

Academic Freedom and Tenure

TALLADEGA COLLEGE (ALABAMA)¹

This report deals with actions taken by the administration of Talladega College in late May 1985 to terminate the services of Professors Howard L. Rogers, Belinda G. Heglar, and Linda Hill. At the time of these actions, Professor Rogers was completing his tenth year of full-time service at the college, Professor Heglar her fifth year, and Professor Hill her first.

Talladega College, an independent, coeducational, four-year liberal arts institution, is located on a fifty-acre campus in Talladega, Alabama, fifty miles southeast of Birmingham. The college was founded as a primary school in 1867 by the Freedmen's Bureau, with the assistance of the American Missionary Association, as a school for children of former slaves. When it was chartered as a college by the state of Alabama in 1869, it became the first institution in the state charged with educating blacks while admitting students without regard to race. Its first class was graduated with the bachelor's degree in 1895. The institution has been accredited since 1931 by the Commission on Colleges of the Southern Association of Colleges and Schools.

The college, with an enrollment of approximately 500 students, is currently served by nearly 50 full-time faculty members. It offers the Bachelor of Arts degree in many traditional liberal arts fields. It is governed by a twenty-five-member board of trustees chaired by Mr. J. Mason Davis, a Birmingham attorney. Dr. Randolph W. Bromery, Commonwealth Professor of Geophysics at the University of Massachusetts at Amherst, chairs the board's Academic Affairs Committee. Dr. Paul B. Mohr, Sr., has been president of Talladega College since December 1983, having previously been vice-president for academic affairs at Norfolk State University in Virginia.

Since the late 1970s Talladega College has experienced frequent clashes between members of the faculty and the administration, strained relations between the faculty and the board of trustees, and declines in student enrollment. In March 1983, Dr. Joseph N. Gayles, Jr., announced his resignation from the presidency of the college after a stormy six years in office. Dr. Bromery served as interim president for half a year until a search by the governing board led to its appointment of President Mohr. A majority of the faculty reportedly had objected to the appointment.

President Mohr arrived in Talladega in December 1983. His first six months seem to have passed without

major incident. The Faculty Steering Committee (FSC), chaired by Professor Rogers beginning in May 1984, initiated meetings with the president and his chief assistants. Committee members stated that they wished to address issues of college governance that were left unresolved from the previous administration and to promote closer communication.

Over the summer of 1984 and into the early fall, members of the faculty began to voice criticism of the administration on such matters as the curriculum, budgetary allocations, the lack of a faculty salary scale, long-range planning activities, and plans for an off-campus inauguration of President Mohr. Much of the criticism focused on the absence of faculty involvement in various decisions. A meeting was held on September 25, attended by President Mohr and other senior administrative officers, Professor Rogers as chair of the FSC, and Professor Leonard Cole, then chair of the Faculty Concerns Committee. According to a report that Professor Rogers circulated later to the faculty, "Dr. Mohr opened the meeting with the statement that the honeymoon is over and said that he had received reports that the faculty had been making critical comments about the inauguration in their classes and downtown, and this damages the image of the college in the community. He and members of his staff went on to say that the faculty doesn't understand the complexities of the budget and doesn't understand that our management has been very frugal. . . . The main issue now is [the] survival [of the college], and the faculty needs to unite behind the administration and support its work, including the inauguration."

Faculty criticism of administration policies intensified, however. It found its most frequent and outspoken expression in and through the Faculty Steering Committee, whose meetings were dominated by lengthy discussions of various institutional problems and complaints that these problems were being exacerbated by poor communication. Rumors had begun circulating toward the end of October that President Mohr, in the course of a meeting with members of the student body, had invited them to report to him directly, or to slip him a "secret note," about any member of the faculty or staff who made public comments critical of his administration or of his pending inauguration. These rumors were the subject of a long and heated exchange between the president and members of the FSC during an October 31 meeting of that committee, with Dr. Mohr finally declaring this a "non-issue" and advising the committee to drop it.

Particularly vocal and persistent criticism of the Mohr administration came from the Division of Social Sciences and, within that division, from the Department of Economics and Business Administration, chaired that year by Professor Rogers. The social sciences faculty, after a regularly scheduled meeting on October 30, sent a memorandum to the Academic Affairs Committee of the board of trustees through the office of the dean of academic affairs in which they

¹The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the Association's staff, and as revised, with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A it was subsequently sent to the faculty members at whose request the investigation was conducted, to the administration of Talladega College, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

voiced "their concern with . . . the general academic environment at the college and a perceived absence of administrative commitment to open dialogue and communication with the faculty, an absence of administrative concern for the integrity of the academic program . . . , and an absence of any administrative vision for the future of this college beyond mere survival." They expressed "reservations regretfully held about the capacity of this administration to address these concerns." In a letter to President Mohr on November 9, the division chair, Professor Leon P. Spencer, described the memorandum as a "serious statement of concern by a talented and thoughtful faculty, a faculty that is prepared to be supportive and committed as we all face the intense challenges of the moment." "Rightly or wrongly," he added, "there is a deeply held perception that the faculty and its role are viewed negatively, that faculty [are] not to be entrusted with full information and not to be a full participant in deliberations."

Eleven months earlier, in January 1984, several female faculty members in the Division of Social Sciences, with support from other members of the college faculty, had initiated a protest against alleged sex discrimination in teaching assignments at the nearby Federal Correctional Institution, where the college conducts a degree-granting program. The protest escalated in the fall and continued until the previous policy at the prison, under which Talladega's female faculty members (because of alleged security problems) had not been allowed to teach there, was reversed.

Through the winter and into the spring of 1985 the Faculty Steering Committee (led by Professor Rogers) continued to press the administration on other issues, most notably in connection with efforts going back several years to secure faculty participation as non-voting observers at meetings of the board of trustees and its committees. The FSC undertook to correspond with the board (through the president's office) about this, prompting President Mohr to send a memorandum, dated February 18, 1985, to Professor Rogers and the FSC, charging them with attempting to "preempt [his] office" and circumvent established lines of communication.

In April, relations between the administration and at least some of the faculty reached a breaking point. On April 4, at a regularly scheduled meeting of the college faculty, the Faculty Concerns Committee (FCC) presented a report that summarized sixteen complaints, "varied with respect to importance and validation," that had been brought to it by faculty members during the previous year. Commenting on the "unusually high incidence" of these complaints, the committee expressed concern "that there are more persons who don't trust, or have been frustrated by, administrative ways of resolving grievances. The FCC is being used not only as a means of expressing concern for faculty governance but also as a grievance committee for individual faculty members. The latter function is unavailable elsewhere." The committee further stated that, based on its review of these complaints, "the following patterns are well evidenced and constitute immediate risks to the institution": the "circumvention of customary faculty business practices"; "inadequate communication between faculty and administration"; and "abuse of power by members of the administration." The chair of the FCC by that time,

Professor Preston B. Rowe, proposed that the committee hold an open meeting on April 9 to discuss the matters raised in the report, to be followed a day later by another meeting of the entire college faculty to deal with the results of that discussion. At the FCC's open meeting on April 9, Professor Rowe was instructed to move the following resolution at the next day's faculty meeting: "That the faculty has confidence that the current administration will provide the leadership appropriate for the problems the college is encountering."

The April 10 meeting, chaired by Dean Joseph Thompson, was conducted with President Mohr and other senior administrative officers present. Also in attendance were three adjunct instructors from the Federal Correctional Institution. A subsequent FCC report on this meeting protested against "the illegalities in the proceedings" and alleged that "the meeting was handled in an unprofessional and unethical manner which completely disrupted the business of the faculty." The committee contended that the dean, "during the debate of the confidence resolution, . . . encouraged a substitute motion from the floor [to prevent the vote] and refused to take the vote until the fourth call for the question." Once the "resolution of confidence in the administration was moved, seconded, and debated, and secret ballots collected," according to the FCC, the dean entertained a motion to destroy the ballots without counting them and declined to recognize a point of order that this motion violated rules of procedure. Finally, the FCC charged the administration with "packing the meeting," since two members of the administration "who do not have voting status must have voted," as did the three adjunct faculty members, enabling the administration to secure a vote of nineteen to eighteen in favor of destruction of ballots. A faculty member who was present described the episode as "an act of intimidation in that the faculty saw clearly the extent to which Dr. Mohr would go to prevent the faculty from expressing its will."

The FCC's report of the April 10 meeting was presented to the board of trustees at a general meeting between the faculty and board members held on April 12. The meeting lasted two-and-a-half hours and was reportedly marked by hostile exchanges between and among board members and several members of the faculty.

The following day (April 13), the board of trustees issued a series of directives which granted President Mohr virtually complete discretion in managing the operations, academic as well as nonacademic, of Talladega College. After expressing its "full support" for the president, the board voted to rescind all bylaws and institutional regulations on governance then in effect at the college which conflicted with the new directives. The board also promulgated new "employment regulations" and announced that "all prior actions, provisions, guidelines, regulations, or resolutions in conflict with any of the foregoing subjects or conditions of employment are expressly rescinded." Previous references to the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* that were incorporated in the Faculty Handbook (and thus should have governed existing faculty appointments, at least those in effect for the 1984-85 academic year) were thereby rescinded by the board's action. The

necessary action so as to achieve a student-faculty ratio of not greater [sic] than 11:1 by the end of the 1985-86 academic year" and "to prepare and present to the meeting of the Executive Committee of the Board to be held on June 28, 1985, a plan for the reorganization of academic affairs."

On April 15 an article appeared in the *Daily Home*, a local newspaper, with the headline: "Faculty Members Sow Discord at Talladega College." The article, immediately posted on the college's official bulletin board, quotes an unnamed source, described only as a "member of the school's staff," who is said to have decried "'an attempt at a repeat performance' from a small dissident group of faculty members." The article reports its source as stating further "that the group, believed to number no more than five or six, have resurfaced to again criticize a president and his administration. According to the source, the group may have even supported and played a part in the recent student protest and called for television coverage of the event." (Two weeks earlier nearly half of the college's full-time student body had gathered outside the administration building to protest cafeteria and dormitory conditions and "declining academic standards.")

On May 9, at the next regularly scheduled meeting of the faculty, Professor Rowe as chair of the Faculty Concerns Committee proposed the following resolution: "The faculty objects to the statements of rescission concerning faculty governance policy contained in the Board actions of the Spring 1985 meeting, and requests that this resolution be forwarded to the Board prior to the next Executive Committee meeting." Faculty members who were at the meeting report that Presi-

dent Mohr, who was present at the meeting but not chairing it, declared the motion out of order, notwithstanding a contrary ruling from the faculty parliamentarian. The president declared further that the Faculty Steering Committee and the Faculty Concerns Committee were dissolved, consistent with the board's action of the previous month. Shortly thereafter the meeting was adjourned.

At a called faculty meeting two weeks later, on May 22, at which attendance was reportedly required under threat of dismissal, President Mohr and Dean Thompson unveiled their "academic reorganization plan." Members of the faculty complained that they had been denied any meaningful opportunity to participate in the plan's development. Among other changes, the plan dissolved the Division of Social Sciences and transferred its various parts to other divisions within the college; it merged the Department of Economics and Business Administration with other remnants of the social sciences division and remnants of the education program into a new Division of Human Resources; and it placed the honors program in the library. According to faculty members who were present at the May 22 meeting, the plan, which was presented orally, was not offered for discussion or debate by the faculty. The faculty was informed that it was an "administrative matter," that it had been mandated by the board, and that it was "final."

Even before the May 22 meeting, however, the administration, invoking the "policies established by the Board of Trustees" and the "changes taking place at the college," initiated action to terminate the services of Professors Howard Rogers, Belinda Heglar, and Linda Hill.

THE CASES OF CONCERN

Professor Howard L. Rogers

Professor Rogers, associate professor of social sciences, received his master's degree in economics from Southern Illinois University in 1964. Despite his ten years at Talladega College (as well as several years of prior service elsewhere), Professor Rogers had never been reviewed for or granted tenure at the college. Throughout his years on the college faculty, Professor Rogers had been a frequent and outspoken critic of administration policies and an advocate of a strong faculty role in academic governance. During the 1984-85 academic year he served as acting chair of the Department of Economics and Business Administration (the largest department in the college) and also as elected chair of the Faculty Steering Committee, which had the traditional charge of organizing the committees and the general business of the faculty and (according to a committee-approved statement describing its historical development) "also served as a clearinghouse for policy recommendations, making certain that timely consideration is given to all proposals within the faculty committee system."

(Professor Rogers has figured previously in an Association report on issues of academic freedom and tenure [*AAUP Bulletin*, Spring 1973] that led to the censure of the administration of McKendree College that year. The investigating committee in that case found that Professor Rogers had been dismissed without hav-

ing been afforded the requisite protections of academic due process.)

On the morning of May 24, 1985, two days after the faculty meeting at which the administration's reorganization plan was announced to the faculty, Professor Rogers received a certified letter from President Mohr, dated May 21, informing him that, "as a result of . . . a number of changes taking place at the college" of which he had "been apprised," his services were "no longer required." The president advised him that "such action is consistent with the policies established by the Board of Trustees." Attached to the president's letter was a "clearance form" requiring that Professor Rogers submit a timetable for vacating his office and removing all his personal property by noon on May 23. The lock on his office door had already been changed on the morning of May 23, and a sign was posted on the door saying that admission could be gained only by permission of the security office. At 4:30 that same afternoon other faculty members were ordered to leave the building, and the outer doors were chained shut for the night—a measure that was to continue for the rest of the week. Professor Rogers did not fill out his clearance form or follow its instructions, and his paycheck for May (as well as for the summer months) was withheld. He was thereafter barred from the campus, except under escort of campus security personnel. He reports that he still has personal effects which remain at the college.

Professor Belinda G. Heglar

Professor Heglar received her Ph.D. degree from Kansas State University in 1980 and then joined the Talladega College faculty as an assistant professor of French. Since February 1983 she had also served as director of the college's honors program, established under a five-year Title III federal grant. Because of her administrative duties for the honors program, she was given a twelve-month contract beginning in the summer of 1983. In her last year at the college Professor Heglar was embroiled in a dispute with the administration over the terms of her contract for 1984-85—a dispute that arose over her alleged failure to carry out certain administrative responsibilities at the college during the summer of 1984, when she was at Atlanta University participating in an eight-week seminar sponsored by the National Endowment for the Humanities.

According to Professor Heglar, notice of her invitation to attend the summer seminar had been published in the May 1984 issue of the *Dega Digest*, a campus periodical circulated to the college community. She states that in early June she had informed the members of the Honors Committee as well as the acting dean of the dates during which she would be in Atlanta and had arranged to set aside time to deal with administrative matters that happened to arise in her absence and required her direct attention.

In the latter part of August, however, when Professor Heglar returned to Talladega, President Mohr informed her that he was considering reducing her salary for the coming year, or perhaps not issuing her a contract at all, because of her allegedly unauthorized "leave of absence" from the campus. The president also requested that Professor Heglar reimburse the college for a \$750 stipend that had been paid to her the previous spring to attend a three-week academic planning workshop organized by the administration. Professor Heglar has stated that President Mohr told her she could have an appointment for the 1984-85 academic year if she would pay back the \$750 and accept a nine-month contract.

In the administration's view, conveyed in a letter subsequently written by counsel for the college, Professor Heglar was

expected to be on duty at the college during work hours during the entire calendar year, except when on officially approved vacation or leave of absence. . . . During the summer of 1984, the faculty contract of service of Dr. Heglar was on a 100 percent full-time effort—a twelve-month year basis, with which the college believes she was entirely familiar, and for which she was compensated during each of the twelve months in the contract year. It appears to the college that neither her receipt of additional grants nor her absence from the college during the summer of 1985 without official leave of absence were in conformity with the agreement of the parties.

For her part, Professor Heglar maintained that her term of active service ran from July 1 to June 30, and that there was no policy requiring her to obtain a "release" or "approval" before leaving to attend a professional seminar.

After her meeting with the president Professor Heglar engaged an attorney who initiated correspondence with the administration. On August 30 the president issued her a contract, while stipulating

that his doing so was "not indicative of an agreement with the allegations by Dr. Heglar nor abdication of the college's responsibility in the proper management of its affairs." The matter was by no means resolved by the tendering of a contract; indeed, Professor Heglar's difficulties with the administration would persist in the months ahead.

On November 14, Professor Heglar's lawyer wrote to the attorney for Talladega College, charging the administration with "harassing conduct" and threatening legal action. On November 26, Professor Heglar submitted a grievance to the Faculty Concerns Committee, likewise charging the administration with "harassment" and requesting relief.

On February 7, 1985, the Faculty Concerns Committee sent a memorandum to President Mohr explaining that it had been monitoring Professor Heglar's situation and proposing that Professor Rowe, the committee's chair, meet with the president to discuss it. Responding the next day, President Mohr advised Professor Rowe that, "since Dr. Heglar has retained counsel to represent her, the college feels that it would be inappropriate to enter into negotiations or discussions on her behalf through other channels." He added that he did "not think it appropriate for the Faculty Concerns Committee to undertake to negotiate perceived individual grievances." Nonetheless, on April 4, when the FCC presented its report of sixteen complaints to a faculty meeting, Professor Heglar's grievance was among them.

The day after the called faculty meeting on May 22, Professor Heglar was summoned to the president's office. She was accompanied by her husband, also a member of the college faculty. At the conclusion of their meeting she was given a letter of dismissal identical to the one given to Professor Rogers and was escorted off the campus by a security guard. She reports that the president apparently ordered the lock on her office changed, as he did with Professor Rogers's office, but it seems that the locksmith made a mistake and changed the wrong lock.

The next day, under escort of a security guard, Professor Heglar removed her personal items from her office. Unlike Professor Rogers, Professor Heglar completed the clearance form. She subsequently received her salary checks for May and for the remainder of the summer. (She was recalled to work for a brief period in June in order to complete some unfinished administrative tasks.)

Professor Linda Hill

Professor Hill received her Ph.D. degree from Kent State University in 1983 and joined the Talladega College faculty as assistant professor of history at the beginning of the 1984-85 academic year. Her primary responsibilities at Talladega were in European history, but she undertook additional responsibilities in American history because another faculty member who normally taught in that area was on leave for the year. She was also engaged in designing the history segment of the freshman social science course. During her year on the faculty Professor Hill served as elected secretary of the Faculty Concerns Committee and was also active in the faculty women's caucus. She was among the faculty members who were most active in the continuing protest over sex discrimination in teaching assignments at the Federal Correctional Institution.

On May 22, immediately after the called faculty meeting, Professor Hill received a letter, dated May 21, from President Mohr stating that, because "the College's academic division [was] undergoing reorganization," and because the administration was "attempting to improve the faculty-student ratio and enhance the College's instructional delivery system," there was "concern regarding the utilization of [her] services." (Seven other faculty members received similar letters at the same time.) Several days later Professor Hill met with President Mohr, Dean Thompson, and the newly appointed head of her division, Dr. William Garcia, to discuss her situation. According to Professor Hill, most of the discussion focused on her credentials for teaching Afro-American history. (She had been engaged a year earlier in a renewable position to teach courses in European history.) She reports that the administration also referred to her expressions of concern about not allowing women faculty to teach at the Federal Correctional Institution and to her role as secretary of the Faculty Concerns Committee. She states that President Mohr told her he "will not have

opposition from the faculty next year."

By letter dated May 31, Dean Thompson notified Professor Hill that, "as a result of a number of changes taking place at the college," he had been instructed to inform her that her services were no longer required. He stated that "this step is taken . . . with a deep regret and sincere appreciation of your contributions," but that "such action is consistent with policies established by the Board of Trustees."

Professor Hill has stated that until the action to deny her reappointment, she had received no indication that her academic performance was viewed as inadequate or ineffective. To the contrary, she had received praise from her two immediate administrative superiors (one of them Dean Thompson) for her professional work. She states that she had assumed, because other faculty members in their first year of service were notified in March of nonreappointment (the Association's recommended date for timely notice is March 1 for faculty members in their first year), that reappointment in her case was assured.

SUBSEQUENT DEVELOPMENTS

Within a month of the administration's actions to terminate their services, Professors Rogers and Heglar (later joined by Professor Hill) filed suit in the Circuit Court of Talladega County, charging violations of their appointment contracts and of commonly accepted academic standards.

The only avenue of appeal within the college available to Professors Rogers, Heglar, and Hill, pursuant to the new regulations approved by the board, was a hearing before the board's Academic Affairs Committee. Such a hearing, granted to them two months after their services had been terminated, and only after they had filed suit, was held on August 1, 1985, and lasted for about an hour.² The three professors, accompanied by their attorneys, were each given an opportunity to present a prepared statement and to answer questions put to them by committee members. In the end, they lost their respective appeals by a vote of two to one. One trustee who participated in the hearing, Professor Henry N. Drewry of Princeton University, resigned from the board after the hearing, contending that "the actions of the Academic [Affairs] Committee . . . regarding the dismissal of Professors Heglar, Hill, and Rogers form[ed] the proverbial 'last straw.'" He questioned whether the administration and governing board had shown "justice, fairness, and professionalism" in their treatment of these three professors. According to Professor Drewry's letter of resignation, dated August 26 and addressed to board chair J. Mason Davis, the committee had already prepared to cast a vote in favor of overturning the dismissals, but Mr. Davis prevailed upon one trustee to reverse his vote because of "the embarrassment the president would feel if his decision was overturned." With the rejection of their appeal by the trustees' panel, Professors Rogers, Heglar, and Hill were left with no further in-

tramural remedies, and in October 1985, the county judge who had received their suits acted to dismiss them. The matter is currently on appeal.

Professor Rogers brought his case to the attention of the Association within days after he had received notice of dismissal, contending that the action taken against him was based on considerations violative of his academic freedom. On June 5, 1985, the Association's staff wrote to President Mohr, expressing concerns over the summary manner in which the administration appeared to have acted. The administration did not respond to that letter or to a second, more detailed, letter sent on July 31, addressed not only to the case of Professor Rogers but also to those of Professors Heglar and Hill, who had by then sought the Association's assistance. Another letter on August 29 evoked a reply from President Mohr on September 9, to the effect that the college was not in a position to respond substantively because of pending litigation. The staff wrote to the administration once again on September 13. With the issues in the cases of concern to the Association remaining unresolved, the general secretary authorized an investigation, and by letter of October 2, 1985, the staff so notified the Talladega College administration. After initially expressing a willingness to meet with the investigating committee and agreeing to a set of dates, President Mohr, through college counsel, indicated that because of the litigation he would not do so.³

The undersigned investigating committee, after examining available documentation, visited Talladega College on November 21. The members of the committee attempted unsuccessfully to meet with President Mohr. The committee did meet with Professor Heglar as well as with half a dozen current members of the Talladega College faculty. Professors Rogers and Hill, who were no longer in Talladega, were interviewed by the committee through conference telephone calls.

²Responding to a draft text of this report sent to him prior to publication, Trustee Randolph W. Bromery, writing on behalf of the board and the administration, stated that an appeal to the Academic Affairs Committee was available to these professors from the outset and that they did not have to initiate litigation to gain a hearing from that body.

³Trustee Bromery, in his response to the draft text of this report, stated that the college cannot comment with respect to the facts on which the cases of the three faculty members are based because the cases remain under litigation.

The Cases of Professors Rogers and Heglar: Procedural Standards

The 1940 *Statement of Principles on Academic Freedom and Tenure* calls for the following safeguards of academic due process in cases involving dismissal for cause:

Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an adviser of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

These provisions for academic due process are elaborated in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, like the 1940 *Statement of Principles* a joint document of AAUP and the Association of American Colleges. Of special relevance are the requirements of (a) a statement of charges, framed with reasonable particularity, of the grounds proposed for the dismissal; (b) an adjudicatory hearing of record before a duly constituted faculty committee; and (c) suspension of the faculty member pending the hearing "only if immediate harm to himself or others is threatened by his continuance."

The 1940 and 1958 *Statements* were incorporated by reference, though with qualifications, in the regulations that governed appointments at Talladega College until the board of trustees adopted new regulations on April 13, 1985. The 1971 edition of the Faculty Handbook, still in effect as of the spring of 1985, states that "The College has approved the *Procedural Standards in Faculty Dismissal Proceedings* of the AAUP for the dismissal of faculty members who are under contract." The new regulations, however, state that nontenured faculty members "serve at the pleasure of the president and their contracts are renewable at the discretion of the president." (A similar provision has been incorporated in faculty contracts issued at Talladega College for the 1985-86 academic year: "The faculty member shall be employed, assigned and subject to termination, at the pleasure of the president.") As for tenured faculty members, under the new regulations they are now subject to termination of their appointments on such grounds as "reorganization of the College program," "misconduct that reflects adversely on the College," "insubordination [and] failure to follow directions or to implement policies of the College," "disruptive activity," and "failure to discharge responsibilities in a manner compatible with the standards of the College."

According to the new regulations, "any faculty member [whose appointment] is terminated by the president shall have the right to reasonable notice of such termination, and in the case of tenured faculty members, they shall have a right to a statement of cause for such termination and an opportunity to respond in writing." The regulations further provide that "any terminated faculty member shall have a right to appeal termination to the Academic Affairs Committee of the Board of Trustees by the filing with the president of such appeal in writing. The action of said committee with respect to each such appeal shall be final." No provision is made in these regulations for access to a hearing before a faculty committee in which the administration would demonstrate cause for its action. The new faculty contracts stipulate that "the appeals procedure . . . provided [in the board-adopted regulations] shall be the sole remedy in the event of any termination."

The investigating committee finds that the actions taken against Professors Heglar and Rogers are properly to be characterized as dismissals for cause, not, as the administration apparently would have it, simple notices of nonrenewal of a contract. Their appointments for the 1984-85 academic year were not due to expire until August 26, 1985. In late May, however, without any advance warning or any demonstration that "immediate harm" was threatened by their continuance, they were both summarily removed from their academic responsibilities and banished from the campus. In these actions to dismiss them within the term of their appointments, they were entitled to the safeguards of academic due process set forth in the 1940 and 1958 *Statements*.⁴ Professor Rogers, in his tenth year of service on the Talladega College faculty, was in any event entitled to these protections under the 1940 *Statement of Principles*, with its provision for the attainment of the rights of tenure after a maximum period of probation not to exceed seven years. The 1971 Faculty Handbook, which was officially in force until six weeks before the administration acted to terminate the services of Professors Rogers and Heglar, and should have continued to govern faculty appointments at least through the end of the 1984-85 contract year (i.e., until August 26, 1985), provided assurance of Association-supported procedural safeguards "for the dismissal of faculty members who are under contract." At the time of their dismissal Professors Rogers and Heglar were still "under contract" and would accordingly have been entitled to these protections had the existing regulations not been abrogated by the governing board.

Neither Professor Rogers nor Professor Heglar was notified in any particularity of the grounds for the actions taken against them, nor were they afforded opportunity for a hearing before a faculty committee. Their hearing involving the board of trustees, granted to them later, consisted of a brief joint appearance before the board's Academic Affairs Committee. The three-member panel sustained the dismissals under circumstances and procedures that led the one dissenting

⁴Trustee Bromery takes the position that Professors Heglar and Rogers were not dismissed prior to the expiration of their term appointments.

member to submit his resignation from the board. According to this member, the panel's initial vote of two to one against dismissal was reversed to a two-to-one vote for dismissal following the intervention of the chair of the board of trustees, who was not a member of the committee. The investigating committee finds these procedures to have been grossly inadequate when measured against generally accepted academic standards. The committee finds that Professors Rogers and Heglar were thus denied the protections of academic due process to which they were entitled under these standards.

Although Professor Heglar was paid her regular salary through August 1985, she did not receive the full year of notice or severance salary to which she was entitled under the 1940 *Statement of Principles*. As for Professor Rogers, when he failed to complete the faculty clearance sheet that was sent with his notice of dismissal, the administration withheld his salary for the month of May and paid him nothing thereafter, thus denying him any of the year of notice or severance salary to which he, too, was entitled. Even under the ambiguous standard of "reasonable notice" of termination set forth in the new regulations, the investigating committee finds that Professors Heglar and Rogers did not receive notice that can remotely be construed as reasonable.

The Case of Professor Hill: Procedural Standards

The Association's recommended procedural standards for faculty members in their probationary years of service who face nonrenewal of their appointments are set forth in the *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* and, in summary form, in AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

Regulation 2(c) of the *Recommended Institutional Regulations* provides for notice "not later than March 1 of the first academic year of service if the appointment expires at the end of that year."

Regulation 10 makes provision for a hearing before a faculty body in the case of a faculty member who alleges that he or she was denied reappointment because of considerations violative of academic freedom.

Talladega College's institutional regulations are largely silent with respect to the procedural standards in a nonreappointment of a probationary faculty member. The regulations in place until April 1985 provided only that "first appointments in whatever academic rank are for a definite period of time, with no expectation of continuance of the relationship beyond the period of the contract. Appointments may be renewed upon proper recommendation, either for an additional term or for permanent tenure." According to the new regulations promulgated by the board, "nontenured faculty members serve at the pleasure of the president, and their contracts are renewable at the discretion of the president."

With regard to standards of notice, the previous regulations were silent, while the new regulations provide only for "reasonable notice." The investigating committee was informed, however, that the common practice at the college was to give notice of nonreappointment in March to probationary faculty members in their first year of service. Probationary faculty members facing nonreappointment currently have

only one avenue of appeal, namely, to the board's Academic Affairs Committee.

Professor Hill was notified only at the end of May that her appointment would not be renewed for the 1985-86 academic year. Since other first-year faculty members had been given notice of nonreappointment in March, the college's traditional date for providing such notice, Professor Hill understandably had reason to believe that she was being reappointed for the 1985-86 academic year, and thus she had not applied for other academic positions. The decision to deny her reappointment was made by the administration in the face of a recommendation by her department chair and division head that she be retained. She was afforded the same opportunity for appeal as Professors Rogers and Heglar, with the same results.

The investigating committee finds that the nonreappointment of Professor Hill was effected in disregard of the Association's procedural standards for faculty members in their probationary years. The notice she received was late under both generally accepted standards and common practice at the college. She was not afforded a hearing before a faculty body which would have considered her claim that the adverse decision on reappointment was based on considerations violative of her academic freedom.

Academic Freedom

The 1940 *Statement of Principles* provides that:

The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman.

Regulation 5 of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* further provides that:

adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.

The 1971 Talladega College Faculty Handbook contained a "Statement on Academic Freedom" that quotes extensively from the 1940 *Statement of Principles*, including virtually all of the paragraph cited above. The regulations adopted in April 1985 make no reference to academic freedom.

The actions to terminate the services of Professors Rogers, Heglar, and Hill were stated by President Mohr as having been taken pursuant to directives adopted by the board to raise the student-faculty ratio by the end of the 1985-86 academic year and to implement a plan for academic reorganization. In addition, President Mohr was quoted in the local press as having stated that the administration's actions against these professors were prompted by efforts to cut costs

at the college. None of the three professors was afforded an explicit statement of the administration's reasons for singling him or her out for termination of services, but they have questioned the general reasons that were advanced by President Mohr. Several faculty members still at Talladega College who met with the investigating committee stated that, notwithstanding the administration's assertions to the contrary, the "reorganization" did not affect the courses that Professors Rogers, Heglar, and Hill had taught and that replacements for Professors Rogers and Heglar were engaged within a few months after their departure.

The investigating committee, in assessing the allegations of these three professors that the administration's actions against them were based in significant measure on considerations violative of their academic freedom, necessarily does so without having had the opportunity to discuss the reasons for the actions with those who effected them. In each of these cases, however, the committee finds that the administration's actions were prompted by considerations violative of the professors' academic freedom.

It is evident to the investigating committee that Professors Rogers, Heglar, and Hill had all in various ways incurred the administration's displeasure for their criticism of various administration policies and practices. As was discussed earlier in this report, over the years, and particularly during the 1984-85 academic year, when he was acting department head and chair of a major faculty committee, Professor Rogers had spoken out frequently and critically on matters of academic governance at the college and on other issues of academic concern. All of the faculty members interviewed by the investigating committee on campus spoke of Professor Rogers as having been a thoughtful as well as a forceful advocate of faculty rights and institutional reform. They expressed the belief that his constant public criticism of the administration was viewed by President Mohr as disloyalty and insubordination. Referring to Professor Rogers's dismissal in an address he delivered to the college's Birmingham alumni club, an administrative officer at the college is reported to have said, "We can't have two presidents; one had to go."

In the case of Professor Hill, she had been active and outspoken on the issue of sex discrimination in not allowing female faculty members to teach at the Federal Correctional Institution. According to Professor Hill,

her involvement in the controversy was cited by college administrative officers during her interview with them preceding the action to deny her reappointment.

As for Professor Heglar, she had been embroiled in a litigious contract dispute with the administration throughout the 1984-85 academic year. In a complaint she presented to the Faculty Concerns Committee in November 1984, she charged President Mohr with conducting a campaign of harassment against her. Although that committee found merit in her charges, the dispute was still far from resolved when the administration acted to dismiss her.

In commenting on the results of the appeal that the three professors had made to the governing board's Academic Affairs Committee, in which their dismissals were ultimately upheld, Trustee Henry Drewry observed: "That the committee would allow this to happen when the root cause for dismissal of at least two of the three seems to be their expressed disagreement with certain administrative policies, raises questions of academic freedom." According to one faculty member with whom the investigating committee spoke, the "absence of [due] process simply confirms to me that Dr. Mohr's aspirations are to 'get even' with 'difficult' faculty, to try to intimidate those that remain, and together with the 'reorganization' of academic affairs [including the dissolution of the Division of Social Sciences and the demotion of its head], to begin next year with a compliant faculty."

The general academic community recognizes the right of a faculty member, as an officer of an educational institution, to participate actively in, and speak forth freely—without fear of reprisal or retaliation—on matters of concern to the institution's educational enterprise. The investigating committee has found that Professors Rogers, Heglar, and Hill engaged in conduct that should have been protected under generally accepted principles of academic freedom but was not protected by the Talladega College administration. The abrupt summary actions taken by the administration against these professors bespeak a gross insensitivity to the principles of academic freedom. It is strikingly clear to the investigating committee, from all available evidence, that the actions of President Mohr, supported by the board of trustees, have dampened open and critical debate at Talladega College. The administration's actions in these cases suggest strongly that academic freedom at the college is insecure.⁵

CONCLUSIONS

1. The administration of Talladega College, in summarily dismissing Professors Howard L. Rogers and Belinda G. Heglar and banishing them from the college campus, acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* and in disregard of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

2. The administration, in notifying Professor Linda Hill late in May that her appointment would not be renewed and in failing to provide her with an opportunity for appeal to an appropriate faculty committee, acted in disregard of the Association's *Standards for Notice of Nonreappointment* and its *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*.

3. The administration's actions against Professors Rogers, Heglar, and Hill, based significantly on its displeasure with conduct by them that should have been protected under commonly accepted principles of academic freedom, violated the academic freedom of the three professors.

4. The administration's actions in these cases, coupled with revised institutional regulations that restrict faculty prerogatives and remove safeguards of academic

⁵Commenting on this section, Trustee Bromery has stated: "no issues of fact concerning the abrogation of academic freedom for these three professors are presented in the draft text."

due process, have left academic freedom in jeopardy at Talladega College.

NEIL C. MORAN (Pharmacology)
Emory University, *chair*

TOMMY L. FREDERICK (Health and
Physical Education)
Alabama State University

Investigating Committee

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

MATTHEW W. FINKIN (Law), Southern Methodist University, *chair*.

MEMBERS: MARY W. GRAY (Mathematics), American

University; JACK L. NELSON (Education), Rutgers University; JOEL R. PRIMACK (Physics), University of California, Santa Cruz; CAROL SIMPSON STERN (Performance Studies), Northwestern University; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology; SAUL TOUSTER (Legal Studies), Brandeis University; WILLIAM W. VAN ALSTYNE (Law), Duke University; NANCY J. WEISS (History), Princeton University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; PAUL H. L. WALTER (Chemistry), Skidmore College, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; CLARK BYSE (Law), Harvard University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.