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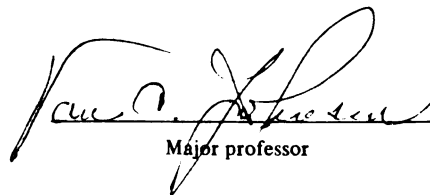
A STUDY OF THE TENURE POLICIES AND PRACTICES OF
COLLEGES WHICH ARE MEMBERS OF THE COUNCIL
FOR THE ADVANCEMENT OF SMALL COLLEGES

presented by

Ralph E. Abuhl

has been accepted towards fulfillment
of the requirements for

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A STUDY OF THE TENDENCY
COLLEGES WHICH ARE
FOR THE ADVANCEMENT OF

By

PAUL E. ADAMS

A DISSERTATION

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

Department of Administration and Higher Education

1978

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The purpose of this study was to determine the current tenure policies and practices of the colleges associated with the Council for the Advancement of Small Colleges. More specifically, the study dealt with faculty ratio, procedural due process, reasons for the dismissal of both tenured and nontenured faculty members, alternatives to tenure, and faculty involvement in the acquisition of tenure.

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Procedures

ABSTRACT

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The purpose of this study was to determine the current number given tenure following due process, the number of tenure policies and practices of the colleges associated with the Council for the Advancement of Small Colleges. More specifically, the study dealt with faculty ratio, procedural due process, reasons for the dismissal of both tenured and nontenured faculty members, alternatives to tenure, and faculty involvement in the acquisition of tenure.

Population

The population of the study consisted of the 189 member colleges of the Council for the Advancement of Small Colleges in the fall of 1977. These colleges are unique from other larger colleges and similar to one another. They are private liberal arts colleges with membership in their regional accrediting association and no more than 2,000 full-time equivalent students. The colleges must have been in operation at least 3 years and offer a minimum of 5 major

areas of study, with 50% or more of the course work in general education.

Procedures

The data for the study was generated by means of two instruments: a questionnaire and an analysis of faculty handbooks. A questionnaire was sent to each college president seeking tenure practices for the years 1967-1977. In particular the instrument sought to determine the number of times the CASC colleges had denied tenure to nontenured faculty, the due process afforded those denied tenure, the number given tenure following due process, the number of times tenured faculty members had been dismissed, the reasons for dismissal, and the due process afforded the tenured and nontenured faculty members.

In addition to the completion of the questionnaire, the college presidents were asked to send a copy of their current faculty handbook. The tenure policies as expressed in these handbooks was systematically analyzed and recorded in an instrument for content analysis. This instrument analyzed the type of tenure that a particular institution had adopted, determined the process and criteria for acquisition of tenure, and ascertained the degree of faculty involvement and the right of due process afforded in the event of tenure denial. The instrument also included delineation of the process for the termination, the justifiable

cause for termination, and the due process afforded to the person whose tenure was being removed.

Failure in institutional relationships, 3 for serious misconduct or immorality, and 2 for incapacity and disability.

Findings

1. Of the 86 colleges specifying criteria for the termination of tenure, all 86 listed professional incompetence, 85 listed immorality or misconduct. Financial exigencies, failure in institutional relationship, neglect of duty, and incapacity or disability were each listed by 69% or more of the specifying colleges.

2. The full-time faculty members by rank were: professors, 89% tenured; associate professors, 71% tenured; assistant professors, 27% tenured; and instructors, 2% tenured. Forty-nine percent of the full-time faculty members were tenured. Five years earlier, 42% of the faculty were tenured.

3. Twenty-five CASC colleges conducted proceedings to terminate the tenure of 56 faculty members from 1967-1977. Nineteen faculty members resigned after a question that they have revised their tenure policies since of tenure termination; 30 were granted a hearing and then dismissed; 7 were granted a hearing and then retained.

4. Twenty-three CASC colleges dismissed 49 full-time tenured faculty members from 1967-1977. Thirty-three of these faculty members (67%) were from colleges that had reduced the number of full-time faculty members from 1972 to 1977.

5. In 49 dismissal cases the causes for tenure faculty has increased by 65%. These part-time faculty

termination were listed as: 21 for financial exigency, 17 for professional incompetence, 6 for failure in institutional relationships, 3 for serious misconduct or immorality, and 2 for incapacity and disability.

6. Twelve colleges indicated that 15 dismissed tenured faculty members took legal action against the college. Five faculty members won in court; none were given of their financial resources and time to the care-reinstated; 10 were financially compensated.

7. During the period of 1967-1977, 71 colleges dismissed 545 faculty members before they were granted tenure. One hundred and sixty-seven (31%) were from colleges that had reduced the number of full-time faculty members that have the potential for outstanding contribution to the colleges in the future. Eighty-four faculty members asked for a written statement of reasons for the dismissal; 69 were given the statement; 32 of these faculty members asked for and received a hearing; 5 were reinstated after the hearing.

8. Eighty-three percent of the CASC colleges indicated that they have revised their tenure policies since 1972.

9. Thirty-four colleges have considered the contract renewal system as an alternative to tenure; 10 have adopted it with a 6% average increase in full-time faculty and a 79% increase in part-time faculty. Twenty-eight colleges have no tenure policy and their average full-time faculty has increased by 26% from 1972-1977, while part-time faculty has increased by 65%. These part-time faculty

members make up 33% of the total faculty. Twenty-nine have considered limiting the number of tenured faculty by a quota system; 7 have adopted a quota system involving 50 to 75 percent of the total faculty members.

ACKNOWLEDGMENTS

Recommendations

1. CASC colleges should maintain the tenure system, giving of their financial resources and time to the careful recruitment of qualified faculty members, the annual evaluation of probationary faculty members, and the dismissal of those who are not qualified for tenure.

2. CASC colleges should grant tenure only to those faculty members that have the potential for outstanding contribution to the colleges in the future.

3. CASC college administrators and faculty members should give special effort to personnel development, both administrative and professorial. Faculty members should be more involved in the formulation of tenure policies, in the decision to employ new faculty, in the evaluation of new faculty performance, and in the decision to tenure or not to tenure probationary faculty.

Mary Jane, for her typing, her encouragement, and her gracious patience which saw me through my doctoral studies.

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retirement system, financial exigency, or adequate cause.

Freedom to express one's thoughts, and pursue knowledge where it leads has been a part of American history. Thomas Jefferson said that

CHAPTER I

INTRODUCTION

A major function of tenure is the protection of academic freedom. Academic freedom gives the professor the right to investigate any problem of interest in his discipline and to express the findings of his investigation by publication and classroom instruction. This investigation and expression must be guaranteed protection from fear of job loss. Any creative endeavor, including that of the productive college professor, needs incubating time for development, and the creative enterprises of the college professor will not become available to society unless the work of the professor is free from political or ecclesiastical authority. Administrators and members of boards of trustees must exercise some restraining force, so that a professor need not fear job loss based upon passing public opinion.

Academic freedom requires that a professor should receive effective protection of his economic security through a tenure system which should provide at least these safeguards: (1) A probationary period of stated length, the maximum conforming to a national standard. (2) A commitment by an institution of higher education to make a decision in advance of the end of the probationary period whether a permanent relationship will be entered into; collaterally, national standards of notice for such decision. (3) Appointment to a tenure post if a person is continued beyond the limit of the probationary period. (4) Termination of a tenure appointment only because of age under an established

retirement system, financial exigency, or adequate cause.¹

Freedom to express one's thoughts, and pursue knowledge where it leads has roots in American history. Thomas Jefferson said that respect is fundamental for the protection of the rights of the teacher and of the student.

... truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them.²

But academic freedom did not find secure expression in this country until the American Association of University Professors was formed in 1915. It took an additional twenty-five years of struggle before a concise statement of the importance of academic freedom was agreed upon by the AAUP and the Association of American Colleges. This statement, known as the 1940 Statement of Principles of Academic Freedom and Tenure brought together the concept of academic freedom and the position of tenure as a protection of academic freedom. See appendix A for complete text.

The 1940 Statement of Principles showed the need for academic freedom, the need for tenure, and the relationships of each to the other. Institutions of higher education are conducted for the

¹Louis Joughin, ed., Academic Freedom and Tenure: A Handbook of the American Association of University Professors, (Madison, Wisconsin: University of Wisconsin Press, 1967), pp. 4-6.

²R. Freeman Butts and L. S. Cremin, A History of Education in American Culture (New York: Holt, Rinehart and Winston, 1953), p. 154.

common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching respect is fundamental for the protection of the rights of the teacher and of the student in learning. It carries with it duties correlative with rights.

Tenure is a means to certain ends; specifically: (1) Freedom of teaching and research and of extramural activities and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.¹

If the percentage of the population that attended college in the 1950s, I. The Problem 1970s were maintained,

Policies of the employment and retention of a well qualified faculty have become increasingly significant in the past decade due to changes in attitudes regarding education. This concern has surfaced in part because many colleges and universities have experienced a steady or declining student enrollment, placing serious financial and personnel problems before college administrators. With the rise in student enrollment in the late 1950s and the 1960s, came a corresponding need for an increase in the number of qualified professors.² But the increase was slow in coming because of the years of education needed to meet basic qualifications for professorships.

¹"Academic Freedom and Tenure--1940 Statement of Principles," AAUP Bulletin (March, 1970), p. 27.

²Allen D. Pfnister, "Promotion and Tenure Policies in Undergraduate Colleges," North Central Association Quarterly, XXXII (January, 1958), pp. 268-275.

future. Because of the increased need for professors during this time, faculty members were employed and generally granted tenure after the prescribed minimum qualifications were met regardless of competency or success in the classroom. Administrators were faced with a different problem in the 1970s with declining student enrollment caused by

1. The changing attitude of high school graduates toward the need for college education
2. The much publicized lack of employment opportunities for the college graduate
3. The changes in the military draft law and its impact on the college-age student.¹

If the percentage of the population that attended college in the 1950s, 1960s and the 1970s were maintained, there would be a small, but steady increase in the number of college students through the 1970s.

But by the early 1980s, due to the decline in the nation's population of 18-24 year olds, the higher education enrollment is bound to drop, unless the percentage of youth who then enroll reaches incredibly high levels, above those for any other period in the country's history.²

This decline in enrollment will continue to bring budgetary and faculty personnel problems to administrators and members of boards of trustees.

The director of research in the economics of higher education at Yale University, Stephen Dresch, has devised an elaborate method of projecting college enrollments in the

¹Post-Secondary Education in New York State (New York State Education Department, May, 1973), p. 1.

²Richard Berendzen, "Population Changes and Higher Education," Educational Record (Spring, 1974), p. 120.

future. He estimates that the decade of the 80s will experience a 46% decline in undergraduate enrollment in colleges and universities. He takes into account the "... changes in demand for college educated people in the labor force as well as changes in the supply of young people in the population and in the proportion of young people going to college."¹ His theory predicts a gloomy future for administrators and faculties.

Already the declining enrollments have led to budgetary cuts, tightening of faculty employment policies, and dismissal of both tenured and nontenured faculty members. In December of 1973, Southern Illinois University dismissed 104 faculty and academic staff members, 28 of whom held tenure contracts. Earlier in the year, the smaller Bloomfield College, Bloomfield, New Jersey, fired 13 professors, 11 of whom were tenured. In the same year, the University of Wisconsin sent lay-off notices to 33 tenured faculty members. With soaring inflation and costly litigation, tenure policies have come under attack from many quarters. Newsweek magazine referred to tenure as a sacred cow very tough to slaughter.² In his doctor dissertation of 1969, William Wilkie predicted the "subsequent demise of the tenure system."³

¹"Will Enrollments Nosedive?" The Chronicle of Higher Education (February 10, 1975), p. 7.

²Newsweek, (June 10, 1974), p. 75.

³William R. Wilkie, "Faculty Academic Freedom: A Legal Analysis," (Ph.D. dissertation, Michigan State University, 1969), p. 101.

Academic freedom and job security are two major determinants of faculty morale. College professors who have to be careful what they say, or how they say it, or when or where they say it, live under some tension and level of apprehension. Although some faculty have been dismissed under such

The conviction that every college teacher must have the freedom to decide how and what he teaches and researches is so strongly imbedded in the professorial psyche that the right of independence of action is the primary determinant of job choice. . . . Academic Freedom is a minimum requirement for all jobs.¹

Tenure policies have followed a long struggle for academic freedom in American colleges and universities. Originally it was designed as a protector of academic freedom because the threat of job loss would not allow the professor to pursue his tasks of teaching and research in a creative manner. Tenure has now added some level of job security to college professorates, allowing freedom in teaching and research without job loss. Tenure has become an increasing part of the faculty employment policies since the American Association of University Professors was begun in 1915. One of the Association's presidents, William Van Alstyne, declared that

. . . tenure is translatable principally as a system of formal assurance that thereafter the individual's professional security and academic freedom will not be placed in question without the observation of full academic due process. . . .²

¹David G. Brown, The Mobile Professors (Washington, D. C.: American Council on Education, 1967), p. 163.

²William Van Alstyne, "Tenure: A Summary, Explanation, and Defense," AAUP Bulletin, LVII, No. 3 (1971), p. 328.

It was not the intent that incompetent professors could or should not be dismissed arbitrarily or capriciously by administrators. Nor was it intended that regents or special interest groups could bring pressure to bear upon professors. Although some faculty have been dismissed under such pressures, courts have made decisions favorably to academicians as characterized by the decisions made in the Roth¹ and Sindermann² cases in 1972. Bethany Fisher³ studied these and other court cases with respect to the effect they have had on the tenure policies of public colleges and universities. Biswanath Shaw⁴ and Paul Dressel⁵ have studied state college and university faculty employment practices and the various experiences of the granting and removal of tenure.

These studies have proven helpful to college administrators in the public sector so that they can be made more aware of current court rulings and recent experiences of similar institutions. Such information was helpful in avoiding needless

¹U.S.S. Ct. No. 71-162, 40 U.S.L.S. 5079, June 29, 1972.

²U.S.S. Ct. No. 70-36, 40 U.S.L.W. 5087, June 29, 1972.

³Bethany Jeanne Fisher, "A Study Of the Implications Of the Nonretention of Tenured and Nontenured Faculty For Public Four-Year Institutions of Higher Education in the United States," (Ph.D. dissertation, Michigan State University, 1976).

⁴Biswanath Shaw, "Academic Tenure Policies and Procedures in State Universities and Land-Grant Colleges Which Are Members of the National Association of State Universities and Land-Grant Colleges," (Ed.D. dissertation, University of Mississippi, 1971).

⁵Paul Dressel, "A Review of the Tenure Policies of Thirty-One Major Universities," Educational Record, XXXIV (July, 1963).

and costly litigation and more positively was helpful in the development of those policies which demand a competent and productive faculty.

II. The Need

The need for information regarding the tenure policies and practices of public institutions has been requested by others. In his study of 1963, Paul Dressel compared the tenure policies of 31 major universities concluding that every institution has the right to

... develop its own tenure policies on the basis of its particular philosophy; however, it is somewhat reassuring to an institution to know that its tenure policies are consistent with those of other institutions with which it must compete for faculty.¹

In 1970, Biswanath Shaw undertook a study of the Academic Tenure Policies and Procedures in State Universities and Land Grant Colleges. Of the 105 colleges and universities that responded to Shaw's study, 30% of them indicated that data were not available to provide information concerning termination proceedings or dismissal of tenured faculty members.²

In 1973, Keast presented a report to the delegates attending the annual meeting of the Association of American Colleges in San Francisco. He foresaw the problems of declining enrollment and large numbers of tenured faculty. His report "analyzes the current situation, makes general recommendations about the mix of faculty by tenure and age, urged institutions that have not already done so to initiate planning

¹Dressel, p. 248. ²Shaw, p. 119.

for the future."¹ The higher education. He studied 12 private colleges. The Dressel, Keast, and Shaw studies were made using major colleges and universities as the population, and although the results may prove helpful to the larger institutions, they cannot be applicable to the smaller colleges. It cannot be assumed that the smaller college has experienced a similar drop in student enrollment. However, information regarding tenure and collective bargaining is important to administrators of smaller colleges as they must formulate policies suitable to their institutions. The smaller college needs to compare its policies with those of similar institutions in order to analyze successes and failures. Administrators in small colleges are concerned with faculty mix with respect to age, rank, and tenure, and they struggle with dismissing tenured faculty members, both in discerning reasons for the dismissal and the procedures of the dismissal itself. These studies also reflect pertinent information and answer questions regarding the effect of student enrollment on faculty, but for the most part the studies reflect the situations and policies of the larger institutions. The smaller colleges may face similar situations and they need to make careful evaluations of their procedures and policies so that the institutions may forego many problems with their faculty members.

In 1975, Van Newkirk undertook a study of the tenure with the Council for the Advancement of Small Colleges. When

¹William R. Keast (Chairman), Commission on Academic Tenure in Higher Education, Faculty Tenure: A Report and Recommendations (San Francisco: Jossey-Bass Publishers, 1973).
1964-1974. (Ed.D. dissertation, College of William and Mary, 1975), p. 135.

policies in private higher education. He studied 12 private colleges and universities accredited by the Southern Association of Secondary Schools and Colleges in the State of Virginia. He found that procedures afforded the tenured and non-

... the institutions participating in the study seemed to be oversensitive about their independence to a point of over-protection of their internal activities and to the preference for isolationism rather than collective problem solving.¹

4. The He found the faculty members generally did not know of the major problems currently facing higher education, that ten administrators were not aware of the threats against tenure, and that tenure policies were not being studied or revised. None of the 12 colleges in the study had plans to abandon tenure, and only 2 had modified their tenure policies in the past 10 years. faculty handbooks will be examined in order

to determine. Private higher education is a unique part of American education. Are professors in private colleges afforded tenure in a manner that resembles the public institution? Are professors who are dismissed from colleges of this type given due process? Will the courts investigate any action within the confines of the private college? faculty involvement in the

acquisition of tenure and the right to appeal a denial of

III. The Purpose

tenure decision
4. The causes that are considered justifiable for the termination of tenure
The stated procedural due process afforded the tenured and

The purpose of this study is to determine the current tenure policies and practices of the 189 colleges associated with the Council for the Advancement of Small Colleges. When

¹Jack C. Van Newkirk, "A Review of Tenure Policies in Private Higher Education in the Commonwealth of Virginia, 1964-1974," (Ed.D. dissertation, College of William and Mary, 1975), p. 135.

describing the current tenure practices of CASC colleges, the purposes were to determine:

1. Faculty ratio by rank and tenure policies and procedures, and
 2. The procedural due process afforded the tenured and non-tenured faculty members during the past ten years
 3. The causes of dismissal of tenured faculty members during the past ten years
 4. The number of court cases brought against the colleges by the tenured and nontenured faculty members during the past ten years
 5. The various alternatives to tenure the colleges have considered or adopted.
- To determine the current tenure policies of CASC colleges, the faculty handbooks will be examined in order to determine:

1. The definition of tenure
2. The pre-tenure rank, the length of the probationary period and the number of years that service in another institution is applied to the probationary period
3. The criteria, the degree of faculty involvement in the acquisition of tenure and the right to appeal a denial of tenure decision
4. The causes that are considered justifiable for the termination of tenure
5. The stated procedural due process afforded the tenured and nontenured faculty member
6. Alternatives to tenure as described in the handbooks.

It is believed that this information will assist both the faculty and the administration of the smaller private college to evaluate their own tenure policies and procedures, and compare their standards to other institutions of similar size, rather than comparing with the larger institutions.

In Chapter II, the historical context from which academic freedom and tenure has arisen will be reviewed. Subjective literature and related research will be summarized. The design of the study, including a description of the population, and the procedures for the collection and tabulation of the data, will be presented in Chapter III. Chapter IV will analyze the data and make comparisons with the related research. Summaries and recommendations will be given in the final chapter.

1. Historical Perspective

To develop an historical perspective to the rise of tenure in this country led initially to the discussion of academic freedom. Socrates argued for freedom to continue his task of challenging people in the agora because of the virtually inescapable darkness of the human mind. Only the gods are wise and man is wise only in recognizing his own ignorance. The dialogue is eternal because man can never seize the truth which lies beyond him in the eternal forms. Freedom of thought is a necessary means to prevent mere custom from hardening into a simulacrum of truth.¹

In this country, notions of academic freedom were nurtured when in the early 1800s many American scholars began to study in Germany. During the course of their study and travel

¹D. O'Brien, "Licensing the Gadflies: AAUP and Tenure Regulations," Commonweal, (October 3, 1973), p. 8.

there, they became acquainted with a concept foreign to contemporary higher education in America. The German professor often referred to Lernfreiheit and Lehrfreiheit.

CHAPTER II

REVIEW OF THE LITERATURE

The purpose of this chapter is to put tenure into historical perspective and to review the literature as to the operation of tenure, crises in tenure, court cases affecting tenure, the pros and cons of tenure and alternatives to tenure. A final section of the chapter will summarize recent subjective literature and research related to tenure in higher education.

I. Historical Perspective

To develop an historical perspective to the rise of tenure in this country led initially to the discussion of academic freedom. Socrates argued

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there, they became acquainted with a concept foreign to contemporary higher education in America. The German professor often referred to Lernfreiheit and Lehrfreiheit.

By Lernfreiheit he meant the absence of administrative coercion which freed the German student to roam from university to university, to take what course he chose, to live where he would, and to be free from all those restrictions, characteristics of the English and American collegiate way, that were hostile to an atmosphere of dedicated study and research. By Lehrfreiheit the German professor meant the right of the university professor to freedom of teaching, the right to study and to report on his findings in an atmosphere of consent.¹

Before the 1800s, the primary function of American Colleges was to instruct the students, to maintain the nation's cultural heritage. But when scholars returned home from Germany, "... the function of our educational system was expanded to increase knowledge as well as transmit it."² These professors now felt compelled to examine all ideas, old and new.

This concept of open inquiry did not set well with many administrators, or with society in general, and therefore did not have opportunity to be tested until some time later. But in the early 1820s, Thomas Jefferson, the founder of the University of Virginia, set forth in a letter the atmosphere of freedom he coveted for the university: "This institution will be based on the illimitable freedom of the human mind. For here we are not afraid to follow truth

¹Richard Hofstadter and Walter P. Metzger, The Development of Academic Freedom in the United States (New York: Columbia University Press, 1955), p. 412.

²D. P. Young and D. D. Gehring, "Teacher Employment Rights and Due Process," Educational Horizons. (Fall, 1973) p. 55.

wherever it may lead, nor to tolerate any error as long as reason is left free to combat it."¹

About one decade later, Thomas Cooper, president of the University of North Carolina, took a courageous stand before his board of control and the southern people. At a meeting in which he addressed his Board of Trustees, he concluded his remarks with:

Sir, this Board is acting as the agent of the Legislature in this affair and I claim from them and from you, for myself and all other citizens of this State, the right of entertaining in private, and professing and defending in public, peaceably by all fair and reasonable argument, any opinion whatever on any subject whatever without exception, within the illimitable extent of human inquiry, I claim it as one of the RIGHTS OF MAN, before political constitutions were invented or proposed. I claim it as a right clearly of this State in particular. A right, that cannot be refused or withheld without prostituting the Constitution of the Country at the foot of undelegated, discretionary authority.²

With the guarantee of such freedom of inquiry and speech in the university came the need for some job security in the light of controversy. Academic tenure was introduced in order to protect the professor at his work, and protect his academic freedom.

Despite the efforts of Jefferson and Cooper, professors in the late 1800s were still unprotected, and were conceived of as only employees of the institution.

In 1878 a Cornell trustee argued the right of the

¹H. A. Washington, ed., Writings of Thomas Jefferson, vol. 7: (Washington, D.C.: Taylor and Maury, 1854), p. 196.

²Thomas Cooper, Dr. Cooper's Defense Before the Board of Trustees (Columbia, South Carolina: Times and Gazette, December 14, 1882), p. 17.

Cornell board to dismiss professors as summarily as businessmen might dismiss factory laborers. But the developing self consciousness of the academicians argued for greater job security, for rank and seniority and salary schedules; it invited rules governing permanent and temporary appointments, expectations of conditions conducive to scholarly work, and collective commitment to the principles of academic freedom.¹

Tenure was developed to protect the scholar's research. He needed the time to finish his studies and publish them without fear of losing his job as a result of pressure brought to bear upon administrative officials by special interest groups. The professor's right to free speech had to be defended without fear of job loss; the country could not afford to make its professors second rate citizens. It was impossible

to do creative research in a highly organized society without adversely affecting the interests of some sector and encountering charges of heresy from defenders of the faith. Tenure was devised to protect the rational examination of ideas, concepts, and propositions from personal bias and dislike.²

To compound the intensity of the problems over academic freedom and the university, wealthy entrepreneurs gave large endowments to many colleges and universities, but with these large gifts came certain unofficial expectations. It was not difficult to see how certain independent-minded social scientists might bring down the wrath of some of these donors by their research and subsequent publications. The

¹Frederick Rudolph, The American College and University (New York: Vintage Books, 1965), p. 415.

²Norman Hackerman, "Uses and Abuses of Tenure," Journal of Medical Education, (March, 1975), p. 253.
(1916), p. 11.

conclusions printed by professors often ran directly counter to the philosophies of the contributors, and thus there arose a continually greater number of violations of academic freedom reported on the campuses.¹

It was during this time of academic ferment that an elite group of faculty members from Johns Hopkins University first conceived of and later invited faculty members from other universities to join them in the establishment of an Association of University Professors. The "Call for the Meeting for Organization of National Association of University Professors," was sent out in 1914. The purpose of the proposed Association was stated as follows:

1. To facilitate a more effective cooperation among the members of the profession in the discharge of their special responsibilities as custodians of the interests of higher education and research in America
2. To promote a more general and methodical discussion of problems relating to education in higher institutions of learning
3. To create means for the authoritative expression of public opinion of college and university teachers
4. To make collective action possible; and
5. To maintain and advance the standards and ideals of the profession.²

As a result of the initial meeting, Committee A was made a standing committee of the organization for the purpose of investigating various charges of the violation of

¹Hofstadter and Metzger, pp. 420-451.

²"Call For the Meeting of Organization of a National Association of University Professors," AAUP Bulletin, II (1916), p. 11.

academic freedom of its members. Five major investigations of alleged violations of academic freedom were made the first year. It was during these investigations that Committee A and its first chairman, Professor A. A. Young recommended and received an expansion of the committee's responsibilities to not only include the matters affecting academic freedom, but also the matters involving academic tenure.¹

Two years later Committee A reiterated its concern about violations of academic tenure as well as academic freedom. One of the members of Committee A dissented, however, and expressed his dissent in this manner:

(1) It is unwise to shift emphasis from academic freedom to academic tenure; (2) it should not be the aim of the Association to secure vindication and reinstatement of professors unjustly dismissed from their posts; and (3) the overemphasis of tenure will result in the retention of incompetent men.²

With the controversy overshadowing the concept of tenure even within the ranks of the members of the American Association of University Professors and the members of Committee A, the idea of formal tenure developed slowly. University faculty members generally favored the idea, but administrators were skeptical. It took a full 10 years, from 1915 to 1925 for the Association of American Colleges, which represented college administrators to join with the struggling association of professors in the supporting and defining of

¹A. A. Young, "Report of Committee A," AAUP Bulletin, II (1916), p. 17.

²"Report of Committee A," AAUP Bulletin IV (1918), p. 28.

the concept of tenure.¹ the AAUP added a new weapon to its arsenal. In 1925, the Association of American Colleges called for a conference of colleges and universities which were concerned for the purpose of discussing the principles of academic freedom and tenure, with a view to formulating a succinct statement of these principles. Participating in this conference were representatives of a number of organizations of higher education. At this conference there was formulated a statement of principles known to the profession as the 1925 Conference Statement on Academic Freedom and Tenure. In the formulation of this statement, the participants were not seeking to formulate new principles, but rather to restate good academic custom and usage as these had been developed in practice over a long period of time in institutions whose administrations were aware of the nature of the academic calling and function of academic institutions.²

But the AAUP and the Association of American Colleges still hosted many vocal critics. In 1930, L. L. Thurstone wrote:

In the past we have relied on the moral effects of the reports of the American Association of University Professors. These reports are frankly limited to fact finding in the hope that the publications of facts will gradually have some effect in changing the policies of colleges. It is a matter of general observation that the reports of the AAUP have no teeth. Frequently the moral effect is insignificant, especially in those situations where the trustees defy the professors or simply ignore the reports.³

L. L. Thurstone continued to call for more stringent action

¹Allan D. Pfnister, ed., University Faculty in Crisis: Collective Bargaining, Tenure, Faculty Development, Occasional Papers in Higher Education (Denver: ERIC Document Reproduction Service, ED 119 573, 1975), p. 51.

²Louis Joughin ed., Academic Freedom and Tenure (Madison, Wisconsin: University of Wisconsin Press, 1967), p. 157.

³L. L. Thurstone, "Academic Freedom," AAUP Bulletin, XVI (1930), p. 454.

Henry W. Wriston, "Academic Freedom and Tenure," AAUP Bulletin, XXIV (1939), pp. 328-329.

by the AAUP and in 1931, the AAUP added a new weapon to its arsenal in creating what it called its "non-recommended list," made up of various colleges and universities which were consistently found in violation of the stated principles of academic freedom and tenure.¹

But the AAUP did not really want to get into an aggressive crusade against particular cases in which the principles of academic freedom and tenure were violated; instead the AAUP preferred to set a standard and hoped that various substandard institutions would seek to meet its standard. The 1922 committee reports reflect this sentiment.

Our work will have a more effective influence if we concern ourselves primarily with the establishment of proper standards and only secondarily with the question of remedying individual cases of justice. It rarely happens that anything the association can do can be of much direct service to the injured parties. It will achieve most if it tries to bend its forces toward making repetitions of the kind of offenses that occurred in the past impossible.²

The 1925 Statement of Principles of Academic Freedom and Tenure did not really accomplish its goal of establishing standards, but remained apart from individual cases of violation of academic freedom and tenure.³ By 1936 several conferences were begun to create a more workable and more widely acceptable Statement of Principles. The preliminary

¹L. L. Thurstone, "The Thurstone Plan For Enforcing the Principles of Freedom and Tenure," AAUP Bulletin, XXIII (May, 1932), pp. 361-363.

²"Extracts From Committee Reports and Official Addresses," AAUP Bulletin, VIII (December, 1922), p. 46.

³Henry N. Wriston, "Academic Freedom and Tenure," AAUP Bulletin, XXIV (1939), pp. 328-329.

work was done by 1938. After some modification and further development, the American Association of University Professors and the Association of American Colleges presented their final document, known as the 1940 Statement of Principles on Academic Freedom and Tenure.¹

These associations defined tenure as

... a means to certain ends; specifically: (1) Freedom of teaching and research and of extramural activities and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.²

The World Wars brought special problems to college and university faculties in the areas of job security and academic freedom. The job security aspect of tenure emerged during the Depression; academic freedom was the major concern during the wars. Tenure had finally found its place in the American colleges and universities as major protector of academic freedom coupled with a reasonable degree of job security.

After 25 years of experience, the American Association of University Professors had earned the respect of faculties, administrators, and trustees in institutions of higher learning across the United States. Committee A, through patience and careful evaluation had, without legal authority, wielded great power and influence in the enlisting and maintaining of college faculties. Edward C. Kirkland

¹See appendix A for the complete text of the 1940 Statement of Principles on Academic Freedom and Tenure.

²"Statement of Principles, 1940," AAUP Bulletin, XXVII (1941), p. 40.

attested to this effectiveness in the Annual Report of Committee A, 1946. The figures in the report

... reflect the growing appreciation on the part of professors and scholars that in the Association they have an effective instrument to redress of injustice. The response to violations of generally accepted principles of academic freedom and tenure is no longer apathy or resignation; it is an appeal to Committee A.¹

At the end of World War II, the AAUP could look back over its nearly thirty-five years of service to higher education with a certain amount of accomplishment and pride. It had survived two world wars and the Great Depression, and had given careful, precise language to its standards of academic freedom tested during the wars, and academic tenure, tested during the Depression. But academic freedom was to be given its greatest test in the decade that followed.

Communism threatened to infiltrate the American colleges and universities. Would it seek to become a part of the faculties of various institutions of higher education? Would the AAUP give special consent to seating of well-qualified professors on college faculties who were in all areas well suited for the job but were members of the Communist party? Some voices said Communists should not be allowed on American college faculties. Because of the developing character of youth, professors must use some discretion in how they present scientific or political views, and Communist professors may not be as sympathetic as needed.

¹Edward C. Kirkland, "Annual Report of Committee A," AAUP Bulletin, XXXI (1946), pp. 7-8.

Fritz Machlup took exception to this concept and declared:

To maintain a healthy state of thought and opinion in the country, it is desirable for adherents of Communism, like those of other forms of revolutionary thoughts, to present their views, especially in colleges and universities so that they may be checked by open discussion.¹

During these controversies, the AAUP did not desire to make academic freedom a matter for the courts; it preferred that matters be settled through the procedures outlined by Committee A. During the McCarthy era, Committee A was reluctant to investigate violations of academic freedom, making the courts the only effective alternative open to the accused faculty members.

The 1960s proved to be the years of campus unrest, with some impetus supplied by the controversial Viet Nam War. The 1970 Report of the President's Commission on Campus Unrest (The Scranton Commission) reported that tenure may have been one of the underlying causes of student unrest. It "... supported the need for 'Academic Freedom' for teachers but did not relate tenure to this ideal. Rather, the report concluded that to improve teaching, tenure should be 'reconsidered.'"²

In 1971 the Haven Report on Higher Education reported that "... to achieve change in teaching in higher education, it is necessary to 'revise standard tenure policies--leading

¹Fritz Machlup, "On Some Misconceptions Concerning Academic Freedom," AAUP Bulletin, XXXXI (1955), p. 753.

²Charles F. Wilson, The Case For and Against Tenure (Dallas: ERIC Document Reproduction Service, ED 106 944, 1975), p. 8.

toward short-term contracts for at least some categories of faculty positions."¹ To answer the charges against tenure made by the Scranton and Haven reports, the Commission on Academic Tenure in Higher Education was established in 1971. It was created by the Association of American Colleges and the American Association of University Professors. It was funded by a grant from the Ford Foundation. The task of the commission was to

... consider the operation of the tenure system in higher education, to evaluate the criticisms of academic tenure made during recent years, to consider alternatives to tenure in effect or proposed for adoption, and to recommend needed modifications or improvements in the tenure system if it is to be retained.²

The remainder of this chapter deals with tenure and academic freedom in greater detail. Specifically, discussion relates to the operation of the tenure system in American higher education: the crises that have occurred at universities in the early 1970s; the courts and what affect court decisions have had on the direction of tenure; the concept of tenure pro and con; and alternatives to tenure and the response of the academic community to these proposed alternatives. A final section of the chapter summarizes recent subjective literature and research related to tenure in higher education.

¹Ibid., p. 5.

²Keast, p. xi.

II. The Operation of Tenure

In the early 1970s, tenure was a high-priority issue in higher education with a great amount of published material supporting and criticizing its operation. Specialized journals such as Science¹ and Physical Educator² printed articles that related the problems of the teaching faculty of the particular discipline to the turmoil of tenure.

As complicated and open to philosophical rumination as the issues were, it seems hardly possible that any relevant topic, theory, prediction, or solution failed to be mentioned during this period. If the publications of recent months are a good indicator, it now appears that the excitement is tapering off, and it becomes more clear that we have been witness to a slight case of overreaction.³

The "overreaction" which intensified job security issues in higher education was largely caused by "declining enrollments, rising unemployment, excess teacher supply, pressure to employ more teachers from racial and ethnic minorities, rising school costs, and increased insistence upon managerial accountability. . . ."⁴

This recent attention surrounding the practice of tenure has not been unique to teachers. The developments of

¹Dael Wolfe and Charles V. Kidd, "The Future Market for Ph.D.'s," Science, (August, 1973), pp. 784-793.

²Darrel Crase, "The Tenure Crisis: Implications For Higher Education Faculty," Physical Educator, (October, 1975), p. 115.

³Wilam A. Simpson, "Tenure: A Perspective of Past, Present, and Future," Educational Record, (Winter, 1974), p. 48.

⁴Myron Lieberman, "Tenure: A New High-Priority Issue," Phi Delta Kappan, (March, 1975), p. 450.

S. J. Stone and B. Pegas, "Stimulating the Tenure Teacher," Journal of Secondary Education, (April, 1968), p. 168.

teacher tenure have paralleled

... similar trends in federal, state, and local public employment and in private industry. Employment security in other public employment covered by statutes, and in private employment covered by collective bargaining agreements, is substantially the same as the tenure protection accorded to teachers. Specifically, there must be just cause for dismissal, the burden of proof is on the employer, and the procedure followed must meet the requirements of 'due process' and fair treatment.¹

It is well known today, and popularized by Abraham Maslow, that mankind has certain lower order needs, sometimes referred to as survival needs. Among these basic survival needs are safety and security, and they must first be satisfied before the higher level needs of belonging, social acceptance, and personal esteem can be realized. Without some sense of belonging or personal worth, employees cannot function efficiently in their jobs. A faculty member cannot perform well in the classroom without a certain level of satisfaction of the higher level needs. Therefore, it is in the best interest of the pupils, the public, and the administration that attention be given to tenure, a lower order need, so that higher level needs may be experienced.

In summary, an administration which provides numerous leadership positions, involves its faculty in decision making, and encourages innovative techniques, will find it has fewer teachers suffering from the 'tenure teacher syndrome.' This type of administration-staff organization will promote an atmosphere of flexibility in which administration and faculty can work together for new and better educational programs.²

¹Theodore H. Lang, "Teacher Tenure As a Management Problem," Phi Delta Kappan, (March, 1975), p. 459.

²S. J. Stone and B. Pegas, "Stimulating the Tenure Teacher," Journal of Secondary Education, (April, 1969), p. 168.

Just how does the faculty committee on tenure proceed to evaluate those faculty members who are eligible for tenure? To begin with, the criterion must be consistent with the stated purposes of the institutions; suiting its particular history.

It matters little whether the institution sees itself as educating in the scholarly sense--transmitting knowledge to the community at large through published research--or in the equally valid but narrower sense of educating its students. Where an institution chooses to place itself between these two poles is purely a matter of emphasis. In fact, the possibilities for staffing to reflect different emphases are practically limitless. Each institution is distinctive insofar as staffing definitions tend to focus at a single point along the spectrum.¹

R. D. Bauer studied the tenuring process at one campus of the University of California and one campus of the California State University system. His evaluating committee considered each candidate's contribution to the university under three general headings; teaching, research, and committee activities. Twenty faculty members from each university were chosen for an interview. Each had received tenure from his respective institution within one year. Each agreed unanimously that committee activities were a minor concern in the tenure granting process, but teaching and research were of different concern at the two universities. At the University of California, two of the faculty members

... felt teaching should carry the greatest weight, eleven thought that the demonstration of research abilities should be of greatest importance and seven

¹J. A. Soules and L. C. Buhl, "Reviving Promotion and Tenure: A Systematic Approach," Educational Record, (Winter, 1972), p. 74.

the thought nearly equal weight would be given to each aspect of faculty commitment. Eighteen of this group believed that their creative activities were in practice as important as their teaching, if not of considerable greater importance, in the tenure decision.¹ of

However, at the California State University

every individual responded that the teaching activities carried the heaviest weight in the tenure decision process. No respondent felt that research activities were of greater influence in making this decision at what was frequently characterized as principally a 'teaching institution.' It is interesting to note that eight persons did feel rather strongly that research and professional activities should play a significant part in making the tenure decision and some commented that these aspects would be given additional weight as the state university continued to develop and build a professional reputation. Some state university faculty members expressed the idea that research and creative activities were, in general, reasonable indicators of professional growth and that success in these areas very frequently carried over to augment success in teaching.²

In spite of the emphasis upon research in the major room, and the methods he uses for student evaluation and grading, it must be remembered that

... it is only about 10 percent of the faculty who produce 90 percent of this kind of output. The 90 percent who don't produce are nonetheless 'intellectually creative,' to varying extents and with differing degrees of success, of course. Writing a syllabus, reorganizing existing offerings, inventing new courses, reading and synthesizing others' ideas--many products are more directly connected to teaching than is scholarship in the creative and productive arts.³

If an institution is primarily a teaching institution,

¹Roger D. Bauer, "Security Versus Freedom: Some Faculty Views On The Tenure Process," Phi Delta Kappan, (December, 1972), p. 279.

²Ibid., pp. 279-280.

³Robert T. Blackburn, Tenure: Aspects of Job Security On the Changing Campus (Atlanta: Southern Regional Educational Board, 1972), p. 20.

the faculty committee has problems evaluating instruction because stated criteria are not clear. The evaluation of instruction tends to be informal and based upon the opinions of other faculty members, but most faculty members desire more objectivity in the evaluative process.

When reviewing persons eligible for tenure, many faculty committees receive supporting documents from appropriate sources. These documents include personal vita, student evaluations, peer evaluations, and statements of recommendations.¹ At the time the person eligible for tenure is interviewed by the faculty committee on tenure, he should be prepared to discuss with the committee the characteristics of his students as he sees them, the content of his classes, his teaching methodology, resource materials that he uses in the classroom, and the methods he uses for student evaluation and grading.²

Student evaluation of instruction is widely used, especially where the college considers itself primarily a teaching institution, but there is great variance in opinions regarding the

... use, selection, evaluation, and application of student evaluation. A major objection revolves around the qualification of students to judge the effectiveness of a given professor in terms of the university's overall objectives. There was general agreement that some student input regarding teaching

¹JeDon A. Emenhiser, Implementing a Tenure Quota: The Colgate Case (New York: ERIC Document Reproduction Service ED 097 847, 1974), p. 37.

²Richard C. Williams, "Tenure Practices--Redefined," Junior College Journal, (May, 1969), p. 29.

effectiveness was desirable if only for the self-improvement of the instructor, but it was less certain what weight should be assigned to it in a significant tenure decision. These apprehensions may be resolved when a distinction is made, if it can be, between participation in the process and the final decision-making responsibility as exercised by some authority whose decisions are considered legitimate by the faculty.¹

The difficulties of establishing criteria for tenure and determining the procedures for granting tenure are multifaceted. An examination of the tenure problems at some specific institutions of higher education could result in clearer understanding and proper application of principles.

III. Crises In Tenure

There are many influences outside higher education which are forcing changes in institutions. In 1973, Robert Nisbeth listed seven such influences that he predicted would "destroy the present system of tenure." He saw a continuing change of national priorities from education to health, environment, and social security. He saw in the public eye a degraded position given to colleges and universities. He identified a blurring of the academic and the non-academic, resulting in the rise of new and competing institutions which have been here-to-fore conceived of as entities outside higher education. He also anticipated a revolt of the young and ambitious against higher education, the rise of collective bargaining on campus and a rage to litigation.²

¹Bauer, p. 280.

²Robert Nisbeth, "The Future of Tenure," Change, (April, 1973), pp. 32-33.

Hodgkinson knew that the troubles on campus in the 1970s were inevitable. With the mushrooming student enrollments, there had to follow a parallel mushrooming in size of the university faculties. In 1970 he predicted that "the seventies will be different--there are more teachers than jobs, and this will continue for most of the decade."¹

Some of the consequences of the sixties, he went on to say, could be seen in that tenure was awarded more often and to younger scholars. On many campuses, the instructor rank nearly died out completely--the initial appointment was at the assistant professor level; and in the university context, the work of the instructor was carried by a new group, the teaching assistants, who often exchanged servitude for the doctorate.² Of course, with the earlier tenuring of new faculty members, and declining enrollments, there came a dramatic slowing of the hiring and tenuring process of many universities. Some universities had to "lay-off" many tenured faculty members while others entered into what has been called steady-state staffing.

From the evidence then, the best inference is that the collective faculty will age; that is the average age of faculty in institutions of higher education will increase markedly from the current figure of approximately 41 years. Furthermore, the proportion in each higher rank will increase to an appreciable degree. Therefore, assuming no change in current practices, the percentage of tenured faculty will increase markedly.³

Not only has the average age of faculty members been

¹Harold L. Hodgkinson, Institutions In Transition (Englewood Cliffs, New Jersey: Prentice Hall, 1970), p. 15.

²Ibid. ³Blackburn, p. 6.

²Kenst, p. 50.

increasing, but with continued inflationary pressures it has become even more difficult to spend the money to bring the young and creative into faculty ranks. "State appropriations for higher education have increased 29 percent in the past two years, but an estimated two-thirds of that increase already has been gobbled up by inflation."¹

But steady-state staffing has not proven to be all that easy. Some have interpreted steady-state staffing to imply some sort of a quota system. The Keast Study alluded to such, generating considerable discussion and controversy and in its twentieth recommendation, the commission suggested . . . that each institution develop policies relating to the proportion of tenured and nontenured faculty that will be compatible with the composition of its present staff, its resources and projected enrollment, and its future objectives. In the commission's nearly unanimous judgment, it will probably be dangerous for most institutions if tenured faculty constitute more than one-half to two-thirds of the total full-time faculty during the decade ahead.²

But there is a finite number of fixed positions on the faculties of the colleges and universities in the United States. If each position were filled with a tenured faculty member, there would be no place for recently graduated persons to join a faculty without the resignation, retirement, or death of tenured members. Such a situation would not encourage creative talent to prepare for the professorate. So the question remains, what percentage of faculty may become

¹Jack Magarrell, "State Support: Up Twenty-Nine Percent in Two Years," Chronicle of Higher Education (Oct. 21, 1974), p. 1.

²Keast, p. 50.

tenured before tenure adversely affects the university?

Is there benefit to a university to have non-tenured members of the faculty on staff? Is it a benefit to engage the services of more probationary faculty than it can possibly tenure?

To a degree it does, if the institution wishes to select as its tenured faculty the best of those it has observed in action on its own campus, and not simply to award tenure to all it hires. But the controlling variable is the number of vacancies the institution can expect in its tenured staff.

W. Todd Furniss has suggested the following devices for alleviating the problems of unbalanced faculties. He suggests: First, that no institution hire any person who has not yet completed his terminal credentials, and second, make no tenure commitments, written or verbal, but rather, adhere to the institution's regulations on the length of probationary periods. He proposes the establishment of a nontenure classification for certain classes of faculty and that appointments with immediate tenure be used sparingly. And finally, he reported that more temporary appointments be made on most college and university campuses.

Steady-state staffing may be a concern of colleges and universities for most of the 1970s.

Although female enrollments as a percentage of the college-age population have remained essentially steady, approximately 37.6 percent of the nation's 18 to 19 year old men were enrolled in colleges and universities in the fall of 1972, compared with 44

¹W. Todd Furniss, "Steady-State Staffing: Issues For 1974," Educational Record, (Spring, 1974), p. 91.

percent in the fall of 1969.¹

In the state of New York, the percentage of high school graduates who planned to attend college dropped from 41% in 1964 to under 39% in 1972.² Berendzen concluded that if the average rate of enrollment between 1950 and 1970 were maintained, higher education would continue to be an expanding enterprise until the late 1970s. That is, the number of young people required to maintain such growth is adequate if a substantial percentage of them will continue to go to higher education institutions. But by the early 1980s, due to the decline in the nation's population of 18-24 year olds, the higher education enrollment is bound to drop, unless the percentage of youth who then enroll reaches incredibly high levels, above those for any other period in the country's history. If the rate of increase in enrollment remains at approximately the 1970 level, the enrollment of 18-24 year olds in higher education institutions will unquestionably decline.³

Larry Parker made about the same projections, saying that the potential number of full-time equivalent students allowed throughout the 1970s. . . . On the assumptions that continuing and part-time education will experience considerable growth, that the decline in the college-age attendance rate will level off and perhaps reverse itself, and that all higher post-secondary institutions will engage in strenuous efforts to revise curricula and attract students, this writer projects a continuing, but decelerating, enrollment increase through the 1970s that may see the collegiate level total rise by 10-15 percent over 1972-1973 . . . but collegiate level enrollments conceivably could decline

¹Larry L. Leslie and Howard F. Miller, Higher Education and Steady State (Washington, D.C.: ERIC Higher Education Research Report Number 5, 1974), p. 6.

²Office of Planning in Higher Education, "Projected Full-Time Undergraduate Enrollments for New York State Through 1990," (Albany: State Education Department, October, 1973).

³Berendzen, p. 120. "College and University Enrollments in America, 1973-1974," Intellect, (February, 1974), p. 330.

25-30 percent in the 1980s.¹

Student enrollment, of course, is directly related to the number of faculty that an institution can employ. The number of teaching jobs available to the graduate student has greatly diminished. The number of potential faculty members will far exceed the demand for new or replacing faculty positions for years to come, perhaps into the 1990s. It is an employer's market and colleges and universities need to exercise due caution, for they need to grant positions of tenure to only the most qualified, especially since the steady-state staffing allows for so few available tenure openings. If enrollment drops off as much as 20%, there must follow an equal reduction in faculty positions. This means the laying off of some faculty members, perhaps even tenured professors. The AAUP's 1940 Statement of Principles allowed for such lay-offs, but stated that such financial need had to be bona fide. Thus the statement fails to precisely define financial exigency. Those professors involved in the dismissals were expected to test the financial state of the particular universities in the courts.

A New Jersey court, concerned about the lack of a precise definition of financial exigency, presented the following test of exigency.

The test best suited to effectuate the intent of the parties on judicial review of the college's action, therefore, is whether the action taken followed from the board's demonstrably bona fide belief, under honestly

¹Garland G. Parker, "College and University Enrollments in America, 1973-1974," Intellect, (February, 1974), p. 330.

formulated standards, in the existence of a financial exigency and extraordinary attendant circumstances, and in the necessity for terminating tenured faculty members as a means of relieving the exigent condition. Interrelated therewith is the question of whether sufficient credible evidence of 'exigency' and 'extraordinary circumstances' exist as to provide a basis for the conclusions reached in the exercise of a reasonable and prudent judgment.¹

Even though a faculty handbook does not refer to or define financial exigency, tenured faculty members alike tend to custom and usage of the academic trade or business can establish that this is a term of the contract and cause for termination is concerned, not only the practices of educational institutions as a whole are relevant.²

When courts are called upon to determine financial exigency as a basis for tenured faculty dismissal, they must determine two distinct matters: (1) Does a financial exigency exist? (2) Were the appropriate faculty members selected for dismissal? "Unfettered discretion is inherently capable of abuse, and, the captain of a sinking ship should not be allowed to order activist faculty members to give up their life jackets first."³

One court defined financial exigency to its jury as follows: field College, Dr. Marie F. Allshouse, claimed that the 'Financial ability' as used herein, means the ability to provide from current income, both cash and accrued declining enrollments and increased expenses made it necessary

¹American Association of University Professors Bloomfield College Chapter v. Bloomfield College, 129 N.J. Super. 249, 322 A. 2d 846 (1974), affirmed, 136 N.J. Super. 442, 346 A. 2d 615 (1975).

²"Financial Exigency as Cause For Termination of Tenured Faculty Members in Private Post Secondary Educational Institutions," Iowa Law Review, (December, 1976), p. 519.

³Ibid., p. 520.

the funds necessary to meet current expenses including current debt payment and sound reserves, without invading or depleting capital. 'Financial exigency' means an urgent need to reorder the nature and magnitude of financial obligations in such a way as to restore or preserve the financial ability of the institution.

With the employment situation so tight in higher education and with little prospect for employment at other institutions, tenured and non-tenured faculty members alike tend to be willing to go to whatever means necessary to hold onto their jobs. The Virginia State Board for Community Colleges decided against the granting of tenure to any faculty members in all twenty-two of its state institutions. Spokesman for the AAUP expressed "... immediate and grave concern for the principles of academic freedom, tenure, and due process as developed and accepted generally in American higher education."²

In June of 1973, the Board of Trustees of Bloomfield College in Bloomfield, New Jersey, a small, private coeducational institution, tried to abolish tenure and fired eleven teachers who had already been granted tenure. The president of Bloomfield College, Dr. Merle F. Allshouse, claimed that the deteriorating financial condition of the college with the declining enrollments and increased expenses made it necessary to reduce its total faculty by eighteen members. The AAUP

¹James L. Peterson, "The Dismissal of Tenured Faculty For Reasons of Financial Exigency," Indiana Law Journal, (Winter, 1976), p. 420.

²"Elimination of Faculty Tenure: Community Colleges," Intellect, (March, 1974), p. 346.

filed suit in Superior Court of New Jersey on behalf of the local chapter and the dismissed teachers. If Bloomfield were to have liquidated all of its assets it would still have had a deficit of \$1,163,000.00. The projected net operating deficit for the following year was \$2,329,000.00. Bloomfield was in serious financial trouble. It was on the verge of financial collapse.¹

These facts notwithstanding, Judge Antell concluded that Bloomfield College was not in a condition of financial exigency. On August 5, 1974, Judge Antell signed the order reinstating the tenured plaintiffs, the same day the College filed for Chapter XI proceedings.²

About the same time the University of Wisconsin sent lay-off notices to 88 tenured faculty members on 9 of its campuses. A greater number of nontenured faculty members did not have their appointments renewed. The board of regents was taken to court, and Judge Doyle sided with the regents and the administration to make budget accommodations "without impairing the performance of the 'mission' of the respective campuses."³

At Southern Illinois University, 28 tenured contracts were broken in December of 1974.

Deans and department chairmen received quotas in dollar amounts to be cut from departmental salary budgets. Faculty to be cut were to be identified on

¹M. F. Allshouse, "New Academic Slalom: Mission, Personnel Planning, Financial Exigency, Due Process," Liberal Education, (October, 1975), p. 359.

²Ibid.

³John v. Board of Regents of the University of Wisconsin (74-C-142 W. D. Wisc. June 13, 1974), p. 13.

the basis of participation in programs of marginal value or low productivity, taking into account the university's commitment to affirmative action but not the tenure status of individuals.¹

Of great concern to the local chapter of the AAUP was a notice in the New York Times asking for applications for positions in one of the colleges that had just released faculty members. Suit was filed by the AAUP and the Illinois Federation of Teachers. But

. . . by the end of June several of the twenty-eight professors had been placed in other positions on the campus and all but one of the others had accepted a settlement from the Board of Trustees. The lawsuit was withdrawn.²

If Southern Illinois University could absorb some of the recently laid-off faculty members, perhaps other institutions could follow suit with beneficial effects for both the institutions and the individuals.

In 1976, four tenured philosophers were fired from the Rockefeller University, New York City. The president of the university and board of directors had to ". . . come to terms with the financial pressures of the past decade and to rethink both the financial and scientific future of the institution."³

Actually, the university had been preparing for more than two years to scrap the philosophy department. Junior

¹Martha Friedman, "How Southern Illinois University Broke 28 Tenured Contracts," Phi Delta Kappan, (March, 1975), p. 463.

²Ibid. p. 464.

³"The Rockefeller University: No Time For Philosophers," Science, (January 21, 1977), p. 273.

faculty members had not been promoted and no graduate students had been accepted. At first, the philosophers claimed that the university had violated the principle of tenure, and there was some consideration of litigation against the university. However the 4 tenured faculty members each settled with the university by accepting 3 years' pay and also received good job offers from outstanding universities.

Faculty members from other departments of the university began to feel uneasy about the manner in which the whole situation had been handled. The president of the board of trustees made a reassuring statement, exclaiming that

. . . the university 'has not altered and does not contemplate altering the long standing policy whereby a tenured faculty member is assured the security of his academic position and salary, and the freedom to pursue his scholarly interests whatever they may be.' Informally, assurances were given that the jobs of the mathematics, physics, and logic groups were secure.¹

The Florida State Universities set out to retrain members of its faculties who were no longer needed in their present locations. The state legislators sought to work with the State Universities as they set up guidelines for

. . . a program of retraining certain tenured faculty for positions in understaffed fields of critical need. Essential features of the retraining grants are:

1. The period for which the grants are made will not exceed three academic quarters
2. Payment will be in the form of full salary by the university
3. Payment of an expense reimbursement (tuition, etc.) not to exceed \$3,000 may be made by the State University System.

¹Ibid.

To be eligible, the candidate must be tenured. . . . He must be no more than 55 years old. . . . One of the interesting features of the Florida program is that it does not prescribe simply formal academic study as the sole method of retraining. . . . It is possible to develop programs of individual study under a recognized authority in the field or to obtain practical experience in industry or with another public agency.¹

What procedures are followed when dismissing a faculty member for reasons of financial exigency?

A revised tenure policy for example, could specify that an educational institution has discretion to identify the tenured faculty members who are to be terminated because of financial exigency. This however, would appear to be unwise, . . . A sounder approach would be to . . . provide a more specific definition of financial exigency. In addition a tenure policy should provide guarantors of good faith such as the requirement that a terminated faculty member be offered reinstatement if his or her position becomes open within three years of termination. Finally, and most important, the policy should provide an internal procedure that will ensure that termination for financial exigency is based on sound educational considerations.²

There have been recent court cases in addition to the ones already mentioned that have clearly set the direction of tenure for many years to come. The role of the courts in the development of the tenure concept is clearly significant.

IV. Court Rulings That Have Affected the Concept of Tenure

In recent years, when faculty openings were many and candidates were few, termination did not have the effect it has today. Usually the professor who lost his job could

¹John P. Lunstrum, "Faculty Retraining in Florida State Universities," Phi Delta Kappan, (March, 1975), p. 465.

²"Financial Exigency as Cause For Termination of Tenured Faculty Members in Private Post Secondary Education Institutions," p. 520.

easily find another job elsewhere, and did so, even if it involved receiving less pay or going to a smaller college. Today, if a professor experiences the termination of his tenure contract, he may not only lose his position but also he may be forced to leave his profession. Under these conditions most individuals who are losing their faculty positions will take their plea to court, if they believe they have any chance of reversing the decision.

More than a decade ago David Fellman, former chairman of Committee A, was concerned about this frequent use of the courts to settle academic matters. He called for college and university faculties to ". . . face the fact that more and more aspects of academic freedom and tenure were getting involved in litigation, and that increasingly, courts were being called upon to pass judgment upon some of our most acute problems."¹ Since the printing of Dr. Fellman's warning, the courts have passed judgment upon academic matters and have shaped the structure and wording of faculty contracts in colleges and universities across America.

Three amendments to the United States Constitution that have become a part of this shaping process are:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a

¹David Fellman, "Report of Committee A, 1963-1964," AAUP Bulletin, (1964), p. 126.

redress of grievances.¹

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.²

Amendment XIV

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law nor deny to any person within its jurisdiction the equal protection of the law.³

According to the Fifth Amendment, one is not entitled to due process unless it can be proven that he has lost something, either life, liberty, or property. He has not lost life. And he has not lost liberty, for the professor's liberty is protected here and in the first amendment, and it is not a professor's liberty that is being guaranteed, but liberty to all citizens. Property is the matter that the courts have examined. Is the professor whose position is being

¹U.S., Constitution, amend. I.

²U.S., Constitution, amend. V.

³U.S., Constitution, amend. XIV, sec. 1.

terminated losing property?

The AAUP, accrediting agencies, and many faculty handbooks have defined tenure in a manner which the courts have not accepted. The courts have recognized tenure only as

. . . the termination of a probationary period and the establishment of a mere expectancy of continued employment. . . . 'Expectancy of continued employment' that results from a grant of tenure is recognized by the courts as 'property.'¹

Expectancy of continued employment can be expressed in a faculty contract, and as such is not altered by one's tenure status, or even by the elimination of tenure altogether.

. . . The nontenured instructor and even the teacher hired with no formal contract but with clearly implied promises of continued employment are equally secure against discharge for the exercise of a protected right as is the person who has earned continuing employment under a tenure system.²

When a court establishes that one is being deprived of property, he must be given "due process," which is regarded as a process and not a definition. According to Chief Justice Warren,

'Due Process' is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts. Thus, when governmental agencies adjudicate or make binding determinations which directly affect the legal right of individuals, it is imperative that those agencies use the procedures which have traditionally been associated with the judicial process. . . . Therefore, as a generalization, it can be said that due process embodies the differing rules of fair play, which through the

¹Harold J. Rood, "Legal Issues in Faculty Termination," Journal of Higher Education, (March-April, 1977), p. 123.

²Alan A. Matheson, "Judicial Enforcement of Academic Tenure: An Examination," Washington Law Review, (1974), p. 508.

years, have become associated with differing types of proceedings.¹

The Supreme Court of the United States set forth the principle of due process by declaring that it

. . . is not a mechanical instrument, it is not a yardstick. It is a process. . . . The precise nature of the interest that has been adversely affected, the manner in which this was done, the reasons for doing it, the available alternatives to the procedure that was followed, the protection implicit in the office of the functionary whose conduct is challenged, the balance of hurt complained of, and the good accomplished--these are some of the considerations which must enter the judicial judgment.²

Keeping in mind the above principles of due process set forth by the Supreme Court, Young and Gehring have listed some helpful steps involved in affording due process to faculty members in higher education.

The accused individual shall be provided a notice of the charges against him, specific enough to permit him to defend against them. The notice should also inform the accused of the time, date, and place at which a hearing will be conducted. Finally, the notice should inform the accused of the nature of the evidence against him and the names of witnesses who will present evidence.

A hearing shall be conducted at which the accused is permitted to present his side of the story. The length of time between the notice and the actual hearing should be reasonably calculated to provide the accused enough time to prepare a defense against the charges. The hearing should be conducted by an impartial person or persons and guilt should be based only upon sufficient evidence. A transcript of the hearing should be kept and the accused, if found guilty, should be afforded the right of appeal.³

Due process has been separated into two different

¹Hannah v. Larche, 363 U.S. 420 (1960) at 442.

²Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951).

³Young and Gehring, p. 53.

categories: substantive due process, and procedural due process. These two categories have been developing under separate definitions for many decades. The term, due process

. . . when applied to substantive rights, as distinguished from procedural rights, means that a state has no right to deprive a person of life, liberty or property by an act having no reasonable relation to any proper governmental purpose, or which is so far beyond necessity of case, as to be an arbitrary exercise of governmental power.¹

Procedural due process ". . . requires an orderly proceeding, adapted to the nature of the case in which the citizen has an opportunity to be heard and to defend, enforce and protect his rights."² Included in the proceedings are "notice and opportunity to be heard and to defend in orderly proceedings adapted to the nature of the case, and the guarantee of due process requires that every man have the protection of day in court and benefit of general law."³

The Fifth and the Fourteenth Amendments of the Constitution guaranteed that neither life, liberty, or property could be taken from a person without first affording him due process. Earlier, teachers were not given due process upon termination of employment, because their employment was not seen as property. Most of the earlier cases ". . . were decided in the days before tenure plans came into widespread

¹Valley National Board of Phoenix v. Golver, 159 P. 2d. 292, 298 (1945).

²Wilkie, p. 12.

³Henry Campbell Black, Black's Law Dictionary (St. Paul: West Publishing Co., 1951), p. 590.

use and acceptance, at a time when employer prerogatives in all areas were largely unlimited, and professors too were considered to be mere hired hands."¹

. . . . It is necessary to define the problem and to place it in the proper historical context. The general problem is determining what redress is available to a teacher who is either dismissed or not retained in his teaching position for reasons, or through the use of procedures, which he feels are arbitrary or capricious. For many years the courts held the position that a teacher was merely a government employee in a typical master-servant relationship and pursuant to such status his employment was a privilege to be commenced, continued and terminated on such terms may deny public employees constitutional rights generally enjoyed by other citizens.²

Today, professors and teachers are not "hired hands," nor are they "merely governmental employees." It is no longer just a "privilege" to teach. It is no longer that kind of "privilege" that Justice Holmes referred to, of the employee agreeing to "suspend his constitutional right of free speech . . . by the implied terms of his contract."³ It is no longer just a privilege to be a professor; it is a protected privilege, it is a right.

"With the demise of the right-privilege doctrine, the validity of the limitations put on the teacher's substantive rights could be tested through due process procedures for the reasonableness of their denial under the specific

¹William P. Murphy, "Educational Freedom In the Courts," AAUP Bulletin, (Winter, 1963), p. 309.

²"Due Process Restrictions On the Employment Power and the Teaching Profession," Nebraska Law Review, 50 (1971), p. 656-657.

³McAuliffe v. Mayor of New Bedford 155 Mass. 220, 29 N.E. 517 (1892).

circumstances."¹ Such tests have since come and will continue to mold the content of substantive due process.

Two cases that were to test substantive due process were the Roth case and the Sindermann case. These two landmark trials emerged in 1972 and became known as the Board of Regents v. Roth and Perry v. Sindermann. The Headnote of the Roth decision follows.

David F. Roth, hired for a fixed term of one academic year to teach at a state university, was informed without explanation that he would not be re-hired for the ensuing year. A statute provided that all university teachers would be employed initially on probation and then only after four years' continuous service would teacher achieve permanent employment 'during efficiency and good behavior,' with procedural protection against separation. University rules gave a non-tenured teacher 'dismissal,' but provided that no reason need be given for nonretention of a nontenured teacher, and no standards were specified for re-employment. Roth brought this action claiming deprivation of his Fourteenth Amendment rights, alleging infringement of (1) his free speech right because the true reason for his nonretention was his criticism of the university administration, and (2) his procedural due process right because of the university's failure to advise him of the reason for its decision. The District Court granted summary judgment for Roth on the procedural issue. The Court of Appeals affirmed.

Held: The Fourteenth Amendment does not require opportunity for a hearing prior to the nonrenewal of a nontenured state teacher's contract unless he can show that the nonrenewal deprived him of an interest in 'liberty' or that he had a 'property' interest in continued employment, despite the lack of tenure or a formal contract. Here the nonretention of Roth, absent any charges against him or stigma or disability foreclosing other employment, is not tantamount to a deprivation of 'liberty,' and the terms of Roth's employment accorded him no 'property' interest protected by procedural due process. The courts below therefore erred in granting summary judgment for Roth on

¹Fisher, p. 58.

the procedural due process issue.¹

The following is the Headnote of the Sindermann decision.

Robert P. Sindermann was employed in a state college system for ten years, the last four as a junior college professor under a series of one-year written contracts. The Regents then declined to renew his employment for the next year, without giving him an explanation or prior hearing. Sindermann then brought this action in the District Court, alleging that the decision not to rehire him was based on his public criticism of the college administration and thus infringed his free speech right, and that the Regents' failure to afford him a hearing violated his procedural due process right. The District Court granted summary judgment for the Regents, concluding that Sindermann's contract had terminated and the junior college had not adopted the tenure system. The Court of Appeals reversed on the grounds that, despite lack of tenure, nonrenewal of Sindermann's contract would violate the Fourteenth Amendment if it was in fact based on his protected free reemployment, the failure to allow him an opportunity for a hearing would violate the procedural due process guarantee.

Held: (1) Lack of a contractual or tenure right to re-employment, taken alone, did not defeat Sindermann's claim that the nonrenewal of his contract violated his free speech right under the First and Fourteenth Amendments. The District Court therefore erred in foreclosing determination of the contested issue of his right of free speech. (2) Though a subjective 'expectancy' of tenure is not protected by procedural due process, Sindermann's allegation that the college had a de facto tenure policy, arising from rules and understandings officially promulgated and fostered, entitled him to an opportunity of proving the legitimacy of his claim to job tenure. Such proof would obligate the college to afford him a requested hearing where he could be informed of the grounds for his nonretention and challenge their sufficiency.²

The important difference between these two cases is the expectation of re-employment. The court ruled that Roth

¹U.S.S. Ct. No. 71-162, 40 U.S.L.W. 5079, June 29, 1972.

²U.S.S. Ct. No. 70-36, 40 U.S.L.S. 5087, June 29, 1972.

did not expect re-employment, for he was serving under a one year contract with its own terms and expiration date. The ruling was made on this issue alone, and the matter of academic freedom and Roth's constitutionally protected right to free speech was not denied. Sindermann, however, had a right to due process, which he had been denied by the Regents. He was assured of this right, because he had served four years at the Odessa Junior College and six years in other Texas colleges. The court claimed that Sindermann had a right to de facto tenure, and the court found that the Faculty Guide was so worded that Sindermann could expect continued employment. Therefore, he had been improperly denied due process proceedings. This, of course, certainly does not mean that Sindermann was to be reinstated, only that he must be given due process before any decision would be made by the Regents or one of the lower courts.

While expressing the majority opinion, Justice Potter Stewart said that

. . . the State, in declining to rehire Professor Roth, did not make any charge against him that might seriously damage his standing and associations in his community. It did not base the nonrenewal of his contract on a charge, for example, that he had been guilty of dishonesty or immorality. Had it done so, this would be a different case. For where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him, notice and opportunity to be heard are essential.¹

The Court did not support any general right to public

¹Board of Regents of Wisconsin State Colleges v. David F. Roth, (U.S.S. Ct.), No. 71-162, 40 U.S. Law Week 5079 (June 29, 1972).

employment. Neither did it demand due process in every situation involving termination of employment. But the Court did find a property interest in continued public employment, requiring notice and hearing before dismissal in each of the following circumstances:

- (a) Where an office is held under tenure provisions
- (b) During the term of an existing employment contract
- (c) Where there is a clearly implied promise of continued employment
- (d) Where the right to employment is grounded in statute
- (e) Where the employment practices in question have evolved into a 'common law' of continued employment
- (f) In any other situation in which the employee has an objective expectation of continued employment (more than an abstract need, desire or unilateral expectation of continued employment).¹

What is the protection afforded by the courts to professors employed under short-term contracts, probationary contracts, and tenured contracts? In summary, teachers with short-term contracts could be let go simply by letting their contracts expire at the stated termination date within it.² But what difference is there between the protection afforded teachers with probationary tenure and teachers with continuing tenure? Procedurally there is no basic difference. If the time of dismissal for the probationary teacher comes before the termination of his probationary contract, he still must be

¹Norman B. Smith and Patricia Cerbala, "Job Security For Public Employees," Washington and Lee Law Review, 31 1976, p. 558.

²M. M. Chamber, The College and the Courts: Faculty and Staff Before the Bench. (Danville, Illinois: The Interstate Printers and Publishers, 1973), p. 12.

granted due process.

Dismissal procedures must include:

1. Notification at the proper time of intention to initiate dismissal procedures
2. Written statement to the teacher enumerating the causes for dismissal
3. Formal notification of the final decisions of the employing body.

The courts are not in complete agreement concerning the proper procedure for dismissing a non-tenured teacher during the contractual period. There is, however, enough precedence for following for non-tenured teachers the procedure described above, to make it appear the most appropriate and the safest way.¹

Fisher concluded that

. . . A tenured faculty member is entitled to due process of law because of a property interest in continued employment. Whereas, a non-tenured faculty member has the burden of proving that a property or liberty interest exists, before the faculty member is entitled to due process.²

Obviously, the concept of tenure has undergone some difficult struggles in recent years, following economic hard times, job shortages, and litigation, but it seems to be surviving in spite of recent predictions to the contrary.³ What is there about tenure that makes it a controversial issue? What do the pro forces use as their defense? What do the con forces use as their major arguments against tenure? These questions need answers.

¹Gene S. Jacobsen, David J. Sperry and F. Boyd, "The Dismissal and Non-Reemployment of Teachers," Journal of Law Education, (July, 1972), pp. 441-442.

²Fisher, p. 218.

³Richard Martin, "Tenure For Teachers Is Beginning to Crumble As Courts Push Drive," The Wall Street Journal, (April 16, 1971), p. 1.

V. The Concept of Tenure Pro and Con

Over two decades ago, Alfred North Whitehead stated that when considering tenure, the question of justice to teachers was all but irrelevant. "The sole question is, 'What sort of conditions will produce the type of faculty which will run a successful university?' The danger is that it is quite easy to produce a faculty entirely unfit--a faculty of very efficient pedants and dullards."¹

At times, the courts, and maybe the people have changed the emphasis of that statement today. The courts have made very clear that the constitution is vitally related to the concerns of citizens, and has expressed itself in such a way that justice will be done for all, including teachers. But Whitehead has pointed out a long-term fear. Will tenure produce the best of all possible faculties, or will it make a contribution to slothfulness?

Central to every argument about tenure is the notion of academic freedom since it is this value above all that a tenure contract is meant to insure.

Because tenure places the faculty member beyond the reach of small-minded administrators, politically motivated Regents and other academic demons, his freedom to search, criticize and expound is protected. Since the original AAUP statement of 1915, academic-freedom-and-tenure has virtually become a single concept so that to question tenure may appear to attack freedom of inquiry.²

¹Alfred North Whitehead, The Aims of Education (New York: The Macmillan Company, 1959), p. 150.

²Dabney Park, Jr., "Tenure Shock," The Chronicle of Higher Education (June 4, 1973), p. 16.

But even the AAUP does not claim that tenure is the only means to guard academic freedom, since it calls for the same quality of academic freedom for teachers during the pre-tenured days. With "less than half of the faculty members in the nation on tenure, less than half of them enjoy the guarantees of due process which should protect their academic freedom both from outsiders and from tenured faculty members in their own departments."¹ Spokesmen for the AAUP get a little defensive about this inconsistency, and even when the guarantee of academic freedom was called for to extend to the probationary faculty members, the members of Committee A spent a great deal of time deciding what to do. Their decision was that the nontenured members of faculties had to be guaranteed academic freedom, and that the protection of academic freedom afforded tenured faculty members was really the impetus that made academic freedom a protected right of the nontenured faculty members.

In addition to the claim that tenure is the guardian of academic freedom, the scholar claims that tenure's

. . . most important purpose is to provide untrammelled time to do scholarly work. It is hoped that all faculty members are scholars. Hopefully, everyone realizes that it is not possible to do creative work 'on order.' In response to a demand that one solve a problem, the best that one can do is try. The scholar, a creative worker, simply has to be able to let his thoughts organize themselves.²

Perhaps one of the most compelling arguments for tenure is that it ". . . is an expression of the human concern

¹O'Brien, p. 8. ²Hackerman, p. 253.

for continuity and stability in personal, social, professional, and business life."¹

A final argument in support of tenure was made in the first statement of principles by the AAUP in 1915. "To attract men and women of creative ability." It was felt then, that the professorate was some kind of calling that included poverty vows. Tenure was to provide some kind of compensation for the low income afforded by most colleges and universities. Today, generally this argument fails in public colleges and universities.

What is wrong with tenure? What negative effects does it have upon American higher education? Blackburn claims that critics declare ". . . two principle charges against tenure. First, they say that it prevents change, that it is an invitation to stagnation. Next they say that tenure stifles output, that with tenure a man may cease to produce."² Put another way, the tenure system comes down to two basic arguments. First, the system interferes with the ability of the organization to adjust to the economic and social constraints which govern its operation. Second, the system prevents a transfusion of new blood while preserving the decadent flesh of those who received tenure during happier times.

Time magazine even picked up the popular theme in 1973 and reported that

¹John R. Silber, "Tenure in Context," The Tenure Debate, ed. Bardwell L. Smith and Associates (San Francisco: Jossey-Bass Inc., 1971), p. 39.

²Blackburn, p. 7.

. . . every campus has them: incompetent professors who cannot be fired, much less shamed into quitting. . . . Tenure has become a device used by the devil to encourage faculty slothfulness. . . . Many campuses are now afflicted with an oversupply of drones who refuse to make way for younger, more dynamic teachers.¹

Nisbeth continues on the same theme, suggesting that

All one need do is think of the very large number of individuals who have taught or are teaching in universities and colleges in this country, and think too of the smaller but by no means insignificant number of the tenured in whom signs of deterioration, incompetence, gross neglect of duty and willful flaunting of academic authority are only too evident, and then ask how many tenured faculty members in this country have ever in fact been dismissed for cause. The number is, of course, miniscule.²

Silber claims that the AAUP contributes to this problem of an underachieving tenured faculty by throwing

. . . so many obstacles in the way of removal or re-assignment of professors and imposes such severe penalties on most institutions that dare to recognize tenure in its true meaning that administrators have acquiesced in the transformation of tenure into sinecure and use the terms interchangeably.³

As Goode observes, few professors ". . . are fired for incompetence, especially if they last long enough to become members of their work group."⁴ Brown claims that

. . . tenure policies may freeze professors in place by decreasing competition. Tenure may isolate senior professors from the market pressure that would otherwise goad them to greater productivity. . . . The mobility of tenured professors is lower than that of the

¹"Faculty Featherbedding," Time (May 10, 1971), p. 64.

²Nisbeth, p. 27.

³John R. Silber, "Tenure in Context," in The Tenure Debate, p. 46.

⁴W. J. Goode, "The Protection of the Inept," American Sociological Review, (February, 1967), p. 8.

nontenured even after a correction is made for age difference.¹

Rebuttals flow like criticism. Sandrin suggests that

. . . we need to stop using tenure as a scapegoat for poor teaching. We may need to look elsewhere for the reasons which contribute to ineffective teaching. It may well lie with poor hiring procedures, weak or non-existent evaluation policies, ineffective supervisory techniques, and absence of the administrator as an instructional leader.²

In addressing the problem of incompetence in teaching, Keck declares that

. . . lax administration, not tenure, protects incompetence. Under any definition of tenure, incompetence is a perfectly justifiable reason for dismissal. Yet in all of the dismissal cases I have investigated over the past four years (and the number is in the hundreds) I have rarely found a man dismissed because he was incompetent. On the contrary, incompetent professors whose incompetence is clearly recognized by the administration are retained, the administration making no effort either to assist them to improve their teaching or to remove them from the classroom. At the same time, I have seen faculty members dismissed for criticizing the administration, for attempting to organize the faculty, for teaching unpopular ideas, for dressing or behaving in an unorthodox manner, for participating in political activities, (i.e., testifying before a legislative committee), for lack of 'collegiality' (i.e., not being liked by the administration or other members of the faculty), for having a wife who is not sociable with his colleagues or their wives, for getting married (i.e., to another faculty member), for having a (legitimate) baby, and for no reason at all.³

Perhaps the arguments regarding tenure can be concluded with two confessions that academicians need to make.

¹Brown, pp. 51-52.

²J. W. Sandrin, "Tenure: Evanescent or Enduring?" Clearing House, (January, 1972), pp. 269-270.

³Donald J. Keck, "Tenure: Who Needs It?" Phi Delta Kappan, (October, 1972), pp. 125-126.

First, according to Goode, teachers,

. . . like all professions, while claiming to be the sole competent judges of their member's skills, and the guardians of their clients' skills, and the guardians of their clients' welfare, refuse to divulge information about how competent any of them are, and under most circumstances their rules assert it is unethical¹ to criticize the work of fellow members to laymen.

And secondly, in defending tenure Nisbeth queries,

Why can we not be honest in our defense of academic tenure? There is one, and one only honest justification of tenure: It is there. It has been there a long time. Tenure, not freedom, is academic man's most cherished idol. No president could last in office a week if he sought to abolish academic tenure. At very best, the ancient rule of conservatism applies: If it is not necessary to change, it is necessary not to change. From how much frustration and banality we would be spared if that defense of tenure were accepted for what it is.²

If not tenure, what would take its place? What are the alternatives? Might they be worse than the original? If tenure is not the answer, perhaps a search for a "new way" would be appropriate.

VI. Alternatives To Tenure

The drop in college enrollment, the increased costs, and the employer's market in the professorate have left some colleges with the problem of an over population of tenured faculty compared to nontenured faculty. This "tenuring in" phenomena resulted in an older and aging faculty, without room for the reception of the young and creative recently graduated Ph.D. In order to effectively deal with the problem, some administrators and college boards set up percentage

¹Goode, p. 7. ²Nisbeth, p. 31.

ratios or quotas between tenured and nontenured faculties.

The following variables are suggested as basis on which to build a given percentage of tenured faculty positions.

1. The percentage of faculty members to be tenured
2. The percentage of tenured faculty in each of the major organizational units
3. Determination of policy with respect to awarding tenure based on faculty rank
4. Determination of the number of nontenured faculty who can be awarded tenure in the major organizational units as a proportion of institutional total.¹

How high should the percentage be allowed to go?

Keast supports a percentage between 50 and 67. Keeping the percentage down can benefit the university in many ways.²

1. It accelerates the introduction of new faculty with recent graduate training
2. It assures diversity of age among the faculty and makes certain that students will have young teachers as well as teachers who are middle-aged or older, providing freshness and enthusiasm as well as maturity
3. It makes the sustained achievement of top-level salaries for the ranks of associate and full professor less implausible
4. It creates greater flexibility for the institution in making curricular change
5. It increases the opportunities of the university to go into the academic market during those periods when the market is favorable to the institution³

Union College has adopted a quota system. A limit of sixty percent tenured faculty has been established by the board of trustees. The college no longer practices the seven year "up or out" rule. A new faculty member comes to the college on probation, and at the end of the probationary period

¹Leslie F. Malpass, James R. Montgomery, and Barbara A. Price, "Dividing Up the Tenure Pie," College and University Business, (August, 1974), p. 33.

²Keast, p. 50. ³Emenhiser, p. 3.

he is evaluated. The recommendation and full reports of his evaluation go to the board of trustees.

If after receiving the report, the Board of Trustees decides that the candidate is not qualified to receive tenure, then the administration is instructed to send the candidate a terminal contract. If the board of trustees decides that the candidate is qualified and if the report on positions has determined that there is a tenure position available, then he or she is granted tenure. If the Board of Trustees decides that the candidate is qualified to receive tenure, but that there is no tenure position available, then the Board authorizes the administration to give the candidate a contract. The contracts for faculty members who have passed the seventh year review but who have not received tenure may be three to five years in length. The contracts are renewable if both the candidate and the College agree to renew them. There is no limit to the number of times a contract may be renewed.¹

Such a method, of course, would not allow more room for young faculty at the lower ranks, than if those who did not receive tenure had been given tenure. And the courts would sustain the "expectation of re-employment" clause for any dismissal of nontenured on post probationary contracts. The AAUP castigates quota systems as well.

We are dismayed and we take issue with the attitude of those bodies and individuals who view professors as an easy target in these difficult times, and we urge upon the Association and its members a counter-offensive to ensure that transition to an era of 'no growth,' to the extent that such a transition cannot be avoided, is not at the expense of the basic values and commitments which unite our profession.

By 'basic values' of our profession, we obviously mean a number of things, but we mean most importantly the commitment to excellence in our pursuit of knowledge and to reaching decisions based upon that commitment. It is on this ground that we must oppose the imposition of tenure quotas, for they would supplant the vital criterion of merit with the artificial measure of an arbitrary percentage or range

¹W. J. Enteman, "Tenure at Union College," Liberal Education, (December, 1974), p. 461-466.

of percentages.¹

The Union College plan already has introduced the concept of contracts as an alternative to tenure. Proponents of this view call for an evaluation much like the one administered under the tenure system at the end of the probationary period. The proponents called for this evaluation to take place before each new contract is awarded. They call for an initial 3 year contract, then an 8 year contract, and finally a 15 year contract until retirement age.

A useful scheme might start with 2 three-year contracts

. . . leading to two seven year contracts, followed by a contract extending to the age of 60 and terminating in a contract to the mandatory retirement age. Each seven year contract would include a sabbatical year at full pay; in cases of nonrenewal, this provision would be of benefit in seeking new employment, or preparing for it.²

However, an opposing opinion points out that

. . . this renewal plan followed by extensive evaluation following a prescribed number of years, is really not attractive, since it is as threatening as the year to year contract with longer intervals, would be disastrous to a faculty morale, and would increase administrative control of classrooms to the point of threatening academic freedom. Since a tenured position was never meant to be a sinecure, then it follows that this continuous appointment ought to be based on continuous evaluation. If tenure is really only a reasonable expectation of continuance, along with immunity from capricious removal, then why should a university grant this expectation on the basis of service that has not been evaluated by colleagues

¹Donald J. Yanella, "1973 Report of the Special Committee on Nontenured Faculty," AAUP Bulletin, (Summer, 1973), p. 186.

²Florence Moog, "A Dragon Called Tenure," Change, (November, 1972), p. 61.

since the tenure decision? This question still defies serious analysis since most faculty are in agreement that tenured or untenured¹ faculty members can always be dismissed for cause.

The Keast Commission rejected all alternatives to the tenure system, and recommended the retaining of the tenure system. With respect to the contractual system, the commission felt that it would lead to greater self-interest on the part of faculties in recommending each other for reappointment. This would lead to a backwards step, with administration more heavily involved in these decisions, and the role of the faculty returning to the level of "hired hands."

In conclusion, the Keast Commission co-sponsored by both the AAUP and the AAC characterized the tenure system as "our most tested and reliable instrument for incorporating academic freedom into the heart of our institutions."² Undoubtedly the problems in the tenure system can and need to be corrected. One means to correct some problems

. . . is to create a clear set of standards and practices for hiring, promotion and dismissal. Definitions are needed of what an effective scholar should be, what the intervals of evaluation will be, and how performance will be measured. Everyone would then have to follow those rules and regulations and see that the requirements are fulfilled. To have a case reach the courtroom and a reasonable decision overturned because procedures were not properly followed is debilitating and unnecessary. There is no reason for any of our institutions to get caught in that difficulty.³

¹C. H. Farmer, "Colleague Evaluation: The Silence Is Deafening," Liberal Education, (October, 1976), p. 434.

²Keast, p. 22.

³Hackerman, p. 225.

The case for tenure is not for the individual faculty member. It

. . . must be made to rest upon what it does for the university, not upon a claim of special privilege for a class of individuals who form today but one part of the larger corps of the creative and intellectually productive in society. Tenure must be divorced from mere gratitude for prior service rendered. Such gratitude can be expressed in other ways--by honorary degrees, plaques, professorships named after the meritorious, even money payments. Tenure must also be divorced from need by the individual and his family for financial security.¹

VII. Subjective Literature and Research Related to Tenure

The Commission on Academic Tenure in Higher Education was established to re-examine faculty practices in colleges and universities throughout the United States. The Special Committee on Campus Tension of the American Council on Education (the Haven Commission), and the President's Commission on Campus Unrest (the Scranton Commission) both raised the thought that tenure as practiced in American higher education, may be responsible for some of the campus unrest that was a part of American higher education in the late 1960s and early 1970s. The responsibility of the Commission on Academic Tenure in Higher Education

. . . was to consider the operation of the tenure system in higher education, to evaluate the criticisms of the academic tenure made during recent years, to consider alternatives to tenure in effect or proposed for adoption, and to recommend needed modifications or improvements in the tenure system if it is to be retained.²

The Commission was created an independent and autonomous unit. Its findings, interpretations, and recommendations

¹Nisbeth, p. 38. ²Keast, p. xi.

were to be the views of the Commission itself, and not those of the American Association of University Professors, the Association of American Colleges, or of the Ford Foundation which funded it.

The Commission made a survey of the practices of tenure as found in higher education in the United States. It reported its findings, giving special attention to the comparison between the tenured and the nontenured faculty members. It studied the alternatives to tenure and rejected them all. It reported on the pros and cons of tenure, listing 11 arguments against tenure and 7 in favor of tenure. It decided in favor of tenure, but recommended the adoption of a quota system of tenure. It also considered, but rejected all forms of the contract system. It listed 47 recommendations to institutions of American higher education about the practice of tenure. It included a strong emphasis upon professional development of all faculty members, both tenured and nontenured, and a guarantee of due process of those faculty members who were denied tenure at the end of the probationary period.

Keast's report also included a section of chapters authored by authorities on the concept of tenure. A chapter by Walter P. Metzger entitled "Academic Tenure in America: A Historical Essay," skillfully traced the history of tenure from the Middle Ages to the present. Another article written by Victor G. Rosenblum entitled "Legal Dimensions of Tenure," detailed the Roth and Sindermann cases as they applied to the First Amendment rights and due process.

In 1973, Bardwell L. Smith and Associates produced a book entitled The Tenure Debate. This book considered the broad spectrum of the tenure controversy including the difference between the tenured and nontenured practices and policies, and collective bargaining. John R. Silber in his chapter on "Tenure in Context," challenged the concept that tenure is the only means of the protection of academic freedom.¹ Arvo Van Alstyne argued in his chapter that tenure does support academic freedom, and drew support from the Utah Commission to Study Tenure.²

Through the years many studies have been made to determine the actual practices of tenure at specific and various colleges and universities. In 1946, H. E. Bosley Studied American State Teachers Colleges. Of the 98 institutions reporting, only 15 colleges reported the existence of tenure laws for their college teachers. Forty-two of the 98 reporting schools dismissed 95 teachers over a 5 year period. Reasons given for the dismissal ranged from militant pacifism and inciting students to disobedience, to "of such a temperament they could not work with other people." Procedures for removal of a faculty member were reported as "on recommendation of the president" in every case, with only

¹Silber, "Tenure in Context," in The Tenure Debate, pp. 34-53.

²Arvo Van Alstyne, "Tenure System at the University of Utah," The Tenure Debate, ed. Bardwell L. Smith and Associates (San Francisco: Jossey-Bass Inc., 1971), pp. 74-96.

one institution mentioning a means of appeal.¹

In 1955, C. P. Dennison studied 8 eastern colleges finding that nearly all professors and associate professors had tenure. All of the colleges had a probationary period of up to 7 years, and all of the colleges either had explicit trustee legislation defining dismissal procedures or had adopted the principles of the AAUP-AAC.

The composition of the body before whom the accused teacher is given a hearing is presumably an important factor in the justice of the process. Of the seven institutions that have a prescribed hearing process, four assign the hearing to a faculty committee and three to a joint trustee-faculty group. Three of the four faculty committees are the regular elected standing advisory committees of their respective faculties, while the fourth is a specially designated group. Only two institutions have a written provision for an appeal and a second hearing.²

In 1962, Paul Dressel, through the office of Institutional Research at Michigan State University, undertook a study of the tenure policies of 31 selected major universities. He found that approximately 30% of the faculty members at the universities were full professors, 24% were associate professors, 26% were assistant professors, and 18% were instructors. The combined percentage of the top 2 ranks equalled 54% of the faculty. This, he pointed out, was close to the 52% reported by the AAUP of 452 institutions in 1961.³

¹H. E. Bosley, Administration of Faculty Personnel in State Teacher Colleges (Oneonta, New York: The American Association of Teachers Colleges, 1946), pp. 122-124.

²Charles P. Dennison, Faculty Rights and Obligations (New York: Teachers College Columbia, 1955), p. 38.

³"Committee Z, The Economic Status of the Profession, 1960-61, Annual Report," AAUP Bulletin, (Summer, 1961), pp. 252-253.

Dressel concludes that universities

. . . in general have rejected the idea of reserving tenure for a specific number (or percentage) of faculty, but have tried to maintain a balance between those on tenure and those on probationary appointments by careful screening. The task is complicated by: (1) lack of objectivity in recommending promotion and tenure; (2) overly generous commitments by administrators to new appointees; (3) discrepancies among departments in standards and qualifications for promotion and tenure; (4) failure to terminate the services of certain persons at the appropriate time; (5) the expediency of giving promotions and tenure in lieu of increase in salary; and (6) the extension of rank and tenure to the growing numbers of administrative and noninstructional personnel.¹

In 1971, B. N. Shaw studied the tenure policies and procedures in State Universities and Land-Grant Colleges finding little to no change from other studies with respect to the length of the probationary period or the ratio among the professorial ranks. He did find that 30% of the institutions were unable to find data that would have provided information concerning tenure termination. He recommended that colleges develop more efficient record keeping procedures, that colleges ". . . examine their institutional documents or statements explaining their tenure policies and procedures and evaluate the same considering completeness and precision as the main criteria. . . ." ² He further recommended that ". . . colleges and universities include in their statements on tenure policies and procedures all information of which a teacher should be aware." ³

James C. Walters studied "Academic Tenure in Indiana Higher Education," in 1971. Of the 32 institutions of higher

¹Dressel, pp. 252-253. ²Shaw, p. 120. ³Ibid.

education in Indiana that hold accreditation with the North Central Association of Colleges and Secondary Schools, he chose to study 17 of them. Four were state-assisted universities, 5 were privately supported universities, and 8 were privately supported colleges. Walters found only 1 of the 17 institutions that did not recognize or confer tenure. Only 5 of the 17 institutions provided the right of appeal from denial of tenure and described the procedures to be followed in cases involving the termination of tenure. Walters listed many recommendations, one of which was that

. . . the development of more precisely defined evaluative criteria and improved procedures for tenure evaluation should be sought by institutions retaining the tenure system. Such criteria and procedures should be made known to the individuals being evaluated.¹

In 1975, Bethany Jeanne Fisher made "A Study of the Implications of the Nonretention of Tenured and Nontenured Faculty for Public Four-Year Institutions of Higher Education in the United States." One of her conclusions that is important to the present study is that

. . . a tenured faculty member is entitled to due process of law because of a property interest in continued employment. Whereas, a nontenured faculty member has the burden of proving that a property or liberty interest exists, before the faculty member is entitled to due process of law.²

"A Review of Tenure Policies of Private Higher Education in the Commonwealth of Virginia, 1964 to 1974," was the subject of Jack C. Van Newkirk's study. The sample used for the study involved 12 of the 18 accredited institutions

¹Walters, p. 161. ²Fisher, p. 218.

of higher education in Virginia. It was found that administrators in private institutions exercised extensive authority in matters of tenure policies and practices. Only 2 of the institutions had released a faculty member over a 10 year period. Van Newkirk also concluded that "the institutions participating in the study seemed to be oversensitive about their independence to a point of overprotection of their internal activities and to the preference for isolationism rather than collective problem-solving."¹

The great controversy over tenure practices of the early 1970s has subsided. The debates conducted in the journals over the importance of tenure or the opposition to tenure have slowed. Alternatives to tenure are in practice, and tenure itself is still very much a part of American higher education. The research that took place before or during the height of the controversy is now out-dated. Changes come slower in the larger universities. It is from this perspective, that a study of tenure as practiced in 1977-1978 in the smaller colleges in America was undertaken. Chapter IV analyzes the results of that study.

¹Van Newkirk, p. 135

CHAPTER III

DESIGN OF THE STUDY

The purpose of this study is to determine the current tenure policies and practices of the 189 colleges associated with the Council for the Advancement of Small Colleges. There were two methods used in this study for the collection of data. The first method used was that of a survey questionnaire sent to the participating colleges, for their completion and return. This questionnaire was used to determine the practice of tenure in these colleges. The second method involved content analysis of tenure policies as stated in the most recent publication of the faculty handbook of the participating CASC colleges. It is the purpose of this chapter to identify the population used in this study, to describe the two instruments that were used, and to outline the procedures that were followed for the collection and tabulation of the data.

This study of the 189 CASC colleges was patterned after the study made by B. N. Shaw in 1969-1970, who used as his population the 106 State Universities and Land-Grant Colleges which were members of the National Association of State Universities and Land-Grant Colleges.

I. Population Of The Study

At the time this study was begun, in the fall of 1977, there were 189 colleges with membership in CASC. Of the 50 States in the Union, there were only 8 that were not represented by a CASC college. Eleven states had only 1 member of CASC, and 10 states had a number of member colleges ranging between 8 and 17. See appendix B for complete list of CASC member colleges. CASC colleges are private liberal arts colleges with no more than 2,000 full-time equivalent students. The colleges must have been in operation at least 3 years and offer a minimum of 5 major areas of study with 50% or more of its course work in general education. In addition, a CASC college must also be recognized as a candidate for regional accreditation or have received its full accreditation from the regional accreditation association.

II. Sources Of The Data

The instrument used to determine the practice of tenure in CASC colleges was a questionnaire adapted from Shaw's study of tenure in State Universities and Land-Grant colleges. The questionnaire (see appendix C) asked for the composition of the faculty both full and part-time and tenured for the year 1977 and the year 1972. In particular the instrument sought to determine the number of times the CASC colleges had denied tenure to nontenured faculty, the due process afforded those denied tenure, and the number given tenure following due process. In addition, the questionnaire

sought to determine the number of times that tenured faculty members had been dismissed in the past decade, the stated reasons for the dismissal, and the due process afforded the tenured members of the faculty. The last area of information sought to determine the alternatives to tenure that the college had considered or was considering, and the year in which the tenure policies had most recently been reviewed.

The instrument developed and used for content analysis in Shaw's study was more extensive than the questionnaire. See appendix D for the Instrument For Content Analysis of Documents Concerning Academic Tenure Policies and Procedures. This instrument analyzed the type of tenure that a particular institution had adopted, determined the process for the acquisition of tenure along with its criteria, and ascertained the degree of faculty involvement and the right of due process afforded in the event of tenure denial. The instrument also included delineation of the process for the termination, the justifiable cause for termination, and the due process afforded to the person whose tenure was being removed.

The process of analyzing the tenure policies found in the 120 faculty handbooks received from the population needed a high degree of objectivity. The analyst not only had to be objective, but also consistent (reliable) in the study of the handbooks.

The same procedures that Shaw introduced were followed in this study. Three of the 120 faculty handbooks were selected for use in a reliability test to determine this author's

objectivity in evaluation. Three analysts were selected to complete the instrument for content analysis. Each of the 3 was given a copy of instruction (see appendix E), 3 copies of the instrument for content analysis and a copy of the 3 handbooks selected for analysis and for use in the reliability test. The data recorded by the independent analysts and the data recorded by the investigator were compared. The results of this test for consistency and objectivity show that the 3 analysts and the researcher agreed 91.4% of the time. See appendix F for a chart showing agreement and disagreement in content analysis between the investigator and the 3 independent analysts.

Table 3.1.--Percentage of Agreement Between the Researcher and the Three Analysts Determining the Reliability of Content Analysis of the Institutional Documents Relating to Tenure Policies and Procedures

Analysts	Document X	Document Y	Document Z	Averages
A	93.5	93.5	90.3	92.5
B	93.5	96.8	83.9	91.4
C	90.3	93.5	87.1	90.3
Averages	92.5	94.6	88.2	91.4

III. Procedures

On February 1, 1978, a packet was mailed to the presidents of the 189 CASC colleges. The packets contained 2 letters, the first one was from the Vice-President of CASC colleges introducing the researcher and endorsing the study (see

appendix G); the second letter was from the researcher and the chairman of his committee from Michigan State University (see appendix H). This letter explained the purpose of the study and asked for the assistance of the presidents of the colleges. The questionnaire was enclosed with 2 envelopes, one for the completed questionnaire and the other for the current faculty handbook of the college. The first and only follow-up letter was mailed to the presidents on February 24, 1978 (see appendix I). It was mailed to 130 CASC colleges that failed to respond by sending either the completed questionnaire or the faculty handbook, or both. The responses for requests for completed questionnaires or handbooks are shown in table 3.2. When the handbooks were received from the participating CASC colleges, they were read and systematically interpreted. The content analysis documents were completed from this study. In the event some answers were not clearly given, inferences were drawn from the documents that allowed for the completion of each of the instruments for content analysis. It was discovered by means of the questionnaire and the faculty handbooks, that 31 of the participating colleges did not have any tenure policies.

Since the purpose of the study was to determine the tenure policies and practices of CASC colleges, it was assumed that a lack of a tenure policy was a tenure policy. Therefore the 31 colleges that reported that they did not have tenure were examined apart from the other colleges that had tenure. They were studied with respect to faculty

Table, 3.2--The Dates, Numbers, and Percentages of Questionnaires and Faculty Handbooks Received From the CASC Colleges

Dates	Handbooks Received		Questionnaires Received	
	N	%	N	%
February 13	17	9	30	16
February 20	19	10	32	17
February 27	24	13	17	9
March 6	30	16	31	16
March 13	20	11	7	4
March 20	6	3	5	3
March 27	3	2	3	2
April 3	1	1	2	1
Total	120	64	127	67

composition, initiation of faculty employment, and termination of faculty employment.

It was also found that 15 colleges had some kind of periodic contract renewal system. Again these colleges were considered an important part of this study, but the data from these colleges did not become a part of the data from colleges that did have a tenure system. The contractual systems were compared as to faculty composition by rank and part-time and full-time in 1977 and 1972. The initial contract, extended contracts, the concept of probation, and the failure to renew short-term or long-term contracts were studied in much the same way tenure was studied for the other colleges.

Substantive and procedural due processes were also studied in the faculty handbooks in the colleges that had the contractual system and compared with the colleges that had tenure.

Questionnaires were received from 127 of the CASC colleges and faculty handbooks were received from 120 colleges. Ninety-one colleges sent the questionnaire and faculty handbook, 145 colleges sent either the questionnaire or the handbook or both. Nine colleges indicated that they were unable to participate for reasons of time, bankruptcy, death of personnel, or lack of interest. A total of 175 colleges responded to the first or second mailing.

The data from the questionnaires and the instrument for content analysis were hand tabulated. The CASC data were compared within the CASC colleges themselves, with the results of the Shaw study, and with other pertinent studies that were reviewed in Chapter II.

CHAPTER IV

ANALYSIS OF RESULTS

This chapter describes the tenure policies and practices of CASC colleges based upon their tenure policies as expressed in the most recent faculty handbook (see appendix D). Institutional definitions and classifications of tenure were compared. The stated criteria for the awarding of tenure were compared, as well as the procedures for the acquisition of tenure. When tenure was denied, the various methods of appeal were discussed. This section of the chapter concludes with a delineation of the criteria and stated procedures for tenure termination.

The tenure practices were contrasted, based upon the questionnaire (see appendix C) received from the CASC colleges. The faculty mix has been compared by rank and by tenure. The number and type of proceedings originating at the colleges for terminating the services of either tenured or nontenured faculty members were also examined.

The membership in the Council for the Advancement of Small Colleges was 189 institutions in the Fall of 1977. One hundred and seventy-three of the colleges responded in some manner to the request for information. One hundred and three colleges returned both the completed questionnaire and the

faculty handbook. One hundred and twenty colleges returned the faculty handbook; of these, 103 had a tenure policy. One hundred and twenty-seven colleges returned the completed questionnaire; of these, 108 had a tenure policy, 6 had a contract renewal policy, and 15 had no tenure policy. In addition to these 145 colleges that returned either the faculty handbook or the questionnaire or both, there were 13 additional colleges that indicated that they had no tenure policy; 17 indicated that they could not participate for reasons of lack of time, death of personnel, bankruptcy, or lack of interest. Fourteen colleges did not reply. A distribution of the number and percentage of materials received from the requests made to the CASC colleges is explained in table 4.1.

I. Institutional Definitions of Tenure

Of the 120 faculty handbooks received, 103 of them represented colleges that had tenure policies. Eighty-three included a specific definition of tenure; 74 colleges had legal tenure and 29 had moral tenure. In the Shaw study, 22 of the 80 (28%) provided a definition of tenure in their handbooks. The Van Newkirk study provided tenure definitions in 7 of 12 responses (58%).²

The following definitions of moral tenure were established by the institutions and include statements which make them unenforceable by a court of law.

Tenure shall not in any respect restrict the right of the college to release a faculty member for any of

¹Shaw, p. 47. ²Van Newkirk, p. 76.

Table 4.1.--A Distribution of the Number and Percentage of Faculty Handbooks and Questionnaires That Were Received from One Hundred and Eighty-Nine CASC Colleges

Employment Policy	Questionnaire and Handbook		Handbook Only		Questionnaire Only		Totals	
	N	%	N	%	N	%	N	%
Tenure	91	48	12	6	17	9	120	63
Contracts	5	3	4	2	1	1	10	5
No Tenure	7	4	1	1	7	4	15	8
Total	103	54	17	9	25	14	145	77

the following reasons: the discontinuance of a teaching field in whole or in part because of financial necessity; the deterioration of the intellectual or physical capacity of the faculty member; academic incompetence, moral turpitude or a change in the faculty member's view-point which results in teaching or action contrary to the stated objectives of the college.¹

The purpose of tenure is to assure faculty members of freedom for teaching and research and of a substantial degree of economic security. While faculty members on continuous tenure are not subject to annual reelection, their status may be reviewed at any time by the Board of Trustees upon recommendation by the president.

Tenure involves continuous appointment of a faculty member without the necessity of reappointment annually or at other specified intervals. . . . Faculty members with tenure may assume that they have continuous employment at _____ College unless they receive specific notification to the contrary.

Tenure is understood to be the right a teacher has to continue permanently in his position as long as he/she has services in line with his/her professional

¹The letter sent to the Presidents of CASC colleges explaining the study and seeking participation, assured the participants that "all responses will be held in confidence." Therefore the faculty handbooks from which many quotes in this chapter have been taken are not being identified.

training which the institution needs. Tenure is subject to continued evidencing of good moral character, professional effectiveness, and loyalty to the institution, its ideals and objectives.

The following definitions of tenure can be made legally binding by a court of law. They illustrate legal tenure.

To reinforce and give substance to the foregoing principles of academic freedom, we have adopted a policy with respect to the granting of tenure to members of the College Faculty. Tenure is the form by which we give legal and economic protection to academic freedom. It is a guarantee against dismissal of a faculty member by the administration through caprice or animosity. It is also the means by which the College maintains its standards of professional excellence.

Tenure means appointment without specified expiration date, granted by the college after adequate evaluation. The granting of tenure implies that the faculty member will continue to maintain a high level of competence in his academic duties and in other areas of professional responsibility. The granting of tenure also implies that the college may not discharge the faculty member without the clear showing of adequate cause and without allowing him the opportunity to refute any charges brought against him that he believes to be without basis or inadequate to warrant dismissal.

Tenure is defined as the right to security in the responsible execution of one's job. It means the employment of a teacher is continued from year to year unless economic circumstances of the College make it necessary to terminate the position. It provides a form of institutional protection from external pressures, either ecclesiastical or political, which might interfere with the quality of the teacher's work. It should not be interpreted to mean (1) the attainment of perfection or (2) the protection of laziness or overly destructive behavior. Tenure is to be an award for excellence and faithfulness in contributions to the institution as a demonstration of mutual trust and commitment.

Although tenure is not an unconditional guarantee of employment, it does assure the tenured faculty member that he or she will not be dismissed without both an explicit statement of the cause and a fair hearing to establish whether the cause is valid, pertinent, and sufficient to justify such an action.

The four definitions that illustrate moral tenure contain clauses like "tenure shall not in any respect restrict the right of the college to release a faculty member;" a faculty member's ". . . status may be reviewed at any time by the board of trustees;" faculty members may assume they have tenure ". . . unless they received specific notification to the contrary;" and "tenure is subject to the continual evidencing of" Moral tenure depends upon the good will of its enforcers--administrators and members of boards of trustees.

The definitions that illustrate legal tenure reveal a very noticeable difference, for they contain phrases such as "Tenure is the form by which we give legal and economic protection to academic freedom;" "the college may not discharge the faculty member without the clear showing of adequate cause;" a ". . . faculty member may not be dismissed without both an explicit statement of the cause and a fair hearing to establish whether the cause is valid." Legal tenure guarantees the right of procedural and substantive due process, involving a hearing and right of appeal.

II. Acquisition of Tenure

The steps and procedures governing the acquisition of tenure were analyzed using each of the college handbooks. The pre-tenure rank, the length of the probationary period, the criteria, and the procedures for the acquisition of tenure were identified and compared. If denial of tenure were stipulated, appeal procedures were explained in the handbook.

The Pre-Tenure Rank

One hundred colleges granted tenure only after an evaluation of the candidate had been completed and he had been recommended to the appropriate person or board. Only 3 granted tenure automatically after serving a stated period of time. In the Van Newkirk study, only 1 institution of the 12 studied indicated that it granted tenure automatically.¹

Eighty-two colleges indicated that the rank of instructor was designated as the pre-tenure rank, i.e., the rank in which the probationary time was to begin. These 82 colleges only granted tenure to faculty members in the upper ranks of assistant professor, associate professor, and full professor. There were 18 colleges that indicated their pre-tenure rank was that of assistant professor, leaving only those persons in the associate professor or professor ranks eligible for tenure. Three colleges indicated they had no pre-tenure rank. Table 4.2 compares the pre-tenure rank in this study with the pre-tenure rank found in the Shaw study. Table 4.3 shows a comparison of the lowest rank at which tenure was granted in the Pfnister study, the Shaw study, and this study.

In the Pfnister study, 44% of the colleges reported that they granted tenure to faculty members at the instructor rank; the Shaw study reported 28% of the institutions did so. In this study of CASC colleges only 3% of the participants indicated that they granted tenure at the instructor rank.

¹Van Newkirk, p. 76.

Table 4.2.--Comparison of the Pre-Tenure Ranks in the State Universities and Land-Grant Colleges of the Shaw Study to the CASC Colleges of This Study¹

Pre-Tenure Rank	Number of Institutions Reporting in Shaw Study	Percentage Reporting N = 80	Number of Institutions Reporting in This Study	Percentage Reporting N = 80
Associate Professor	15	19	--	--
Assistant Professor	37	46	18	17
Instructor	22	27	82	80
Not Specific	6	8	3	3
Total	80	100	103	100

The assistant professors were eligible for tenure in 34% of the institutions of the Pfnister study, 46% in the Shaw study, and 80% in this study.

The Pre-Tenure Probationary Period

The probationary period is that period of time between the initial contract of a new faculty member and the time that he is granted tenure. Some CASC colleges had a stated length of probationary time for all ranks. Other colleges varied the length of probationary time according to the rank the professor was granted at the time of his initial contract. A few colleges did not specify any length of time for the probationary period.

¹Shaw, p. 60.

Table 4.3.--Comparison of the Rank at Which Tenure Is Granted by One Hundred and Twenty-Eight Colleges in Pfnister's Study During 1957-1958 and by Eighty State Universities and Land-Grant Colleges in the Shaw Study During 1969-1970 and the One Hundred and Three CASC Colleges in This Study During 1977-1978

Pre-Tenure Rank	Pfnister Study ¹		Shaw Study ²		This Study	
	Number of Institutions Reporting	Percentage	Number of Institutions Reporting	Percentage	Number of Institutions Reporting	Percentage
Professor	2	2	--	--	--	--
Associate Professor	16	13	15	19	18	17
Assistant Professor	44	34	37	46	82	80
Instructor	57	44	22	28	3	3
Not Specified	9	7	6	8	--	--
Total	128	100	80	100	103	100

84

¹Allan O. Pfnister, "Promotion and Tenure Policies in Under-Graduate Colleges," North Central Association Quarterly, XXXII (January, 1958), p. 274.

²Shaw, p. 61.

Eighty-three CASC colleges indicated they had a set number of years for the probationary period for all ranks. Sixty-one required 7 years probationary status; 10 required 6 years; 7 required 5 years; 3 required 4 years; and 2 required only 3 years. For the 83 colleges that had uniform duration of the pre-tenure rank, the mean was 6.5 years.

Keast found that the median length of the probationary period was ". . . six years for all institutions, seven years in private universities, four years in public two-year colleges. Eighteen percent of all institutions use a maximum period of three years or less; 28% use a maximum of four years or less."¹ Two percent of the CASC colleges used a maximum probationary period of 3 years or less, and only 6% used a maximum of 4 years or less.

Thirteen of the CASC colleges adopted a probationary period that varied according to the rank in which one was appointed at the time of the initial contract. Of those faculty members who were first contracted at the rank of professor, 10 colleges required between 2 and 4 years of probation and 3 required 5 or 6 years. Of those faculty members contracted at the rank of associate professor, 8 of the 13 colleges required between 3 and 4 years of probation, 5 required 5 or 6 years. Of those faculty members contracted at the rank of assistant professor, 6 colleges required between 3 and 5 years, and 7 required 6 years. There were three colleges in the study that granted tenure at the instructor level.

¹Keast, p. 5.

Credit For Prior Service

Sixty-eight of the colleges reporting in this study stated that they gave some credit for years of teaching experience at other institutions of higher education. Some indicated that to be granted such credit, the other teaching experience had to be at an institution that was accredited by the regional accrediting association; some indicated that the experience must have been in a college approved by the particular church affiliation. Three colleges indicated that they would not accept previous college teaching experience, and 32 were not specific.

Forty-seven colleges indicated that the number of years of credit toward the probationary period for teaching experience at other institutions was uniform, irrespective of rank. One college gave 1 year credit; 7 colleges gave 2 years credit; 36 colleges granted 3 years credit; and 2 colleges gave 4 years credit. Fourteen colleges indicated that they would give from 1 to 3 years credit as a minimum with a mean of 1.5 years. The same colleges indicated they would give a maximum of 2 to 6 years credit with a mean of 3.4 years of credit. Table 4.4 shows the maximum and minimum number of years of prior service accepted by these 14 CASC colleges. Twenty-eight institutions in the Shaw study indicated they would "accept prior service at other institutions to reduce their prescribed probationary periods. The majority of the 28 accept up to 3 years."¹

¹Shaw, p. 65.

Table 4.4.--The Acceptance of a Professor's Prior Service at Another Institution by CASC Colleges During 1977-1978

Minimum Years Accepted		Maximum Years Accepted	
Number of Years	Number of Colleges	Number of Years	Number of Colleges
1	9	2	2
2	3	3	7
3	2	4	3
-	-	5	1
-	-	6	1
Total	14	Total	14

The Criteria for Acquisition of Tenure

The criteria for tenure acquisition that were specified in the CASC colleges were widely varied. Three criteria that were most frequently stated were: teaching ability, professional degree and achievement, and cooperation and general services to the institution. Ninety-five of the 103 colleges listed the criteria for the acquisition of tenure. Each of the 95 institutions indicated teaching ability, cooperation, and general service to the institutions were important. Ninety-two indicated that professional degree and achievement were important. The fourth ranked criterion was scholarly publications, listed by 67 colleges. The fifth criterion was research ability, 28 colleges; sixth was advising service to students, 32 colleges; seventh was community service, 15 colleges; and

eighth was character and personality, 13 colleges.¹ Other criteria used were: academic citizenship, Christian commitment, doctrinal faith, theological training, and performing and visual arts.

Table 4.5 compares the criteria for the acquisition of tenure in this study of CASC colleges with the criteria listed in the Shaw study of State Universities and Land-Grant Colleges.

The Shaw study indicated that slightly more than one-half (54%) of the institutions specified necessary criteria for tenure consideration. The Van Newkirk study indicated that one-third had no policy or very general criteria for tenure acquisition. The remaining two-thirds of the colleges he studied indicated 1 or 2 standards that need to be reached or maintained.² In this study 92% of the participating colleges indicated specific criteria that had to be met in order to be considered for tenure.

One of the goals of the McCleary study from the University of Utah was to classify the criteria used in the acquisition of tenure and it differed from the criteria of the CASC institutions in that community service was more significant than institutional service. His study concluded with 6 criteria most frequently used. Listed in order of importance, they were: teaching, research, community service, publication,

¹The total will not equal 100% because most of the 81 colleges indicated more than one criterion necessary for the acquisition of tenure.

²Van Newkirk, p. 77.

Table 4.5.--A Comparison of the Criteria For Acquisition of Tenure and the Number of Institutions in the Shaw¹ Study During 1969-1970 with This Study During 1977-1978

Criteria for the Acquisition of Tenure	Number of Institutions in Shaw Study N = 80	Percentage	Number of Institutions in This Study N = 103	Percentage
Teaching ability	34	43	95	92
Cooperation and general service to the college	17	21	94	91
Professional degree and achievement	25	31	92	89
Scholarly publications	17	21	67	75
Advising service to students	4	5	32	31
Research ability	33	38	28	27
Community service	2	3	15	15
Character and personality	9	11	13	13
Christian commitment	--	--	8	8
Creative ability	1	1	1	1
Other professional contributions	5	6	1	1
Not specific about criteria	46	58	8	8

¹Shaw, p. 51.

personal characteristics, and professional activities.¹

Governing Procedures For the Granting or Denial of Tenure

Initiating the process for tenure consideration was usually made in one of two ways. First, by attaining the appropriate number of years in the probationary status, in which case the process was begun by someone other than the candidate himself. Second, once the candidate decided that he had met the criteria for the acquisition of tenure, he made application to the appropriate person or committee. One of the faculty handbooks stated the procedures as follows:

Prior to tenure consideration each faculty member shall be evaluated, at least every other year, by students, colleagues, the Faculty Status Committee, and the Dean of Academic Affairs. The results of such evaluations shall be made known to him by the Dean of Academic Affairs. Candidates for tenure will be reviewed by the Faculty Status Committee and the Dean will make independent recommendations to the President. In the event that these recommendations differ, the President will call the Committee and the Dean together and try to reconcile the differences.

The second method of initiating the process for tenure consideration is illustrated in the following quote:

It is the responsibility of the individual faculty member to show cause for the granting of tenure, via a letter to the Committee on Rank, Tenure and Promotion, stating his/her request and supporting the request by including the following documentation: the department chairperson's annual evaluations for at least the last three years, the current chairperson's evaluation, the self-evaluation, peer evaluations from the past three years, and student course evaluations for the last three years.

¹Lloyd E. McCleary "Promotion and Tenure: A Content Analysis Study of Department Criteria at a Major University" (Ph.D. dissertation, University of Utah, 1976), p. 88.

It was found that 18 of the CASC colleges left the governing procedures for the acquisition of tenure in the hands of the administration. One college that limited this procedure to the administration, stated its tenure policy in this way:

Tenure is granted to a new faculty member after a probationary period of three years. Such recommendations are made by the President to the Board, usually after nominations by the Dean of Instruction or Division Chairperson. Nominations and/or recommendations for tenure are not automatic at any time. If, and when such recommendations are made and approved by the Board, the teacher receives the status of tenure.

Seventy-six colleges reserved the action of tenure granting to the administration, but some kind of faculty consultation or action was a part of the governing procedure. Only 9 did not specify what groups were involved in the governing procedures. Table 4.6 shows a complete comparison of the governing procedures for the acquisition of tenure as found in this study and in the Shaw study.¹

If the administrative personnel initiated the tenuring procedure, the process ordinarily followed this course: The departmental chairperson, or the academic dean made a list of all faculty members who were in their final probationary year. Added to this list were other probationary faculty members who had been with the college for less than the maximum probationary period, and had shown the kind of service to the institution that made them eligible for earlier tenuring. This list of prospective tenure candidates was given to the

¹Shaw, p. 72.

chairperson of a standing faculty committee, usually referred to as the committee on promotion and tenure. The committee chairperson asked the candidates who were in their final probationary year to make a self-evaluation and submit it to the committee. A recommendation for each candidate was requested from the divisional chairperson. Those candidates who were being recommended with less than the maximum probationary years at the college were usually recommended by the divisional chairperson to the committee on promotion and tenure.

Table 4.6.--Governing Procedures for the Acquisition of Tenure

	Number in Shaw Study N = 80	Percentage	Number in This Study N = 103	Percentage
Reserve action to the adminis- tration	30	38	18	17
Reserve action to the adminis- tration but pro- vide some input from faculty	14	18	76	74
Not specific	36	45	9	9
Total	80	100	103	100

The committee on promotion and tenure then studied the recommendations in hand, and scheduled interviews with the candidate's peers, his students, and the candidate himself, in order to come to a proper and defensible decision. This committee then gave its written recommendation to the dean and

divisional chairperson. The dean and divisional chairperson examined the recommendation of the committee and if they had differences of opinion with the committee's recommendation, they met with the committee in an effort to come to an agreement. The recommendation of the dean and the divisional chairperson, along with the recommendation from the committee on promotion and tenure was then sent to the president. The president sent his recommendation, with accompanying documents, to the board of trustees.

If the initiative were taken by the candidate himself, he simply sent a copy of his self-evaluation and personal recommendation to the divisional chairperson, who upon receiving it followed the remaining procedures as outlined above.

One of the CASC colleges defined the responsibilities of its rank and tenure committee in the following way.

The Rank and Tenure Committee is charged with evaluation, and reporting thereon to the proper authority, of applications of faculty members desiring promotion and/or tenure. The committee shall be composed of five members, one of whom is Chairman, each selected by the voting membership for a two-year term from an eligibility list of all faculty members with the rank of Professor, Associate Professor, or Assistant Professor who have taught at the College for at least three years prior to the time of election.

A second college described the function and composition of its tenure and promotion committee this way.

The Committee acts as a faculty review body in the matter of the granting of tenure and promotion in rank to faculty members. It submits its recommendations to the Dean of the College. The Committee is comprised of three tenured faculty members with three or more years of service at the College.

Appeal From the Denial of Tenure

The Keast report recommended that

. . . each institution should develop clear procedures under which a faculty member who, by an otherwise final decision, is denied reappointment or tenure can secure an impartial review of the decision if he believes that it results from improper procedure, or rests on grounds which violate academic freedom or constitutional rights, or is substantively arbitrary or capricious. In such appeal procedures, the burden of proof should be on the faculty member.¹

The CASC colleges did not follow the recommendation of the Keast Commission report of 1973 regarding the appeal for denial of tenure. There were 20 colleges that granted a right to appeal a decision to deny tenure, and the same number of colleges gave specific guidelines to follow in the course of the appeal. Eighty-three of the reporting colleges did not make the right of an appeal or its procedures specific. Table 4.7 gives a comparison of the right to appeal as found in this study, the Shaw study,² and the Walters study.³

The procedure for an appeal to reverse a decision to deny tenure was expressed in one of the CASC college handbooks:

Method of appeal of recommendations for denial of tenure: An impartial review board consisting of one person selected by the faculty member, one selected by the administration, and one agreed upon by both shall review any case appealed by a faculty member and make recommendations to the President. Final action rests with the Board of Trustees.

In all cases where the facts are in dispute the accused faculty member shall have the option to face the accusers and to be heard in his own defense by all bodies that pass judgment upon the case. The faculty member should be permitted to have with him or her an advisor of his own choosing who may act as

¹Keast, p. 72. ²Shaw, p. 77. ³Walters, p. 95.

Table 4.7.--A Comparison of the Right to Appeal from Denial of Tenure in the Eighty Universities of the Shaw Study During 1969-1970, The Seventeen Institutions of the Walters Study During 1969-1970 with the One Hundred and Three CASC Colleges of This Study During 1977-1978

	Shaw Study N = 80		Walters Study N = 17		This Study N = 103	
	Number	Percentage	Number	Percentage	Number	Percentage
Right to Appeal Specified	11	14	5	17	20	19.4
Right to Appeal Not Specified	69	86	12	71	83	80.6
Total	80	100	17	100	103	100.0

counsel. There should be a full stenographic record of the hearing available to the parties concerned.

Another faculty handbook stated the policy by saying:

Any faculty member who feels he has not been treated fairly by the Committee on Promotion and Tenure may submit a statement and corroborating evidence to the Steering Committee appealing the recommendation of the Committee on Promotion and Tenure and the Steering Committee will then present it to the Educational Policy Committee of the Board of Trustees whose final action will be taken.

As indicated in the two illustrations above, the final decision was made by the Board of Trustees. The 18 CASC colleges that provided for an appeal procedure allowed some kind of hearing in which the faculty member under consideration could be heard by his peers. The hearing committee members were not members of the original faculty tenure and promotion committee. Often, there were administrative members on the hearing committee. The disposition of the case was made by the board of trustees reviewing the reports of the committee on tenure and promotion and the hearing committee, and then making an investigation of its own if it so desired.

III. Termination of Tenure

In this section, the criteria and the procedures for the termination of tenure will be presented. This information is based upon the faculty handbooks of the 103 tenure-granting CASC colleges.

The Criteria for the Termination of Tenure

The influence of the American Association of University Professors was evident in the CASC college handbooks.

Thirty-eight of the 103 reporting colleges mentioned the AAUP directly, in addition to specifying the criteria for termination. Eight more stated that they followed the 1940 Statement of Principles¹ when considering the termination of a faculty member's employment. Forty-six colleges indicated that the AAUP Statement of Principles was considered when termination procedures were instituted. Many other college handbooks used the language of the Statement of Principles in their section on tenure.

There were 86 CASC colleges that were specific about the criteria for the termination of tenure; 9 colleges were not specific. Of those that were specific, all of them listed professional incompetence as grounds for dismissal; 85 listed immorality or misconduct; 70 listed financial exigencies; 68 listed neglect of duty; 70 listed failure in institutional relationship; and 60 listed incapacity or disability. These reasons and others are compared with the reasons listed in the Shaw study in Table 4.8.

Faculty members who were being considered for dismissal due to incapacity or disability were given some special considerations such as those stated in this handbook.

Dismissal for reasons of physical or emotional disability shall be based on convincing medical and psychiatric evidence developed by qualified professionals. However, failure to develop such evidence due to the unwillingness of the faculty member to undergo reasonable examinations at University expense shall not prohibit proceeding on the best available alternative evidence. A tenured faculty member dismissed for such reasons may request, in writing,

¹See appendix A

Table 4.8.--A Comparison of the Criteria for the Termination of Tenure as Specified by the Institutions in the Shaw¹ Study During 1969-1970 with the CASC Colleges of This Study During 1977-1978

Criteria for the termination of Tenure	Number of Institutions in Shaw Study N = 40	Percentage	Number of Institutions in This Study N = 86	Percentage
Professional incompetence	28	70	86	100
Immorality or misconduct	32	80	85	99
Financial exigencies	17	43	73	85
Failure in institutional relationships	6	15	70	81
Neglect of duty	25	78	68	79
Incapacity or disability	14	35	60	70
Failure in professional growth	1	3	31	36
Crime, including treason	12	30	22	26
A change in theological position	0	0	19	22
Discontinuance of a department or program	4	10	5	6
Dishonesty	2	5	1	1
Rank insubordination	2	5	4	5

Table 4.8.--Continued

Criteria for the termination of Tenure	Number of Institutions in Shaw Study N = 40	Percentage	Number of Institutions in This Study N - 86	Percentage
Gross violation of professional ethics	2	5	0	0
Use of illegal drugs, alcohol, or tobacco	0	0	2	2
Change in administrative roles	0	0	2	2
Inciting to riot	0	0	1	1
National security or immigration problems	0	0	1	1
Failure to return from leave within the period specified	1	3	0	0
To illegally advocate overthrow of our constitutional form of government	1	3	0	0
National emergency which warrants a reduction in staff	0	0	0	0

¹Shaw, p. 86.

a leave of absence without pay for up to a maximum of three years. This request must be delivered to the President at the time of dismissal or within a reasonable time thereafter.

When the teaching staff must be reduced because of financial exigencies, special considerations are also given to the faculty member. The following example taken from one of the CASC college handbooks refers to such considerations.

Where termination of appointment is based upon financial exigency or bona fide discontinuance of a program or department of instruction the dismissal procedure will not apply, but the faculty members shall be able to have the issue reviewed by a hearing committee, with ultimate review of all controverted issues by the governing board. In every case of financial exigency or discontinuance of a program or department of instruction, the faculty member concerned will be given notice as soon as possible, and never less than six month notice. Before terminating an appointment because of the abandonment of a program or department of instruction, the institution will make every effort to place affected faculty members in other suitable positions. If an appointment is terminated before the end of the period of appointment, because of financial exigency, or because of the discontinuance of a program of instruction, the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

The Keast Commission in its 34th recommendation stated that

. . . faculty dismissal proceedings should be restricted to (a) demonstrated incompetence or dishonesty in teaching or research, (b) substantial and manifest neglect of duty, and (c) personal conduct which substantially impairs the individual's fulfillment of his institutional responsibilities. The burden of proof in establishing cause for dismissal rests upon the institution.¹

The CASC colleges are private colleges. In reviewing the stated criteria used by these colleges for the termination

¹Keast, p. 75.

of tenure, all but one appeared to be within the restrictions suggested by Keast. Financial exigency and personal incapacity are recognized by the Keast Commission as reasons for possible termination of services.¹ National security or immigration problems do not fit into the restrictions that Keast suggests should be maintained for cause for the termination of tenure.

The Van Newkirk study reported that 25% of the institutions in the study did not make provision in their written policies for the termination of tenure.² Two of the 10 institutions studied in the Walters study had no stated criteria for the termination of tenure. The Walters study also reported that 71% of the institutions listed incompetency as a grounds for termination of tenure; 59% listed immorality; 41% listed neglect of duty; and 24% listed failure in institutional relationship because of religious reasons, as grounds for termination of tenure. Eighteen percent of the institutions stated physical or mental disability as criteria for dismissal and 12 of the 17 institutions (71%) listed financial exigencies as grounds that might lead to termination of tenure.³

Procedures for the Termination of Tenure

Seventeen (17%) CASC colleges did not specify any prescribed procedure to follow in the event that termination of tenure was being considered. Eighty-six (83%) gave some

¹Keast, pp. 55-56. ²Van Newkirk, p. 82.

³Walters, p. 97.

detail to their termination process. The "due process" that was guaranteed a faculty member under legal tenure and was afforded a faculty member under moral tenure, usually included 5 procedural actions. They were (1) a means by which an informal adjustment or reconciliation can be mutually agreed upon, (2) procedures that must take place in anticipation of a formal hearing, (3) the formation of the hearing committee, (4) the procedures which take place in the formal hearing, and (5) the final disposition of the case.

The Informal Adjustment and Reconciliation Procedures

The 1968 Recommended Institutional Regulations on Academic Freedom and Tenure states:

Dismissal of a faculty member with continuous tenure, or with a special or probationary appointment before the end of the specified term, will be preceded by: (1) discussions between the faculty member and the appropriate administrative officers looking toward a mutual settlement; (2) informal inquiry by the duly elected faculty committee which may, failing to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the President; (3) a statement of charges, framed with reasonable particularity by the President or his delegate.¹

Forty-one (40%) of the participating CASC colleges were not specific about such an informal adjustment effort. Sixty-three (79%) of the universities in the Shaw study were not specific. Sixty-two (60%) of the CASC colleges and 17 (21%) of the universities in the Shaw study provided a means for informal adjustment or reconciliation before a formal hearing

¹"1968 Recommended Institutional Regulations on Academic Freedom and Tenure," AAUP Bulletin (Winter, 1968), p. 450.

was discussed.¹ One CASC college faculty handbook stated the informal procedure as follows:

. . . the dismissal of a tenured faculty member must be preceded by discussions between his department chairman, divisional chairman, the academic dean, and other appropriate administrative officers, with a view to rectifying alleged professional weaknesses. These officers shall maintain adequate written records of such discussions. The faculty member should be allowed a reasonable time after these discussions begin in order to bring his teaching or other professional responsibilities up to the desired standards.

Another CASC college handbook reported this informal effort at reconciliation in the following manner:

The faculty member will be notified of the decision by the Dean of the college. After a discussion of the decision with the faculty member in question, no other action will be undertaken if mutual agreement is reached, both by the faculty member and the administrative officer. An administrative review of the decision will automatically be granted upon the request by the faculty member. If a review results in a reaffirmation of the decision and the faculty member disagrees with the judgment of the administration, he may request a hearing on the dismissal by means of a letter to the President of the College. . . .

Procedures That Anticipate a Formal Hearing

At 7 of the 103 participating CASC colleges (7%), the opportunity for a formal hearing was automatically granted in cases of termination of tenure. In 79 (77%) colleges, the formal hearing was granted upon the request of the faculty member being considered for termination of tenure. In 17 (17%) colleges, the opportunity for a hearing was not specified.

In 83 CASC colleges (81%) copies of the charges against the person in question were distributed before the

¹Shaw, p. 88.

hearing, and in 20 (19%) colleges, this distribution of charges was not specified. Sixty-three institutions of the Shaw study gave the accused faculty member written charges before the hearing.¹

One handbook stated that the accused faculty member would receive a "statement of the causes along with a list of witnesses to be called against him and a statement of the nature of the testimony to be given against him must be mailed to the employee by certified mail, return receipt requested."

Table 4.9 shows a comparison of the hearing granting procedures of the Shaw and the CASC studies.

Table 4.9.--A Comparison of the Procedures to Grant a Hearing as Specified in the Institutions in the Shaw Study During 1969-1970 and the CASC Colleges of This Study During 1977-1978²

	Institutions in Shaw Study N=80		Institutions in This Study N=103	
	Number	Percentage	Number	Percentage
Hearing granted automatically	6	8	7	7
Hearing granted if requested	63	79	79	77
Granting of hearing is not specific	11	10	17	17
Total	80	100	103	100

¹Shaw, p. 90.

²Ibid.

Table 4.10 shows a comparison of the provision of written charges and the names of witnesses that will be used at the hearing.

Table 4.10.--A Comparison of the Procedures to Supply Charges and a List of Witnesses as Specified in the Institutions in the Shaw Study During 1969-1970 and the CASC Colleges of This Study During 1977-1978¹

	Institutions in Shaw Study N=80		Institutions in This Study N=103	
	Number	Percentage	Number	Percentage
Copy of the charges are supplied before the hearing	63	79	83	81
Delivery of charges is not specific	17	21	20	19
Total	80	100	103	100

List of witnesses is supplied before hearing	17	21	5	5
List is not supplied	0	0	2	2
Not specific about supplying list	63	79	96	93
Total	80	100	103	100

The Formation of the Hearing Committee

At 85 of the CASC colleges (83%) some kind of hearing committee reviewed the charges brought against a faculty member when the intent was to terminate tenure. Seventy percent of the universities in the Shaw study provided for such a

¹Shaw, p. 90.

hearing.¹ This hearing committee was a standing committee at 34 (33%) of the CASC colleges. In 51 (50%) colleges the committee was a special committee that was formed to hear the case. In many cases involving a special committee, the accused faculty member had opportunity to nominate a faculty member of his choice to the committee. In one of the CASC college handbooks, the following policy was noted: "The Faculty Review Committee shall be composed of four faculty members from the Committee for Promotion and Tenure, plus a fifth member of the faculty agreed to by the accused faculty member and the members of the Faculty Review Committee."

Another handbook states with respect to the Faculty Grievance Committee:

1. This committee will be comprised of five members who:
 - a) have tenure
 - b) are elected at large by a special election conducted by the Standing Election Committee of the Faculty Senate
2. One faculty member requested by the complainant
3. One faculty member requested by the President.

The composition of the hearing committee varied widely from institution to institution. In 56 of the CASC colleges (54%) the hearing committees were composed of faculty members exclusively. In 17 (17%) they were composed of faculty members and members of the administrative staff. In 4 (4%) of the colleges, the hearing committee was composed of faculty members and members of the Board of Trustees. In 2 colleges the hearing committee was made up of only members of the Board of Trustees. One college used only administrators, and

¹Shaw, p. 91.

2 other colleges used trustees and administrators. One college was not specific about the composition of the hearing committee. Table 4.11 shows a comparison of the composition of the hearing committee in tenure termination cases.

In 7 (7%) CASC colleges, the hearing committee was formed by appointment. Thirty-eight (37%) of the committees were formed by an election of the faculty. There were also 38 colleges that formed the hearing committee both by electing some members and appointing other members to it. Three colleges were not specific.

One of the CASC colleges that formed its hearing committee by appointment explained in its faculty handbook the formation of the committee:

The President of the College will appoint a hearing committee made up of faculty members who are mutually acceptable both to the complainant and the Dean of the College. The committee should select its own chairman.

Another college that used a special committee made up of both faculty members and members of the Board of Trustees was written this way: "The Review Committee shall consist of the Board Committee on Academic Affairs and two faculty members with tenure elected by the faculty."

One college had a 16 member special committee composed of faculty members and members of the Board of Trustees. It is formed as follows:

The Board of review will be composed of eight members of the Committee on Academic Policies of the Board of Trustees or of other trustees selected by the chairman of the board, four faculty members elected by the faculty, and four faculty colleagues selected by the dismissed faculty member. The chairman of the

Table 4.11.--A Comparison of the Composition of Hearing Committees in Tenure Termination Cases at the Eighty Institutions in the Shaw Study During 1969-1970 and the Eighty-Six CASC Colleges Included in This Study During 1977-1978¹

Composition of Hearing Committee	<u>Institutions in Shaw Study N=80</u>		<u>Institutions in This Study N=103</u>	
	Number	Percentage	Number	Percentage
Faculty members only	31	39	56	54
Faculty members and administrative personnel	6	8	17	17
Faculty members, Administrative personnel and members of the board of trustees	4	27	3	3
Faculty members and members of the board of trustees	1	1	4	4
Members of the board of trustees	2	2	2	2
Administrative personnel	0	0	1	1
Administrative personnel and members of the board of trustees	0	0	2	2
Not specific about the composition of hearing committee	12	15	1	1
Not specific about hearing	24	30	17	17
Total	80	100	103	100

¹Shaw, p. 92.

Committee on Academic Policies of the Board of Trustees, or a member of the committee designated by him shall serve as chairman of the board of review.

The Procedures of the Formal Hearing

In 75 (73%) CASC colleges, the accused professor had the right to be present with counsel in the hearing. Only 1 college specifically opposed the representation while twenty-seven (26%) were not specific about this point. In 55 (53%) colleges the accused could introduce witnesses; 2 colleges did not allow witnesses; while the remaining 46 (45%) were not specific about this matter. Fifty-one (50%) were given the right to cross examine witnesses that might be introduced by the administration. Again, 2 colleges did not allow it, while the 50 (49%) remaining colleges were not specific.

Sixty-three (61%) of the CASC colleges upheld the right of the accused professor to receive a full transcript of the hearing. Two colleges did not provide for this right and 38 (37%) were not specific. There were 67 (65%) colleges that granted the right to appeal the decision of the hearing committee. Three colleges had no provision for the appeal, and 33 (32%) were not specific about an appeal provision.

One of the CASC colleges gave these detailed procedures to be followed at the hearing:

The accused faculty member will be permitted to have an academic advisor and/or counsel of his own choice. A verbatim record of the hearing or hearings will be taken and a typewritten copy will be made available to the faculty member without cost to him, at his request. The hearing committee will grant adjournments to enable either party to investigate evidence as to which, in its judgment, a valid claim of surprise is made. The faculty member will be afforded

an opportunity to obtain necessary witnesses and documentary or other evidence, and the administration of the institution will, insofar as it is possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.

The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witness cannot or will not appear, but the committee determines that the interests of justice require admissions of his statement, the committee will identify the witness, disclose his statement and, if possible, provide interrogatories.

In the hearing of charges of incompetence, the testimony shall include that of qualified faculty members from this or other institutions of higher education.

The hearing committee will not be bound by strict rules of legal evidence, and may admit any evidence which is in its judgment of probative value in determining the issues involved.

In the Shaw Study, a comparison was made between the findings of that study with respect to hearing procedures and the findings of an earlier study made by Byse and Joughin. Table 4.12 is a comparison of these two studies with the study of CASC colleges.

Table 4.13 shows a comparison of the hearing provisions of the Shaw study with the CASC colleges.

The Final Disposition of the Case

After the hearing committee had heard evidence from both sides, all persons except the members of the hearing committee were dismissed from the hearing room. The committee then went into executive session in order to come to a conclusion regarding the matter. If the committee could not reach consensus, both a majority and a minority report were presented to the President of the college. He in turn presented the findings to the board of trustees who made the final

Table 4.12.--A Comparison of Findings Reported by Byse and Joughin, The Findings of the Institutions of the Shaw Study and the Findings of the CASC Colleges of This Study,¹ Regarding Procedures Used in Hearings and in Appeals of Faculty Termination Cases¹

Specific Procedures	Number of institutions assuring the right of the accused professor					
	Byse and Joughin Study N = 80	Percentage	Shaw Study N = 80	Percentage	This Study N = 103	Percentage
Right to be present with his counsel	20	25	53	66	75	73
Right to present and summon witnesses	6	8	31	39	55	53
Right to receive a full transcript of the hearing	9	11	42	49	63	61
Right to cross-examine witness	4	5	48	60	51	50
Right to appeal from an adverse decision	7	9	38	48	67	65

¹Shaw, p. 98.

Table. 4.13.--A Comparison of the Number and Percentage of the Institutions of the Shaw Study with the CASC Colleges of This Study Specifically or not Specifically Providing Certain Procedures of Hearings in Tenure Termination Cases

Specific Procedures	Shaw Institutions N = 80				CASC Colleges N = 103			
	Provided N	Provided %	Not Provided N	Not Specific %	Provided N	Provided %	Not Provided N	Not Specific %
The professor's right to be present with counsel	53	66	16	20	11	14	1	26
The professor's right to summon and introduce witnesses	31	39	38	48	11	14	2	46
The professor's right to cross-examine witnesses	48	60	21	26	11	14	2	50
The professor's right to receive a full transcript of the hearing	42	53	27	34	11	14	2	38
The professor's right to appeal	38	48	31	39	11	11	3	33

¹Shaw, p. 96.

decision. The accused professor usually was able to make an appeal to the Board of Trustees. Other colleges allowed the Board of Trustees to clarify information gathered at the hearing, before it reached its final decision.

One of the CASC colleges expressed its policy in this manner:

If the hearing committee concludes that adequate cause for dismissal has not been established by the evidence in the record, it will so report to the President. If the President rejects the report, he will state his reasons for doing so, in writing, to the hearing committee and to the faculty member, and provide an opportunity for response before transmitting the case to the Board of Trustees. If the hearing committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons.

Another college reported:

Until the final decision concerning the termination of an appointment has been reached, the faculty member shall be suspended or he shall be assigned other duties in lieu of suspension, but only if immediate harm to himself or others is threatened by his continuance.

The payment of salary after dismissal proceedings had been finalized was expressed by one college this way:

If, as a result of the hearing process described herein, the College terminates an appointment, then in case the Faculty member is on tenure he shall receive full pay at his current salary for at least one year after the date of dismissal. This payment practice normally shall be observed whether or not the Faculty member continued to work for the college. However, in the event that the termination results from a Judicial Committee finding that the Faculty member has been guilty of action involving moral turpitude, the Board of Trustees shall determine what payments, if any, to make beyond the effective date of dismissal, taking into consideration the length and quality of service of the Faculty member prior to the operative facts constituting the basis for dismissal.

Eleven CASC colleges (11%) indicated that the president of the college could summarily dismiss a professor in cases of serious offense. Sixty-six (64%) indicated that the president could not dismiss a professor and 26 (25%) indicated that the provision for presidential dismissal was not specified. Shaw found only one institution in his study in 1969-1970 that granted the president the power to summarily dismiss a professor in case of serious offense.¹

One of the CASC colleges that gave its president such power worded the policy this way: "The College reserves the right to dismiss immediately any member of the faculty or staff whose conduct is contrary to the ethics of the teaching profession or detrimental to the best interest of the college."

Analysis of the Questionnaire Replies

One hundred and twenty-seven (67%) of the 189 CASC colleges returned questionnaires. Thirteen (7%) colleges that returned questionnaires did not have a tenure policy. Six (3%) of those that had no tenure policy stated that they had adopted a contract system. The remaining 108 questionnaires represented institutions with current tenure policies. These 108 colleges employed 5,601 full-time faculty members of all ranks during the 1977-1978 year. Full-time tenured faculty members numbered 2,732. The ratio of tenured faculty members to non-tenured faculty members was 49%.

In 1972, 93 of the 108 CASC colleges employed 4,573

¹Shaw, p. 103.

full-time faculty members. The figures from the other 12 colleges were not available. The ratio of tenured faculty members to nontenured faculty members in 1972 was 42 tenured to 58 nontenured, or 42% granted tenure. In 1977-1978, the average college reported 52 full-time faculty members. In 1972, the average reporting college had 49 full-time faculty members, which showed a small (6%) increase in the number of faculty members in the CASC colleges over the past 5 years.

The colleges reported a total of 2,231 part-time faculty members including all ranks. In 1972, 93 colleges reported 1,378 part-time faculty members. The average increase for the colleges' use of part-time faculty members was 6 persons per college, a 39% increase.

In 1972, the average CASC college had 20 tenured faculty members on the full-time teaching staff. In 1977-1978, the average college had 25 tenured faculty members on its teaching staff. The increase in the total number of tenured faculty members from 1972 to 1977 was 44%.

Tenure by rank was distributed as follows: there were 1,199 full-time professors employed by the 108 reporting CASC colleges, 1,072 (89%) of these professors were tenured; of the 1,574 full-time associate professors, 1,126 (72%) were tenured; of the 1,872 full-time assistant professors, 512 (27%) were tenured; there were 852 full-time instructors, and only 15 (2%) were tenured. Three colleges reported that 6 of their full-time lecturers were tenured. One college reported an archivist on its teaching staff.

Table 4.14 shows the number of professors at the various ranks and the number and percentage that are tenured.

Table 4.14.--A Comparison of the Number and Percentage of Faculty Member by Rank and Tenure in CASC Colleges and the Institutions of the Shaw Study¹

Rank	Total Number of Faculty Members	Total Number on Tenure	Percentage on Tenure in This Study	Percentage on Tenure in the Shaw Study
Professor	1,119	1,073	89	94
Associate Professor	1,574	1,126	72	83
Assistant Professor	1,872	512	27	18
Instructor	852	15	2	5
Lecturer	104	6	6	5
Total	5,601	2,732	49	55

Table 4.15 shows the number of full-time professors for each rank in the Shaw study and the corresponding percentage of the total full-time faculty, compared with the number of full-time professors for each rank found in the CASC colleges and the corresponding percentage of the total full-time faculty.

The universities had a greater percentage of professors (31%) than associate professors (23%), while the CASC colleges have a greater percentage of associate professors

¹Shaw, p. 80.

Table 4.15.--A Comparison of the Number and Percentage of Full-Time Faculty Members Per Rank Found in the Shaw Study of 1969-1970 and the CASC Colleges During 1977-1978¹

Rank	Number of Full-Time Faculty Members	Percentage Within the Rank	Number of Full-Time Faculty Members	Percentage Within the Rank
Professor	16,151	31	1,199	21
Associate Professor	12,329	23	1,574	28
Assistant Professor	16,355	31	1,872	33
Instructor	6,355	12	852	15
Lecturer	1,556	3	104	2
Total	52,746	100	5,601	100

(28%) than professors (21%).

Thirty-five colleges reported that the number of full-time faculty members decreased from 1972 to 1977. The number dropped from a total of 1,940 in 1972 to a total of 1,692 in 1977. This was a 13% decrease in the number of full-time faculty members over the five year period. One college dropped from 36 faculty members to 19 (47%), while the smallest drop was from 50 to 49 faculty members (2%). Table 4.16 presents a distribution of the number of teachers lost by the 36 CASC colleges from 1972 to 1977 and the corresponding percentage drop.

¹Shaw, p. 80.

Table 4.16.--Distribution of the Number and Percentage of the Reduction of Full-Time Faculty Members in the Thirty-Five CASC Colleges That Experienced Faculty Reduction from 1972-1977

	Size of Reduction of Full-Time Faculty	Number in 1972	Number in 1977	Size of Reduction in Percentage
1.	20	80	60	25
2.	18	46	28	39
3.	17	36	19	47
4.	17	49	32	35
5.	15	75	60	20
6.	13	49	36	27
7.	11	55	44	20
8.	11	81	70	14
9.	10	39	29	26
10.	9	56	47	16
11.	9	63	54	14
12.	8	53	45	15
13.	8	56	48	14
14.	8	94	86	9
15.	7	56	49	13
16.	7	64	57	11
17.	6	42	36	14
18.	6	74	68	8
19.	5	50	45	10
20.	5	58	53	9
21.	4	31	27	13

Table 4.16.--Continued

	Size of Reduction of Full-Time Faculty	Number in 1972	Number in 1977	Size of Reduction in Percentage
22.	4	71	67	6
23.	4	73	69	5
24.	3	31	28	10
25.	3	35	32	9
26.	3	49	46	6
27.	3	67	64	4
28.	3	83	80	4
29.	3	92	89	3
30.	2	33	31	6
31.	2	46	44	4
32.	1	28	27	4
33.	1	35	34	3
34.	1	40	39	3
35.	1	50	49	2
Total	248	1,940	1,692	Mean of 13%

Three colleges had fewer than 16 full-time faculty members. Their faculty sizes were 15, 14, and 8. There were 5 colleges that had over 100 full-time faculty members, ranging in size from 103-131.

There were 14 CASC colleges or 12% that had more

part-time faculty members than full-time faculty members. Of these colleges the lowest number of part-time faculty members was 13 and the highest was 109. Table 4.17 is a comparison of the 16 CASC colleges with more part-time than full-time faculty members.

Table 4.17.--Distribution of the Number of Full-Time Faculty Members, the Number of Part-Time Faculty Members and the Percentage of these that are Part-Time in the Fourteen CASC Colleges That Reported Having More Part-Time Faculty Members Than Full-Time Faculty Members During 1977-1978

Number of Full-Time Faculty Members	Number of Part-Time Faculty Members	Percentage of Part-Time
80	109	58
66	70	51
49	68	58
45	59	57
42	77	65
32	75	69
32	63	66
30	68	69
29	54	65
23	46	67
17	29	63
13	22	63
8	13	62
Total 498	807	Mean of 62%

Of the 5,601 full-time faculty members employed by CASC colleges during 1977-1978, 2,732 of them (49%) were on tenure. Fifteen (14%) of these colleges tenured 30% or less of their full-time faculty and 13 (14%) tenured more than 70% of their full-time faculty members. Table 4.18 shows the number and percentage of tenured faculty members in the 108 CASC colleges.

Table 4.18.--A Comparison of the Total Number of Faculty Members from the One Hundred and Eight CASC Colleges, with the Number and Percentage of Them That Are on Tenure

Percentage on Tenure	Number Per Interval	Percentage Per Interval
1 - 10	2	1.9
11 - 20	7	6.5
21 - 30	6	5.6
31 - 40	22	20.4
41 - 50	21	19.4
51 - 60	23	21.3
61 - 70	14	13.0
71 - 80	10	9.3
81 - 90	1	1.0
91 - 100	2	1.9
Total	108	100.0

Of the 108 CASC colleges that had a tenure policy, 25 (23%) reported 56 tenure termination proceedings. One college dismissed 10 tenured teachers from 1968-1978; one college

dismissed 7; 1 dismissed 4; 7 dismissed 7; and 6 colleges dismissed 6. Table 4.19 compares the distribution of tenured faculty dismissals of the Shaw study with the dismissals of faculty from the CASC colleges.

Twenty-five colleges reported that they had dismissed 56 faculty members from 1967 to 1977. Shaw found that 9 universities dismissed 14 faculty members from 1959-1969.¹ Fourteen percent of the colleges in this study dismissed 1 or more faculty members over a 10 year period, while 15% of the institutions in the Shaw study dismissed 1 or more faculty members over a 10 year period. Bosley reported that 42 institutions dismissed 95 faculty members from 1941 to 1946. Of the 98 institutions reporting in the Bosley study, 42 (43%) reported that they had dismissed 1 or more faculty members over the 5 year period.²

The CASC colleges reported that 23 colleges dismissed 49 faculty members. Thirty of these faculty dismissals came following a hearing (the faculty handbooks indicated that 86 of the 103 institutions guaranteed a hearing, 17 were not specific about the right of a hearing). Six colleges reported that 7 faculty members were granted a hearing and then retained. Ten colleges accepted the resignation of 19 faculty members after the question of tenure termination was raised. Shaw found that only 1 faculty member was retained after being granted a hearing and he also found that 2 institutions accepted the resignations of a total of 6 faculty members.³

¹Shaw, p. 104. ²Bosley, p. 124. ³Shaw, p. 104.

Table 4.19.--Comparison of the Distribution of Dismissals of Tenured Faculty in Fourteen of Sixty Institutions of the Shaw Study During 1959-1960 Through 1968-1969 with Twenty-Five Colleges of This Study During 1967-1968 Through 1977-1978¹

Number of Institutions	Number Dismissed from Each Institution of the Shaw Study	Total Dismissed in the Shaw Study	Number Dismissed from Each College of This Study	Total Dismissed in This Study
1	5	5	10	10
1	4	4	7	7
1	0	0	4	4
2	3	6	0	0
2	2	4	0	0
8	1	8	0	0
9	0	0	1	9
13	0	0	2	26
Total		27		56

¹Shaw, p. 104.

Causes for tenure termination listed by the 24 colleges that reported dismissing 49 faculty members were as follows: 21 faculty members were dismissed for financial exigency; 17 for incompetence; 6 for failure in institutional relationships; 3 for serious misconduct or immorality; none for crime; and 2 for incapacity or disability. Table 4.20 shows a distribution of the listed causes for tenure termination.

Table 4.20.--Distribution of the Causes of Dismissal of the Thirty-One Tenured Faculty Members From the Twenty-One CASC Colleges During 1967-1977

Causes for Tenure Termination	Number of Colleges	Number of Faculty Members
Financial exigency	11	21
Professional incompetence	9	17
Failure in institutional relationships	1	6
Serious misconduct or immorality	1	3
Incapacity or disability	2	2
Total	24	49

Twelve colleges reported 15 dismissed professors took legal action against the college. Five of these professors won in a court of law, but none were reinstated. Ten of the professors that went to court were financially compensated.

Seventy CASC colleges dismissed 545 nontenured faculty members before they were granted tenure. Of the nontenured faculty members, 84 asked for a statement of reasons for

dismissal; 69 were given such statements; 32 asked for and received a hearing; and 5 were reinstated following the hearing. Table 4.21 shows a distribution of the number of colleges and nontenured faculty members involved in the dismissal procedures.

Table 4.21.--Number of CASC Colleges and Nontenured Faculty Members Involved in the Dismissal Process During 1967-1977

Process Involved with Dismissal	Number of Colleges	Number of Professors
Number of dismissed nontenured professors	71	545
Number that asked for a written statement of reasons for dismissal	34	84
Number of written statements granted	19	69
Number of dismissed nontenured professors that asked for a hearing	22	32
Number of hearings granted	22	32
Number of professors reinstated after the hearing	3	5

There were many CASC colleges that considered alternatives to tenure during the past years from 1967-1977. A periodic contract renewal system of faculty employment was considered by 34 colleges; 29 colleges considered limiting the number of tenured faculty by means of a set quota; and 15 considered abolishing tenure altogether. There were 34 colleges that had no tenure policy; 15 that had a contract renewal

system; and 14 had established a quota to limit the number of tenured faculty. Table 4.22 compares some of these alternatives to tenure.

Table 4.22.--A Comparison of the Alternatives to Tenure That Have Been Considered, Are Being Considered and Have Been Adopted by CASC Colleges During 1977-1978

Alternatives to Tenure	Number of Colleges That have Considered	Number of Colleges That Are Considering	Number of Colleges That Have Adopted
A periodic contract renewal system	34	22	15
A limitation of the number of tenured faculty by quota	29	15	7
Abolishing tenure	15	12	34
A two year moratorium on tenure	0	0	4
Making tenure a negotiable item through collective bargaining	1	0	0
Developing nontenure tracts	1	1	2

The average number of full-time faculty members per college was 28. Two of these colleges reported a reduction in full-time faculty members from 1972-1977. One college dropped from 43 full-time faculty members to 24 (44%), and another dropped from 26 to 18 (31%). The colleges without tenure employed an average of 14 part-time faculty members. The 108 tenure granting colleges employed an average of 21 part-time faculty members.

Nine of the 34 colleges that did not grant tenure made their faculty handbooks available for this study. Three handbooks made no provision for the termination of a faculty member's employment. Reasons for a dismissal were not given to the person in writing, if given at all. There was no mention of a hearing, or of due process. One of the handbooks had only this to say about the dismissal of faculty members:

The University may terminate an agreement with proper notice, if need for the services of the individual diminishes or if another adequate reason exists. However, each member of the faculty is assured of a frank approach to such problems and of the complete cooperation of the administration in efforts to make continued employment possible.

Two colleges without a tenure policy had full provisions made for informal adjustment and reconciliation. In the event these provisions failed, a hearing was afforded with full due process and an appeal. One handbook stated part of the policy as follows:

The College has no tenure status for faculty. The Administration does recognize its moral responsibility to maintain ethical and legal relationships with faculty. The general assumption is that changes in faculty are inimical to morale and always expensive, and that people who join the College should stay as long as they desire to do so. College policy is for the Academic Dean or his designee to work closely with new faculty to help solve problems that may develop in teaching and other aspects of the instructional-professional staff appointment, and to help the individual to become integrated into the faculty. No faculty person is ever dismissed capriciously. If anticipated nonrenewal or dismissal of faculty personnel becomes necessary, early notice and formal due process hearings are provided for.

There were 7 CASC colleges that reported a limitation to the number of faculty members that could be tenured. These colleges had quota systems. One college had a policy of

limiting the number of tenured faculty members to 50% of the total faculty; 2 colleges had a limitation of 60%; and one had a quota of 75%. Table 4.23 shows a distribution of these 7 colleges as to their quota, and the percentages of faculty on tenure in 1972 and 1977.

Table 4.23.--A Comparison of the Distribution of the Seven CASC Colleges That Limited the Percentage of Tenured Faculty with the Percentage That Each College Had on Tenure in 1972 and 1977

Established Quota	Percentage on Tenure in 1972	Percentage on Tenure in 1977
50	40	20
60	27	26
60	53	41
65	0	45
67	2	8
67	N/A	N/A
75	31	41

The colleges represented in table 4.23 kept their tenured faculty ratio below their established quota. The average CASC college with tenure policies had 49% of its faculty tenured. The average college with a quota on tenure had 31% of its faculty tenured.

One handbook expressed its quota policy in this way:

The number of faculty members holding tenure at any one time shall be limited to sixty (60) percent. Those faculty members eligible and judged qualified for tenure by the Tenure Eligibility Committee but unable to have it conferred due to a lack of tenure

vacancies in the faculty shall be designated 'tenurable.' They shall be given priority when vacancies occur.

Fifteen CASC colleges indicated that they had adopted a periodic contract renewal system, but only 10 of these 15 returned their faculty handbooks. Nine of the 10 colleges made the initial appointment for one year, the other colleges made an initial appointment of 2 years. Each college had a probationary period of 2 to 7 years in length. During this probationary period, usually toward its end, the probationary faculty members were evaluated. One college gave its sequence of appointment as follows:

The normal sequence of appointment under this policy shall be four (4) one-year appointments and one (1) three-year appointment, prior to the granting of the first five-year appointment. The sequence of appointment is subject to all of the other provisions of this Policy, provided, however, nothing herein shall limit the number of one and three-year appointments which may be granted, nor shall anything herein prohibit the granting of a shorter appointment of a faculty member who has previously held a longer term appointment.

In 8 of these colleges all evaluations and recommendations for longer term contracts were made by the administration. In only two colleges was there provision made for faculty consultation and participation in the evaluation process. The lengths of the long term contracts varied. Some colleges gave long term contracts until the age of 65, for periods of 5 years, while others used only 3 year contracts. One college used contracts which varied in length, beginning with a 3 year contract, followed by a 5 year contract, then by 7 years, then 10 years until the age of 65. One college gave 5

year contracts until the age of 52, at which time a contract was given until the faculty member reached the age of 65. Table 4.24 shows the length of the initial contract, the length of the probationary period, and the length of the ensuing contracts. Only 4 of the 10 colleges that had contract renewal systems did not provide a means for a hearing or due process in the event of non-renewal of a contract. One college protected itself by the inclusion of the following statement in its contract policy:

The non-reappointment of a member of the faculty or administration whose term of appointment expires does not constitute a dismissal nor does it necessarily reflect adversely upon that person's professional competency. Accordingly, it is not necessary for the college to provide a statement of the cause or due process proceedings.

Another college said the following about cause.

Where adequate cause for dismissal exists, the President shall have the right, subject to confirmation from the Board of Trustees, to terminate the employment of the faculty member immediately without payment or further compensation. The President shall also have the option of suspending the faculty member from classes pending a determination on dismissal but such suspension shall be with compensation until the end of the appointment period or the date of the faculty member's termination by the Board of Trustees, whichever is earlier.

The 4 colleges that made provision for due process by means of a hearing and an appeal, followed similar procedures of colleges that had no tenure and provided due process.

The colleges that adopted the periodic contract renewal system had an average of 53 full-time faculty members in 1977, 48 in 1972. Only 1 college reported a decrease in the number of full-time faculty members. Five colleges

reported that they failed to renew the contracts of 10 faculty members before they were eligible for the longer term non-probationary contract.

Table 4.24.--Comparison of the Length of the First Contract, The Probationary Period and Subsequent Contracts at Ten CASC Colleges That Had a Periodic Contract Renewal System During 1977-1978

Length of Initial Contract	Length of Probationary Period	Lengths of Continuing Contracts
1	7	Variable
1	3	2 - 2 - 3 - 3 - 3
2	2	3 - 3 - 3 - 3 - 3
1	2	3 - 5 - 5 - 5 - 5
1	4	3 - 5 - 5 - 5 - 5
1	2	3 - 5 - 5 - 5 age 52-65
1	5	5 - 5 - 5 - 5 - 5
1	6	5 - 5 - 5 - 5 - 5
1	2	3 - 5 - 7 -10 -10
1	5	6 - 8 -10 -10 -10

Forty-six of the 124 CASC colleges indicated they had just completed or are still in the process of revising their tenure policies. One hundred and sixteen colleges indicated they had revised their policies since 1972. Only 8 colleges had not revised their tenure policies since 1972. Table 4.25 gives a distribution of the dates of the most recent revision of the tenure policies of the participating CASC colleges.

Table 4.25.--A Distribution of the Dates of the Most Recent Revision of Tenure Policies at One Hundred and Twenty-Four CASC Colleges

Year of Latest Revision	Number of Colleges	Percentage of Colleges
1978	46	37
1977	25	20
1976	15	12
1975	16	13
1974	9	7
1973	5	4
1972	1	1
Before 1972	7	6
Total	124	100

Summary

Data were received from the questionnaires and faculty handbooks of colleges which hold membership in the Council for the Advancement of Small Colleges. One hundred and twenty-seven questionnaires and 120 faculty handbooks were received. One hundred and twenty colleges had an active tenure system, 28 had no tenure, and 10 colleges had adopted a periodic contract renewal system. The data were analyzed and compared within the CASC colleges and with data from similar studies.

CHAPTER V

SUMMARY, FINDINGS, AND RECOMMENDATIONS

In this chapter, the purpose of the study is stated, the methods of the study are considered, and the findings, conclusions and recommendations are listed.

I. Summary

The purpose of this study was to determine the current tenure policies and practices of the 189 colleges associated with the Council for the Advancement of Small Colleges. Letters requesting a copy of the current faculty handbook and a questionnaire to be completed and returned were sent to the president of each of the CASC colleges. One hundred forty-five colleges participated in this study by either returning a faculty handbook, a completed questionnaire, or both. Thirteen additional colleges indicated that they had no tenure policies, 17 indicated that they would not or could not participate for a variety of reasons, and 14 colleges made no reply.

One hundred and three colleges had current tenure policies and returned their faculty handbooks. One hundred and eight colleges had current tenure policies and returned a completed questionnaire. Twenty-eight colleges reported they had no tenure policies, 13 of these by separate letter,

6 by means of a faculty handbook and completed questionnaire, 7 by means of a questionnaire, and 2 by means of a faculty handbook.

The faculty handbooks from the 108 CASC colleges were systematically analyzed and interpreted. The data were recorded in the instrument designed for content analysis and was manually tabulated for each of the 31 areas of analysis. The data from the 103 questionnaires was also tabulated manually. Chapter 4 described the data taken from these two instruments and compared the data of the CASC study with the data of other studies concerned with tenure in higher education.

II. Findings of the Study

1. The AAUP 1940 Statement of Principles of Academic Freedom and Tenure was directly referred to by 46 of the 103 CASC colleges that had current tenure policies and returned the faculty handbook. Those who did not mention it directly used much of the language contained in the statement of principles.

2. A definition of tenure was part of the written tenure policies of 83 colleges; 20 colleges did not give a written definition of tenure.

3. The tenure plan outlined in 74 of the faculty handbooks was identified as legal tenure, tenure that could be legally binding on the governing board and the faculty member concerned. The remaining 29 colleges used a tenure plan that was identified as moral tenure, tenure with no legal status because of the prohibitive restrictions stated or implied in

the faculty handbook.

4. In 100 of the CASC colleges a faculty member had to go through an evaluative process and be recommended and approved by the board of trustees for tenure granting. Only 3 colleges granted tenure automatically following a stated term of employment.

5. The rank of assistant professor was the pretenure rank in 18 of the colleges, 82 indicated that the rank of instructor was the pretenure rank, and 3 colleges did not identify their pretenure rank.

6. In 83 of the CASC colleges, the length of the probationary period was the same for all ranks. Thirteen colleges indicated that the probationary period varied according to rank. Seven colleges were not specific about this probationary period.

7. Of those colleges that indicated that the length of the probationary period was the same for all ranks, 61 indicated that the period was for 7 years, 10 indicated that it was for 6 years, 7 for 5 years, 3 for 4 years, and 2 for 3 years.

8. The colleges that varied the length of the probationary period according to rank required a period of probation of from 2 to 6 years for professors, from 1 to 4 years for associate professors, and from 1 to 4 years for assistant professors.

9. Years of service at another institution of higher education were accepted as part of the probationary period at

68 colleges, not accepted at 3 colleges, and 32 colleges were not specific about their policy. Among those colleges that accepted previous teaching experience, 2 colleges accepted up to 4 years toward the probationary period, 36 colleges accepted 3 years, 7 colleges accepted 2 years, and 1 college accepted 1 year.

10. The criteria for the acquisition of tenure was clearly specified in 95 of the college faculty handbooks. Eight handbooks did not specify criteria for the acquisition of tenure. The criteria listed in 50% or more of the reporting colleges were: teaching ability, cooperation and general service to the institution, professional degree and achievement, and scholarly publications.

11. Seventy-six CASC colleges stated that their governing procedures for the acquisition of tenure reserved action to the administration but provided for faculty assistance and consultation. Eighteen reserved action for the administration alone without assistance or consultation from any faculty body or representative, and 9 were not specific about the procedure.

12. A faculty member's right to appeal a denial of tenure and the procedures to follow when making the appeal were specified in only 20 of the faculty handbooks, the remaining 83 did not specify the procedure.

13. The criteria for the termination of tenure were written in 86 CASC college faculty handbooks. Eight other handbooks were specific, but referred to the grounds for

termination in the "Statement of Principles." Nine colleges were not specific about the criteria for the termination of tenure.

14. Of the 86 colleges specifying criteria for the termination of tenure, all 86 listed professional incompetence, 85 listed immorality or misconduct. Financial exigencies, failure in institutional relationship, neglect of duty, and incapacity or disability were each listed by 69% or more of the specifying colleges.

15. Informal adjustment and reconciliation procedures following faculty appeal of tenure denial were included in the faculty handbooks of 62 of the CASC colleges, 41 did not specify these procedures.

16. Opportunity for a hearing was granted automatically in 7 of the faculty handbooks, 79 colleges made provision for a hearing if it were requested, and 17 did not specify about hearing procedure.

17. In 83 of the colleges a copy of the charges was supplied to the accused before the hearing, while 20 colleges were not specific about the copy of the charges. There were no colleges that refused to supply a copy of the charges.

18. In 34 of the CASC college faculty handbooks the hearing committee was a standing committee; 51 indicated that the committee was a special committee; and 18 faculty handbooks were not specific about the committee.

19. The composition of the hearing committee varied widely among the CASC colleges. Fifty-six indicated that the

committee was composed of faculty members only, 17 indicated that it was composed of faculty members and members of the administrative staff. In 4 of the handbooks, faculty members and members of the board of trustees made up the hearing committee. Other compositions included: (1) trustees only, (2) administrators only, (3) administrators and trustees, (4) faculty members, administrators and trustees. Eighteen handbooks did not specify the composition of the hearing committee.

20. In 38 of the faculty handbooks the hearing committee was formed by election of the faculty. Another 38 handbooks indicated that the committee would be formed by means of election and appointment. In 7 colleges, all members of the hearing committee were appointed. Twenty handbooks did not specify how the hearing committee was formed.

21. Seventeen CASC college faculty handbooks did not specify particular procedures for the termination of tenure.

22. Five CASC college handbooks specified that a list of witnesses was to be supplied before the hearing. Two would not supply a list of witnesses before the hearing, and 79 were not specific about the list of witnesses.

23. The faculty member's right to be present with counsel was upheld in 75 of the faculty handbooks. The right to introduce witness on his behalf was granted in 55 of the CASC colleges.

24. The faculty member's right to cross-examine witnesses was granted in 51 of the faculty handbooks. The right to receive a full transcript of the hearing without charge to

the accused teacher was recognized at 63 institutions. The right to appeal the decision of the hearing committee was upheld at 67 colleges.

25. Fifty-four CASC college faculty handbooks made provision for the suspension of the accused faculty member pending final decision of the hearing committee, if the faculty member's presence in the classroom was considered harmful to himself or the institution.

26. Faculty handbooks of 11 colleges stated that the accused faculty member could be summarily dismissed by the president in case of serious offense.

27. The 108 questionnaires listed 5,601 full-time faculty members employed during 1977-1978. Of this number, 2,732 were tenured, 49% of the full-time faculty members. There were 2,231 part-time faculty members.

28. The full-time faculty members by rank were: 1,199 professors, 89% of whom were tenured; 1,574 associate professors, 71% of whom were tenured; 1,872 assistant professors, 27% of whom were tenured; 852 instructors, 2% tenured, and finally, 104 lecturers.

29. In 1972, 4,573 faculty members were employed at CASC colleges, 1,900 or 42% were tenured. During the 5 year period from 1972 to 1977, the percentage of tenured faculty members at CASC colleges went up 7%.

30. Twenty-five CASC colleges conducted proceedings to terminate tenure of 56 faculty members from 1967-1977. Nineteen faculty members from 10 CASC colleges resigned after a

question of tenure termination. Thirty were granted a hearing and then dismissed, 7 were granted a hearing and then retained.

31. Twenty-three CASC colleges dismissed 49 full-time tenured faculty members from 1967-1977. Of these 49 dismissed faculty members, 33 (67%) were from colleges that had reduced the number of full-time faculty members from 1972 to 1977.

32. In 49 dismissal cases the causes for tenure termination were listed as 21 for financial exigency, 17 for professional incompetence, 6 for failure in institutional relationships, 3 for serious misconduct or immorality, and 2 for incapacity or disability.

33. Twelve CASC colleges indicated that 15 dismissed tenured faculty members took legal action against the college. Five faculty members won in court; none were reinstated; 10 were financially compensated.

34. Seventy-one CASC colleges indicated that they dismissed 545 faculty members before they were granted tenure from 1967 to 1977. Eighty-four of these faculty members asked for a written statement of reasons for the dismissal, only 69 were given the statement. Thirty-two of these faculty members asked for a hearing and received it. Five were reinstated after the hearing.

35. During the period of 1967-1977, 71 CASC colleges dismissed 545 faculty members before they were granted tenure. Of these 545 faculty members, 167 (31%) were from colleges that had reduced the number of full-time faculty members from

1972-1977.

36. Eighty-three percent of the CASC colleges indicated that they have revised their tenure policies since 1972.

37. CASC colleges have considered alternatives to tenure. Thirty-four colleges have considered the contract renewal system; only 10 have adopted it. Fifteen have considered abolishing tenure altogether. Twenty-eight colleges have no tenure policies. Twenty-nine have considered limiting the number of tenured faculty by a quota system; 7 have adopted a quota system involving 50% to 75% of the total faculty members.

38. Ten CASC colleges have adopted the contract renewal system. From 1972-1977 the average full-time faculty has increased by 6% while the part-time faculty members have increased by 79%. Five colleges have dismissed 10 faculty members during the pre-extended contract probationary period.

39. Of the 28 CASC colleges that have not adopted a tenure policy, the average full-time faculty has increased by 26% from 1972-1977. The part-time faculty members have increased by 65%, and the part-time faculty members make up 33% of the total faculty. Three colleges have dismissed 7 faculty members during the decade from 1967-1977.

40. CASC colleges' presidents were willing to participate in the study. One hundred and twenty colleges sent the faculty handbooks, (63.5%). One hundred and twenty-seven colleges returned a completed questionnaire, (67.2%). Of these, 102 (54%) returned both. Thirteen additional colleges indicated they had no tenure policies, and 17 indicated they were

unwilling or unable to participate in the study. Only 14 colleges did not reply. The percentage of some participation in the study was 92.6%.

III. Recommendations

1. That a study of alternatives to tenure including no tenure and the periodic renewal system be made in representative institutions of higher education in order to see if the alternatives are more widely spread than this study of CASC colleges indicates, and to see if they are acceptable to faculty, administration and boards of trustees.

2. That institutions of higher education maintain better records concerning the dismissal of tenured and non-tenured faculty members recording both the substantive and procedural due process afforded each.

3. That CASC colleges' personnel examine their faculty handbooks, to make certain that their tenure policies are complete, that the handbook may be a positive influence upon qualified faculty considering employment at a CASC college.

4. That CASC colleges maintain the tenure system, giving of their financial resources and time to the careful recruitment of qualified faculty members, the annual evaluation of probationary faculty members, and the dismissal of those who are not qualified for tenure.

5. That CASC colleges grant tenure only to those faculty members that have the potential for outstanding contribution to the colleges for many years.

6. That CASC college administrators and faculty members

give special effort to personnel development, both administrative and professorial.

7. That CASC administrators involve more faculty members in the formulation of tenure policies, and that more faculty members become involved in the decision to employ new faculty, in the evaluation of new faculty performance and in the decision to tenure or not to tenure probationary faculty.

APPENDIXES

APPENDIX A

1940 STATEMENT OF PRINCIPLES ON ACADEMIC FREEDOM AND TENURE

Academic Freedom and Tenure
Statement of Principles, 1940¹

Editorial Note: Statement of principles concerning academic freedom and tenure formulated by representatives of the Association of American Colleges and of the American Association of University Professors and agreed upon at a joint conference on November 8, 1940. This statement was endorsed by the Association of American Colleges at its Annual Meeting on January 9, 1941, and is to be presented for endorsement to the Annual Meeting of the American Association of University Professors in December, 1941.

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for

¹Since 1934 representatives of the American Association of University Professors and of the Association of American Colleges have met in joint conferences to discuss the problems and principles of academic freedom and tenure. At a joint conference in March, 1936 it was agreed that the two Associations should undertake the task of formulating a new statement of principles on academic freedom and tenure which should ultimately replace the 1925 conference statement. Pursuant to this agreement three such joint conferences were held on October 4, 1936, January 22, 1938, and October 17-18, 1938. At the October, 1938 conference a statement of principles was agreed upon. This statement was endorsed by the Annual Meeting of the American Association of University Professors on December 28, 1938, and has subsequently been known as the 1938 statement of principles. The statement with several amendments was endorsed by the Annual Meeting of the Association of American Colleges on January 11, 1940. These amendments by the Association of American Colleges made another joint conference of representatives of the two Associations necessary. Such a conference was held in Washington, D.C., on November 8, 1940. At this conference a consensus was again reached and the 1940 statement agreed upon. The only real difference between the 1940 statement and the 1938 statement is in the length of the probationary periods set forth as representing "acceptable academic practice." The probationary periods agreed upon in the 1940 statement are one year longer than in the 1938 statement. Please note the section of the 1940 statement under the heading "Academic Tenure" (a) (2), and compare with same section in the 1938 statement (February, 1940 Bulletin, pp. 49-51.

the common good and not to further the interest of either the individual teacher¹ or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.

Tenure is a means to certain ends; specifically: (1) Freedom of teaching and research and of extra-mural activities, and (2) A sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

Academic Freedom

(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic-duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

¹The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

(b) The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.

(c) 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.

Academic Tenure

(a) After the expiration of a probationary period teachers or investigators should have permanent or continuous tenure, and their services should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period, if the teacher is not to be continued in service after the expiration of that period.

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have.

(4) 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.

(5) Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

APPENDIX B
CASC MEMBER COLLEGES

THE COUNCIL FOR THE ADVANCEMENT OF SMALL COLLEGES
One Dupont Circle, Suite 320
Washington, D.C. 20036

Member Colleges

Albertus Magnus College
700 Prospect St.
New Haven, CT 06511

Alverno College
3401 South 39th St.
Milwaukee, WI 53215

Annhurst College
Woodstock, CT 06281

Arkansas College
Box 2317
Batesville, AR 72501

Augustana College
29th & Summit Ave.
Sioux Falls, SD 57102

Aurora College
347 South Gladstone Ave.
Aurora, IL 60507

Averett College
Danville, VA 24541

Azusa Pacific College
Highway 66 at Citrus
Azusa, CA 91702

Barrington College
Barrington, RI 02806

Bartlesville Wesleyan College
2201 Silverlake Road
Bartlesville, OK 74003

Bethany College
Lindsborg, KS 67456

Bethany Nazarene College
6729 N.W. 39th Expressway
Bethany, OK 73008

Bethal College
1011 West McKinley Ave.
Mishawaka, IN 46544

Bethel College
North Newton, KS 67117

Bethel College
3900 Bethel Drive
St. Paul, MN 67117

Bluffton College
Bluffton, OH 45817

Bradford College
320 South Main St.
Bradford, MA 01830

Brenau College
Boulevard, N.E.
Gainesville, GA 30501

Brescia College
120 West 7th St.
Owensboro, KY 42301

Bryan College
Dayton, TN 37321

Buena Vista College
Storm Lake, IA 50588

Cabrini College
Eagle & King of Prussia Rds.
Radnor, PA 19087

California Lutheran College
60 Olsen Rd.
Thousand Oaks, CA 91360

Campbellsville College
Campbellsville, KY 42718

Carlow College
Pittsburgh, PA 15213

Carroll College
Helena, MT 59601

Carroll College
100 North East Ave.
Waukesha, WI 52186

Cedarville College
Cedarville, OH 45314

Central College
812 University
Pella, IA 50219

Central Wesleyan College
Central, SC 29630

College Misericordia
Lake St.
Dallas, PA 18612

College of Idaho
Caldwell, ID 83605

College of Mt. St. Joseph
on the Ohio
5701 Delhi Road
Mount Saint Joseph, OH 45051

College of St. Benedict
Saint Joseph, MN 56374

College of St. Francis
500 Wilcox St.
Joliet, IL 60435

College of Steubenville
Franciscan Way
Steubenville, OH 43952

Columbia College
600 South Michigan Ave.
Chicago, IL 60605

Covenant College
Lookout Mountain, TN 37350

Curry College
848 Brush Hill Rd.
Milton, MA 02186

Dakota Wesleyan University
Mitchell, SD 57301

David & Elkins College
Elkins, WVA 26241

Dominican College of Blauvelt
Western Highway
Orangeburn, NY 10962

Dordt College
Sioux Center, IA 51250

Eastern College
Saint Davids, PA 19087

Eastern Mennonite College
Harrisonburg, VA 22801

Eastern Nazarene College
23 East Elm Ave.
Wollaston, MA 02170

Edgewood College
855 Woodrow St.
Madison, WI 53711

Eureka College
Eureka, IL 61530

Felician College
South Main St.
Lodi, NJ 07644

Findlay College
1000 North Main St.
Findlay, OH 45840

Flagler College
St. Augustine, FL 32084

Fort Wayne Bible College
1025 West Rudisill Boulevard
Fort Wayne, IN 46807

Franklin College
Franklin, IN 46131

Franklin Pierce College
Rindge, NH 03461

Freed-Hardeman College
East Main St.
Henderson, TN 38340

Friends University
2100 University
Wichita, KS 67213

George Fox College
Newberg, OR 97132

Gordon College
255 Grapevine Ave.
Wenham, MA 01984

Goshen College
Goshen, IN 46526

Grace College
Winona Lake, IN 46590

Grand Canyon College
3300 West Camelback Rd.
Phoenix, AZ 85017

Grand Rapids Baptist College
Grand Rapids, MI 49501

Gwynedd Mercy College
Gwynedd Valley, PA 19437

Hampshire College
West St.
Amherst, MA 01002

Holy Family College
Grant and Frankford Avenues
Philadelphia, PA 19114

Houghton College
Houghton, NY 14744

Huntington College
Huntington, IN 46750

Huron College
Huron, SD 57350

Illinois College
1101 West College Ave.
Jacksonville, IL 62650

Illinois Benedictine College
Lisle, IL 60532

Immaculata College
Immaculata, PA 13245

Incarnate Word College
4301 Broadway
San Antonio, TX 78209

John Brown University
Siloam Springs, AR 72761

Judson College
1151 North State St.
Elgin, IL 60120

Kansas Newman College
3100 McCormick Ave.
Wichita, KS 67213

Kansas Wesleyan College
Salina, KS 67401

King College
East State St.
Bristol, TN 37620

King's College
133 North River St.
Wilkes-Barre, PA 18711

The King's College
Briarcliff Manor, NY 10510

Ladycliff College
Highland Falls, NY 10928

Lakeland College
Sheboygan, WI 53081

La Roche College
9000 Babcock Boulevard
Pittsburgh, PA 15237

Lee College
Cleveland, TN 37311

Lenoir-Rhyne College
Hickory, NC 28601

LeTourneau College
P.O. Box 7001
Longview, TX 75601

Lincoln University
281 Masonic Ave.
San Francisco, CA

Lincoln Memorial University
Harrogate, TN 37752

MacMurray College
Jacksonville, IL 62650

Madonna College
36600 Schoolcraft Rd.
Livonia, MI 48150

Marian College
3200 Cold Spring Rd.
Indianapolis, IN 46222

Marion College
4201 South Washington St.
Marion, IN 46952

Mars Hill College
Mars Hill, NC 28754

Mary College
Applecreek Rd.
Bismarck, ND 58501

Mary Baldwin College
Staunton, VA 24401

Marylhurst Education Center
Marylhurst, OR 97036

Marymount College
East Iron Ave. & Mary-
mount Rd.
Salina, KS 67401

McKendree College
Lebanon, IL 62254

McPherson College
1600 East Euclid
McPherson, KS 67460

Mercy College of Detroit
8200 West Outer Drive
Detroit, MI 48219

Mercyhurst College
501 East 38th St.
Erie, PA 16501

Messiah College
Grantham, PA 17027

Mid-America Nazarene
College
2030 College Way
Olathe, KS 66061

Milligan College
Milligan, TN 37682

Missouri Baptist College
12542 Conway Rd.
St. Louis, MO 63141

Mobile College
P.O. Box 13220
Mobile, AL 36613

Molloy College
100 Hempstead Ave.
Rockville Centre, NY 11570

Morris College
Sumter, SC 29150

Mount Mary College
2900 Monomonee River Parkway
Milwaukee, WI 53222

Mount Mercy College
1330 Elmhurst Drive, N.E.
Cedar Rapids, IA 52402

Mount Saint Mary's College
12001 Chalon Rd.
Los Angeles, CA 90049

Mount Vernon Nazarene College
Martinsburg Rd.
Mount Vernon, OH 43050

Muskingum College
New Concord, OH 43762

New College of California
777 Valencia St.
San Francisco, CA 94110

Newberry College
2100 College St.
Newberry, SC 29108

North Park College
5125 North Spaulding Ave.
Chicago, IL 60625

Northland College
1411 Ellis Ave.
Ashland, WI 54806

Northwest Christian College
Eugene, OR 97401

Northwest Nazarene College
Nampa, ID 83651

Northwestern College
Orange City, IA 51041

Northwestern College
3003 Snelling Ave. N.
Roseville, MN 55113

Notre Dame College
4545 College Rd.
Cleveland, OH 44121

Nyack College
Nyack, NY 10960

Oakland City College
Oakland City, IN 47660

Ohio Dominican College
1216 Sunbury Rd.
Columbus, OH 43219

Oklahoma Christian College
Oklahoma City, OK 73111

Our Lady of Angels College
Aston, PA 19014

Pacific College
1717 South Chestnut Ave.
Fresno, CA 93702

Pacific University
2043 College Way
Forest Grove, OR 97116

Paine College
1235 Fifteenth St.
Augusta, GA 30901

Paul Quinn College
1020 Elm St.
Waco, TX 76704

Pikeville College
Pikeville, KY 41501

Point Loma College
3900 Lomaland Dr.
San Diego, CA 92106

Quincy College
1831 College Ave.
Quincy, IL 62301

Regis College
3539 West 50th Parkway
Denver, CO 80221

Regis College
235 Wellesley St.
Weston, MA 02193

Ricker College
Houlton, ME 04730

Rockmont College
8801 West Alameda Ave.
Denver, CO 80226

Roberts Wesleyan College
Rochester, NY 14624

Rosemont College
Rosemont, PA 19010

Rust College
Rust Avenue
Holly Springs, MS 38635

Sacred Heart College
North Main Street
Belmont, NC

Salve Regina College
Ochre Point Ave.
Newport, RI 02840

St. Alphonsus College
Route 5A Mapleton Ave.
Suffield, CT 06078

St. Ambrose College
Davenport, IA 52803

St. Augustine's College
1315 Oakwood Ave.
Raleigh, NC 27611

St. Edward's University
3001 South Congress
Austin, TX 78704

St. Joseph College
1676 Asylum Ave.
West Hartford, CT 06117

St. Joseph's College
Rensselaer, IN 47978

St. Martin's College
Olympia, WA 98503

St. Mary's Dominican College
7213 St. Charles Ave.
New Orleans, LA 70118

St. Mary-of-the-Woods College
St. Mary-of-the-Woods,
IN 47876

St. Meinrad College
St. Meinrad, IN 47657

St. Michael's College
Winooski, VT 05404

St. Thomas Aquinas College
Sparkill, NY 10976

St. Vincent College
Latrobe, PA 15650

Shaw College at Detroit
7351 Woodward Ave.
Detroit, MI 48202

Silver Lake College of the
Holy Family
Route 5 Box 112
Manitowoc, WI 54220

Simpson College
801 Silver Ave.
San Francisco, CA 94134

Sioux Falls College
1501 South Prairie Ave.
Sioux Falls, SD 57101

Spelman College
350 Spelman Lane, S.W.
Atlanta, GA 30314

Spring Arbor College
Spring Arbor, MI 49283

Sterling College
Sterling, KS 67579

Susquehanna University
Selinsgrove, PA 17870

Tabor College
Hillsboro, KS 67063

Texas Lutheran College
Seguin, TX 78155

The Lindenwood Colleges
St. Charles, MO 63301

Thiel College
Greenville, PA 16125

Tift College
Forsyth, GA 31029

Trevecca Nazarene College
333 Murfreesboro Rd.
Nashville, TN 37201

Trinity College
2045 Half Day Rd.
Deerfield, IL 60015

Trinity College
Burlington, VT 05401

Trinity Christian College
6601 West College Dr.
Palos Heights, IL 60463

University of Dubuque
2050 University Ave.
Dubuque, IA 52001

Urbana College
College Way
Urbana, OH 43078

Villa Maria College
2551 West Lake Rd.
Erie, PA 16505

Viterbo College
815 South 9th St.
LaCrosse, WI 54601

Walsh College
2020 Easton St. N.W.
Canton, OH 44720

Warner Pacific College
2219 S.E. 68th St.
Portland, OR 97215

Warren Wilson College
Swannanoa, NC 28778

Western New England College
1215 Wilbraham Rd.
Springfield, MA 01119

Westmar College
1002 Third Ave. S.E.
Le Mars, IA 51031

Westminster College
1840 South 13th East St.
Salt Lake City, UT 84105

Westmont College
955 LaPaz Rd.
Santa Barbara, CA 93103

Wheeling College
316 Washington Ave.
Wheeling, WVA 26003

Whitworth College
Spokane, WA 99218

William Jewell College
Liberty, MO 64068

William Penn College
North Market Street
Oskaloosa, IA 52577

THE DISTRIBUTION OF CASC COLLEGES BY STATE

<u>State</u>	<u>Number of Colleges</u>	<u>State</u>	<u>Number of Colleges</u>
Alabama	1	Montana	1
Alaska	0	Nebraska	0
Arizona	1	Nevada	0
Arkansas	2	New Hampshire	1
California	9	New Jersey	1
Colorado	2	New Mexico	0
Connecticut	4	New York	8
Delaware	0	North Carolina	5
Florida	1	North Dakota	1
Georgia	4	Ohio	11
Hawaii	0	Oklahoma	3
Idaho	2	Oregon	5
Illinois	13	Pennsylvania	17
Indiana	13	Rhode Island	2
Iowa	9	South Carolina	3
Kansas	11	South Dakota	4
Kentucky	3	Tennessee	8
Louisiana	1	Texas	5
Maine	1	Utah	1
Maryland	0	Vermont	2
Massachusetts	7	Virginia	3
Michigan	5	Washington	2
Minnesota	3	West Virginia	2
Mississippi	1	Wisconsin	8
Missouri	3	Wyoming	0

APPENDIX C
THE QUESTIONNAIRE

ACADEMIC TENURE POLICIES AND PROCEDURES
FOR CASC COLLEGES

THE QUESTIONNAIRE*

1. Please help me discover a profile of your present faculty.

How many are in each rank? Are they full-time or part-time? Have they been granted tenure?

<u>Position</u>	<u>Number Full-Time</u>	<u>Number Part-Time</u>	<u>Number On Tenure</u>
Professor	_____	_____	_____
Associate Professor	_____	_____	_____
Assistant Professor	_____	_____	_____
Instructor	_____	_____	_____
Other, Please Specify _____	_____	_____	_____
_____	_____	_____	_____

2. How did your faculty profile differ from the above in 1972?

	<u>Number Full-Time</u>	<u>Number Part-Time</u>	<u>Number On Tenure</u>
Total in 1972	_____	_____	_____

3. How many proceedings to terminate tenure have been originated at your college from 1967 to the present?

4. How many tenured professor were granted a hearing and then dismissed from 1967 to the present?

5. How many tenured professors had their tenure terminated from 1967 to the present? _____
6. How many tenured professors were granted a hearing and then retained from 1967 to the present? _____
7. How many tenured professors resigned after a question of tenure termination had arisen from 1967 to the present? _____
8. Please indicate the causes for tenure termination as evidenced from the proceedings to terminate tenure from 1967 to the present?

<u>Causes</u>	<u>Number of Proceedings</u>
Professional incompetence	_____
Serious misconduct or immorality	_____
Crime including treason	_____
Incapacity or disability	_____
Failure in institutional relationship	_____
Other causes, Please specify	_____
_____	_____

9. How many dismissed professors took legal action against the institution during the past decade? _____
- a. What number won the case in a court of law? _____
- b. What number were reinstated? _____
- c. What number were financially compensated but were not reinstated? _____

10. How many non-tenured professors have been dismissed before they were granted tenure from 1967 to the present? _____

a. How many of these dismissed non-tenured professors asked for a written statement of reasons for the dismissal? _____

b. Of those who asked, how many were granted such a statement? _____

c. How many of these dismissed non-tenured professors asked for a hearing? _____

d. Of those who asked, how many were granted such a hearing? _____

e. Of those who were granted a hearing, how many were reinstated? _____

11. During what academic year have you last studied or sought to update the tenure policies of your college? _____

12. Have you, or are you presently considering any alternatives to tenure?

	<u>Have Considered</u>	<u>Are Considering</u>
a. A limitation on the number of tenured faculty. (A quota system)	_____	_____
b. A periodic contract renewal system	_____	_____
c. Abolishing tenure altogether	_____	_____
d. Collective Bargaining, making tenure a negotiable item	_____	_____
e. Other, Please specify	_____	_____

The investigator will be grateful for any general statement or comments you may wish to make. Please return the completed questionnaire in the self-addressed, stamped envelope provided. Thank you.

*This questionnaire was based upon the questionnaire used by Shaw and was adopted for use in this study.

B. N. Shaw, "Academic Tenure Policies and Procedures in State Universities and Land-Grant Colleges which are members of the National Association of State Universities and Land-Grant Colleges," Ed.D. dissertation, University of Mississippi, 1971.

ACADEMIC TENURE POLICIES AND PROCEDURES
IN STATE UNIVERSITIES AND LAND-GRANT
COLLEGES WHICH ARE MEMBERS OF
THE NATIONAL ASSOCIATION OF STATE
UNIVERSITIES AND LAND-GRANT COLLEGES

THE QUESTIONNAIRE*

1. Total teaching staff and teaching staff on tenure:

<u>Position</u>	<u>Total Full-Time</u>	<u>On Tenure</u>
Professor	_____	_____
Associate Professor	_____	_____
Assistant Professor	_____	_____
Instructor	_____	_____
Other, if any (please specify)	_____	_____
Total	_____	_____

2. Number of proceedings to terminate tenure which were instituted at your institution during the past ten years

3. Number of tenured teachers granted hearing and then dismissed during the past ten years _____

4. Number of tenured teachers whose tenure was terminated during the past ten years _____

5. Number of tenured teachers granted hearing and then retained during the past ten years _____

6. Number of tenured teachers who resigned after a question of tenure termination had arisen during the past ten years _____

7. Causes for tenure termination as evidenced from the proceedings to terminate tenure during the past ten years:

<u>Causes</u>	<u>Number of Proceedings</u>
Professional incompetence	_____
Serious misconduct or immorality	_____
Crime including treason	_____
Incapacity or disability	_____
Failure in institutional relationship	_____
Other causes, if any (please specify)	_____
_____	_____
_____	_____
_____	_____

8. Number of dismissed teachers who took legal action against the institution _____

(a) Number won the case in the court of law _____

(b) Number reinstated _____

(c) Number financially compensated but not reinstated _____

Please return the completed questionnaire to:

Biswanath Shaw
Box 7849
University, Mississippi 38677

The investigator will be grateful for any general statement or comments you may wish to make.

*B. N. Shaw, "Academic Tenure Policies and Procedures in State Universities and Land-Grant Colleges which are Members of the National Association of State Universities and Land-Grant Colleges," Ed.D. dissertation, University of Mississippi, 1971.

APPENDIX D

**INSTRUMENT FOR CONTENT ANALYSIS OF DOCUMENTS CONCERNING
ACADEMIC TENURE POLICIES AND PROCEDURES**

INSTRUMENT FOR CONTENT ANALYSIS OF DOCUMENTS CONCERNING
ACADEMIC TENURE POLICIES AND PROCEDURES*

Name of Institution _____

Title(s) of document(s) studied _____

I. DEFINITION AND CLASSIFICATION OF TENURE

1. Definition of tenure (a) is given____(b) is not given____

Indicate title of the document and page number of the definition if given:

.

2. The tenure plan of the institution as described in the document is (a) legal tenure____(b) moral tenure (c) not specific____
3. The tenure plan of the institution as described in the document is (a) automatic____(b) evaluative____ (c) not specific____

II. ACQUISITION OF TENURE

4. The pretenure rank is
- (a) Associate professor____
- (b) Assistant professor____
- (c) Instructor____
- (d) Other (specify)____
5. Probationary period is
- (a) Same for all ranks____
- (b) Varies according to rank____
- (c) Not specific____
6. If the probationary period is the same for all ranks, note the number of years____

7. If the probationary period varies according to rank, indicate the number of years against each rank below
- (a) Professor_____
 - (b) Associate professor_____
 - (c) Assistant professor_____
 - (d) Instructor_____
8. Acceptance of the teacher's previous service at another institution towards probationary period
- (a) accepted____(b) not accepted____(c) not specific_____
9. If accepted and the acceptable period is uniform irrespective of ranks, specify the number of years acceptable_____
10. If accepted, but the period acceptable is not uniform, indicate below
- (a) Minimum number of years acceptable_____
 - (b) Maximum number of years acceptable_____
11. Criteria for the acquisition of tenure
- (a) specified_____(b) not specified_____
12. If the criteria are specified, check the items applicable
- (a) Teaching ability_____
 - (b) Research ability_____
 - (c) Scholarly publications_____
 - (d) Professional degree and achievement_____
 - (e) Character and personality_____
 - (f) Cooperation and general service to the institution_____
 - (g) Advising service to students_____
- Other criteria (if any) not included above
-
-

13. Governing procedures for the acquisition of tenure
 - (a) Reserve action to the administration_____
 - (b) Reserve action to the administration, but provide for faculty consultation_____
 - (c) Reserve action to administration, but provide some kind of faculty action other than more consultation

 - (d) Governing procedure is not specific_____
14. Appeal from denial of tenure
 - (a) Right to appeal specified_____
 - (b) Right to appeal not specified_____
15. Procedures for appeal from denial of tenure
 - (a) Procedures are specified_____
 - (b) Procedures are not specified_____

III. TERMINATION OF TENURE

16. Criteria for termination of tenure
 - (a) Specific_____
 - (b) Not specific_____
 - (c) States in general terms, such as, "Cause," "Good Cause," or "Adequate Cause," etc._____
 - (d) States in general--"Grounds in the 1940 Statement."_____
17. Check all the items specified as criteria for termination
 - (a) Immorality or misconduct_____
 - (b) Professional incompetence_____
 - (c) Neglect of duty_____
 - (d) Failure in professional growth_____
 - (e) Crime, including treason_____
 - (f) Incapacity or disability_____

(g) Failure in institution relationship_____

(h) Financial exigencies_____

(i) Other criteria not included above

18. Informal adjustment and reconciliation procedures

(a) Specified_____

(b) Not specified_____

19. Opportunity for a hearing

(a) Granted automatically_____

(b) Granted if requested_____

(c) Provision not specific_____

20. A copy of the charges

(a) Supplied before the hearing date_____

(b) Not supplied

(c) Provision not specific_____

21. The hearing committee is ordinarily

(a) A standing committee_____

(b) A special committee for each case_____

(c) Not specific_____

22. Composition of the hearing committee

(a) Faculty members only_____

(b) Faculty and administrative staff_____

(c) Faculty, administration and trustees_____

(d) Any other composition_____

(e) Not specific_____

23. Formation of the hearing committee

- (a) All members are appointed_____
- (b) All members are elected by the faculty_____
- (c) Some elected and some appointed_____
- (d) Any manner of formation_____
- (e) Not specific_____

24. A list of witnesses is supplied before the hearing date

- (a) Yes_____ (b) No_____ (c) Not specific_____

25. The teacher has the right to be present with his counsel

- (a) Yes_____ (b) No_____ (c) Not specific_____

26. The teacher has the right to introduce witnesses

- (a) Yes_____ (b) No_____ (c) Not specific_____

27. The teacher has the right to cross examine witnesses

- (a) Yes_____ (b) No_____ (c) Not specific_____

28. The teacher has the right to receive a full transcript of the hearing

- (a) Yes_____ (b) No_____ (c) Not specific_____

29. The teacher has the right to appeal

- (a) Yes_____ (b) No_____ (c) Not specific_____

30. The teacher can be suspended during the hearing pending final decision of the hearing committee

- (a) Yes_____ (b) No_____ (c) Not specific_____

31. The teacher can be summarily dismissed by the president in case of serious offense

- (a) Yes_____ (b) No_____ (c) Not specific_____

Note below any additional data that have not been included

*B. N. Shaw, "Academic Tenure Policies and Procedures in State Universities and Land-Grant Colleges Which are Members of the National Association of State Universities and Land-Grant Colleges," Ed.D. dissertation, University of Mississippi, 1971.

APPENDIX E
INSTRUCTIONS TO ANALYSTS FOR CONTENT ANALYSIS

INSTRUCTIONS TO ANALYSTS FOR CONTENT ANALYSIS*

Dear Analyst:

Enclosed please find three documents concerning tenure policies and procedures of three different institutions of higher education and three copies of the instrument designed for the content analysis of these documents. Please follow the following methods in making the content analysis and record the desired data in the instrument.

1. Be thoroughly acquainted with the instrument for content analysis.
2. Study the definitions of the following terms:
 - (a) Tenure. Tenure is defined as a permanence of position, often granted an employee after a specified number of years of continuous service and/or upon appointment at/or promotion to a specific rank.
 - (b) Legal Tenure. Legal tenure is tenure, the terms and conditions of which are legally binding on the parties concerned.
 - (c) Moral Tenure. Moral tenure is tenure which is established by convention rather than by law or tenure with restrictive provisions that make the tenure legally unenforceable.
 - (d) Automatic Tenure. Automatic tenure refers to tenure which is acquired by completing a specified period of continuous service and/or by being promoted to or appointed at a specified faculty rank.
 - (e) Evaluative Tenure. Evaluative tenure is not automatic in the sense that a teacher does not assume tenure upon completion of a specified probationary period or upon promotion to or appointment at a specified faculty rank. The tenure is formally granted by an official announcement or a letter indicating the decision of the governing board.

Please note that evaluation is done in both kinds of tenure, whether automatic or evaluative.

(f) Probationary Period. Probationary period refers to a specified number of years a teacher is required to serve at a particular rank or particular ranks to be eligible for tenure.

(g) Pre-Tenure Rank. The lowest rank at which a college or university may grant tenure to its teachers.

3. Study thoroughly one document at a time.
4. Interpret the content of the document systematically.
5. Draw inferences from the interpretation of the content of each document.
6. Record the inferences in the instrument for content analysis in the form of specific data.
7. Review each document and the data recorded in the instrument and examine the objectivity in analysis and accuracy in recording of the data.
8. Briefly describe the data with a note of reference in cases where the data cannot be fitted into the instrument.
9. On completion of your content analysis and recording of the data, return the documents and the instruments to the author.

Your cooperation is highly appreciated.

Sincerely,

Ralph Abuhl

*B. N. Shaw, "Academic Tenure Policies and Procedures in State Universities and Land-Grant Colleges Which are Members of the National Association of State Universities and Land-Grant Colleges," Ed.D. dissertation, University of Mississippi, 1971.

APPENDIX F

**THE CHART SHOWING AGREEMENT AND DISAGREEMENT
IN CONTENT ANALYSIS BETWEEN THE INVESTIGATOR
AND THE THREE INDEPENDENT ANALYSTS**

CHART SHOWING AGREEMENT AND DISAGREEMENT IN CONTENT ANALYSIS
BETWEEN THE INVESTIGATOR AND THE THREE INDEPENDENT ANALYSTS

Category in the Instrument	Analyst A Documents			Analyst B Documents			Analyst C Documents		
	X	Y	Z	X	Y	Z	X	Y	Z
1	A	A	A	A	A	A	A	A	A
2	A	A	A	A	A	D	A	A	D
3	A	A	A	A	A	A	A	A	A
4	A	A	A	A	A	A	A	A	A
5	A	A	A	A	A	A	D	A	A
6	A	A	A	A	A	A	D	A	A
7	A	A	A	A	A	A	D	A	A
8	A	D	D	A	A	A	A	A	A
9	A	D	D	A	A	A	A	A	A
10	A	A	A	A	A	A	A	A	A
11	A	A	A	A	A	A	A	A	A
12	A	A	A	A	A	A	A	A	A
13	A	A	A	A	A	A	A	A	A
14	A	A	A	A	A	A	A	A	D
15	A	A	A	A	A	A	A	A	D
16	A	A	A	A	A	A	A	A	A
17	A	A	A	A	A	A	A	A	A
18	A	A	A	A	A	D	A	A	D
19	A	A	A	A	A	D	A	A	A
20	A	A	A	A	A	A	A	A	A

A = Agreement with the investigator's analysis

D = Disagreement with the investigator's analysis

CHART SHOWING AGREEMENT AND DISAGREEMENT IN CONTENT ANALYSIS
BETWEEN THE INVESTIGATOR AND THE THREE INDEPENDENT ANALYSTS

Continued

Category in the Instrument	Analyst A Documents			Analyst B Documents			Analyst C Documents			
	X	Y	Z	X	Y	Z	X	Y	Z	
21	A	A	A	A	A	A	A	D	A	
22	A	A	A	D	A	D	A	A	A	
23	A	A	D	D	A	A	A	A	A	
24	D	A	A	A	A	A	A	A	A	
25	A	A	A	A	A	A	A	A	A	
26	A	A	A	A	A	A	A	A	A	
27	A	A	A	A	A	A	A	A	A	
28	A	A	A	A	A	A	A	A	A	
29	A	A	A	A	D	D	A	A	A	
30	D	A	A	A	A	A	A	A	A	
31	A	A	A	A	A	A	A	A	A	
	A =	29	29	28	29	30	26	28	29	27
	D =	2	2	3	2	1	5	3	2	4
Percentage of Agreement		93.5	93.5	90.3	93.5	96.8	83.9	90.3	93.5	87.1

A = Agreement with the investigator's analysis

D = Disagreement with the investigator's analysis

APPENDIX G

LETTER SENT TO PARTICIPATING COLLEGES FROM THE CASC OFFICE



The Council for the Advancement of Small Colleges

ONE DUPONT CIRCLE WASHINGTON, D. C. 20036 • (202) 659-3795

GARY H. QUEHL
President

GERRIT J. TenBRINK
Vice President

WILLIAM A. SHOEMAKER
Vice President for Research

DANIEL H. PILON
Director, National Consulting Network

About one month ago, a friend and former colleague of mine, Mr. Ralph Abuhl, approached me about making a study of the tenure policies and practices of the CASC colleges. I was immediately interested. In my position, I have become increasingly aware of some of the problems involved with the practice of tenure in the private college. With continuing inflation, declining student enrollment, and increasing number of available qualified faculty, liberal tenure policies could soon result in the "tenuring in" of some of our colleges. Such a circumstance could lead to a lack of positions available to youthful, creative faculty members for some years.

Studies similar to this one proposed for the CASC colleges have been made using state colleges and universities, but I know that we need such a study for the private, small college. Mr. Abuhl has offered to send a copy of a summary of his findings to each college that participates, in addition to making the full report available to the CASC office.

I encourage you to participate in this timely study by sending a copy of your current faculty handbook to Mr. Abuhl, and by completing his questionnaire at your earliest convenience.

Sincerely,

A handwritten signature in dark ink, reading "Gerrit J. TenBrink". The signature is written in a cursive style with a large, sweeping "G" and "T".

Gerrit J. TenBrink
Vice President

APPENDIX H

**LETTER SENT TO PARTICIPATING COLLEGES FROM THE INVESTIGATOR
AND HIS COMMITTEE CHAIRMAN**

MICHIGAN STATE UNIVERSITY

COLLEGE OF EDUCATION
DEPARTMENT OF ADMINISTRATION AND HIGHER EDUCATION
ERICKSON HALL

EAST LANSING • MICHIGAN • 48824

I am currently a doctoral student at Michigan State University writing my dissertation on the tenure policies and practices of CASC colleges. Your institution, as part of the Council for the Advancement of Small Colleges is an integral part of my study. I am presently an associate professor of psychology at the Grand Rapids Baptist College, one of the CASC colleges to be included in my study. I would greatly appreciate your assistance.

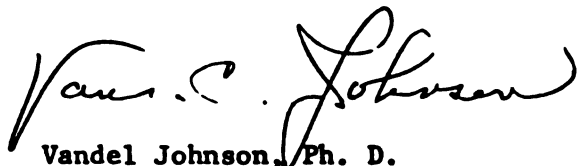
Your participation includes two things: (1) the completion of the enclosed three-page questionnaire, and (2) the mailing of your faculty handbook or other documents which contain your official statements on tenure policies. Accompanying this letter is a self-addressed, stamped envelope for the return of the questionnaire, and another larger self-addressed, stamped envelope for your faculty handbook.

All responses are guaranteed anonymity. The results of the study will be incorporated into the doctoral dissertation, but a summary of the completed study will be mailed to all participating institutions.

Thank you for your response, your time and your interest. Please mail the questionnaire and handbook at your earliest convenience.

Sincerely,

Ralph Abuhl

A handwritten signature in cursive script, reading "Vandel Johnson".

Vandel Johnson, Ph. D.
Chairman, Department of Administration
and Higher Education, MSU

APPENDIX I
FOLLOW-UP LETTER

February 24, 1978

A few weeks ago I sent you a letter and a questionnaire concerning "Tenure Policies and Practices in CASC Colleges," which is the topic of my doctoral dissertation at Michigan State University. To date I have not received either your questionnaire or your faculty handbook.

I realize that this is a very busy time of year for you, and that my request is an imposition upon your time, but I am working under a deadline and would appreciate your help. Please complete the questions at the bottom of this page and return it via the enclosed envelope. In this way I will know what information I can expect to receive from you within the next week.

Thank you for your interest and your time.

Sincerely,

Ralph Abuhl

-
- I. NAME OF YOUR INSTITUTION: _____
- II. THE QUESTIONNAIRE:
- ☐ A. We have mislaid it, but would like to assist you, will you please send us another copy.
 - ☐ B. We have already sent it to you.
 - ☐ C. We do not have tenure, so the questionnaire would not be any help to your study. ("Please send it anyway, your information is significant to the study as a whole.")
 - ☐ D. We do not intend to complete the questionnaire for you.
- III. THE FACULTY HANDBOOK OR DOCUMENT CONTAINING YOUR EMPLOYMENT, PROMOTION, AND TENURING POLICIES:
- ☐ A. We have not mailed it yet, but will try to do it today.
 - ☐ B. We have already sent it to you.
 - ☐ C. We do not have tenure, so the handbook would not be of any help to your study. ("Please send this information too, as it is significant to the study as a whole.")
 - ☐ D. We do not intend to send you a copy of our handbook/document.

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BIBLIOGRAPHY

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