

Academic Freedom and Tenure: DEAN JUNIOR COLLEGE (MASSACHUSETTS)¹

I. INTRODUCTION

This report deals with the decision by the administration of Dean Junior College to terminate the services of Professors Neal C. Henderson and Arthur J. Braza.

Dean Junior College, located in Franklin, Massachusetts, was founded as an academy in 1865, began offering postsecondary education in 1941, and graduated its last secondary-level class in the fall of 1957. The junior college has been accredited since that year by the New England Association of Schools and Colleges. According to the college's 1989-90 catalogue, some 1,200 full-time students and 1,200 part-time students are enrolled in the college's academic programs. There are approximately seventy full-time faculty members and another fifty-five faculty members who teach on a part-time basis. The college boasts a total of 12,000 alumni.

Mr. Richard E. Crockford, president of Dean Junior College since 1972, has resigned effective at the end of the 1990-91 academic year. Mr. Harry L. Kreshpane has served as the college's dean of academic affairs since 1974. The college's twenty-three-person board of trustees was chaired by Mr. Richard Mann at the time of the events discussed in this report.

Dean Junior College was the subject of a previous investigation, in 1966, by the American Association of University Professors. The published report of that investigating committee dealt with the termination of the services of a faculty member who was in his ninth year on the college's faculty. The college did not then have a system of tenure, but by the time of the investigation the board of trustees had adopted policies essentially consistent with the 1940 *Statement of Principles on Academic Freedom and Tenure* and shortly thereafter the administration reached a settlement with the faculty member. The tenure system did not remain in place for long, however. In 1973, a year after President Crockford assumed office, the board decreed that faculty members appointed after September of that year would not be eligible for tenure. The new policy established a limit of five one-year appointments that could be issued to faculty members initially appointed after September 1973. In 1977, the faculty, concerned that in 1978 many colleagues would be issued notice

of nonreappointment because of the five-term maximum, supported a recommendation from Dean Kreshpane to President Crockford that "the five-year limit on hiring new faculty be amended to have it on a year-to-year basis." The board of trustees subsequently repealed the five-year limitation.

Mr. Neal C. Henderson, an assistant professor of business administration, began teaching in a part-time capacity at Dean Junior College in 1975, but his connection with the college had been longstanding. His father, Kenneth Henderson, chaired the Department of Business from 1950 to 1968, and served as acting president of the college in 1953. Neal Henderson enrolled in Dean Junior College in 1966. He subsequently obtained the B.S. degree from the University of Rhode Island in 1975 and the M.B.A. degree from Lesley College in 1987. He became a full-time faculty member at Dean Junior College in 1982. Mr. Arthur J. Braza, also an assistant professor of business administration, taught full-time at Dean Junior College beginning in 1985. He obtained the B.S. and M.S. degrees from Bryant College in 1980 and 1984, respectively.

On February 12, 1990, Professors Henderson and Braza were separately called to meetings with Professor Pia B. Jarrett, chair of the Department of Business, and Mr. Richard C. Taylor, the college's director of human resources. Professors Henderson and Braza were each informed that they would not be retained at Dean Junior College beyond the end of the 1990-91 academic year, that they would be paid but would teach no classes during that academic year, and that the reason for the action against them was declining student enrollment in business administration. Two days later, a crowd estimated by reporters as numbering from 150 to more than 300 students marched on a campus building and occupied it in protest against the decision to terminate the services of Professors Henderson and Braza.

In a memorandum of February 21 addressed to the "Faculty, Staff and Students" of Dean Junior College, President Crockford stated that "I believe it important to respond to the Dean community regarding the nonreappointment of the two faculty members." The memorandum continued: "The reasons for not renewing the contracts of the two faculty members are the decline in full-time enrollment in the Business Department and the shifting enrollment patterns into the Liberal Arts, Liberal Studies and other majors." The memorandum specified that "from the Fall of 1985 to the Fall of 1989, the entire Business Department experienced a 37 percent decline in full-time enrollment, and the Business Administration major experienced a 45 percent decline."

On February 22, students again occupied the same

¹The text of this report was written in 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 inquiry was conducted, to the administration of Dean Junior College, to the chapter president, 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.

campus building. On February 26, some thirty faculty members, in a document entitled "The Firings of Braza and Henderson: In Response to President Crockford's Letter," sharply questioned the administration's stated reasons for its action against the two faculty members. Pointing out that business courses were often selected by non-business majors, who "know that in today's world they need to understand the world of business and finance," the faculty statement asserted that the stated reasons were not the true reasons for the action against Professors Henderson and Braza. It emphasized that "the crisis at Dean regarding personnel issues between the administration and the faculty is severely threatening the well-being of the institution. The most recent action, the announcement of terminal contracts being issued to two faculty members who have been active in unionization activity, appears to many of the faculty to have been an act of retaliation."

On that same day President Crockford met with a large group of concerned students. Two days later, at a meeting of the entire faculty, the administration reiterated its position that the actions against Professors Henderson and Braza were based on the declining number of students in business.

Professor Braza met again with Professor Jarrett and Mr. Taylor on March 29. They offered him the opportunity to teach two courses during the fall semester: a section of business mathematics and a section of marketing. He had never taught the latter course. The conditions of his terminal year of appointment were then clarified. He was informed that if he taught the two courses he would be treated as a full-time faculty member in the sense that he would have an office on the campus and would be eligible to serve on faculty committees. If he declined the offer, he could expect only his salary to be continued. On April 2, Professor Braza informed Professor Jarrett that he had decided not to accept the offer to teach the two courses.

Professor Henderson also met again with Professor Jarrett and Mr. Taylor. He informed the Association's staff that he was not offered any opportunity to teach during the 1990-91 academic year, that he would continue to receive his salary through that academic year provided that he "acted professionally," and that he could appeal these decisions to Dean Kreshpane. Convinced that appealing to the dean would be fruitless with the president already having acted, Professor Henderson chose not to do so.

In identical letters to Professors Henderson and Braza dated May 21, President Crockford informed them that their "present appointment" would end on June 30, 1990, but that their salary and benefits would continue "until the earlier of June 30, 1991, or your procurement of full-time employment." The letters included the warning that "any conduct which, in the

college's opinion, is detrimental to its interests or its operation, will result in the cessation of the salary/benefit continuation plan described herein."

Professor Henderson had initially sought the advice and assistance of the Association in 1988, after receiving a letter of reprimand from Dean Kreshpane (to be discussed below). He sought further assistance from the Association in 1990. By letter of August 2 the staff conveyed the Association's concerns to the administration over the decision to terminate his services: that Professor Henderson seemed, under the provisions of the 1940 *Statement of Principles*, to have earned the protections of tenure because of the length of his full-time service at the college, the college's current regulations to the contrary notwithstanding, and that the action against him may have been based on considerations violative of his academic freedom. The letter also questioned the administration's decision to relieve Professor Henderson of his teaching and other duties at Dean Junior College as of June 30, 1990, although continuing his salary and benefits during the 1990-91 academic year.

President Crockford's reply to the staff, dated September 5, was curt: "I have reviewed your letter of August 2, 1990, regarding the nonreappointment of Mr. Neal Henderson. In our opinion, the American Association of University Professors has no role in this matter." With the Association's concerns relating to Professor Henderson's case remaining unresolved, the general secretary authorized this investigation, and the staff so notified the Dean Junior College administration by letter of November 2. In the same letter, the staff also questioned the termination of the services of Professor Braza, stating that the action against him, as in Professor Henderson's case, appeared to present important issues under principles of academic freedom. Replying on November 27, President Crockford stated that the Association "has no jurisdiction in the Braza/Henderson matter. The College administration, therefore, will not participate in any 'investigation' conducted by the AAUP. . . . We view any AAUP investigation as not only intrusive but unnecessary."

The members of the undersigned investigating committee, after examining available documentation, visited Dean Junior College on January 25 and 28, 1991. Although efforts by the staff and the chair of the investigating committee to arrange interviews with members of the college administration were unavailing, the committee did meet at length with Professor Henderson and Professor Braza and some twenty current members of the Dean Junior College faculty. The committee is grateful to the officers of the local AAUP chapter, who assisted in the arrangements for the committee's visit to the college and in securing a room for the committee's use on the campus.

II. THE ISSUES

The investigating committee believes that the termination of the services of Professor Henderson and of Professor Braza presents the following issues: (1) Professor Henderson's entitlement to the protections of tenure by virtue of the length of his full-time service; (2) affordance of academic due process in the action against Professor Henderson; (3) the suspension of Professor Henderson from teaching responsibilities

during the 1990-91 academic year; and (4) considerations of academic freedom in the administration's reasons for terminating the services of Professors Henderson and Braza.

1. Tenure Rights

Under the Dean Junior College *Faculty Handbook* currently in force, "[a]ll full-time faculty who are ap-

pointed from September 1973 on should not expect to achieve tenure status; rather, if they prove satisfactory, and all other contingencies are favorable, then they will be eligible for reappointment on a yearly basis." In remarks attributed to him in 1978 in a local newspaper (the *Sentinel*) about events on the campus the previous year, President Crockford stated that tenure had been abandoned for *all* faculty members at Dean Junior College and thus presumably no faculty member any longer had tenure. The information available to the investigating committee indicates, however, that the college continues to recognize the tenured status of approximately twenty faculty members who had either attained tenure before September 1973 or been appointed before September 1973 and were thereafter granted tenure.

The 1940 *Statement of Principles on Academic Freedom and Tenure* sets a maximum period of probation not to exceed seven years, with tenure or nonretention to follow. Professor Henderson was initially appointed to a full-time position at Dean Junior College in 1982. He was completing his eighth year of teaching at the college when he was notified by President Crockford that his services would be terminated. The college administration, pursuant to the institution's policies, treated Professor Henderson's case as simply one of nonreappointment. Under the standards set forth in the 1940 *Statement*, however, the investigating committee finds that Professor Henderson was entitled through length of service to the safeguards of continuous tenure in any action by the administration to terminate his services involuntarily.

2. Academic Due Process

After Professor Henderson was notified by Professor Jarrett and Mr. Taylor of the termination of his services, notification confirmed by President Crockford, the only avenue proposed to him for being heard on the matter was an appeal to Dean Kreshpane. Because Professor Henderson had attained the protections of tenure through length of service, the administration should have afforded him the safeguards of academic due process in the termination of tenure—as set forth in the 1940 *Statement of Principles*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*. It should have demonstrated adequacy of cause for its action in a hearing of record before a body of Professor Henderson's peers. Manifestly, the administration did not. The college's *Faculty Handbook* includes procedures for dismissal for cause and for programmatic or financial reasons, but only in the case of a "faculty member on tenure or prior to the expiration of a term appointment." The investigating committee finds that the administration of Dean Junior College disregarded the provisions of tenure in the 1940 *Statement of Principles* in terminating the services of Professor Henderson without having afforded him an appropriate hearing and the other protections of academic due process to which faculty members who have served beyond a maximum probationary period of seven years are entitled.

3. Suspension from Teaching Responsibilities

The 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* states that a "suspension of the

faculty member . . . is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance." The 1940 *Statement's* Interpretive Comment Number 9, adopted in 1970, states further: "A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process." Finally, Regulation 5 of the Association's *Recommended Institutional Regulations* calls upon an administration to consult with a faculty committee regarding the "propriety, the length, and the other conditions of the suspension." The Dean Junior College *Faculty Handbook* is silent on the subject of suspension.

When Professor Henderson and Professor Braza were notified in February 1990 that they would not be retained beyond the 1990-91 academic year, they were also informed that they would be assigned no classes during their terminal year at the college. As previously noted, however, Professor Braza was subsequently offered part-time teaching during his final year, but he declined the offer. In May 1990, the president confirmed that the services of Professors Henderson and Braza would terminate at the end of the spring 1990 academic term, with their salaries and benefits to continue through the next academic year provided that their conduct was not, "in the College's opinion, . . . detrimental to its interests or its operation." While the administration cited a decline in enrollment in business administration courses as its reason for terminating the services of the two professors, it was prepared to assign two courses during the 1990 fall academic term to Professor Braza but not to Professor Henderson. To the investigating committee's knowledge, the administration has suggested no reason for this distinction. The administration's conditioning of continuance of salary on acceptable conduct by the professors suggests to the investigating committee that the administration was motivated by more than declining enrollment, at least in Professor Henderson's case, in suspending him from teaching responsibilities during his terminal year; these motives, which bear directly on issues of academic freedom, are discussed in the section which immediately follows. The administration did not consult with a faculty committee concerning the suspension, which was followed by neither reinstatement nor the opportunity for a hearing. Accordingly, the investigating committee finds that the terminal suspension of Professor Henderson from his academic responsibilities was tantamount to a summary dismissal.

4. Academic Freedom

a. *The Administration's Stated Reasons for Terminating the Services of Professors Henderson and Braza.* President Crockford, in his February 21, 1990, memorandum to "Faculty, Staff and Students" responding to protests over the actions against Professors Henderson and Braza, stated that "the reasons for not renewing the contracts of the two faculty members are the decline in full-time enrollment in the Business Department and the shifting enrollment patterns into the Liberal Arts, Liberal Studies and other majors." Attached to the memorandum was a chart entitled "Business Department Fall Enrollments 1985-1989," which presented figures in support of the administration's position. It is not clear to the investigating committee whether the

administration, in explanation of the reasons for the termination decisions, was contending that, since 1985, the numbers of students enrolling in Department of Business courses had declined, or that the numbers of students majoring in business had fallen off, or that both had been occurring. The available data, however, do not indicate that there were no longer courses for Professor Henderson and Professor Braza to teach. The college's "course booklet" for the 1990 fall semester shows that courses that had been the responsibility of Professors Henderson and Braza continued to be taught at the college, and that courses that each had taught were assigned to "staff." In addition, a faculty member initially appointed in December 1989 to a full-time position in the Department of Business was subsequently assigned courses that Professor Braza had taught.

In Professor Henderson's case, with the investigating committee's having determined that under the 1940 *Statement of Principles* he had attained entitlement to the protections that accrue with tenure, the committee finds that a decline in enrollment would in any event have been improper grounds for terminating his services. The 1940 *Statement* speaks to cause for dismissal in the sense of questioning an individual's fitness to continue. It also allows for termination of tenure under extraordinary circumstances for a demonstrably *bona fide* financial exigency. In addition to dismissal for cause and termination on grounds of financial exigency, the Association recognizes that termination of tenure may occur because of a formal discontinuance of a program or a department for educational considerations not mandated by financial exigency. A reduction in a program, as opposed to its discontinuance, is *not* viewed by the Association as a basis for terminating the services of a tenured faculty member.

In the opinion of the investigating committee, there are factors other than a declining number of students enrolling in business courses that warrant consideration in assessing the grounds for the administration's actions in the case of the two faculty members. Professors Henderson and Braza served together on the Faculty Personnel Policy Committee, resurrected in the fall of 1985 after a long period of inactivity. They raised questions regarding a land sale by the college in the fall of 1987. They played an active role in writing and distributing a petition questioning a personnel decision of the administration. They were active in efforts to organize the faculty for purposes of collective bargaining and in hearings before the National Labor Relations Board's regional office in Boston. Each of these activities will be considered in turn.

b. *The Faculty Personnel Policy Committee (FPPC)*. According to the college's *Faculty Handbook*, the FPPC is responsible for "questions of policy and procedure relating to faculty." The seven faculty members who serve on the committee (there are no administrators) are elected by the faculty as a whole. Professor Henderson served as chair of the committee from 1986 to 1988 and was still a member of the committee when notified of the termination of his services. Professor Braza served on the committee from 1987 to 1990. In 1986 and 1987, the committee presented a series of proposals to the board of trustees concerning faculty salaries and benefits which the board did not adopt. Faculty members who met with the investigating com-

mittee said that the board's rejection of the FPPC's proposals contributed to the subsequent effort to establish a faculty union at the college.

In May 1988, Professor Henderson, in his capacity as chair, issued the FPPC's final report of the year, signed by all of the committee members. The report, addressed to Dean Kreshpane "and Faculty," consisted of a single page to which was attached an eleven-page addendum. After observing that the "1987-88 academic year has been peculiar to say the least," the report stated that the FPPC's "main concern was, quite appropriately, to assure that all of the faculty's existing rights, including those under the National Labor Relations Act, remain safely intact." The report concluded: "We have asked the administration to provide us with guidelines so that the committee might perform its function without jeopardizing any faculty rights. No such guidelines have been provided."

In the addendum to the report, the FPPC in effect questioned the completeness and candor of President Crockford's responses in an interview which had appeared in the college newspaper on April 7, 1988. In the interview the president was asked questions about a recent land sale, faculty morale, faculty salaries, and the status of FPPC proposals previously presented to the board of trustees.

In July 1988, Professor Henderson received the first of three letters of reprimand the administration would issue to him over the course of eight months. In a letter of July 27, Dean Kreshpane reprimanded Professor Henderson for his distributing, in his role as chair of the FPPC, "a memorandum critical of the administration and circulat[ing] it to others." The letter stated that "your sending the alleged report to the faculty, which is contrary to past practice, raises questions about the motivation and intent of your actions." It went on to reprimand Professor Henderson for his "unprofessional action." The dean's letter also reprimanded Professor Henderson for his activities in connection with a sale of college land, and his circulating a petition, "critical of the administration," at the college's "End-of-Year Dinner." (Professor Henderson responded at length to the dean's letter, as will be discussed below.)

c. *The Land Sale Controversy*. In the fall of 1987, the board of trustees agreed to sell approximately thirty-eight acres of the college's property to a local developer. Professor Henderson informed the investigating committee that he first learned of the sale from the son of the developer, who was a student at the college. Over the next few months, Professor Henderson, who said he had been surprised that the transaction was not more widely known on the campus, made several inquiries and spoke with college alumni and others about the sale. The developer came to learn of Professor Henderson's interest in the sale, and in a confrontation with Professor Henderson in the latter's office sharply criticized him, according to Professor Henderson, for raising questions about something the developer called none of his business.

In a letter dated April 7, 1988, counsel for the developer wrote as follows to Professor Henderson:

My client informs me that you, through remarks made in public to students at Dean Junior College, have called into question his integrity and business ethical standards.

[My client] further informs me that you have approached

a member of his family who is a student at the College with questions pertaining to certain business transactions of my client with the college. . . . Your innuendo of less than professional conduct will not be tolerated, and if it continues my client has instructed me to pursue this matter further than the formal complaint to the college which he has directed this office to submit at this time.

Copies of the letter were sent to Dean Kreshpane, President Crockford, and the chair of the board of trustees.

Responding to counsel's letter a week later, Professor Henderson denied that he had ever, "publicly or privately, questioned the integrity and/or ethical standards by which your client conducts business. To the contrary, on each occasion in which the subject of Dean's business transactions has arisen I have been emphatic that the conduct of the buyer in any transaction with the college is not an issue."

Questions about the land sale were by this time circulating widely on the campus, including several asked of President Crockford in his interview with the student newspaper published on April 7. The May report of the FPPC probed further, querying, among several matters, "who was involved in the decision to sell the property" and whether the "transaction in any way jeopardizes [the college's] tax exempt status."

Dean Kreshpane, in his July 27 letter of reprimand, referred to the letter Professor Henderson had received from the developer's counsel. The dean's letter then stated that the "use of one of our students to gain information about his father is unconscionable and will not be tolerated."

In a response to Dean Kreshpane dated October 6, Professor Henderson strongly disputed the grounds for the reprimand. Concerning the May report of the FPPC, Professor Henderson stated that "the sending of a report of a faculty committee to the faculty is an act of collegiality and an exercise of academic freedom, and it is no way 'unprofessional'." As to the controversy surrounding the land sale, Professor Henderson stated that "under no circumstances" did he "approach" the developer's son "pertaining to his father's business dealings with the college," nor had he ever "used one of our students to gain information about his father." Professor Henderson shared with Dean Kreshpane a copy of what he had written in April to the lawyer for the developer. He asked that the reprimand be withdrawn.

Professor Henderson's letter to Dean Kreshpane brought forth not a withdrawal, however, but a second reprimand. Writing to Professor Henderson on October 20, President Crockford stated that it "appears from your October 6 letter that you have learned little or nothing over the last several months regarding 'the pursuit of truth' at an institution of higher education." While Professor Henderson had denied approaching the developer's son about the land sale, the president stated that both the student and the father "have insisted you did. I fail to see what [they] have to gain by lying." The president was also critical of Professor Henderson for writing to the developer's lawyer on college stationery and identifying himself as a college faculty member. "One could easily assume," the president wrote, "that you have written such a letter as an authorized agent of the college." The president's letter concluded as follows:

Rather than rescind any warning that might be in your file, I am using this letter as a serious reprimand. Any continuation of what I consider your inappropriate and reprehensible conduct will result in future discipline, up to and including discharge.

In March 1989 the president issued a third reprimand. "It has come to my attention," President Crockford wrote to Professor Henderson, "that you are again using students to pursue your own ends. I should not have to remind you that such exploitation is unethical and unprofessional." The manner in which Professor Henderson was allegedly "using students" was not specified.

Questions about the land sale continued to be raised by Professors Henderson and Braza, other members of the faculty, and alumni, and the administration did not shrink from responding to its critics. An alumnus, in a letter to the attorney general of Massachusetts, expressed concern over the sale of college land "using a process inconsistent with the conduct of a non-profit organization" and called upon the attorney general to investigate the matter. The attorney general's office forwarded the letter to the college administration, which wrote to the alumnus through the college's lawyer. The alumnus was told that his "lack of investigation or research suggests a malicious effort to defame the College, its President and Board of Trustees." The letter warned the alumnus that, were he to "persist in [his] letter-writing campaign or any other conduct that is detrimental to our client, we shall recommend to Dean Junior College that it take serious legal action against you."

d. *A Petition.* In the late spring of 1988, Professors Henderson and Braza played an active role in writing and distributing a petition dealing with the administration's action to terminate the appointment of the college's athletic director. (The individual in question is also a tenured faculty member and continues to serve at the college in that capacity.) The petition, signed by over 500 "Friends of Dean Junior College," called upon President Crockford and the board of trustees to reinstate the individual "before any further harm is done to the students, programs and image" of the college. It singled out Dean Kreshpane for criticism, asserting that he had "failed to inspire the trust and confidence of the Dean community," and had not demonstrated "sound judgment, evidenced most recently and tragically by his request for the resignation of the Athletic Director. . . ."

Dean Kreshpane, in his July 27 reprimand, rebuked Professor Henderson for "circulating a petition critical of the administration" at the "End-of-Year Dinner, a social occasion where spouses and guests of the College were in attendance." The dean wrote that this "type of action is unprofessional and socially unacceptable and continues to raise questions of what you are trying to accomplish."

Responding to Dean Kreshpane in his letter of October 6, Professor Henderson stated that "'circulating a petition' in the company of friends, colleagues, and fellow alumni is a commonly accepted part of a collegial academic setting." He added that "it may as well fall under the umbrella of academic freedom. In either case, there is certainly nothing 'unprofessional' about it."

President Crockford commented on the petition in his October 20 letter to Professor Henderson: "While

both the College and I are committed to a healthy dialogue on any issue, the format or forum for such dialogue must be an appropriate one. Certainly a social event is not an appropriate one."

e. *Professors Henderson and Braza's Union Activities*. In 1987, a Dean Junior College faculty group affiliated with the Massachusetts Federation of Teachers, acting pursuant to the applicable provisions of the National Labor Relations Act, sought to represent the faculty of the college for the purpose of collective bargaining. Professors Henderson and Braza were members of a nine-person organizing committee. The administration claimed that the college's faculty were "managerial employees" within the meaning of the Supreme Court's decision in *National Labor Relations Board v. Yeshiva University* (1980), and hence not covered under the act. Hearings were held before the NLRB's regional office in Boston from October 1987 to February 1988. Professor Henderson and Professor Braza testified in the hearings.

The administration was sharply critical of the effort to establish a union and of those in the forefront of that effort. In his interview with the student newspaper President Crockford said that "a union would be poison here." When asked, "how and why did faculty morale become so low?" the president answered with the observation that "I think there are a few faculty leading the march who were looking for things for themselves and who 'whipped up' other people."

On September 11, 1988, the NLRB's regional director ruled that the college's full-time faculty members were "managerial employees," and thus excluded from coverage under the act. While stating that the "faculty as a whole has virtually no input into admissions, budget, tuition, hiring or firing, salary increases, or promotions," he determined that the faculty had "substantial meaningful authority" in such areas as academic standards, student discipline, and the selection of department chairs and deans.

In December, the Massachusetts Federation of Teachers filed an appeal with the NLRB's office in Washington. Controversy between the administration and faculty continued into 1989. In May 1989, the faculty voted no confidence in President Crockford and Dean Kreshpane. The vote with respect to President Crockford was 53-6, with one abstention, and with respect to Dean Kreshpane, 49-10, with one abstention. In a statement sent to the college's board of trustees and to college alumni, the faculty stated that the votes of no confidence were "due to the continued erosion of faculty morale, the arbitrary and unilateral administrative actions and decisions which have adversely affected the faculty, [and] the unwillingness of the administration to work in good faith with and through the Faculty Personnel Policy Committee of 1985, 1986, 1987, and 1988." President Crockford, in comments on the votes of no confidence reported in a local newspaper, was quoted as calling the votes a "ploy" by a faculty "acting out of frustration," because it had been thwarted in its efforts to form a union. "When a faculty is desperate enough, it votes no confidence [in] the administration." In the fall of 1989, the administration announced that henceforth department chairs would be issued administrative rather than faculty contracts and would be subject to removal from their positions upon thirty days' notice. According to many of the faculty members who met with the investigating com-

mittee, the change in the status of department chairs turned them into myrmidons of the administration.

On January 5, 1990, the Dean Junior College faculty was informed that the NLRB's office in Washington had declined to hear the appeal. Five weeks later, Professor Henderson and Professor Braza were notified of the termination of their services.

f. *Findings*. In the judgment of the investigating committee, these events indicate that the administration of Dean Junior College had become strongly displeased with Professor Henderson and Professor Braza because of their campus activities. While the administration issued reprimands to Professor Henderson and not to Professor Braza, the committee believes that the administration viewed the latter as well as the former as chief proponents of dissent at the college. The administration's stated reason for its decision to terminate the services of Professors Henderson and Braza was declining student enrollments in business, but the investigating committee is struck by the administration's decision, held firmly to in Professor Henderson's case, to suspend them from all teaching and other responsibilities for the 1990-91 academic year and the warning to both of them that the continuance of their salary was conditioned on conduct by them not deemed detrimental to the college.

The Dean Junior College Board of Trustees in 1965 adopted the provisions on academic freedom enunciated in the 1940 *Statement of Principles* as official college policy. These provisions assure academic freedom for all faculty members, tenured and nontenured, not only as "members of a learned profession" but also as "officers of an educational institution." The investigating committee finds on the basis of the available evidence that the administration's decision to terminate the services of Professor Henderson and Professor Braza was based significantly on its displeasure with their activities as officers of the Faculty Personnel Policy Committee and as officers of the institution, activities in which they had a right to engage under generally accepted principles of academic freedom.

g. *An Epilogue on Academic Freedom*. The report of the Association's 1966 investigation of conditions of academic freedom and tenure at Dean Junior College, published in the Spring 1967 issue of the *AAUP Bulletin*, referred to "administrative resistance to any share by the faculty in the decision-making process," a feeling among younger faculty members of "the need to be careful [about] what one said," and a general sense of "the dangers of outspokenness." Those dangers were apparently also sensed by members of the next generation of the Dean Junior College faculty who in 1989 voted no confidence in President Crockford and Dean Kreshpane. According to a local newspaper story on the votes, "faculty members who [participated] were unwilling to identify themselves. One faculty member said they would not give their names because of a great deal of intimidation from the administration." With some fifty out of seventy members of the college faculty now serving without continuous tenure but on term appointments renewable at the administration's discretion, with the number of faculty members lacking the protections of tenure destined to increase under the current policy of not granting tenure to anyone else, and with the services of two outspoken faculty members who held renewable appointments now having been terminated, "the dangers of

outspokenness" for such faculty members at Dean Junior College appear to this investigating committee to be very real. The committee believes that academic

freedom at Dean Junior College under these conditions cannot be assured.

III. CONCLUSIONS

1. The administration of Dean Junior College terminated the services of Professor Neal C. Henderson without having afforded him the safeguards of academic due process called for in the 1940 *Statement of Principles on Academic Freedom and Tenure*, the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* for faculty members who have served beyond a maximum of seven years of probation and thus should be protected by tenure. With tenure no longer granted at Dean Junior College, its procedural protections are not available to the large majority of the faculty who serve indefinitely on term appointments renewable at the administration's discretion.

2. The action of the Dean Junior College administration in removing Professor Henderson from teaching

and other responsibilities during his terminal year of service was tantamount to a summary dismissal violative of the 1940 *Statement of Principles*.

3. The administration's action to terminate the services of Professor Henderson and of Professor Arthur J. Braza was based significantly on its displeasure with their college activities, involving dissent against the administration, that warranted protection under principles of academic freedom.

JOHN E.V.C. MOON (History)
Fitchburg State College, *Chair*

LEO W. COLLINS (Music)
Wheelock College

Investigating Committee

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

ROBERT A. GORMAN (Law), University of Pennsylvania, *Chair*

Members: ELIZABETH BARTHOLET (Law), Harvard University; WILLIAM P. BERLINGHOFF (Mathematics), Colby College; THOMAS D. MORRIS (History), Portland State University; JAMES E. PERLEY (Biology), College of Wooster; ROBERT C. POST (Law), University of California, Berkeley; JOEL T. ROSENTHAL (History), State University of New York at Stony Brook; MARGARET W. ROSSITER (History of Science), Cornell University;

CAROL SIMPSON STERN (Performance Studies), Northwestern University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; BARBARA R. BERGMANN (Economics), American University, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; MATTHEW W. FINKIN, (Law), University of Illinois, *consultant*; MARY W. GRAY (Mathematics) American University, *consultant*; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology, *consultant*; WILLIAM W. VAN ALSTYNE (Law), Duke University, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.