termination.* [The college] may discharge Faculty Member for just cause...by giving Faculty Member written notice of discharge and the cause or causes for discharge. Just cause shall include, but not be limited to, physical or mental incapacity that renders the Faculty Member unable to perform the services required under this Agreement, incompetency, insubordination, immorality, illegality, or any unprofessional conduct reflecting discredit on Faculty Member or [the college], or which impairs the continued usefulness or ability of Faculty Member to teach at [the college]....

8. *Miscellaneous.* This Agreement constitutes the entire understanding and agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, expressed or implied, between the parties hereto....

Presented with this document, all faculty members signed it, the investigating committee was told, except for one who resigned rather than sign. At least one faculty member reached an agreement with Dr. Gross on an addendum to the contract defining with some specificity her workload; however, when this contract reached the desk of President Bower, she refused to sign it and required that all agreements be signed exactly as originally presented, with no modifications or addenda.

On May 7, 1992, without any previous notice or warning of unsatisfactory performance,² six (of a total of about thirty-five) full-time faculty members received the following letter from President Bower:

²None of the affected faculty members interviewed by the investigating committee had received prior notice that termination was being considered. The committee, however, did not speak to all of those whose services were terminated.

Pursuant to paragraph five (5) of your Faculty Employment Agreement, Bishop Clarkson College will not renew your contract for the 1992–1993 school year. Your office must be vacated and your keys to the building, office, and classroom returned...by May 31, 1992, although you will receive compensation through June 12, 1992. You will receive a paycheck in June, July, and August. Before you may receive your last check, it is necessary for you to return your Clarkson badge to Personnel.³

We wish to thank you for your previous service and wish you the best of luck in your future endeavors.

Three of the four faculty members who sought assistance from the American Association of University Professors filed grievances under a procedure included in the college’s *Policies/Procedures Manual*, but the administrative officers refused to consider their grievances on the grounds that the grievance procedure had not been incorporated into the new Faculty Employment Agreement, which superseded previous documents, and that the college’s only obligation was to provide them with notice as specified in the agreement. One of the faculty members who filed a grievance stated that she was called in by Ms. Debra Tomek, the manager of the personnel department of the hospital, and told that an entirely new grievance procedure had replaced the one described in the manual. When the faculty member asked to see the new grievance procedure, the personnel manager refused to give her a copy. The policies and procedures, she said, “exist as guidelines for the administration.”

When some of the faculty members whose services were terminated requested letters of recommendation or a statement of reasons for the action from Dean Mustapha, they received identical letters, addressed “To Whom It May Concern:”

[Name of faculty member] was employed at Clarkson College as a member of the faculty of the Division of Nursing from [date] to June of 1992. This year we did not renew [the professor’s] contract because we needed to reallocate resources. Several nursing faculty positions were eliminated or reassigned to other programs.

In a letter of August 5, 1992, to the Association’s staff, President Bower referred to a need “to eliminate several nursing faculty positions” as the reason for the administration’s actions.

Despite the statements of Dean Mustapha and President Bower that the services of the faculty members were terminated because the college had eliminated several faculty positions, in June the college opened a search for “faculty to teach in both our graduate and undergraduate nursing programs.” The advertisements did not mention a specific number of vacancies, but the

³The salary paid in the summer months was not severance pay, but rather payment on a twelve-month basis for services during the academic year.

notice was for faculty "positions" in "the medical surgical, pediatric, and community mental health components" of the degree programs. Notices of the vacancies were sent out in letters, an advertisement appeared in the June issue of *Nursing and Health Care*, and several new appointments were made. In some cases, the new appointees seem not to have had as much professional education or experience as some of those whose services were terminated. Be that as it may, it is clear that a number of faculty members at the college whose appointments were continued had less educational preparation and experience than several of those who were not retained.

In May and June of 1992, four of the faculty members whose services were terminated approached the Association for assistance, submitting documentary material. The four are:

Elizabeth Ann Blake (B.S.N., M.S.Ed.), who is a candidate for the M.S.N. degree at Creighton University in Omaha. She served as instructor at Creighton Memorial St. Joseph School of Nursing from 1964 to 1972, when she was appointed as an instructor at Clarkson. She was promoted to the rank of assistant professor in 1985, and to the rank of associate professor in 1989. Thus she had taught at Clarkson for twenty years and had eight years of teaching experience elsewhere.

Anne M. Larson (B.A., M.S.), who is a candidate for the Ph.D. degree at the University of Nebraska-Lincoln. She was appointed as an instructor at Clarkson in 1982, promoted to the rank of assistant professor in 1987, and to that of associate professor in 1991. Thus she had taught at Clarkson for ten years.

Cynthia Hromek (A.D.N., B.S.N., M.S.N.), who is candidate for the Ph.D. degree at the University of Colorado. Before coming to Clarkson she was an instructor at West Texas State University (1979-81), Northwest Texas Hospital School of Nursing (1981-84), and Amarillo College (1984-85). She joined the Clarkson faculty as an instructor in 1986 and was promoted to the rank of assistant professor in 1989. She thus had six years of teaching experience at Clarkson after six years of prior service elsewhere. In 1992 she received the Teacher of the Year award at Clarkson.

Jane Hokanson Hawks (B.S.N., M.S.N.), who is a candidate for the D.N.Sc. degree at Widener University in Pennsylvania. She served as an instructor at Morningside College (1978-79) and the Jennie Edmundson School of Nursing (1979-81 and 1986-88), and as an instructor (1981-83) and assistant professor (1983-86) at the University of Nebraska College of Nursing before joining the Clarkson faculty as assistant professor in 1988 and being promoted to the rank of associate professor in 1991. Thus she had been at Clarkson for four years after having taught at other institutions for nine years. She has published extensively in health-profession books and journals and was a nominee for the 1992 Teacher of the Year award at Clarkson.

It will be noted, from the above, that three of these four faculty members had been promoted to the rank of associate professor quite recently (Anne Larson and Jane Hawks in 1991 and

Elizabeth Blake in 1989) and that two were nominated for Teacher of the Year (with Cynthia Hromek selected) in the same year that their services were terminated.

The Association's staff wrote to President Bower on June 23 and again on July 28, 1992, raising the issue of the rights of the terminated faculty members under the 1940 *Statement of Principles on Academic Freedom and Tenure* and urging their reinstatement. Replying on August 5, President Bower cited the absence of a system of tenure at Clarkson College, coupled with the signed Faculty Employment Agreement, to justify her actions. On October 7, the Association's staff heard from Mr. Edward Pohren, an attorney in Omaha, who stated that he represented Clarkson College (and Clarkson Hospital). At his request, the staff sent him materials relating to the Association's mediative and investigative procedures. By letter dated October 9, the staff informed President Bower that the Association's general secretary had authorized an investigation of the issues raised by the actions taken against the faculty members at Clarkson College. The undersigned were then appointed as an *ad hoc* committee to conduct that investigation. Mr. Pohren subsequently wrote to the Association's staff that Clarkson College had "honored its contract with the faculty members," asserting that "the specific object of the AAUP's involvement here is to get the college to pay these persons money." He went on as follows:

We want you to know that the College will not be intimidated into paying something to these former faculty members. Indeed, the Administration thinks that using this threat of an investigation (or the likelihood of censure) to win your objective is a shameful tactic and smacks of extortion. You are advised, therefore, that the College refuses your invitation to participate in this exercise.

Before the *ad hoc* investigating committee's visit to Omaha, President Bower circulated a letter to all faculty members informing them of the impending investigation into "an internal College matter" by the Association, "a labor union." This "AAUP meddling" is occurring, she said,

because some members of the faculty whose contracts were not renewed...were unhappy with that determination. The AAUP refuses to understand that a system based upon merit can be effective and that employment is not "guaranteed" in the private sector. Rather, they adhere to their own theories which, coming from 1940, are 50 years out of date. They do not care that the Faculty Employment Agreement was developed at your request.

The Association, she continued, operates "under the guise of being a crusader for the cause of academic freedom and tenure," while its real reason is to obtain money for the former faculty members; but the college will not be "intimidated. You may choose to communicate with this outsider," she concluded, but "we would prefer to hear your ideas, suggestions and/or criticisms directly."

The investigating committee examined available documentation relevant to the case and then visited Omaha on November 22–24, 1992. It conducted interviews at an off-campus location and spoke, in person or by telephone, to nine current and former faculty members, including all four of those who had sought the Association's assistance; to Dr. Patricia Perry, the former president; to Dr. Gloria Gross, the former dean, academic vice-president, and acting president; and to three students. President Bower refused repeated invitations to speak to the committee, and the committee did not meet with any other current member of the Clarkson College administration.⁴

III. Issues and Findings

The 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, both of which were issued jointly by the American Association of University Professors and the Association of American Colleges, set forth procedural standards regarding academic freedom, tenure, and termination of appointments that are widely respected in American higher education. Also relevant to the cases that arose at Clarkson College are derivative AAUP-supported standards as set forth in its *Recommended Institutional Regulations on Academic Freedom and Tenure*. The actions taken by the Clarkson College administration in the cases of Professors Blake, Larson, Hromek, and Hawks will be measured against these principles and standards.

A. Tenure, Terms of Appointment, and Notice

According to the 1940 *Statement of Principles*, "the precise terms and conditions of every appointment should be stated in writing" and be in the possession of both the professor and the college. Professors should have permanent or continuous tenure after a probationary period not to exceed seven years, with credit granted for up to three years of prior service at other institutions of higher education. Probationary faculty members who are not to be retained with tenure should receive at least one year of notice.

Clarkson College has no provisions for granting tenure to members of its faculty. According to testimony given to the investigating committee, there was some discussion between faculty members and the previous administration about adopting a tenure policy; however, there apparently being little faculty support, no such policy was adopted. Furthermore, until 1991 individual letters of appointment had not been issued. Faculty members stated to the investigating committee that workloads were set arbitrarily by the administration and that a number of faculty members were assigned unexpected increases.

⁴President Bower, commenting on a draft text of this report sent to her prior to publication, stated that she "denied the *ad hoc* committee entrance to the college building to protect the students from intrusion."

Under the provisions of the 1940 *Statement of Principles*, Professors Blake and Larson, who had been full-time faculty members at Clarkson for twenty and ten years respectively, were entitled to the protections of tenure based on the length of their service. The 1940 *Statement* allows for a maximum of four years of nontenured service at the current institution, with a year of notice if tenure is to be denied, in the case of faculty members with at least three years of previous service elsewhere. Professors Hromek and Hawks each had the requisite prior service. With the former's six years and the latter's four years at Clarkson College, each had served beyond the maximum period of time during which a decision to deny them indefinite tenure could properly be made. All four faculty members had accordingly attained the protections of tenure under the 1940 *Statement of Principles* and therefore should not have been subject to dismissal except for demonstrated cause and with opportunity for a hearing and other requisite protections of academic due process.

As to notice, the Association's recommended standards are summarized in Regulation 8 of its *Recommended Institutional Regulations*: after two years of service, at least twelve months of notice in all cases in which moral turpitude has not been established. None of the four professors whose cases are treated specifically in this report was given anything remotely resembling such notice. They were given a scant four weeks. By Association-supported standards, they received much less notice than a faculty member in the first year of service should receive.

The administration claims that its actions were justified on the grounds of the Employment Agreement the faculty members signed in September 1991. This agreement, as was noted above, states that the services of faculty members could be terminated at the end of the academic year if they were so notified by May 15 and that the agreement supersedes all previous provisions governing faculty appointments and agreements between the college and the faculty member. This claim needs to be examined in the context of the situation that prevailed at Clarkson College. First, the agreement specifies that the term of service was to begin on August 19, 1991, but it was signed after that date, and as late as September 30 by three of the four professors who brought their cases to the Association's consideration. President Bower's signature on three of these contracts was dated October 1. The administration issues these contracts after what was defined as the beginning of the academic year, when there was little or no chance that the faculty members could obtain another teaching position if they refused to sign. Faced with a demand to return the document promptly, they lacked time to consider the implications of its terms or to obtain legal advice.

Second, the faculty members who raised questions about the terms of the contract were assured, in good faith by Dr. Gross she and they have testified, that the contract was a formality and that their previous rights would continue. What was assumed to have been their previous rights are described in the Clarkson

College *Policies/Procedures Manual*.⁵ Its provisions regarding faculty status and personnel procedures are not clearly defined and are inadequate when measured against the standards described in the above-cited Association documents. As these procedures were administered by the previous administration at Clarkson, however, the members of the faculty believed they had assurances of continuance and fair treatment. Dr. Gross stated to the investigating committee that the accrediting agencies had been assured that Clarkson had a policy of continuing appointment.

Given the circumstances under which these agreements were issued and signed—presented to the faculty after the new academic year had begun, with very little time for consideration, and with oral assurances from the academic vice-president that they would lead to no significant change in administrative practices—one may question their authenticity, not to mention their fairness.

B. *Grounds for Dismissal and Due Process*

The letters which the faculty members received from President Bower in May 1992 contained no statement of reasons for her actions to dismiss them. The identical letters from Dean Mustapha provided to the dismissed faculty members who requested letters of recommendation from her stated that they were not retained because “we needed to reallocate resources. Several nursing faculty positions were eliminated or reassigned to other programs.” The investigating committee is aware of two other written statements by a member of the administration about the reasons for the actions. President Bower’s August 5 letter to the Association’s staff, mentioned earlier, referred also to the need “to eliminate several faculty positions.” On the other hand, her letter informing the faculty of the Association’s investigation implied, by the statement that the Clarkson “system” is “based upon merit,” that the terminations were the result of lack of merit. In addition to these written statements, several of those interviewed by the investigating committee reported that President Bower made oral statements publicly after her actions to the effect that the criteria used in selecting the faculty members whose services were to be terminated were “contribution to the college,” workload, possession of the master’s degree, and being a “team player.”

In sum, members of the current Clarkson College administration have suggested that the faculty members were released, on

the one hand, because the college’s financial condition necessitated reducing positions or reallocating resources, or, on the other hand, because of the faculty members’ failure to meet educational standards, failure to make an adequate contribution to the college, or failure to be a “team player.” These inconsistent assertions, however, were all offered after the actions were effected, with no prior notice to the faculty members of the alleged concerns and no opportunity for them to respond to such allegations. Moreover, the decisions to terminate were made entirely by the administration. There was no participation by any faculty body in these decisions that massively affected faculty status.

Association-supported policy allows for termination of continuous faculty appointments on grounds of financial exigency if the administration demonstrates that there is “an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.” The faculty should participate in determining the existence of such a crisis and in identifying the criteria for termination; it should also participate in determining where within the institution the terminations should occur and which appointments should be terminated. Those faculty members thus identified should have the right to a full hearing before a faculty committee. The institution should make every effort to place the affected faculty member in some other suitable position within the institution, should not make new appointments to positions which could be filled by the faculty members being released, and should give those faculty members due notice or severance salary. None of these procedural safeguards for tenure in a time of financial exigency was met by the Clarkson College administration in the cases of concern. Given the failure of the administration to make any serious attempt to establish the existence of a financial exigency and the filling of several of the positions that became vacant as a result of the terminations, the investigating committee is left with serious doubts as to whether the terminations can in fact be attributed to financial exigency.

With respect to other alleged reasons for the terminations, those interviewed by the investigating committee have testified emphatically that the four faculty members who sought the assistance of the Association were among the best qualified and most experienced professors at Clarkson and that on the whole they had received excellent evaluations from students and faculty peers. At the same time that these faculty members were released, other faculty members were retained who did not have similar academic credentials or professional experience. The subsequent advertisement for new faculty members stated that, while a doctorate and teaching experience were preferred, neither was required of applicants.

According to the persons interviewed by the investigating committee, the “teamwork” criterion was used to terminate the services of faculty members who had questioned or expressed disagreement with some of President Bower’s decisions or ad-

⁵In the “General Personnel” section of the manual, the policy on “Continued Appointment and Employment” states: “Bishop Clarkson College is committed to a philosophy of providing employment for all professional staff who maintain a satisfactory level of performance. A high level of importance is placed on maintaining stability in order to provide the quality of education to which Clarkson is committed. Should economic, enrollment, or other circumstances dictate a temporary or permanent reduction in numbers of employees, each member will be treated in a fair and equitable manner.”

ministrative practices. The one faculty member interviewed by the investigating committee who tended to defend President Bower expressed "surprise" at some of her actions because the released professors were so well qualified. If one is to assume that the administration acted against a significant portion of its faculty for cause as opposed to financial exigency, here too the investigating committee has found no credible reasons for the termination of faculty appointments.

C. Academic Freedom

The 1940 *Statement of Principles* sets forth the fundamental premise that academic freedom is essential to the purposes of institutions of higher education and should be accorded all faculty members, whether tenured or untenured. The Clarkson College *Policies/Procedures Manual* includes, with language taken largely from the 1940 *Statement*, the following statement on academic freedom:

Institutions of higher education are conducted for the common good and not to further the interest of the student, the individual faculty member, or the institution as a whole. The common good is dependent on the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Freedom in academia is fundamental for the rights of the teacher in teaching and of the student in learning.

(a) A college faculty member, speaking or writing as a citizen, should be free from discipline or censorship from the institution, keeping in mind the public may judge his/her profession by his/her words. The faculty member will indicate he/she is not speaking for the institution.

(b) The faculty member is entitled to freedom in discussing subject content, in accordance with philosophy and policies of the institution.

(c) A faculty member is entitled to full freedom in research and in publication of the results while performing adequately his/her other academic duties....

In her letter of August 5, 1992, to the Association's staff, President Bower states:

Quite clearly, academic freedom in regard to both teaching and research are the hallmarks of any respected institution of higher education. Clarkson College believes in those principles and practices them in dealing with members of the faculty.

You may be assured, therefore, that academic freedom was not compromised when the College did not renew the appointments of certain faculty members...

Despite the president's assurances, the investigating committee has found reasons for concern about the commitment to academic freedom at Clarkson College. In the first place, the investigating committee is concerned with section 8 of the Faculty Employment Agreement. This section, quoted earlier in this report, renounces "all previous communications, representations, or agreements, either verbal or written, expressed or implied," between the faculty members and the college. The administration has used this section as the basis for denying access to the grievance procedure that was included in the policy manual. Is the previously stated policy on academic freedom not also superseded by the new document? If not, how are faculty members to know this? What is the basis for President Bower's claim that academic freedom is protected at Clarkson College if the *Policy/Procedures Manual* has been superseded by the terms of the agreement faculty members have been required to sign? The investigating committee can assume only that academic freedom at Clarkson is left to the whim of the president.

In the second place, the investigating committee was told by all but one of the persons it interviewed that in their judgment the basis for acting against some of the faculty members at Clarkson College was their outspokenness in expressing opinions that differed from those of President Bower and in expressing support for the policies of the previous administration. In the absence of the administration's willingness or ability to support with evidence its alternate and inconsistent claims that its actions were based on financial exigency or program discontinuance or professional unfitness, the investigating committee cannot discount assertions that the actions were based on considerations violative of the academic freedom of the faculty members adversely affected.

Finally, the investigating committee was impressed by testimony of those whom it interviewed (again, with one exception) of an oppressive atmosphere at the college subsequent to last May's actions and of fear by faculty members that an expression of opinions critical of the president will place their continuance in jeopardy. The committee was told by several of the persons it interviewed that the letter from President Bower to the faculty preceding the visit of the committee was widely interpreted as a message to faculty members not to meet with the committee. In the words of one faculty member, the letter was seen as a "veiled threat." Some current faculty members whom the committee contacted refused to be interviewed or even to state why they did not wish to be interviewed. If such faculty members wished to support the decisions of President Bower, the investigating committee is unaware of any good reason for them not to meet with the committee and say so. If they did not wish to support the president, why should they not speak out if they had no fear of the consequences?

The current situation at Clarkson College demonstrates the importance of institutional policies which explicitly ensure academic freedom, tenure, and due process. Without such assurances,

faculty rights are dependent on the shifting sands of changing administrations. Faculty members at Clarkson College appear to have had confidence that their rights were protected and that they would be treated fairly by the previous administration. With no tenure system in place, however, and without stated policies ensuring due process and defining the faculty's participation in college government, faculty members found themselves with scant protection once the administration changed.

D. Governance

The 1940 *Statement of Principles on Academic Freedom and Tenure* states that college and university professors are "officers of an educational institution." The 1966 *Statement on Government of Colleges and Universities*, jointly formulated by the American Association of University Professors, the American Council on Education, and the Association of Governing Boards of Universities and Colleges, sets forth the respective governing responsibilities of college boards of trustees, presidents, and faculties. In describing the faculty's role, the *Statement on Government*, among other things, says:

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.... Faculty status...includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal.

Institutional government at Clarkson College fails significantly when measured by these standards. Even under the previous administration, which seems by and large to have worked cooperatively with the faculty, the stated policies inadequately defined the faculty's role in the above-mentioned matters. Consultation seems to have been on a rather informal and unstructured basis. In the "Governance and Administration" section of the self-study prepared for the North Central Association in 1988, a "line of command" system is described, with authority descending from the board of directors through the president and the dean to the division chairpersons. The self-study report goes on to state:

The primary mechanism for the participation of the faculty, administrators, and students in the governance of the college is through the Clarkson College Council. The Council functions as a body-of-the-whole, and is comprised of all faculty, academic staff, administrators, and designated student representatives.... [The purposes of the College Council are]:

- (1) to maintain high educational standards,
- (2) to assure that the College activities comply with the established mission and purposes of the institution,
- (3) to provide a system of communication,
- (4) to promote coordination of college activities, and

- (5) to furnish a structure for faculty, academic staff, and students to take action and/or make recommendations to the administration and to the College Board of Directors.

In the *Policies/Procedures Manual*, a section entitled "Selection/Appointment/Position Changes Procedures" identifies duties only of the president, the dean, and the division chair. There is no mention of any faculty committee's having any part in these procedures. A section setting forth the grievance procedure describes functions for the same officers and provides a role for a hearing board, but there is no mention of who makes up the membership of this board. A section on academic rank refers to a committee on academic rank, but, again, does not address its membership.⁶

Whatever the extent of faculty participation in institutional government under the *Policies/Procedures Manual*, the provisions in the manual would seem no longer to be in operation, given section 8 in the Faculty Employment Agreement and the stance taken by the hospital's manager of personnel in not letting a faculty member even see the current grievance procedure. It is also worth noting that the hospital's manager of personnel seems to have jurisdiction over the faculty. The investigating committee was told by some faculty members that they believe faculty personnel decisions, and even curricular decisions, are essentially being made now by the president. Dr. Gross stated that, even as dean and academic vice president, she was not a participant in the selection of the faculty members whose services were to be terminated.⁷ In May 1992, while she was on a three-week leave of absence, the letters notifying faculty members of their dismissal went out from the president's office.⁸

IV. Conclusions

1. The administration of Clarkson College dismissed Professors Elizabeth Ann Blake, Anne Larson, Cynthia Hromek, and Jane

⁶President Bower, in her prepublication comments on this report, refers to the formation in the spring of 1992 of a College Assembly "which more than adequately provides for faculty involvement in college governance."

⁷President Bower, commenting on this report's prepublication text, asserts that "Dr. Gross was involved in the decisions."

⁸Subsequent to the submission of this report, the Association's staff received a complaint from another faculty member at Clarkson College. According to information provided by this faculty member, she was notified of her immediate dismissal on January 21, 1993, with no written charges, no opportunity for a hearing, and no severance salary.

By letter of March 19, 1993, President Bower commented on the draft text of this report as follows: "While I followed the procedures established before I arrived, I am not satisfied with the present contract. As a long-time academician and champion of faculty rights, I have formed a faculty committee to discuss ways we can revise the contract. We will be working on a new version over the next few months."

Hokanson Hawks, all of whom were entitled under the 1940 *Statement of Principles on Academic Freedom and Tenure* to the protections of tenure, without affording them requisite protections of academic due process as called for in the 1940 *Statement of Principles* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*. The four professors were not given an adequate statement of the reasons for their dismissal and were not afforded the opportunity to be heard in their defense by a faculty committee or any other body. They did not receive the notice or severance salary called for in the 1940 *Statement of Principles*.

2. With the absence of a tenure system, the cancellation of previously existing policies and procedures by the terms of a new one-year employment agreement, and widespread belief among faculty members that they will endanger their careers if they express themselves in opposition to the policies and practices of the current president, academic freedom is not protected at Clarkson College.

3. Clarkson College's policies and procedures are severely deficient in meeting the standards for faculty participation in institutional governance under principles of shared authority, as enunciated in the 1966 *Statement on Government of Colleges and Universities*.

C. WILLIAM HEYWOOD (History)
Cornell College, *Chair*

BARBARA L. SCHARE (Nursing)
University of Cincinnati

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: ELIZABETH BARTHOLET (Law), Harvard University; WILLIAM P. BERLINGHOFF (Mathematics), Farmington, Maine; MATTHEW W. FINKIN (Law), University of Illinois; ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; BETSY LEVIN (Law), University of North Carolina at Chapel Hill; JAMES E. PERLEY (Biology), College of Wooster; IRWIN H. POLISHOOK (History), Herbert H. Lehman College, CUNY; CAROL SIMPSON STERN (Performance Studies), Northwestern University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; LINDA RAY PRATT (English), University of Nebraska-Lincoln, *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*. ☉