

# THE STATE UNIVERSITY OF NEW YORK<sup>1</sup>

## I. Background

In 1948, the Governor and the legislature of the State of New York acted to create the State University of New York (SUNY), which brought together a number of state-supported institutions, some of them tracing their origins to normal schools founded more than a century ago. The University was established under a Board of Trustees, of whose members fifteen are appointed by the Governor for ten-year terms, and the sixteenth, the chairman of the University Student Senate, serves without a vote. The Chancellor, the chief executive officer of the University, is appointed by the Board of Trustees, and the administration of individual campuses is entrusted to presidents appointed by the Board of Trustees on the recommendation of the Chancellor and of each college's council. University policies are determined by the Board of Trustees with the advice of the Chancellor, who in turn seeks the advice of campus administrators through monthly meetings (except in July and August) of a University Council of Presidents. The Chancellor at the time of the events described in this report, Dr. Ernest L. Boyer, had served in that position since 1970. He has since resigned to accept appointment in Washington, D.C., as Commissioner of Education in the Department of Health, Education, and Welfare.

Although developed largely out of about a dozen

teacher colleges and half a dozen two-year agricultural and technical colleges, SUNY has come, through a series of changes and additions, to include four university centers (two of which have medical centers), two separate medical centers, three specialized colleges (such as the College of Environmental Service and Forestry), and five statutory colleges attached to private universities (such as the College of Ceramics at Alfred University). One of the former teacher colleges has become a university center (Albany), and the rest have become multi-purpose Colleges of Arts and Science, although teacher education continues to be a primary function. The total number of campuses is now thirty-four.<sup>2</sup> In addition, SUNY provides partial support for

<sup>2</sup> The institutions in the State University are:

### UNIVERSITY CENTERS

State University at Albany  
State University at Binghamton  
State University at Buffalo  
State University at Stony Brook

### MEDICAL CENTERS

Downstate Medical Center at Brooklyn  
Upstate Medical Center at Syracuse

### COLLEGES OF ARTS AND SCIENCE

College at Brockport  
College at Buffalo  
College at Cortland  
Empire State College  
College at Fredonia  
College at Geneseo  
College at New Paltz  
College at Old Westbury  
College at Oneonta  
College at Oswego  
College at Plattsburgh  
College at Potsdam  
College at Purchase  
College at Utica/Rome

<sup>1</sup> The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was sent to the Association's Committee A on Academic Freedom and Tenure, to the teachers at whose request the investigation was conducted, to administrative officers and chapter presidents in the State University of New York, and to other persons directly concerned in the report. In light of the responses received, the Association's staff has revised the report for publication.

thirty community colleges, the policies of which are determined by local boards of trustees. This report is not concerned with the community colleges or the statutory colleges.

Among them, the SUNY institutions offer a wide variety of programs leading to associate, bachelor's, master's, and doctor's degrees. In the fall of 1974, about 190,000 full- and part-time students were enrolled at the state-operated institutions, and there were approximately 7,750 full-time faculty members in the four ranks from instructor to professor. In 1975, there were about 200,000 full- and part-time students and 7,800 full-time faculty members, and in 1976, about 197,000 full- and part-time students and 7,850 faculty members.<sup>3</sup> For the period 1964-74, SUNY, with 3,373, ranked twenty-first among the nation's universities for total number of doctorates granted.<sup>4</sup>

Faculty government varies from campus to campus, with most campuses having faculty senates or councils which make recommendations to their administrators on such matters as curriculum and degree requirements. Campuses also elect representatives to the state-wide University Faculty Senate, which meets at least twice a year to consider matters related to the academic program of the university as a whole.

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#### SPECIALIZED COLLEGES

College of Environmental  
Science and Forestry  
at Syracuse  
Maritime College at Fort  
Schuyler (Bronx)  
College of Optometry at  
New York City

#### AGRICULTURAL & TECHNICAL COLLEGES (TWO-YEAR)

Alfred	Delhi
Canton	Farmingdale
Cobleskill	Morrisville

#### STATUTORY COLLEGES

College of Ceramics at  
Alfred University  
College of Agriculture &  
Life Sciences at Cornell  
University  
College of Human Ecology at  
Cornell University  
School of Industrial & Labor  
Relations at Cornell University  
Veterinary College at  
Cornell University

<sup>3</sup> The SUNY enrollments are derived from the *Second Draft of The Regents Tentative Statewide Plan for the Development of Post-secondary Education*, the New York State Education Department, October, 1976. The number of full-time faculty is derived from the Committee Z reports in the *AAUP Bulletin*, August, 1975, 1976, and 1977.

<sup>4</sup> Elfrida L. Burnett, *Doctor's Degrees Conferred by All U.S. Institutions: by State, Academic Field, Sex, and Institution—1964 through 1973-1974*, Department of Health, Education, and Welfare, November, 1976.

Since 1971, the SUNY faculties have been represented by a collective bargaining agent, which negotiates with the State of New York on salaries, fringe benefits, and terms and conditions of employment in accordance with the provisions of New York's public employee bargaining law, the "Taylor Law." In the first election of 1970, no candidate for bargaining agent received a majority. The leading contenders were the Senate Professional Association (SPA), a local organization established by the University Faculty Senate for the purpose of bargaining, and the State University Federation of Teachers, an affiliate of the American Federation of Teachers (AFT). The other candidates on the ballot were the SUNY Council of the American Association of University Professors, the Civil Service Employees Association, and "no agent." The Senate Professional Association defeated the AFT local in the run-off election. Shortly thereafter the Senate Professional Association affiliated with the New York State Teachers Association (NYSTA), an affiliate of the National Education Association (NEA), and negotiated its first contract effective as of July, 1971.

By the time the second contract was negotiated in 1974, a merger had been effected between the AFT and the SPA. The merged organization, United University Professions, Inc. (UUP), was affiliated with the NEA, the AFT, and their merged statewide affiliate, the New York State United Teachers (NYSUT).

The contract in force at the time of the events described in this report was to have expired on June 30, 1976, but it remained in effect until a new contract was agreed to in March, 1977. In 1976, the UUP membership, consistent with the general failure of the NEA-AFT merger in New York State, voted to withdraw from the NEA; as a result, the UUP is now affiliated solely with the American Federation of Teachers.

As they were for many other institutions, the 1960's were years of enormous growth for SUNY. Budgets, enrollments, and numbers of faculty and support staff increased rapidly. The University of Buffalo became part of SUNY in 1962; the College of Arts and Science at Old Westbury was established in 1968, and Empire State College in 1971. Early in the 1970's, however, SUNY, like other institutions, began to feel the effects of a straitened economy and a declining rate of student population growth. In spite of a University request for a 1971-72 appropriation of \$567,000,000, the total actually reached only \$485,000,000. By the time of his inauguration in January, 1975, Governor Hugh Carey considered the State of New York to be confronting a fiscal crisis which, though not as severe as that of New York City, would require extraordinary corrective measures. For the fiscal year 1974-75 (extending from April 1, 1974, to March 31, 1975), the state legislature had appropriated approximately \$542,000,000 of the total SUNY budget of \$918,000,000, and for fiscal 1975-76, it had appropriated \$567,000,000 of a total SUNY budget of \$967,000,000. For 1976-77, the legislature decreased its appropriation to \$528,000,000 of a total SUNY budget of \$943,000,000, although the state-appropriated

amount represented a slightly higher proportion of the entire state budget than in the previous year (6.1 percent as compared to 6 percent).

In June, 1975, Governor Carey directed, through the state's Office of the Budget, that SUNY's base budget be reduced by \$10,000,000, a decrease which required the deletion of some budget lines and would be carried over into ensuing budgets. In December, 1975, he ordered all state agencies to reduce expenses by 3 per cent before the end of February by terminating the services of persons who were on the state payroll as of December 8, 1975. A reduction by \$55,000,000 of the SUNY appropriation for 1976-77 was submitted to the legislature in January, 1976, and approved in April; but, through a supplemental appropriation and increases in tuition and fees for the academic year 1976-77, the University was able to limit its dollar impact to \$30,000,000. The legislature also restored some cuts in the Governor's proposed budget for the University.

In a resolution adopted on May 28, 1975, the University's Board of Trustees stated as its premise that it was "necessary and important" for the University to undertake a study of priorities in order that it might "respond creatively to fiscal restraints" and serve all segments of the University and society most effectively in the years just ahead. Accordingly, the Board authorized the Chancellor to implement a "campus-by-campus review to determine those programs which should be strengthened and those which should be consolidated for the future" in time for "the 1976 master planning cycle, with the results of Phase I of the studies to be available in time to be incorporated in the planning for the 1976-77 University-wide budget recommendations."

On June 1, 1975, Chancellor Ernest Boyer issued an eight-point statement, the first point of which established the general guidelines for individual campus reviews:

1. Every State University president, with appropriate consultation, will be asked to examine all authorized degree programs, identifying those which should be continued and strengthened as well as those which should be reduced or phased out. Class size, enrollment patterns, faculty and staff recruitment and promotion procedures will be analyzed.

As part of his statement, Chancellor Boyer announced that within thirty days he would appoint a University Commission on Purposes and Priorities, the initial report of which would be submitted to the Board of Trustees by September 30, 1976. The Commission was appointed on July 11 and submitted its first interim report in September, a second interim report in December, and a final report in June, 1976.

On June 9, 1975, about a month before the appointment of the Commission, Vice Chancellor for Finance and Business Harry K. Spindler circulated a memorandum to the SUNY presidents containing guidelines more specific than those in Chancellor Boyer's statement of June 1. "This review," he wrote,

shall be directed to a strengthening of demonstrated worthwhile existing activities and a shaping of new ways of serving the people of this State, while eliminating or curtailing those programs for which interest has been minimal or where reasonable standards of effectiveness cannot be affirmed or must be treated as lower priority in the face of resource limitation and a commitment to qualitative performance of our highest priority programs.

In January, 1976, in introducing the proposed budget for 1976-77, the University administration noted some of the effects in 1975 of the reduced budget base and the review of academic programs. The reduction of \$10,000,000 in the budget base had required "the abolition of 528 positions throughout the system," and academic programs abolished including a nursing program at the Upstate Medical Center, the Allen Collegiate Center at Albany,<sup>5</sup> and a baccalaureate degree program in German at the College at Plattsburgh. Most changes in 1975, however, appear to have been effected without widespread disruption of academic programs or the removal of individuals from faculty positions. The abolition of a position, in fact, did not necessarily mean that someone was removed from the position, since some positions (or budget lines, as they are commonly called) had not been filled or, having fallen vacant through resignations, deaths, retirements, or transfers, were simply eliminated.

In any event, no significant number of individual faculty complaints was lodged with the American Association of University Professors until 1976, following the Governor's imposition of a 3 per cent reduction in the expenses of all state agencies and the reduction of the annual legislative appropriation from \$567,000,000 for the fiscal year 1975-76 to \$528,000,000 for fiscal 1976-77. On April 21, 1976, the Association's Acting General Secretary wrote to Chancellor Boyer to inform him that a "large and increasing number of faculty members" at SUNY had been registering complaints with the Association after being informed by their institutional administrative officers that their appointments would be terminated, and to call to Chancellor Boyer's attention that many of the termination actions seemed to have been directed "both against faculty members on continuous appointment or tenure and against faculty members on multi-year term appointments with termination sought prior to the appointment's expiration." He mentioned that these actions raised "a series of basic concerns" for the Association under its longstanding commitment to the principles of academic freedom and tenure and particularly under its standards for "Termination of Faculty Appointments because of Financial Exigency, Discontinuance of a Program or Department, or Medical Reasons."<sup>6</sup> He took

<sup>5</sup> The academic program of the Allen Collegiate Center is described below in the section dealing with specific retrenchment actions in Albany.

<sup>6</sup> *AAUP Bulletin*, 61 (December, 1975), pp. 329-331.

the occasion of his letter, copies of which were sent to the presidents of all SUNY colleges and universities, primarily to urge that notice of one year be given to all persons affected instead of notices of "only a few months, or a few weeks, or even less," as the Association had been informed was happening. On April 29, the Acting General Secretary again wrote to Chancellor Boyer, this time to call attention to the assurance given by the administration of the University Center at Buffalo on April 23 that all faculty members who were to lose positions as a result of reductions or retrenchment would receive a year's notice. He urged that this policy be adopted at all the SUNY institutions.

On June 2, Chancellor Boyer met with Association staff members during the course of a visit to Washington, and on June 9, the Acting General Secretary, by letter, provided Chancellor Boyer with a list of tenured faculty members at SUNY who had been given notice in the early months of 1976 and had brought their cases to the Association's attention. The list (supplemented by an additional name sent to Chancellor Boyer on June 16) included the names of two faculty members at the University Center at Binghamton, three at the College of Brockport, two at the College at Oneonta, and one at the Agricultural and Technical College at Alfred. Copies of the Acting General Secretary's letters were sent to the presidents of these institutions.

On July 1, Chancellor Boyer replied as follows:

Thanks for your good note and the attached letter. I would be pleased to meet with you again. Let's see if something can be arranged. Warm regards.

On July 17, the Acting General Secretary wrote to express interest in a further meeting and to offer to travel to Albany for that purpose with the Director of the Association's Northeast Regional Office. On July 21, a call to Chancellor Boyer's office elicited the information that the Chancellor would not return from vacation until August 2. Although a meeting was scheduled for August 9, it was cancelled by Chancellor Boyer; and on August 6, the Director of the Northeast Regional Office sent Chancellor Boyer a one-and-one-half-page memorandum originally prepared for the August 9 meeting and outlining a number of Association concerns respecting the notices to faculty members at SUNY. He reported that the Acting General Secretary was considering appointing an *ad hoc* committee to "examine conditions of academic freedom and tenure and due process within SUNY, with particular reference to several of the cases cited in our previous communications to you and the campus presidents."

The August 6 memorandum and its covering letter brought no reply, and, in the absence of any assurance that cases brought to the Chancellor's attention would be suitably resolved, the Acting General Secretary wrote to Chancellor Boyer on September 17 to announce that the Association would conduct a formal investigation.

The undersigned *ad hoc* investigating committee, which has operated independent of any other AAUP in-

terests relating to SUNY, visited SUNY campuses during the week of December 6, 1976. Chancellor Boyer was then on an extended leave of absence abroad; but on December 6, the committee met with Acting Chancellor James F. Kelly, members of his staff, and the presidents of those SUNY institutions from which the Association had by then received formal faculty complaints. On December 6 and 7 the committee conducted interviews at the University Center at Albany, from which some half a dozen complaints had recently come to the Association. The committee then divided, with one member (assisted by a member who has since resigned) visiting the University Center at Binghamton on December 8 and the other two visiting the College at Oneonta on December 8 and, on December 9, the College at New Paltz, where four faculty members had filed complaints with the Association. The chairman of the committee visited the College at Brockport on December 10. A scheduled January visit by two members of the committee to the University Center at Stony Brook was cancelled when President John S. Toll refused to meet with the committee members because, as he viewed it, an *amicus* brief which the Association had filed with the Supreme Court of the State of New York had compromised the investigation. The investigating committee regrets that it was thus denied the opportunity to consult with the administrative officers concerning the actions at Stony Brook during the retrenchment period, and it sees little validity in the reason given by President Toll for the denial. The Association's brief was submitted as a friend of the court, and its function was to outline relevant Association policies in the Stony Brook case. It has in no way influenced the investigating committee's view of the Stony Brook actions.

Committee members were courteously received by the Acting Chancellor and his staff and by the presidents of individual institutions, and they were provided with all available public documents that they requested. No visits were made to the Alfred and Cortland campuses, each of which involved only one case. At the meeting in the Acting Chancellor's office, four representatives of the United University Professions who were present stated that they thought it inappropriate for the administration to be holding discussions with a committee of the American Association of University Professors; and at each subsequent meeting with an institutional president at least one UUP representative was also present. At all meetings with administrative officers, negotiations were avoided as a matter of course, and once or twice discussion was interrupted when an institutional president expressed the view that his response to a specific question might tend to take him into areas which were reserved to the UUP as exclusive agent for the faculty under the Taylor Law, or which bore upon litigation then under way. In spite of these constraints, discussions with administrative officers were conducted with a high degree of openness and candor, as were the much more numerous discussions with faculty members and, at one institution, with a small group of students.

## II. The Retrenchment-SUNY Central

The 1975 "Policies of the Board of Trustees" provide for a tenure system under which "continuing appointment" is achieved by professors and associate professors no later than after three consecutive years at a SUNY campus and by assistant professors after three years in rank and seven years at the University. Notice of non-reappointment, under the "Policies," is to be given to probationary faculty members by March 1 in the first year of service and by December 15 in the second, with twelve months' notice after two or more years' service. Dismissal of faculty members on continuing appointments can be effected for cause, defined in the "Policies" as "inadequate performance of duties, misconduct or violation of these Policies," with the faculty member entitled to have charges heard by the University's Standing Committee on Terminations. A similar system of "permanent appointments" is provided for the University's professional employees, known at the University as "Non-teaching Professionals."

With respect to retrenchment, Article XIV, Title E, of the "Policies" reads as follows:

The services of any members of the academic staff may be terminated in the event of financial or program retrenchment. If the Chancellor anticipates that such retrenchment may be necessary, he shall seek the advice of the Faculty Senate concerning the policy to be followed in the reduction of staff.

The collective bargaining *Agreement between the State of New York and United University Professions, Inc.*, which was in effect between July, 1974, and March, 1977, contained no separate provision for a tenure system, but did duplicate the Board's policy on notice. Of particular relevance to the investigating committee's inquiry, however, is Article 35, which deals with retrenchment and defines it as follows:

the termination of the employment of any academic or professional employee during any appointment, other than a temporary appointment which may be terminated at any time, as a result of financial exigency, reallocation of resources, reorganization of degree or curricular offerings or requirements, reorganization of academic or administrative structures, programs or functions University-wide or at such level of organization of the University as a campus, department, unit, program or such other level of organization of the University as the Chancellor or his designee deems appropriate.

Under the *Agreement*, the Chancellor or his designee ("Consistent with the mission of the level of organization of the University at which retrenchment occurs" and "after such consultation as may, in his judgment, be appropriate") shall apply retrenchment "among employees holding the same or similar positions" in "inverse order of appointment within each affected group of employees." Specifically, part-time employees were to be released before full-time, full-time "academic employees" (i.e., faculty) on term appointments before

those holding continuing appointments, and full-time professional employees holding term appointments before those holding permanent appointments. As for notice, persons affected by retrenchment were to be notified "as soon as practicable recognizing that, where circumstances permit, it is desirable" to provide at least four months' notice to those on term appointments and at least a semester's notice to those on continuing or permanent appointments.

In further clauses on retrenchment, the *Agreement* provided that the released employee would be given special consideration for placement within the University if "a suitable position" was available for which the individual was "otherwise qualified"; and that for a period of two years the released employee would be offered re-employment in the same or similar position if an opening should occur at the affected campus.

When he reported to the University Faculty Senate at its January 31-February 1 meeting in 1975, Chancellor Boyer commented on the state's financial difficulties and expressed the view that "the state has faced a fiscal crisis comparable to the one that was faced in '70-'71." He called attention to an expected gap between revenues and projected state expenditures of half a billion to a billion dollars and to proposed new taxes to assist in bridging the gap. He noted that the overall new executive budget for the fiscal year 1975-76, although increased for SUNY by some \$37,000,000, contained only about half the increase "we had preferred."

"Nothing in this budget," he added, however, "would even hint, if it holds, at a retrenchment or personnel dismissal, although in my first reading it suggests that at most of the arts and science colleges, there would probably be a net reduction of one or two or three faculty positions. These would be unfilled."

In subsequent discussion, the University Faculty Senate adopted a position paper entitled "Retrenchment Benefits and Accommodations," which among other things called for discussion by the chief administrative officer with involved departments and campus government committees when retrenchment on individual campuses was being considered, suggested guidelines for the reassigning of retrenched persons, and expressed the view that retrenched persons should be given a year's salary after notice of retrenchment in order that they might have adequate time to relocate. By vote of the Senate, the paper was sent to the Chancellor for his consideration as the Senate's "partial response to Art. XIV, Title E, of the Policies of the Board of Trustees," which required the Chancellor to consult with the Senate when a retrenchment is anticipated. The Senate also endorsed "selective cutting rather than across-the-board cutting if further reduction is necessary."

Section 35 of the collective bargaining *Agreement* became, of course, the principal referral point when a decision to retrench was reached in mid-1975 and announced to the presidents of SUNY institutions. The Board of Trustees, as we have seen, directed the Chancellor on May 28, 1975, to implement a campus-by-

campus review immediately "to determine those programs which should be continued and strengthened and those which should be consolidated or phased out." Three days later, on June 1, Chancellor Boyer instructed the presidents to examine, "with appropriate consultation," all degree programs and identify "those which should be continued and strengthened as well as those which should be reduced or phased out." On June 9, Vice Chancellor for Finance and Business Harry K. Spindler issued a five-page memorandum of "Preliminary Guidelines" to the presidents, and on June 23, Vice Chancellor for Faculty and Staff Relations Jerome B. Komisar issued a further five-page memorandum on "Retrenchment Procedures."

In emphasizing the "twofold purpose" of redirecting some resources "to more effective enterprises" and "ultimate divestiture of some allocations towards a newly formed base level of operations," the Spindler memorandum specifically ruled out the possibility of meeting the budget constraints with a general belt-tightening:

It is intended that selective program excision will occur and that any across the board application of budget cuts would lead to a mediocrity which is contrary to the goals and intentions of this University.

The memorandum announced further that the review process would begin immediately and that resulting actions could be initiated as early as July, 1975, "with the preponderance of changes scheduled to take place in the academic year commencing with the summer of 1976." Reductions, however, were to be realized in the fiscal year 1976-77 (April 1 to March 31) "to the amounts prescribed for each individual campus."

The University Faculty Senate endorsed this general approach at its meeting of January, 1976, as did the University Commission on Purposes and Priorities, which submitted its second interim report in December, 1975. When asked by the Association's *ad hoc* committee why the administration, in accordance with the "Policies of the Board of Trustees," did not consult with the University Faculty Senate *before* it announced its plans for retrenchment, Acting Chancellor Kelly guessed that it was assumed that the retrenchment provisions of the collective bargaining *Agreement* had superseded the Board's policy on this point.

After the general retrenchment policy had been announced in Vice Chancellor Spindler's memorandum of June 9, 1975, the role of the central administration seems to have been largely to clarify questions of policy, to report actions of the Office of the Budget or the legislature, to circulate information from campus to campus so that local decisions on retrenchment might be made with some knowledge of their likely impact upon the program of the University as a whole, and to set deadlines and see that they were met. Vice Chancellor Komisar's June 23 memorandum contained analyses of three hypothetical situations aimed at assisting presidents in resolving difficult questions as to what constituted a unit of retrenchment and what faculty members

might be included in it. In a June 26 memorandum, Chancellor Boyer made it clear that, for the purposes of retrenchment under Article 35 of the *Agreement*, the institutional presidents were his "designees." On January 23, 1976, Vice Chancellor Spindler reviewed recent retrenchment actions and provided the presidents with guidelines and a timetable for implementing the 1976-77 budget. The memorandum called for two lists from each of the presidents: the first, due by February 15, was to include the names of employees who would be occupying, after February 29, 1976, positions to be abolished as a result of the \$10,000,000 base budget reduction or who were to be removed under the 1976-77 executive budget; the second, due by March 15, was to include the names of additional persons, not previously identified, whose removal was made necessary by the reduction in the 1976-77 budget. Individuals in both groups were to be removed from their positions before August 31, 1976, and all program changes were to be decided upon by April 1.

Within the guidelines set down in the *Agreement*, and consistent with the constraints of the budget, the overall University program, and the institution's mission, individual presidents seem to have been given broad discretion to act as they saw fit. Required under the collective bargaining *Agreement* to consult only as they thought appropriate, the presidents employed varying procedures before deciding upon those programs to reduce or eliminate, and their consultation with faculty groups varied widely in extent and form. The procedures followed on campuses from which faculty members lodged complaints with the Association, along with some of the specific retrenchment actions, are described in the following sections.

### III. The University Center at Albany

In early January, 1975, six months before he was to relinquish the presidency of the University Center at Albany, President Louis T. Benezet appointed a Select Committee on Academic Programs and Priorities. The committee was instructed to review the full range of the University Center's offerings and "to recommend priorities in the light of increasing constraints posed by the State's budget for higher education." The committee was to proceed on the assumption of "steady state resources or, at the most, limited additional resources for those programs in the best position to make use of them."

The Select Committee, reporting in mid-May, included recommendations to discontinue some programs—e.g., the Allen Collegiate Center, and graduate programs in astronomy and business education. But it stressed that none of its recommendations was "so radical or immediate that it would jeopardize the programs of any student or abrogate the existing contract of any faculty member or other university employee." More specifically, it noted, "nothing in this Committee's report contemplates or endorses the dismissal of tenured faculty as a result of its recommendation." The committee further expressed its view that any decisions

regarding changes of university personnel, but especially instructional positions at Albany, would require a review of the University Center's entire budget and fiscal management: that is, a decision to declare retrenchment would have to be justified by a much more comprehensive review than the committee itself had conducted. It would have to be justified, moreover, on financial grounds.

The Select Committee's report, four months in the making, was issued on May 19, two days after classes had ended and thirteen days before Commencement. Departments and schools were given a week to respond to the report, and, according to President Benezet, there was, "remarkably consistent support" for the Committee's recommendations except from "those schools and departments negatively affected."

On May 28, President Benezet informed an *Ad Hoc* Consultation Committee on Academic Priorities, which had been appointed by the University Senate, that the revised state budget left no alternative to retrenchment and asked it to endorse the principle of selective—as opposed to across-the-board—cutting. The committee voted to endorse that principle. In late June, President Benezet announced that the "continuing series of financial negatives from state budgeting has left the administration with no option but to ask the Chancellor to designate authority to the President of the Albany campus to declare retrenchment by program. . . ." He noted that hard choices would have to be made between programs to be cut back or phased out and that retrenchments would include a few faculty members on continuing appointments—something that neither "an outgoing nor an incoming president can view . . . as anything but the most repugnant of prospective university actions." He added that the "agreed way by which such hard decisions have been approached was by extensive peer review, response and consultation."

Approximately forty faculty members, twenty of whom were tenured, were given notice by June, 1975, that their positions would be terminated at the close of the next academic year, and President Benezet's decisions with regard to retrenchment were announced to the faculty in a report entitled "Academic Priorities at the State University at Albany, July 1, 1975." The report had been signed by President Benezet on June 23. On July 1, Dr. Emmett B. Fields, who had been a Vice President at the University of Houston, assumed the Albany presidency. He had been kept fully informed of developments throughout the preceding months, and he fully concurred in the actions of his predecessor.

In January, 1976, faced with the prospect of further restrictive budgets, President Fields appointed a Task Force on Priorities and Resources to "(1) assess all academic and support programs of the University, (2) recommend priority rankings for program claims on resources, and (3) consult and advise me on the development of the University's operating budget in the next year." The Task Force was to be guided by three strategic principles: the preservation and nurturing of programs essential and central to a university; the preser-

vation of quality where it exists; and the preservation and nurturing of programs that "uniquely address" the University Center's immediate environment, The State Capital District of New York. In addition, the Task Force was instructed to "locate at least thirty-three faculty lines which would be terminated by the state in 1976-77 (six in the previously announced 1976-77 Executive Budget)."

Relying heavily on the work already done by the Select Committee, the Task Force reviewed the University's offerings and prepared recommendations regarding the University Center's future, and it submitted its report by its deadline, moved up from March 1 to February 23. On February 24, the full report was printed in the *Albany Student Press*, and President Fields forwarded copies to various University officers with a request that they respond to the recommendations in their areas of responsibility by March 2 so that "the views of units directly affected by the Task Force recommendations may be reflected in the consultative process." President Fields also forwarded copies of the report to the Council on Educational Policy of the Albany Faculty Senate, with a request that it advise him by March 4 concerning the soundness of the Task Force's procedures and conclusions, and to the Executive Committee of the Senate, which was asked both to advise on the report and to make recommendations for resolving any differences between the Task Force report and the Council's review. After considering the various responses, the Task Force reaffirmed its original conclusions on March 11, and President Fields publicly announced his acceptance of them on March 16, 1976. On April 26, President Fields' report was in turn accepted by Chancellor Boyer.

In summary, President Fields called for a reduction of programs in the School of Education; a termination of doctoral programs in classics, French, and Romance languages; a termination of master's programs in art history, comparative and world literature, Italian, Latin-American studies, and speech pathology and audiology; and a termination of bachelor's programs in art history, astronomy, comparative and world literature, environmental studies, inter-American studies, Italian, nursing, and speech pathology and audiology. Some positions or programs were to be terminated by August 31, 1977, and faculty members whose appointments were thus being terminated were sent formal notices in mid-May. Other programs, like those in nursing and in speech pathology and audiology, were to be phased out over a period of three or more years.

As a result of these decisions, a group of faculty members established a Committee of Concerned Faculty and a substantial number of complaints were filed with the American Association of University Professors, which had already been consulted by faculty members following the retrenchment actions of 1975. Many faculty members, in fact, have sought redress through one means or another. Accurate figures have been difficult to obtain, but at least twenty grievances have been filed under the collective bargaining *Agreement*, and a num-

ber of suits are pending against the University or specific University officers. As for tenured faculty members affected by the notices issued in 1975 and 1976, the investigating committee has been able to identify some thirty, as contrasted with the twelve listed in the compilation prepared for the investigating committee by the SUNY-Central staff. (See Table 1.)

### *Some Specific Retrenchment Actions*

*The Allen Center.* The James E. Allen Jr., Collegiate Center was organized in 1970-71 as an experimental four-year degree-granting program for special students. In March, 1975, President Benezet announced his intention to declare the Allen Center a retrenchment unit, and in June, 1975, having been supported in that intention by the Select Committee report of May, 1975,

he notified the faculty members of the Allen Center that their positions would be terminated on August 31, 1976. Several of the faculty members were tenured.

One of the tenured faculty members had joined the SUNY-Albany faculty in 1966 as a lecturer in anthropology, and in 1971, following his completion of the doctorate, his position was changed to an assistant professorship. He participated in the planning of the Allen Center and, when the opportunity arose, transferred from the Anthropology Department to the Center. He was granted tenure while serving at the Allen Center, where he continued to teach both graduate and undergraduate courses on a regular basis.

In the months following his receipt of the June, 1975, termination notice, the faculty member twice applied for openings in the Anthropology Department, one of which he felt especially qualified to fill, and on each occasion his application was rejected by vote of the faculty and students in the department. In a grievance action against the University, he argued that he had tenure at Albany and not just at the Allen Center, and that the administration had not made the essential good-faith efforts to place him in a suitable position elsewhere. He was offered a two-year visiting appointment in anthropology in settlement of his grievance against the University, which he says he was compelled by his financial situation to accept on the terms on which it was offered. He accepted it under protest.

*Art History.* Art history and studio art, traditionally the two components of a single SUNY-Albany Art Department, were made separate departments in 1974-75. In that year, outside evaluators of the art history master's program raised questions about the adequacy of the program and the resources supporting it. The Select Committee cited these questions in recommending, in its May, 1975, report, that the master's program in art history be suspended. In February, 1976, the Task Force recommended that both the master's and the bachelor's programs in art history be discontinued.

The art history faculty at Albany had challenged the report on their master's program by the outside evaluators, and they challenged the Select Committee's reliance on that evaluation in recommending the program's elimination. They also challenged the Task Force's recommendation to eliminate the bachelor's program on the ground that the recommendation rested on judgments that had been inaccurate in the first place, were altogether out of date two years later, and were irrelevant because they dealt with the graduate and not with the undergraduate program in art history.

The administration accepted the recommendation of the Task Force to eliminate both the bachelor's and master's programs in art history, and in May, 1976, two tenured and three nontenured faculty members were given notice of termination. One tenured art historian was retained in the Studio Art Department.

*Astronomy and Space Science.* The astronomy and space science program was reviewed in November, 1974, by the State Education Department's Doctoral

**Table 1**  
Termination of Faculty Appointments  
on Grounds of Retrenchment  
9/74-9/76\*

Campus	Number of Faculty Appointments Terminated		Number of Faculty Re-employed	
	Term Faculty	Tenured Faculty	Term Faculty	Tenured Faculty
Albany	18	12	5	2
Binghamton	7	2	1	1
Buffalo (Univ)	16	1	6	0
Stony Brook	14	12	8	8
Downstate Med.	2	3	0	0
Upstate Med.	5	0	1	0
Brockport	10	7	6	3
Buffalo (Col)	2	1	1	1
Cortland	2	1	2	1
Fredonia	0	2	0	0
Geneseo	0	0	0	0
Old Westbury	0	0	0	0
New Paltz	1	7	0	7
Oneonta	1	3	0	0
Oswego	0	5	0	4
Plattsburgh	2	0	0	0
Potsdam	8	2	2	1
Purchase	7	0	0	0
Utica/Rome	0	0	0	0
Empire	0	0	0	0
Alfred	4	1	1	0
Canton	2	0	1	0
Cobleskill	0	0	0	0
Delhi	2	2	0	1
Farmingdale	0	0	0	0
Morrisville	0	0	0	0
Forestry	0	1	0	0
Maritime	0	0	0	0
Optometry	0	0	0	0
Central Adms.	0	0	0	0
<b>TOTALS:</b>	<b>103</b>	<b>62</b>	<b>34</b>	<b>29</b>

\* Prepared by SUNY Central Administration—12/22/76

Project, and a preliminary report on that review apparently influenced the Select Committee's recommendation of May, 1975, that the graduate programs in astronomy and space science be discontinued before the academic year 1976-77. President Benezet, in making that recommendation his own, added that "the question of retaining an undergraduate major should be left to my successor on the basis of faculty resources . . . available after September, 1976." As a result of the decision to discontinue the graduate program, four tenured members and one nontenured member of the six-person department were notified in June, 1975, that their positions would be terminated on August 31, 1976. Having concluded that offering the Bachelor of Science degree in astronomy was not feasible with only the single faculty member remaining, the Task Force recommended that the undergraduate program be discontinued as well.

*Comparative and World Literature.* Acting upon a recommendation in the Task Force Report of February, 1976, that the Department of Comparative and World Literature be discontinued, the administration gave notice to two tenured professors and one part-time lecturer in May, 1976, that their positions would be terminated as of August 31, 1977. In 1974-75, the department's M.A. program had been reviewed by a committee of outside evaluators, and by the Graduate Council of SUNY-Albany, and the department as a whole by the Select Committee; and though all three groups seem to have found satisfactory conditions, the Task Force concluded in the following year that "the University could not sustain this department without major attention to reorganization and leadership, a sharp resurgence of student interest and increased expenditures of resources"—developments which the Task Force considered "neither feasible nor likely."

The chairman of the department until 1975, a widely-published senior tenured professor, had joined the Albany faculty in 1970. A frequent and outspoken critic of successive Albany administrations, he had not hesitated to express his views about them in letters which he circulated to New York legislators. In the fall of 1975, he was not reappointed to the chairmanship—a position, he states, that he had earlier asked to have filled by another senior scholar—and on May 18, 1976, he was notified that his appointment would expire on August 31, 1977. In response he initiated grievance procedures and brought suit against the University. He asserts in particular a right to a position in the Department of German, where he regularly taught some graduate courses and where, in 1973, the department's graduate faculty voted him an "Associate Member." He charges that the decision to abolish the Department of Comparative and World Literature and the termination of his appointment constitute a reprisal against him for his outspokenness, and that his academic freedom and his constitutional rights have thus been abridged.

The other tenured member of the department, who became chairman in 1975, also initiated grievance procedures.

*History and Systematics of Science.* In 1968, an experienced person in industrial research was brought to the campus as a professor with tenure in the newly established Department of History and Systematics of Science. The department was abolished in 1971, and the professor was attached to the Dean's office, through which he taught courses in various fields of science.

In June, 1975, he was informed that the Department of History and Systematics of Science was being discontinued and that his position would be terminated as of August 31, 1976. He filed a grievance on the ground that the department had already been eliminated and was upheld at Step 1 of the grievance. A new notice of termination was then sent to the professor and a new grievance has been denied at all steps, including arbitration. The professor's position apparently was not considered by the Select Committee, and the termination was thus a unilateral action of the administration.

*The Milne School.* The Milne School, the Campus Secondary School at SUNY-Albany, was under the School of Education until 1974, when it became a separate administrative unit. The recommendation to discontinue the school appears to have been reached in April, 1975, by a University-wide committee formed at the initiative of Chancellor Boyer to review the place of campus schools in the training of teachers. As a result of the elimination of the school, fifteen tenured and eleven nontenured faculty members were given notice in June, 1975, that their positions would be terminated.

*The School of Nursing.* The School of Nursing, established in 1967, had from the beginning offered only the Bachelor of Science degree, but it had requested permission to add a master's program. The Select Committee appointed by President Benezet was clearly impressed with the school. At the same time it felt that the "obvious lack of medical programs and facilities at SUNY-Albany raises questions as to whether the School of Nursing is appropriately placed at this Center." It recommended therefore that an independent committee be appointed to decide whether or not the school meets "a compelling need" in the area, with a view to instituting a master's program if the committee found affirmatively and to phasing the school out if it did not. Such a committee was constituted and met in the fall of 1975. It did not recommend conclusively either way, however, and the Task Force in its February, 1976, report—regretting "that this high quality program could not be maintained because of the reduced resources allocated to the University"—recommended "reluctantly" that the school with its twenty-one faculty members be phased out over a four-year period ending in 1979-80.

*Speech Pathology and Audiology.* In May, 1975, the Select Committee recommended that Speech Pathology and Audiology, a department in the School of Education, be "conditionally" continued for three years and that it be reassessed at the end of that period. A few months later the program was reviewed by a group of outside evaluators, who recommended a number of improvements. In February, 1976, the Task

Force recommended that the program be phased out over the next three or four years, on the ground that the needed improvements would take more money than was likely to be available. The administration has sent notices of termination to the department's five tenured and six nontenured faculty members.

#### **IV. The Agricultural and Technical College at Alfred**

An Associate Professor of English and Humanities appointed at the Agricultural and Technical College at Alfred in September, 1970, was placed on continuing appointment (tenure) effective September 1, 1973. On February 11, 1976, he was notified orally that his appointment would be terminated on August 31, 1976, and the oral notice was confirmed by letter on February 20, 1976.

The associate professor taught Spanish and French, which were required "within the emphasis of Humanities/Social Science of the Liberal Arts Transfer Program." Confronted with the need for retrenchment in December, 1975, President David H. Huntington consulted with the Dean of the School of Liberal Arts, who in turn consulted with the Chairman of the Department of English and Humanities and the Coordinator of the Humanities/Social Science Emphasis of the Liberal Arts Transfer Program. In February, 1976, President Huntington states, he concluded that Spanish and French should no longer be required within the Humanities/Social Science Emphasis, his "cabinet" concurred with him in that decision, and the associate professor, as the only person teaching foreign languages, was notified of the termination of his appointment.

The associate professor filed a grievance under the collective bargaining *Agreement* on the ground that there had been inadequate consultation with the faculty before such a decision was reached and on the further ground that he was more than minimally qualified to teach other subjects in the Department of English and Humanities and thus should be retained in preference to members of the department who were junior to him. He also alleged that the termination of his appointment resulted from a decision to provide a teaching position to a retiring administrative officer. His grievance was rejected at both Step 1 (the College President or his designee) and Step 2 (the Chancellor or his designee). A Step 3 hearing (the Director of Employee Relations or his designee) was held in March, 1977. Despite the time limits in the collective bargaining *Agreement*, the decision, rejecting the grievance, was not issued until June 15. As of early July, the UUP had not stated whether it would take the matter to arbitration.

#### **V. The University Center at Binghamton**

In June, 1975, the University Center at Binghamton, like other units of the State University, received the first notification of a budget cutback. In a discussion with members of the Association's *ad hoc* committee, President Clifford D. Clark stated on December 8, 1976,

that the June cutbacks, and those subsequently imposed, fell disproportionately hard on Binghamton because its budget base was comparatively small and because, with the campus not expanding in the last six years, a larger than usual proportion of the faculty was tenured. President Clark felt, he said, that he had no choice but to cut deeply into the core of the University Center at Binghamton.

President Clark's initial response to the budget reduction called for in June was to establish a Task Force on Academic Programs. The faculty members whom he appointed to the Task Force were endorsed by the Faculty Summer Committee, and the Task Force was chaired by the Vice President for Academic Affairs. Consistent with the June directive, the Task Force explored ways of meeting the budget reduction; it also recommended "selective program excision" (a phrase in Vice Chancellor Spindler's memorandum of June 9) to a greater extent than necessary in order to strengthen what it considered other important but underfunded programs. The report of the Task Force, however, was rejected by the Faculty Senate in September, 1975, on the ground that the Task Force had exceeded its authority by going beyond determining how specific savings could be made to recommend sweeping programmatic changes.

The earliest notification of retrenchment was given to an associate professor in the Department of Classical and Near Eastern Studies, who was informed in a letter from President Clark dated September 29, 1975, that his position would be terminated as of September 1, 1976. The definition of the faculty member's "unit of retrenchment" seems to have been arrived at unilaterally by the administration.

The faculty member given notice, a classicist, had been appointed to the faculty in 1967 and had attained tenure in 1971. There were two untenured faculty members in the Department of Classical and Near Eastern Studies, and one to whom tenure was granted later than 1971. Thus, if the department had been the retrenchment unit, the associate professor given notice would have been the fourth in line for retrenchment. When President Clark designated "classical studies," a subsection of the department, as the retrenchment unit, the associate professor became the least senior member. He was the only tenured faculty member to be given notice at this time. The faculty member filed a grievance and a faculty committee advisory to President Clark noted that the faculty member

... may have been the victim of unfair practices to the extent of having been singled out for retrenchment as an individual rather than having been the unfortunate victim of a defensible academic retrenchment. The specter of selective individual retrenchment is so threatening to the faculty, and so potentially demoralizing, that every reasonable effort must be made to demonstrate the legitimacy of each retrenchment action.

Despite this concern, President Clark reaffirmed the termination.

In a "Statement of Principles" issued on December 8, 1975, President Clark indicated that he was still thinking not only of meeting the required cuts but also of reallocating the University Center's reduced resources to reshape its academic emphases. His "Statement" called for a communal effort to maintain a standard of excellence in the face of declining resources and a willingness to accept sacrifices. By this time, President Clark was actively seeking the advice of the Executive Committee of the Faculty Senate, an *ad hoc* student-staff committee, and a special Faculty Senate Committee on Academic Program Priorities, and in one way or another all three of these committees recommended to him that retrenchments necessary for reallocation be kept to an absolute minimum. In addition, the Executive Committee of the Faculty Senate proposed a procedure by which the University Center would be able to respond quickly to a budget crisis.

The crisis came on January 8, 1976, when the central administration ordered an additional reduction in the Binghamton budget of about \$1,000,000 to take effect by February 29. On January 20, President Clark sent a list of proposed reductions to the three committees for their responses. Time was very short, but he received their replies, held hearings with departments affected and with student groups, and announced his final decision on February 5. There was at this time no reallocation of resources; there were only reductions in expenditures designed to meet the budget cut. President Clark did announce, however, his intention to eliminate the entire four-person Russian Department.

The question of eliminating the Russian Department had been under discussion since about the middle of 1975, and President Clark's decision appears to have been reached with faculty and student advice. Formal notice of retrenchment, however—in spite of the President's February 5, 1976, announcement—was not sent to the Chairman of the Russian Department, who was also its senior professor, until March 26, when President Clark informed him that his continuing appointment as Professor of Russian would be terminated "at the close of business on August 18, 1976." Since the Chairman was also a Professor of Comparative Literature, he was informed that he was being assigned to a half-time position in the Department of Comparative Literature. A distinguished scholar and an outspoken critic of the administration, the Chairman had been appointed to the Binghamton faculty in 1971, with tenure.

Another tenured faculty member in Russian, with sixteen years of service at Binghamton, was also notified at this time that her appointment would terminate on August 15. Subsequently, when the demands for courses in Russian by students part way through the program, and by a large number of Slavic-Americans in the community, forced the administration to offer Russian tutoring in 1976-77, this faculty member was offered the tutorial position; but the salary was so disproportionately low that the faculty member found it impossible to accept. In addition, the appointments of two assistant professors of Russian on term contracts were terminated before the expiration of their con-

tracts, as were those of one person in philosophy and another in physics. The faculty member in physics was placed elsewhere at Binghamton, and the other three persons found positions at other institutions.

The faculty member in philosophy, an assistant professor with one year remaining on his contract, was the junior member of the department, which was to have one line retrenched. There was, however, a half line attached to the department on which part-time lecturers in the history and philosophy of the social and behavioral sciences, a program leading to the Ph.D. in philosophy, were appointed. The administration designated the Department of Philosophy, excluding the line for part-time lecturer, as the retrenchment unit, with the result that the appointment of the assistant professor was terminated rather than those of the part-time occasional lecturers, whose combined salaries were approximately the same as his. Subsequently, the administration technically removed the visiting line from the control of the Department of Philosophy. It has continued to fund essentially the same program from the Dean's office.

## VI. The College of Arts and Science at Brockport

At the College of Arts and Science at Brockport, the actions of primary interest to the Association's investigating committee began with a mailgram from Vice Chancellor James F. Kelly which was received by President Albert W. Brown at Brockport on January 7, 1976. Among other things, Vice Chancellor Kelly conveyed the information that by February 29 the Brockport administration would have to terminate the appointments of eight persons who had been on the College payroll on December 8 and that additional reductions would have to be made before September 1. On January 26, the first day of the spring semester, a full professor in the Department of Educational Research was called from his classroom by his dean and department chairman and informed that his appointment would be terminated on February 29. On the next day an associate professor in the Department of Educational Research was given the same notice. The full professor had been appointed to the faculty in 1970 and became tenured in 1973; the associate professor had been appointed in 1965 and became tenured in 1967. Both faculty members filed suit in the New York Supreme Court on February 25 and were granted temporary injunctions which extended their appointments at the College until the end of the semester. Their requests for permanent injunctions, however, were denied by the Court, and their cases have been appealed to the Appellate Division of the New York Supreme Court.

On April 19, 1976, President Brown announced that the appointments of fifteen additional faculty members in eight departments would be terminated by August 31, and an official newsletter containing the announcement listed five criteria considered in the retrenchment decisions, including "programmatically needs" in relation to the College's mission and faculty/student ratio. As part of the retrenchment, the Department of Educa-

tional Research was abolished, with one of its remaining two members being assigned to other duties and the other—a tenured member of the faculty appointed in 1949—being sent a written notice dated April 29 but postmarked May 5 that his appointment would be terminated on August 31. According to the administration's *Brockport Newsletter* of June 23, 1976, thirteen of the fifteen faculty members given termination notices in April were offered the same or similar positions at the College for the next academic year, and as of June 18 nine had accepted the offers. "Most of the offers," the newsletter stated, "were made possible by attrition that has taken place since the retrenchment was announced." Figures supplied to the Association's *ad hoc* committee by the central administration in Albany indicate that in 1976 the College at Brockport terminated the positions of six faculty members on continuing appointments and ten on term appointments and that it reinstated three on continuing appointments and six on term appointments. (See Table I.) No offer of reinstatement was made to the senior member of the Department of Educational Research, who, earlier than he had planned, went on retirement status on September 1.

Initial consideration of individual retrenchments began after the receipt of the Kelly mailgram on January 7, and decisions appear to have been reached by President Brown on the week-end of January 17, when he conferred with the College's vice presidents. In a letter to President Brown dated February 16, 1976, and endorsed by the Faculty Senate, the President of the Senate expressed his continuing concern that President Brown had failed, as he saw it, to consult the Faculty Senate "in any meaningful way" before giving notice to the two faculty members in the Department of Educational Research. He noted that in December he had attended two meetings with the President and the vice presidents as a group "to deal with budget priorities," and he expressed his understanding that this group was to become involved "if an emergency arose." According to the letter, the President of the Faculty Senate learned of the "planned action" at an emergency Administrative Council meeting called by President Brown on January 20; the next morning the Senate President and the Chairman of the Appointments, Promotion, and Tenure Committee were invited to a further meeting, and the chairman of the committee, who attended the meeting, informed the Senate President that President Brown "read the criteria to be used and the names of the people to be retrenched."

The Senate President's letter of February 16 was written to President Brown in part to explain an earlier letter of January 27, in which the Senate President informed President Brown that the Executive Committee of the Senate had determined that the Long Range Planning Committee was the appropriate committee to engage in budgetary discussions, which the Senate hoped "would be on a continuous rather than an emergency basis." The January 27 letter had also conveyed the information that the Senate did not wish to

"designate a committee or other group to consult with . . . [the President] on the matter of retrenchment." The Executive Committee, wrote the Senate President, "views retrenchment as a contractual matter."

President Brown replied to the January 27 letter on February 2, when he expressed regret at the action of the Senate Executive Committee, declared his strong feeling that "the faculty voice is important in governance of the institution at all levels," and drew a distinction between governance and "contractual relationships" in respect to negotiated terms and conditions of employment. Retrenchment, he noted, "has enormous programmatic implications which are properly the concern of the governance unit," and he added that the matter was serious enough for him to question whether "a faculty voice should not be sought quite apart from the Senate." In his February 16 reply, the Senate President, after protesting the notices to the two tenured faculty members and reviewing the events cited above, stated that the concern of the Senate's Executive Committee about being involved in retrenchment is "in part caused by the way in which you have handled this action." There was "no room for input," he wrote, "into a decision that had already been made."

President Brown stated to the chairman of the investigating committee that he recalled receiving a letter from the Senate President in 1975 saying that the Executive Committee did not wish to designate a group to consult with him on retrenchment. He did not make such a letter available, however, and the Senate President insisted that no letter to that effect was written until January 27, 1976, when the retrenchment actions had already been taken. In any event, no consultation with a faculty group preceded the decision to give the January 26 notices. And in a meeting which the chairman of the investigating committee had with President Brown—a meeting attended by four vice presidents, an associate vice president, an assistant vice president, two assistants to the president, one provost, two deans, the Director of Personnel, the past president, and president-elect of the Faculty Senate, and the president of the Brockport Chapter of the United University Professions—President Brown stated that, since the governor's office, legislature, and chancellor have to take responsibility for those things for which they are responsible, he had not tried to place either the union or the senate in the position of seeming to have responsibility for what basically are administrative decisions.

Nor was there any consultation with the two faculty members who, on January 26 and 27, were notified that their positions would be discontinued on February 29, or with their colleague of twenty-seven years' service who was given notice at the end of April to become effective on August 31. The decision to eliminate the Department of Educational Research seems to have been based upon its productivity, specifically the low number of full-time student equivalents it was teaching in relationship to the cost of the department and the number of faculty members in it. A study completed by

the College's Office of Institutional and Sponsored Research on February 19, 1976, had placed the Department of Educational Research the highest (by a considerable margin) among thirty-two departments in each of several categories under "cost per student credit hour" as of the fall of 1975. By its nature, however, the Department of Educational Research was not expected to rank high in full-time student equivalents. One member of the department given notice in January was developing and trying out experimental courses in which the enrollment was purposely kept low, and when the courses gave promise of being valuable additions to the curriculum they were transferred to other departments, where they might attract substantial student interest. The other member given notice in January was actually carrying a sizeable student load. And the member given notice in April was not working in the department at all; he had been on loan to the Student Development Center for about two years to work with problems of student testing. He informed the chairman of the investigating committee that he requested at least one additional year because, being at an age when he was close to statutory retirement, the extra time would greatly increase his retirement annuity and assist him with the education costs of his college-age children; but his request was unable to overcome the fact that his budget line was in the Department of Educational Research, which was being eliminated.

The full professor in the department whose appointment was terminated had had seven years' experience in the New York State Education Department before joining the faculty. He stated that he had had no intention of protesting the retrenchment notice because he knew that in government employment such retrenchments were sometimes necessary. He decided to pursue his case, he said, when he learned the identity of those outside of his department who were not being retained. These six persons included a faculty member who was on a disability leave of absence for a year and was in a position to retire; two cleaning women on disability; a groundskeeper who had not been on campus for five months; an employee discharged for misconduct after an appointment of one month; and an assistant in the residence halls. When the chairman of the investigating committee read out this list to President Brown and asked if it was correct, President Brown replied that he did not know. The chairman was assured by faculty members that it was essentially correct.

The Senate President had this list in mind when he wrote to President Brown on February 16, 1976, to urge a reconsideration of the decision to terminate the appointments of two tenured members of the faculty: "As I understand it, you were able to cut six of the eight positions through various forms of attrition including at least one retirement." Writing to President Brown again on April 19, following the announcement that there would be further retrenchments, the Senate President once more urged that the budgetary problems be met by attrition and by limiting expenditures for such

things as travel, supplies, and equipment. On April 26, he sent a memorandum to the faculty in advance of a scheduled May 3 faculty meeting and in it deplored, as he had in his letter to the President, the "reduction in faculty lines at a time when the faculty/student ratio exceeds State standards." He also asserted his belief that "alternatives, other than retrenchment, exist to resolve the so-called budget crisis."

At the May 3 meeting, a Committee on Alternatives to Retrenchment, which had been appointed by the Senate President, was confirmed by the Faculty-at-Large. The committee met with President Brown on May 5 and May 12 and consulted with deans, chairmen, and others. Because decisive steps toward additional retrenchments had already been taken, the committee concluded that it should explore "alternatives to losing the retrenchees and alternatives to retrenchment for future reference." On May 17, it submitted two resolutions to the faculty which were overwhelmingly approved. One, aimed at facilitating "the rehiring of retrenchees, resolved that the faculty should accept, on a one-year emergency basis, a delay of reassignment and reallocation of lines, along with a load-sharing within and between departments." The other asserted faculty approval of "the attrition model" to forestall future emergencies and directed the Faculty Senate to study it further "and develop policies leading to its implementation."

In its discussions with President Brown, the committee reported, it was given to understand that the administration intended to reinstate retrenched faculty members when that seemed feasible. As already noted, nine persons were reinstated by June 18, 1976. No offers of reinstatement, however, were made to the members of the Department of Educational Research.

## **VII. The College of Arts and Science at Cortland**

An Associate Professor of Geology, appointed to the faculty of the College of Arts and Science at Cortland beginning with the 1970-71 academic year, was placed on continuing appointment in 1973. On February 6, 1976, he was informed by President Richard Jones that his position would be terminated as of August 31, 1976, because of the "difficult financial situation." The associate professor was the only tenured faculty member given notice at Cortland, and the Geology Department appears to have been singled out because its enrollments were lower than those of a number of other departments.

The associate professor was subsequently appointed to a part-time position at Cortland for the 1976-77 academic year. The position was understood to be temporary.

## **VIII. The College of Arts and Science at New Paltz**

On March 15, 1976, Dr. Stanley K. Coffman, President of the College of Arts and Science at New Paltz, notified eight members of the faculty that, because of the "difficult financial situation," their positions were

being eliminated and their connections with the College would be terminated as of August 31 of that year. Of the eight faculty members notified, seven were tenured, and the nontenured member was subsequently reinstated when the resignation of a colleague created a vacancy.

A formal consideration of cutbacks had begun at New Paltz in the spring of 1975, when the College was required to reallocate or reduce the number of unoccupied faculty lines. Following the discontinuance of the College Assembly in 1974, President Coffman had asked the Assembly's standing committees to continue as presidential committees, and he established a new committee consisting of the chairmen of five committees and two students to advise the administration on the question of line reallocation. The committee became the nucleus of a larger committee when later in the spring the College was notified by the Office of the Budget that its expenditure ceiling for 1975-76 was to be reduced by \$168,000 and that its share of the \$10,000,000 reduction in the SUNY base budget for 1976-77 was \$400,000. The larger committee, chaired by President Coffman, included the line reallocation committee, the budget committee, and some administrators, and in meetings during late May and early June of 1975, it prepared the preliminary budget request for 1976-77. President Coffman stated to the investigating committee, however, that in his view the committee had proposed such extensive cuts in salary, wages, and people as to jeopardize the College's operations, and as a consequence he recalled the line reallocation committee, added faculty, students, and administrators to it, and established it as the Program Review Committee under the chairmanship of Vice President for Academic Affairs Peter N. Vukasin.

The Program Review Committee issued a report in December, 1975, in which it noted its acceptance of the principle of a retrenchment based not wholly upon attrition, its view being that because of the high proportion of tenured faculty at New Paltz (about 75 per cent) the burden of attrition would fall unduly upon the nontenured faculty. No faculty position was terminated at that time, however; nor was there any retrenchment of faculty members under the 3 per cent cut imposed by the Office of the Budget in January, 1976. But when the new Executive Budget required the elimination of forty-two instructional and non-instructional lines, as compared to twenty-seven in the preliminary budget proposal, the Program Review Committee was compelled to resume intensive sessions in which it reviewed all departments and invited representatives of departments considered to be vulnerable to appear before it. Early in March, it issued its report.

Recommended for retrenchment by the Program Review Committee were 10.5 teaching lines divided among seven departments, with the expectation (which turned out to be well founded) that two or more of the lines would be eliminated through retirement or some other form of attrition. Among those which clearly

would require termination notices to faculty members, two were in Asian studies, 2.5 in history, one in French, and one in art studio.

The administration concurred in the total number of teaching positions to be eliminated, but did not concur in the proposed distribution. It decided to reduce, by half a line each, two departments that the committee had recommended for reduction by a full line. It made no reduction in history. And it reduced Asian studies by two additional lines, for a total of four, and required also that two positions be eliminated in African studies. Asked by the investigating committee if his discussions with the Program Review Committee had changed his views as to what positions should be retrenched, President Coffman replied that they had not.

In Asian studies, the entire department of eight persons was tenured, as was the entire department of four in African studies. In African studies, the two faculty members most recently tenured (1970 and 1973) were given termination notices in accordance with Section 35.2 of the collective bargaining *Agreement*, which requires notification "in inverse order of appointment." In Asian studies, the three faculty members most recently tenured (all since 1973) were given termination notices. The fourth person notified was second in seniority in the department, a professor of Chinese language who had been appointed to the faculty in 1962 and granted tenure in 1964. By inverse order of appointment in his group, he was seventh rather than fourth.

The administration explains this apparent discrepancy by citing Article 35.1 of the *Agreement*, which permits retrenchment "at such level of organization of the University as a campus, department, unit, program or such other level of organization of the University as the Chancellor or his designee deems appropriate." Under this article, President Coffman, as the Chancellor's designee, declared Chinese language a retrenchment unit, and since only one person was teaching Chinese language he was subject to immediate retrenchment, whatever his seniority in the department as a whole. Some faculty members expressed the view to the investigating committee that the professor of Chinese language had incurred the administration's displeasure because of presumed excessive outside activity (specifically, an interest in a restaurant in a nearby town) and that the administration had invoked this article in the *Agreement* to get rid of him; President Coffman, however, was unwilling to discuss the reasons for his actions with the investigating committee. In this connection, the investigating committee notes that President Coffman, in a March, 1976, report to the University's central administration on the "Impact of Line Cuts in the Academic Area," called attention to the retrenchment of only seven positions—three in Asian studies, two in African studies, one in French, and one in art studio—and omitted all reference to the retrenchment in Chinese language. Because of the three-line reduction in Asian studies, he stated, in effect

"we are left with a China studies program." Subsequent letters sent by the chairman of the investigating committee to President Coffman and Vice Chancellor Komisar failed to secure an explanation of this omission and of one or two related matters. The chairman of the committee was informed that the circumstances of the collective bargaining *Agreement* made a reply inappropriate.<sup>7</sup>

The period of notice given to the faculty members was five-and-one-half months, and, because of the shortness of notice, efforts were initiated by some of the affected faculty (and later pursued by the administration) to secure a supplemental appropriation from the legislature which would make a longer notice possible. In addition, the faculty in May created an Emergency Committee to Study Alternatives to Retrenchment, which gave first priority, according to its September 28 report to the faculty, "to saving the jobs of the eight retrenched faculty or at least achieving one year's notice for them if possible."

The legislature did in fact make a supplemental appropriation for the purpose (in part) of extending the appointments of the faculty members at the College who had received termination notices, and in November President Coffman offered to those affected faculty who requested them appointments as Research Associates for the period November 1, 1976, to March 31, 1977. In addition, the Committee to Study Alternatives to Retrenchment adopted three resolutions asking that the affected faculty members be considered for vacancies in other departments; it also sought to have lines held open for another year so that these faculty members might occupy them. In their discussion with the investigating committee, members of the Committee noted that departments reacted negatively to the possibility of reinstating the faculty members to their vacant positions; and in its report the Committee stated that Vice President Vukasin informed the Committee on August 6 that 4.5 lines which had been open had by then been filled. Fifteen new full-time faculty members were in fact appointed as additions or replacements for the academic year 1976-77.

The two faculty members in African Studies and the four in Asian Studies filed grievances under the collective bargaining *Agreement*, but none has yet been successful in securing redress.

### IX. The College of Arts and Science at Oneonta

In the spring of 1975, Dr. Clifford J. Craven, President of the College of Arts and Science at Oneonta, established a budget consultative group consisting of the College Senate's recently appointed *ad hoc* Committee on Academic and Instructional Priorities, the Senate Steering Committee, and a number of administrators whom President Craven looked upon as the

<sup>7</sup> In a subsequent response to a prepublication draft of this report, President Coffman stated that he had omitted reference to Chinese language through inadvertence.

executive group. Although retrenchment of specific programs and departments was not then a primary consideration, it was clearly on the minds of administrators and faculty members. On May 26, 1975, for example, Vice President for Academic Affairs Carey Brush wrote to an associate professor in the Department of International and Foreign Area Studies, who was then on an unpaid leave of absence to pursue work as a Research Associate at Columbia University's School of International Affairs, to suggest that he take a position elsewhere if one should become available to him, since if retrenchment became necessary at Oneonta "Area Studies would be high on our list of retrenchment possibilities."

The consultative group's spring, 1975, recommendation was that 7.75 faculty positions be eliminated for a saving of \$72,000. Then in June, 1975, after the Office of the Budget imposed a requirement that the College reduce its expenditure ceiling by slightly over \$200,000, the consultative group again held intensive sessions and recommended the elimination of an additional nine faculty positions by August 1, plus other savings. None of these cuts required the retrenchment of faculty members already appointed. On August 29, the College was informed that \$260,000 was to be cut from its base budget, which for 1975-76 was \$15,246,000, but that it would be given a credit of \$100,000 on the base budget as a result of the closing of the campus school.

On January 8, 1976, President Craven received a mailgram from Vice Chancellor James F. Kelly informing him that thirty-eight positions would have to be eliminated by September 1 and that nine persons (to be included in the thirty-eight) would have to be removed from the University payroll by February 29. Before this time, however, an all-but-final decision seems to have been reached to abolish the Department of International and Foreign Area Studies. Informal minutes of a department meeting of December 17, 1975, record that President Craven met with the department and announced his intention to retrench the department "because of budget exigency," and that he invited the members of the department to appear before the consultative group the following evening at 7:45. Specifically, as President Craven explained, the retrenchment would affect only two of the department's three members, since the third would be transferred to the Overseas Program. The acting chairman of the department was the Dean of Liberal Studies, whose position as dean would not be affected.

The two faculty members met with the consultative group the following night in the presence of President Craven, and both spoke at some length. Although the time between President Craven's announcement at the department meeting and their appearance before the consultative group was short, they were assisted by the work that one of them had previously prepared. The recommendation of the consultative group (which had continued to meet throughout the summer and fall, and one of whose constituents, the *ad hoc* Committee on

Academic and Instructional Priorities, had by then been made a permanent committee of the College Senate) was that the Department of International and Foreign Area Studies be eliminated, and the two faculty members were formally notified by President Craven on February 18, 1976, that their appointments would be terminated as of the following August 31. No faculty members were included among the nine persons to be given notice effective February 29.<sup>8</sup>

Of the two faculty members given notice, one had been appointed to the faculty in 1963 and granted tenure in 1966; he had been a full professor since 1967. The other, an associate professor, had been appointed to the faculty in 1967 and granted tenure in 1972. The third faculty member in the department, who was second of the three in tenure seniority, was retained to direct the University's overseas program in Israel, and he continues to teach courses at Oneonta under the title "International Studies and International Education."

No votes were taken by the consultative group, which was chaired by the President of the College Senate, but the administration believed there to be a consensus on all the matters which went forward from the group, including the desirability, under existing financial circumstances, of eliminating the Department of International and Foreign Area Studies. Participating faculty members who were interviewed by the investigating committee concurred in that view. Abolition of the department, however, seems to have been an administration desire for some time. The investigating committee was informed that the administration discussed the department with the Curriculum Committee as early as 1971-72 in the context of potential retrenchment, and, as has been noted, the Vice President for Academic Affairs informed one of the affected faculty members as early as May 26, 1975, that the department was high on the list of retrenchment possibilities. Nonetheless, participating faculty members did not appear to have felt coerced in this recommendation. It was always understood that the Committee on Academic and Instructional Priorities had the right to meet separately, and information supplied to the investigating committee indicates that it took advantage of this opportunity on numerous occasions, including three meetings between December 8 and February 8.

There was, however, a record of some conflict between the President and the senior member of the department, who had been Coordinator of Area Studies until 1968, and the faculty member and a number of his faculty colleagues believed that the differences between him and the President over the years accounted for the President's attitude toward the department. The President stated that, under the constraints of the collective bargaining *Agreement*, he was not prepared to discuss

<sup>8</sup> One of the faculty members states that he was never shown the recommendation of the consultative group, and that when he asked to see it he was informed that it was confidential. Nor was he informed of the criteria used by the group in making its recommendation.

the individual case with the investigating committee. With regard to the abolition of the department, the administration stated publicly that the decision reflected solely a view of "the importance of the Area Studies Program to the total academic program of the college." It noted that the department did not offer a major; no student had enrolled in the minor (a statement disputed by students who, in their meeting with the investigating committee, asserted that minors were frequently not registered); area studies are no longer required in all programs; and some dozen departments now offer courses related to Africa and Asia, whereas a few years ago Area Studies was the only department to offer them. Enrollments do not appear to have been a consideration; the courses of both faculty members seem to have been well subscribed.

When President Craven met with the Area Studies Department on December 17, he was asked if it would be possible to accommodate one of the faculty members whose appointment was about to be terminated in the Department of History and the other in Political Science, their two major fields. President Craven replied that he had not yet formally approached the two departments with this question. He subsequently communicated with the department chairmen and urged "very careful consideration" of the qualifications of the affected faculty members, but assured the chairmen that, consistent with the wishes of the consultative group, no department would be required to accept a faculty member against its will. He noted also that an additional line could not be made available, so that acceptance of one of the affected faculty members would mean not otherwise filling a line if one was vacant or creating a vacancy by giving notice to a nontenured member of the department. The two departments declined to accept the faculty members.

Both faculty members filed grievances under the grievance procedures of the collective bargaining *Agreement*, and their grievances were rejected at Steps 1, 2, and 3. The UUP has thus far not stated whether it will take their cases to arbitration. Neither faculty member was able to find a position for the academic year 1976-77.

## X. The University Center at Stony Brook

In June, 1975, Dr. John S. Toll, President of the University Center at Stony Brook, was informed by the University's central administration of severe cuts to be made in the Stony Brook budget: specifically, the expenditure ceiling for 1975-76 was reduced by \$850,000 and a further cut of \$950,000 was mandated in the budget to be submitted for 1976-77. Institutions within the University were also under instruction from Chancellor Ernest Boyer to *select* programs for retrenchment rather than to impose cuts across the board.

Acting in response to Chancellor Boyer's directive, President Toll announced his decision on August 28, 1975, to eliminate Stony Brook's Department of Educa-

tion, and some forty faculty members in the department were informed that their positions would be terminated as of August 31, 1976. Of this number, twelve were tenured, seven were on term contracts which extended beyond the announced retrenchment date, and the rest were on one-year contracts. For a number of reasons, however—including a court injunction following the filing of a suit—the tenured faculty were retained at Stony Brook during the academic year 1976-77, although some were placed in other positions; and faculty members on term contracts have been permitted to serve them out. As of spring, 1977, six tenured faculty members had not been given other positions and thus faced the likelihood of retrenchment after August 31, 1977.

At the time of the budget crisis in June, 1975, the elected Faculty Senate established a standing committee, the Resource Allocation and Academic Planning Committee (RAAP), to study the effect upon the Stony Brook program of the various possible changes in resource allocations. The committee was briefed by the administration concerning the likelihood that faculty members would have to be retrenched, but members of the committee felt rebuffed in their efforts to have the administration consult the committee as to where specific retrenchments should occur. Early in July, 1975, President Toll appointed a Commission on Budget Priorities, which had some overlap in membership with RAAP, and after a month of meetings the Chairman of the Commission complained in a letter to President Toll about "the empty and helpless role of these groups (RAAP and the Commission) in attempting to convey points of view that differ from yours."

On December 19, 1975, the Faculty Senate, by a vote of forty-nine to six with one abstention, approved a resolution of censure against and no confidence in the administration for its "abrogation" of the "right and responsibility of the Faculty . . . to participate in recent actions" and for failing to provide "for proper appeal and due process in the terminations of appointments" related to the retrenchment.<sup>9</sup>

## XI. Issues and Findings

### *The Initial Decision*

The 1940 *Statement of Principles on Academic Freedom and Tenure*, prepared jointly by the Association of American Colleges and the American Association of University Professors and endorsed by scores of other educational organizations, states simply that "termination of a continuous appointment because of financial exigency should be demonstrably *bona fide*." In

<sup>9</sup> Responding to a prepublication draft of this report, President Toll asserted that its treatment of events at Stony Brook is faulty in several respects. He declined, however, to provide detailed comments, on the same grounds that he had offered in declining earlier to meet with the investigating committee.

order to assist institutions in the application of this policy, Committee A on Academic Freedom and Tenure, in the fall of 1974, formulated a new Regulation 4 in its *Recommended Institutional Regulations on Academic Freedom and Tenure*, and in the December, 1974, issue of the *AAUP Bulletin* Committee A and the Council of the Association published the new regulation under the title "Termination of Faculty Appointments because of Financial Exigency, Discontinuance of a Program or Department, or Medical Reasons." Committee A subsequently revised the regulation slightly and republished it in the February, 1976, *AAUP Bulletin*.

Under this policy, a "demonstrably *bona fide* exigency"—an exigency, that is, which permits the "termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term"—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 policy prescribes that, as a first step, "there should be a faculty body which participates in the decision that a condition of financial exigency exists or is imminent," and that "all feasible alternatives to termination of appointments [should] have been pursued."

It is clear that the financial situation confronting the State University of New York in 1975 and 1976 was a serious one. A sudden decrease in the budget base of \$10,000,000 in 1975, and a 1976-77 legislative appropriation which threatened to fall short of the previous year's by \$55,000,000 (about a 10 per cent drop), obviously placed the University in a difficult position, particularly during a period of inflation. To say that, however, is not to say that appropriate inquiry had led to the conclusion that the survival of the University as a whole, or of any of its constituent institutions, was threatened and that the situation could not be alleviated by less drastic means than the dismissal of tenured faculty members or of faculty members whose specified terms had not been completed.

As noted earlier, Chancellor Ernest Boyer, while acknowledging to the University Faculty Senate early in 1975 that the state faced a "fiscal crisis" comparable to that of 1970-71, expressed some optimism about the University's ability to avoid "retrenchment or personnel dismissal," even though some reduction in faculty positions might be compelled; and the Senate adopted and sent to the Chancellor a position paper on "Retrenchment Benefits and Recommendation" which it pointedly labeled a "partial" response to that section of the Policies of the Board of Trustees requiring the Chancellor to seek the advice of the Senate when he anticipates that retrenchment may be necessary. Less than four months later, the Board directed the Chancellor to implement a campus-by-campus review to determine which programs should be "continued and strengthened" and which should be "consolidated or phased out."

Perhaps the Board intended drastic action, but its

language called for a review leading specifically to consolidation and phasing out, neither of which suggests the dismissal of faculty members on tenure or extended contracts which followed over the next twelve months. The Board's language underwent some changes, however, as it moved from administrator to administrator. Chancellor Boyer's words, in the statement which he issued on June 1, 1975, were "reduced or phased out." Vice Chancellor Spindler's words on June 9 were "eliminating and curtailing." The considerations for local campus review were provided in Chancellor Boyer's statement and the criteria for elimination or curtailment in Vice Chancellor Spindler's.

Chancellor Boyer failed to consult the University Faculty Senate before his and Vice Chancellor Spindler's statements defined the retrenchment policy and set the retrenchments in motion, a failure which seems to the investigating committee to have been clearly contrary both to the Policies of the Board of Trustees and to the policies supported by the Association. It was a failure also which, by itself, casts doubt upon the appropriateness of the "policy . . . followed in the reduction of staff." This was the very area in which the Board Policies had mandated the Chancellor's consultation with the Senate and on which the Senate, comprised of faculty members intimately concerned with educational policy, was particularly well suited to advise.

No one interviewed by the investigating committee expressed the opinion that the actual survival of the State University of New York or any of its constituent institutions was threatened by the budget cuts. This is not surprising. However serious the ultimate drop of \$39,000,000 in legislative appropriations, it seems less critical when viewed against the total appropriation of \$567,000,000 for fiscal 1975-76. This was a cutback of about 7 per cent. In total funds available to the State University of New York there was a cutback from \$967,000,000 in 1975-76 to \$928,000,000 in 1976-77, or about 4 percent. Such a reduction raises a question about the need to terminate the services of faculty members on continuing or extended appointments under any circumstances. The investigating committee finds the retrenchment, as general policy authorized and set in motion unilaterally by the University administration, to be contrary to accepted standards relating to faculty participation in academic government and violative of the provision on financial exigency in the 1940 *Statement of Principles*.

### *The Specific Decisions*

Just as there was no faculty consideration at the University level of the basic question as to whether or not a financial exigency existed, so there was none on any of the campuses which came to the investigating committee's attention. Each campus received the various directives about retrenchment from SUNY-Central beginning in the late spring of 1975, and the administrations set about implementing them as they thought

appropriate. On some there was compliance, or near compliance, with the prescription in the statement on "Termination of Faculty Appointments" for "an appropriate faculty body" to exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. Committees chaired by faculty members met frequently at Albany and Oneonta; and at New Paltz a joint committee of faculty, students, and administrators developed recommendations to submit to the President. There was a questionable indulgence in presidentially appointed committees (Albany) or in placing key administrators in committee chairmanships (Binghamton and New Paltz), but though the administrators obviously exerted considerable influence on committee deliberations, the investigating committee found no evidence of coercion or, with one exception, of other irregularity. The exception was Binghamton, where the report of the 1975 Task Force was rejected by the Faculty Senate because the Task Force had exceeded its authority. At Albany, Binghamton, New Paltz, and Oneonta, committees seem to have been provided with all the information they thought essential to their work and to have been given the opportunity to express considered judgments. At Stony Brook, however, dissatisfaction with the role permitted faculty committees led to a motion of censure against the administration which was approved overwhelmingly by the Faculty Senate in December, 1975.

At Alfred, what consultation there was seems to have been informal and limited. At Brockport, there was virtually no consultation with the faculty, and as a consequence the Faculty Senate found itself frequently in a position of confrontation with the administration. It sought to modify specific retrenchment actions and to establish a policy for retrenchment that in its judgment would be reasonable and fair, as well as have the least drastic consequences for individuals, and through its persistence it was able substantially to influence the later stages of the retrenchment.

One serious problem was created at Albany, where the changes were most numerous and comprehensive, by the very short periods allowed for the preparation and consideration of committee reports. The 1975 Select Committee had the longest period at its disposal—from January to mid-May; but in that time it was required to review the full range of the offerings at Albany and to recommend priorities. The 1976 Task Force had only from January to February 23 for a similar study. The faculty as a whole, through its departments and schools, had only a week to respond to the far-reaching recommendations of the 1975 report, and that week came right in the middle of the spring final examination period. As for the 1976 report, all responses were expected to be in President Fields' office less than two weeks after the report was published. However conscientious the work of the Select Committee and the Task Force, the investigating committee does not believe that, under the circumstances, adequate time was allotted for the consideration of recom-

mentations fundamental to the mission of the University and to the professional welfare of numerous members of the faculty.<sup>10</sup> In the absence of adequate provision for official faculty discussion, it is not surprising that a Committee of Concerned Faculty came into being and spoke out on procedural and substantive issues raised by the restructuring of academic programs and the reordering of priorities at the State University of New York at Albany.

At all campuses, responsibility for designating individuals whose appointment would be terminated was assumed by the president, and where the faculty committee functioned with reasonable effectiveness this procedure can be said to have had the faculty approval called for in the Association's statement on "Termination of Faculty Appointments." No such approval can be presumed at Binghamton, Brockport, and Stony Brook. It should be noted, however, that—consistent with the collective bargaining *Agreement*—termination actions were considered in terms of "retrenchment units," which under the *Agreement* were left to the Chancellor or his designee to determine. The usual retrenchment unit was a department or a school, but two or three exceptions to that practice have raised serious questions about the administrative motivations in giving notice of termination to specific faculty members.

At Binghamton, as we have seen, President Clark designated classical studies as a retrenchment unit, and thus under the *Agreement* he was able to terminate the appointment of a tenured associate professor who would have been fourth in line for retrenchment if his department (classical and Near Eastern languages) had been declared the retrenchment unit. At New Paltz, President Coffman declared the Asian Studies Department a retrenchment unit to the extent of three junior faculty members, all of whom were tenured. He also declared Chinese language, which was taught in the Asian Studies Department, a retrenchment unit, and thus was able to terminate the appointment of the second senior member in the department of eight members. These two faculty members were believed by their colleagues to be in disfavor with their administrators, and their being singled out in this way raises serious questions as to whether the administrators may in fact have been concerned more with removing the individuals than the programs. As noted earlier, the classicist at Binghamton was the only tenured member of the faculty given notice of termination in September, 1975.

As for the New Paltz action, it is noteworthy that the Program Review Committee had recommended a re-

<sup>10</sup> In his response to a prepublication draft of this report, President Fields stated that the timetable was influenced by reporting requirements relating to the SUNY budget. He observed that the assignments of the Select Committee and the Task Force were made feasible by the products of numerous earlier evaluations. In all, he stated, the State University of New York at Albany has had its programs and administration assessed by ninety-eight separate teams of external consultants.

trenchment in Asian studies to the extent of only two lines; thus it was at President Coffman's initiative that the two additional lines—including the line occupied by the professor of Chinese language—were retrenched. Noteworthy also is a statement in a report sent by President Coffman to the central administration, apparently in March, 1976. The Program Review Committee had recommended a retrenchment of two-and-one-half lines in history, but President Coffman had taken no action to reduce that department. The report states that "our History Department, which otherwise could sustain some reduction in staff, was not retrenched because the first two individuals who would be retrenched are key figures. . . ." The investigating committee is at a loss to understand why President Coffman did not apply a similar reasoning to the Asian Studies Department, where he found a way to terminate the appointment of the professor of Chinese language in the Asian Studies Department and retain three people junior to him. As President Coffman informed the committee, the deliberations of the Program Review Committee did not change his views as to where the cuts should be made, and the available evidence leads one to conclude that he had resolved very early to remove the professor of Chinese language from his position.

Conversely, other positions were immediately found for faculty members in the Department of International and Foreign Area Studies at Oneonta and the Department of Educational Research at Brockport, whereas in each of these departments a more senior person was given a notice of termination which remained in effect. The investigating committee finds no fault with the administration for placing affected faculty members elsewhere; on the contrary, it wishes that the administrations of these and other SUNY institutions had been more successful in that effort than they were. But it feels that some further consideration was due the senior people in each of these departments. At Brockport, the senior person in Educational Research seems simply to have fallen victim to the tyranny of faculty lines; he was not working in that department, but that was where his line was held and it disappeared with the department. He was, moreover, within a very few years of mandatory retirement, and the loss of his final teaching years, at a time when he was still putting children through college, imposed a considerable hardship on him.

At Oneonta, the senior member of the Department of International and Foreign Area Studies was tenured, had held his position for thirteen years, and seems to have maintained a satisfactory enrollment in his courses. He was also strongly supported by students, who continued their efforts in his behalf well into the next academic year. When the department was declared a retrenchment unit, he was given notice of termination; but the member of the department second in seniority was retained to supervise the University's Overseas Program in Israel. Retained also, however, were the second senior member's courses from the De-

partment of International and Foreign Area Studies: nine of them are listed in the College's Undergraduate Catalogue for 1976-78 under the heading "International Studies and International Education." The investigating committee is unable to appreciate the explanation given for this arrangement. The department, to be sure, was eliminated as an administrative unit, and substantively it was reduced to a large degree. But it was not totally abolished, and more consideration seems thus to have been due to the senior member of the department.

### *Hearings and Notice*

The statement on "Termination of Faculty Appointments" provides that a faculty member whose appointment is to be terminated because of a financial exigency will have the right to a hearing before a faculty committee, and will also have the right to a year's notice or severance pay if the faculty member has served at the institution for two or more years. The collective bargaining *Agreement* provided instead for a grievance procedure, and most of the retrenched faculty members filed grievances under the terms of the *Agreement*. As for notice, this varied widely in spite of the fact that the University Faculty Senate, in its position paper of January 31-February 1, 1975, had urged the central administration to provide at least a year's notice for retrenched faculty members. Some campuses—Albany and Stony Brook, for example—made consistent provision for a year's notice. Others—Alfred, Binghamton, Brockport, Oneonta—gave shorter notices. At New Paltz, the initial notices of only five-and-one-half months were extended to a year when the legislature provided a supplemental appropriation for that purpose. At Brockport, initial notices of a mere five weeks to two faculty members were extended to five months when the faculty members obtained restraining orders from the New York Supreme Court. The effects of such limited notice were called to Chancellor Boyer's attention by the Association's Acting General Secretary, when he urged on April 29, 1976, that SUNY institutions be required to follow the example of the University Center at Buffalo in giving a year's notice:

We ask you to appreciate that the need for an adequate standard for notice was generally accepted by the academic world in better times, when new positions could be more easily procured. To stint on due notice at a time when it is sorely needed by the recipients not only inflicts injury upon them; it serves to dampen the spirits of those who remain. . . .

Chancellor Boyer did not reply.

### *Placing the Faculty Members*

Concerted efforts to relocate faculty members elsewhere in the institution are mandated both by the Association's statement on *Termination of Faculty Appointments* and by the collective bargaining *Agreement*. The University-wide effort consisted of little more than a routine sending of SUNY vacancy lists to affected faculty members, with the faculty mem-

bers rarely if ever receiving any special consideration for the positions. At New Paltz, one of the affected faculty members informed the investigating committee that he heard of a vacancy in another New Paltz department for which he felt qualified, wrote a letter of application to the chairman, and never even received an acknowledgment. Administrations, as at Oneonta, appeared reluctant to suggest that departments might have some obligation to accept qualified faculty members from other departments in their own institutions. At Albany, the member of the Department of Comparative and World Literature whose appointment was terminated, and who was designated in 1973 as an Associate Member by the German Department, was compelled to file a grievance in order to obtain formal consideration of his request for continuing membership in the German Department. The request was denied. At Brockport, the President of the Faculty Senate called President Brown's attention to five quarter-time positions which he said could be used to accommodate one of the tenured faculty members in Educational Research. He received no reply to his suggestion. President Brown, however, did find other places for some of the faculty members subsequently given notices of termination.

A tabulation prepared by SUNY-Central in December, 1976, indicates that of the 103 nontenured faculty members who received notice of termination of appointment between September, 1974, and September, 1976, 34 were re-employed by the University, and that of 62 tenured faculty members whose appointments were terminated 29 were re-employed. (See Table 1.) These figures must be read with considerable caution. The seven tenured faculty members retrenched at New Paltz, for example, are listed as re-employed, whereas one was employed outside the University, another in a position within the central administration, and the remaining five for one additional year at New Paltz as Research Assistants.

### *The Termination of Tenured Faculty Appointments*

It is a cardinal principle of the statement on "Termination of Faculty Appointments" that, in a financial exigency, the institution will not make new appointments if it is terminating others and that it will not terminate the appointment of a faculty member with tenure in favor of retaining a faculty member without tenure, unless, in either case, a serious distortion in the academic program will result. At SUNY, the disregard of this principle was widespread. Indeed, from the beginning the central administration looked upon the University's financial distress as an occasion for reorganization, and its memoranda to campus administrators called attention to the importance of strengthening some programs while others were being curtailed or eliminated. As previously noted, fifteen new faculty members were appointed at New Paltz for the academic year 1976-77. Albany advertised for senior persons in English and history to shore up the doctoral programs in those departments.

Perhaps some of these changes were justified on the

ground that serious distortions in academic programs would otherwise have resulted. The investigating committee, however, did not find a consistent resolve from campus to campus to terminate the appointments of tenured faculty members only when a distortion of program appeared to be the sole alternative. Programs or parts of programs were eliminated for a number of reasons—because enrollments were low, or leadership was adjudged ineffectual, or the programs did not seem justified by the central mission of the institution, or perhaps at times because the individuals responsible for them were unpopular with the administration or with their faculty colleagues—and it does not always seem to have been a significant consideration whether the programs were staffed by few or no tenured faculty members or by many. At times this apparent disregard of tenure reflected a laudable concern for the untenured, but, except in extraordinary circumstances, the investigating committee cannot take the view that the claims of the nontenured take precedence over the claims of the tenured. It was never made apparent that SUNY's action to terminate tenured faculty appointments had the justification of extraordinary circumstances.

### *The Problem of Reorganization*

Although the state's financial crisis precipitated the retrenchments of 1975 and 1976, the University, as has been noted, clearly administered the retrenchments with a view to reorganization as well as to economy. In all the early pronouncements—by the Board in May, 1975, and by Chancellor Boyer and Vice Chancellor Spindler in June—the idea of strengthening some programs was featured almost as prominently as the idea of cutting back on others. Vice Chancellor Spindler made clear that "selective program excision" was intended because "any across the board application of budget cuts would lead to a mediocrity which is contrary to the goals and intentions of this University." The University Faculty Senate on January 31-February 1, 1975, had also recommended "selective cutting rather than across-the-board cutting if further reduction is necessary," although it is not at all clear that it had the same thing in mind as the administration.

Reduction of expenses by attrition, in any event, was not the administration's intention, as Vice Chancellor Komisar informed the investigating committee, since the administration felt assured that the winding down process would be of long duration and that attrition, which depended upon a series of random events, was by its nature unresponsive to the needs of the public served by the University. That conviction accounted for the extensive review process ordered by Chancellor Boyer on June 1 and for the establishment of the University-wide Commission on Purpose and Priorities. Nevertheless, as Acting Chancellor Kelly noted, some campuses probably were successful in achieving their goals through attrition; and it also became evident that some faculty groups, as at Albany and Brockport, became dissatisfied when in their judgment the administration did not adequately explore a resolution of the institution's budgetary problems through attrition.

Figures on the number of faculty members at the State University of New York in 1974, 1975, and 1976, bear out the supposition that the process was one of reorganization rather than of retrenchment. The University in fact did not lose full-time faculty members, in spite of the numbers of tenured and nontenured persons given termination notices. According to data submitted by the central administration and received by the Association, the University ended up with 104

**Table 2**  
Number of SUNY Faculty Members, 1974-76

	1974-75	1975-76	1976-77
Professor	2,277	2,346	2,326
Assoc. Prof.	2,334	2,384	2,526
Ass't. Prof.	2,593	2,549	2,544
Instructor	544	495	482
<b>TOTALS:</b>	<b>7,748</b>	<b>7,774</b>	<b>7,878</b>

Source: AAUP compensation surveys. The central administration, providing figures for "Full-time Academic Employees" as opposed to the four academic ranks in the Table, has referred to data submitted to the National Center for Education Statistics (HEGIS X and XI) that show 8,345 academic employees in fall, 1975, and 8,249 in fall, 1976.

more faculty members in 1976-77 than it had in 1975-76 (only 52, if lecturers are counted).<sup>11</sup> With a drop in average University faculty salaries from \$19,180 in 1975-76 to \$18,750 in 1976-77, it is evident that, on the whole, retrenched faculty members' lines were used to appoint faculty members with lower salaries.

It should be noted also that the University's affirmative action program suffered a serious setback as a result of the retrenchment.

The statement on "Termination of Faculty Appointments" excludes by implication the device of reorganization in response to a financial exigency and instead treats it as a separate process ("Discontinuance of a Program or Department Not Mandated by Financial Exigency"). The investigating committee, however, finds it appropriate to consider the administration's plan for reorganization on its merits. If the central administration was correct in suggesting that straitened financial circumstances were the likely norm for some time to come and that the random nature of attrition would assure mediocrity, then doubtless a strong case for reorganization might be made. The investigating committee does not concur in the view, however, that the administration's approach was the best one under the circumstances, even if an effort to reorganize could be justified. Attrition is not generally so totally haphazard that it precludes all possibility of planning. And to effect in quick order such far-reaching changes as occurred on some campuses raises its own questions about

<sup>11</sup> Figures in this paragraph, presented in Table 2 above, were submitted by the administration and used in the AAUP annual surveys of faculty compensation for 1974-75, 1975-76, and 1976-77. The administration approved the figures each year prior to their publication.

over-hasty actions which may be regretted and even have to be undone at a later date. The elimination of some of the campus schools, to be sure, had been under consideration for some time, and—with due attention to rights of tenure, due process, and notice—it would be hard to quarrel with a continuation of that process. But one can have little faith in the propriety of momentous decisions which affected entire campus programs and were placed in effect on the basis of committee examinations lasting only a few months and sometimes a few weeks, with faculty reactions to committee recommendations called for at times in less than a couple of weeks. A number of those whose appointments were terminated complained bitterly to the investigating committee that they themselves had either very limited opportunity or no opportunity at all to present their cases to review committees or to administrators before they were given retrenchment notices. The provision of such an opportunity seems an elementary courtesy, to say the least. Even more important, the failure to provide it denied the review bodies information and viewpoints which could have been significant in their deliberations.

The investigating committee has therefore to question the validity of the SUNY reorganization process, the procedures of which left much to be desired. It may be argued, of course, that “the difficult financial situation,” as it was announced to affected faculty, left no alternative to haste. That may be so. But it did leave alternatives to a reorganization process that required many more notices of termination than would have been necessary simply to meet the demands of the budget cuts. It has been argued that the process of attrition would have led to mediocrity. But the investigating committee was given no reason to conclude that it would lead more surely to mediocrity than the demoralization of faculty which was the inevitable result of the administration’s approach to retrenchment.

### *The Question of Responsibility*

The retrenchment actions at SUNY in 1975 and 1976 were taken in accordance with Article 35 of the *Agreement between The State of New York and United University Professions, Inc.*, which was signed on June 20, 1974. Concerned solely with the subject of retrenchment, Article 35 acknowledges the possibility of a retrenchment for such reasons as financial exigency, reallocation of resources, reorganization of degree or curricular offerings or requirements or of academic or administrative structure, or the curtailment of programs or functions, with the Chancellor or his designee authorized to determine the level of organization at which the retrenchment will be applied—university-wide, campus, department, unit, program, “or such other level of organization” as he considers appropriate.

These provisions, coupled with relaxed standards for consultation and for notice to faculty whose appointments were terminated, along with the failure to provide for hearings for faculty members on tenure or extended appointments, acknowledged the administration’s power to take, virtually unchallenged, actions like

those described in this report. With a need only for such consultation as the Chancellor or his designee considered appropriate (and that not necessarily with the faculty), and with a need to give notice of one semester only “where circumstances permit,” the retrenchment of tenured faculty members determined unilaterally by the administration, and announced to the faculty on several weeks’ notice, was entirely consistent with the *Agreement*.

It was some protection to tenured and other senior faculty members, of course, that a reverse order of seniority within a retrenchment unit was provided by the *Agreement*. But the wide-open retrenchment language undercut even that protection by permitting presidents to designate subjects like Chinese language or classical studies for retrenchment and thus to give notice to tenured faculty members while persons less senior in their departments retained their positions. Such actions clearly bypassed normal due process procedures. For if, as was commonly believed, the administration felt that it had some reason to take action against these tenured faculty members, its appropriate step was to bring charges against them in a regular dismissal proceeding. The grievance procedures also provided some *ex post facto* protection in a few cases. But with so much discretion granted to the administration by the *Agreement*, few grounds were left for faculty members to grieve upon, and it is not surprising that grievance after grievance was rejected.

Certainly administrations have had much power before, but it is doubtful if, before the SUNY *Agreement*, any large university faculty group ever undertook to confirm in writing such sweeping administrative powers and to consent to them formally by ballot. The act of consent, in this instance, rendered the faculty virtually defenseless when the central administration decided to invoke its powers.

Thus the faculty must share some responsibility for these actions. Ultimately, however, discretion and decision lay with the central administration. It was the administration which, having failed to consult the University Faculty Senate, unilaterally authorized the retrenchment and defined its objectives. It was the administration which—despite the Senate’s urging—failed to set adequate guidelines for notice and thus permitted the limited notices which were issued on some campuses. At no time did the administration call for anything more precise than consultation “to the extent necessary,” and at no time does it seem to have raised its voice in protest against the removal of tenured faculty members from their positions. The administration, in short, seems to have been prepared to exercise the full powers permitted it under the terms of the *Agreement*, and the variations in practice resulted from the different situations, approaches, and attitudes on different campuses, rather than from any determination of the central administration to see that sound principles of academic freedom and tenure were observed.

## **XII. Conclusion**

The retrenchments at the State University of New

York in 1975 and 1976 were initiated by the University administration without appropriate consultation with the faculty and without any showing of a financial exigency which actually threatened the continuance of the University. They were overseen by the administration with disregard for the rights of tenure, for due notice, and for the role of the faculty in institutional government.

The actions of the administration (both the central administration and that of campuses cited) in effecting the successive budget cuts have produced a climate in which academic freedom is gravely endangered. A primary purpose of tenure is to protect the faculty's right of dissent, including the right to oppose the administration on issues important to the faculty. Under the circumstances that now prevail, no faculty member can be certain of his position, for it is possible for the administration—under the recently negotiated *Agreement* as well as under the old—to so define a “program” that a particular individual can be targeted for retrenchment. In situations where tenure has not been honored, where faculty participation has been thwarted, and where administrative prerogatives have been graphically invoked, few will venture openly to disagree with administrative decisions, so that precisely the atmosphere of fear that the 1940 *Statement of Principles on Academic Freedom and Tenure* seeks to dispel has settled on the campuses. In such an atmosphere, learning and the transmission of knowledge cannot be expected to flourish.<sup>12</sup>

Bertram H. Davis (English), Florida State University,  
*Chairman*

Victor Gourevitch (Philosophy), Wesleyan University  
Daniel F. Howard (English), Rutgers University  
*Investigating Committee*

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

Clark Byse (Law), Harvard University, *Chairman*.

*Members:* Ralph S. Brown, Jr., (Law), Yale University; William J. Kilgore (Philosophy), Baylor University; Jordan E. Kurland (History and Russian), Washington Office, *ex officio*; Walter P. Metzger (History),

“ President Jones of the College at Cortland, in his response to a prepublication draft of this report, emphasized a lack of consistency between the text of the report and its conclusions. President Craven of the College at Oneonta stated in his response that “these concluding comments . . . present an imaginary picture of the actual campus atmosphere. Certainly morale has suffered. One would expect it to when positions are being eliminated and retrenched and programs curtailed. However the statement that because of what has happened few faculty members will venture openly to disagree with administrative decisions does not at all describe the situation at Oneonta.”

The response of the chief administrative officer of the University, Acting Chancellor Kelly, included comments on the conclusion of the report as well as on a number of the issues discussed. A substantial portion of his comments appears as an Addendum to this report.

Columbia University; Terrance Sandalow (Law), University of Michigan; Joseph E. Schwartz (Political Science), Washington Office; Winton U. Solberg (History), University of Illinois; Peter O. Steiner (Economics), University of Michigan, *ex officio*; Carol Simpson Stern (Interpretation), Northwestern University; Judith J. Thomson (Philosophy), Massachusetts Institute of Technology; William W. Van Alstyne (Law), Duke University; Robert K. Webb (History), University of Maryland, Baltimore County.

## ADDENDUM

### Comments from Acting Chancellor James F. Kelly

At no time could we have reordered our resources among the campuses to prevent retrenchment. The budget of State University of New York is the sum of its component parts, with the State Legislature and the Governor determining the resources allocated to the individual campuses that comprise the University. Although Central Administration has some ability to move resources within the system, to imply that we could have moved personnel lines in such a way as to eliminate the need of some campuses to retrench, is a failure to understand our responsibility to abide by the intent of the Legislature. Legislative support for new or critical programs cannot be translated into funding for other purposes. This is true at all times, but it is of particular relevance during times of financial distress when any increases in public funding are clearly selective. Public policymakers may dictate an increase in resources for programs in the health sciences, while reducing instructional lines in other areas; additional funds may be allocated to our newer, emerging campuses, while reductions are being demanded at our more mature institutions.

Given the reduction in positions and funding that was, part of the Governor's express program to reduce the size of the State's labor force, there was no way the University could avoid terminating employees. The only question facing each campus was where to cut back. To answer this, we sought and obtained the advice of our faculty, as your report clearly demonstrates. And the decisions that were ultimately reached were based largely on that advice.

I believe now, as I believed then, that to meet a severe budget challenge through the random process of attrition and by retrenching only the most junior employees, without thought of academic needs and the demands of the public to be served, is to abdicate responsibility. Our aim was to maintain the integrity of our academic programs and the quality of our offerings. To achieve that end, we retrenched a few programs in whole, and reduced some programs in part. This allowed us to continue to support the vast majority of our academic offerings at the levels necessary to protect the quality of instruction and research.

There are other points in your draft report that deserve critical review, and I'm certain that a number of them will be addressed by our presidents in their responses to the document. The apocalyptic conclusion reached by the *ad hoc* committee, however, deserves some comment. I believe it is without foundation. Indeed, morale has been hurt. Sudden and severe cuts in budgets have that effect, particularly on a faculty that has expended a great deal of time, energy, and devotion to the building of this University. But to infer that the retrenchments have silenced our faculty belies the facts. If anything, our faculty has increased its involvement and efforts in the planning of this University.

Faculty budget committees continue to fulfill their responsibility to help guide the allocation of resources, curriculum committees are actively ensuring the quality and diversity of our academic offerings, and the research efforts of our faculty, as evidenced by outside support for their work, have never been greater. There is no question that we have problems—very few institutions of higher education do not—but I believe we are meeting them creatively and well.

As much as I believe the report's conclusion is wrong and, in fact, does not follow from the body of the report, it is not unexpected. Your letter to the editor of the *Chronicle of Higher Education*, October 25, 1976, published just after the investigation committee was named and long before its work was done, makes the same judgment.\* The *amicus* brief submitted by AAUP in support of the plaintiff in *Hedley vs. State University of New York* (the Court upheld the State University), was filed the day before your investigating com-

mittee was scheduled to visit Stony Brook, the campus involved in this legal suit. These seem remarkable breaks with the judicious procedures AAUP has followed in the past; so much so, that the investigation and report seem more in line with your organizational work than with your professional activities. AAUP has attempted and failed to become the recognized bargaining agent for our faculty. Our faculty and professional staff elected the United University Professions, Inc. as their exclusive representative. Under the terms of the Agreement negotiated by the State of New York and UUP, Inc., academic freedom is fully protected (Article 1) and due process is provided through the grievance structure (Article 7). The University is obligated to operate in accordance with this agreement and to respect UUP's legal authority as the exclusive representative on matters relating to terms and conditions of employment.

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\* The text of that letter follows:

TO THE EDITOR:

October 25, 1976

It was good to see the article by Mr. Semas in the October 11 *Chronicle* on the dismissals in the State University of New York during the past several months. As he noted, these very severe actions in S.U.N.Y. seem to have escaped the public attention one would expect, perhaps because of the massive retrenchment in C.U.N.Y. that was emerging simultaneously.

I should like to offer one correction for the record. The October 11 article describes A.A.U.P.'s major concern as being lack of sufficient notice in dismissing faculty members on tenure or on term appointments prior to their expiration. We did receive numerous complaints from faculty members being dismissed with severely inadequate notice, and without evidence of any real emergency that might warrant abrupt dismissal, and in these cases we urged as a first order of business that the faculty members be retained pending a considered review. Our fundamental concern, however, is with the dismissal of faculty members under a "retrenchment" provision requiring no demonstration of cause, of financial exigency, or of proper discontinuance of program. Presidents of S.U.N.Y. institutions, once they have defined an action as "retrenchment," can and have dismissed faculty members at will, without providing any

of the safeguards of due process that are basic to academic freedom and tenure.

I should like also to comment on an incredible statement that the October 11 article attributes to President Wakshull of the United University Professions, the current official bargaining agent for S.U.N.Y. faculty and staff that is a party to the above-mentioned provision on retrenchment through its contractual agreement with the S.U.N.Y. administration. Mr. Wakshull is reported as asserting that the S.U.N.Y. retrenchment provision is stronger than A.A.U.P. procedures because the latter permit nonrenewal of probationary appointments while the former provides "retrenchment rights." Nonrenewal of appointments, permitted under appropriate standards in all sound systems of probation and tenure, is not now at issue in S.U.N.Y.; the concern is over the termination of appointments prior to their expiration, and it is this concern with which the S.U.N.Y. retrenchment provision is supposed to deal. The "retrenchment rights" in the provision do not extend in any meaningful way to affected faculty members but are rights only of the administration which, under its agreement with Mr. Wakshull's organization, acquired the authority to proclaim "retrenchment" and then proceed unilaterally to terminate appointments.

JORDAN E. KURLAND  
Acting General Secretary  
American Association of  
University Professors