

THE AMERICAN ASSOCIATION OF UNIVERSITY  
PROFESSORS: THEIR PROFESSIONAL  
SANCTION FOR THE ENFORCEMENT  
OF ACADEMIC FREEDOM AND  
TENURE, 1930-1970

By

GREGORY C. MOSIER

"

Bachelor of Science  
Oklahoma State University  
Stillwater, Oklahoma  
1978

Juris Doctor  
University of Kansas  
Lawrence, Kansas  
1981

Submitted to the Faculty of the Graduate College  
of the Oklahoma State University  
in partial fulfillment of the requirements  
for the Degree of  
DOCTOR OF EDUCATION  
Graduate College

July, 1986

Thesis  
1986D  
M911a  
cop. 2



THE AMERICAN ASSOCIATION OF UNIVERSITY  
PROFESSORS: THEIR PROFESSIONAL  
SANCTIONS FOR THE ENFORCEMENT  
OF ACADEMIC FREEDOM AND  
TENURE, 1930-1970

Thesis Approved:

A handwritten signature in blue ink, appearing to read "Thomas A. ...".

Thesis Adviser

A handwritten signature in black ink, appearing to read "Robert B. Kamm".

A handwritten signature in black ink, appearing to read "John J. Kudlein".

A handwritten signature in black ink, appearing to read "W. Paul Baird".

A handwritten signature in black ink, appearing to read "Norman N. Durham".

Dean of the Graduate College

## ACKNOWLEDGMENTS

The writer would like to thank those persons whose cooperation and support made the research and writing of this study possible. Thanks to Dr. Thomas Karman, committee chairman and dissertation adviser, for his excellent direction and guidance throughout the doctoral experience. Appreciation is also expressed to Dr. Robert Kamm, Dr. John Gardiner, and Dr. David Baird for their excellent contributions as members of the dissertation committee.

A special word of gratitude is offered to the writer's family and friends for their endless moral support and encouragement. Very special thanks is extended to the writer's mother and father for their understanding advice, listening ear, and encouragement throughout the doctoral experience.

TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION. . . . .	1
II. COMMITTEE "A" AND THE DEVELOPMENT OF STANDARDS. . . . .	6
III. THE "INELIGIBLE LIST" . . . . .	13
IV. THE CENSURED LIST . . . . .	23
V. THE WAR YEARS . . . . .	31
VI. THE COLD WAR AND COMMUNISM. . . . .	40
VII. THE COURTS AND MILITANCY. . . . .	60
VIII. PROFESSIONAL ASSOCIATION OR ORGANIZED LABOR . . . . .	78
IX. CONCLUSION. . . . .	88
BIBLIOGRAPHY . . . . .	91
APPENDIXES . . . . .	95
APPENDIX A - CONFERENCE STATEMENT OF 1925 . . . . .	96
APPENDIX B - STATEMENT OF PRINCIPLES, 1940. . . . .	99
APPENDIX C - CENSURED ADMINISTRATIONS HEADNOTE. . . . .	103
APPENDIX D - CENSURED ADMINISTRATIONS, 1930-1970. . . . .	104

## CHAPTER I

### INTRODUCTION

In 1915 a ". . . union of the aristocrats of academic labor"<sup>1</sup> established the American Association of University Professors as an organization to promote and protect the professional concerns of senior academicians. Immediately, the organization established the guarantee of academic freedom and tenure as the foremost of the concerns of the membership but the ambiguity of these rights created a challenge of definition and enforcement for the Association. Although academia generally accepted the AAUP's definitions as the basis for the concept of academic freedom and tenure in the United States, the membership of the Association perceived the Association's ability as an enforcement agency as negligible.

The primary problem with the Association's enforcement capabilities centered around its means for assuring adherence to its standards. In response to calls for sanctions the Association developed the censured list of college and university administrations as its ultimate expression of professional disapproval of an administration's academic freedom and tenure actions. This conclusive sanction and its application and procedure can be used effectively to trace the history of the Association and to

---

<sup>1</sup> Richard Hofstadter and Walter P. Metzger, The Development of Academic Freedom in the United States (New York: Columbia University Press, 1955), p. 477.

explain the controversy and dissension that has surrounded it from its inception.

The development of the Association is effectively chronicled on the basis of major Association actions. These actions "rode the tide of such events as depression and war" and reflect the continuing evolution of the Association.<sup>2</sup> The concerns of the Association during the Great Depression centered upon issues of tenure and job security. During the Second World War the Association changed many of its procedures. The Cold War and the Red Scare during the 1950's caused considerable controversy and disagreement within the Association regarding its appropriate role in academia. Still later the increasingly militant behavior of the professoriate was responsible for a radical shift in Association activities which led to its demise as an organization that could claim to be truly professional.

Throughout its history, the AAUP was marked with a pattern of continuing membership dissatisfaction with the Association's ability to insure the professoriate's academic freedom and tenure. The attitude of some administrators was one of candid disregard if not outright contempt for the Association and its sole sanction. The public's perception of the academic profession made the likelihood of censure swaying wide scale public opinion a dubious goal at best. In regard to dismissals at the University of Tennessee in July of 1923, the New Republic blasted the members of the AAUP for perceived ineffectiveness as "educational policemen." It was noted that "The Association was naturally called in to exercise whatever power it has to mobilize public opinion by investigation

---

<sup>2</sup> Walter P. Metzger. "Academic Tenure in America: A Historical Essay," Faculty Tenure, (San Francisco: Jossey Bass, 1973), p. 148.

and publication of the facts" and that "the worst that can ensue, under the precedents is an ineffective swat"<sup>3</sup> at the violators.

Censure was a professional sanction which was similar to one which most professional organizations used to enforce minimum rules of conduct, behavior, and standards to suit their professional cause and goals. The American Medical Association, The American Bar Association, and the Societies for Professional Engineers were all in enviable positions in regard to enforcing their standards upon colleges and universities. As outside economic forces and as consumers of more specific products of higher education, they accredited schools on behalf of their professions and to that extent dictated a school's practices. The AAUP did not operate from this advantage. It was a part of the complex and varied system of higher education and the institutions which it tried to change. The academic community reprimanded itself when the American Association of University Professors censured an administration, which is hardly an action that could hope to generate wide support from people outside of the academic community or for that matter even a large number of members of the academic community. As Alexander Mecklejohn noted in 1918 "I think that the Association of University Professors, fine as it is in purpose, has tended to increase misapprehension at this point. The Association in its proposals and discussions has sundered the college in two. It has opposed the teachers and the administrators."<sup>4</sup> A result of this divisiveness is the controversy that has always surrounded the AAUP and its censured list.

---

<sup>3</sup> "A Professorial Issue," The New Republic (May 23, 1924), p. 6.

<sup>4</sup> Alexander Mecklejohn, "Freedom of the College," Atlantic Monthly (January, 1918), p. 83-89.

While Association officials recognized that the effectiveness of their sanction was difficult if not impossible to ascertain, they argued that they measured the purpose of the censured list and its effectiveness in terms of bringing academic freedom and tenure violations to the attention of the public and the subsequent swaying of public opinion against the alleged violators. If the intended purpose of the censured list--i.e., to focus public attention on academic freedom and tenure--had been accomplished, then the perceptions of various publics in regard to Association action would reflect understanding and acceptance by the public, administrators, and academicians of the Association's principles and procedures. With this goal in mind the Association needed to address the more crucial question concerning the membership's perception of the sanction.

In their deliberations and actions University professors attempted to follow the precedent set by earlier professions organized in the late 19th century and sought to incorporate professional standards into the field of higher education. Indeed, this was the overriding goal in the formation of the organization. John Dewey endorsed the idea of organization for professional reasons but rejected the notion that the organization should be one to provide professorial defense in academic freedom violation cases. He stated "such cases are too rare to even suggest the formation of an association like this . . . In any case, I am confident that the topic cannot be more than an incident of the activities of the Association in developing professional standards."<sup>5</sup>

From the beginning, the Association's announced major thrust was to act as a professional organization, and eschew any activity that "smacked

---

<sup>5</sup> Richard Hofstadter and Walter P. Metzger, The Development of Academic Freedom in the United States (New York: Columbia University Press, 1955), p. 478.

of trade unionism."<sup>6</sup> The trend favoring professionalization is one which remains consistent throughout the organization's history both in regard to its professional standards as they relate to academic freedom and tenure and in the Association's practice of imposing sanctions for violation of those principles.

A study of the Association activities involving censure of college and university administrations is necessary to understand fully the impact of the AAUP on academic freedom and tenure in the United States. Rules and regulations promulgated by the Association to govern actions after investigation of an institution revealed violations of academic freedom and tenure, trace the activities of the Association throughout the 20th Century. In the years since its founding, no other activity of the Association has generated so much controversy, both within the confines of the Association and throughout academia.

---

<sup>6</sup> Ibid, p. 470.

## CHAPTER II

### COMMITTEE "A" AND THE DEVELOPMENT OF STANDARDS

Committee A was responsible for the codification of the Association's professional standards on academic freedom and tenure. From the beginning, Committee A regarded definite procedural processes involving faculty tenure as necessary to guarantee academic freedom. Members of the committee took the position that although "academic freedom was the end: due process, tenure and establishment of professional competence were . . . necessary means."<sup>1</sup>

Codification was only a part of Committee A's efforts. In addition the committee undertook investigations of incidents which involved potential violation of academic freedom and tenure. When investigations found evidence of violations of these principles, enforcement of standards called for the Association to publish a record of the investigation in the Bulletin of the American Association of University Professors, exposing the guilty institution's behavior to the public. In addressing the matter of their enforcement methods, Committee A noted that it was not likely to be able to redress grievances, but that it could "uncover the conditions that bred them and so make their recurrence less likely." In addition it recognized that "what corrective results we can obtain here and there

---

<sup>1</sup> Richard Hofstadter and Walter P. Metzger, The Development of Academic Freedom in the United States (New York: Columbia University Press, 1955), p. 481.

we welcome, but our largest accomplishment must come from the educative aspects of our work."<sup>2</sup>

Many members contemplated stronger enforcement measures and more vigorous sanctions than the Association's officially espoused enforcement by publicity. At the 11th annual meeting held in December of 1924, there was an "informal discussion of the desirability of more effective methods of checking arbitrary dismissals; for example, by discouraging members of the professions from accepting appointments in institutions where such practices prevail."<sup>3</sup> This view was reiterated the next year when Orvin K. McMurray stated at the annual meeting in 1925, that "The really effective sanction that lies behind our judgment is found in the sentiment of the University world."<sup>4</sup> However, in noting the less than 'unanimous' acceptance of the Association standards in the academic work place McMurray continued "There are many colleges where a condemnation of a practice by this Association, after a formal investigation, would serve not at all to introduce a more liberal or enlightened attitude but would tend rather to stiffen its obstinacy."<sup>5</sup>

The founders of the Association did not regard investigation of academic freedom violation as likely to consume an inordinate amount of the fledgling organization's time. However in its first year it was called upon four times to conduct such a proceeding. One of the interesting

---

<sup>2</sup> "Report of Committee A," Bulletin of the American Association of University Professors (Feb./March, 1918), p. 19.

<sup>3</sup> "Annual Meeting," Bulletin of the American Association of University Professors (Feb., 1925), p. 70.

<sup>4</sup> Orvin K. McMurray, "Annual Meeting," Bulletin of the American Association of University Professors (February/March, 1926), p. 76.

<sup>5</sup> Ibid.

attributes of the complaints and of those that would follow was the fact that they were usually focused on the question of tenure. H. F. Goodrich, Chairman of Committee A in 1924, stated "Reports of this committee in previous years have mentioned the fact that complaints with which it has to deal, are based more frequently upon infringement of principles of tenure than upon those of freedom in teaching or expression."<sup>6</sup> By 1936 the retiring president of the Association, S.A. Mitchell, observed that "whatever the future of the Association may be its prestige will depend primarily on the manner in which Committee A carries on."<sup>7</sup>

In 1925 numerous educational associations across the nation joined to draft a definitive statement on academic freedom and tenure. At a meeting held in the fall of that year in Washington D.C., those organizations represented approved a proposal submitted by the Association of American Colleges. The American Association of University Professors subsequently adopted the statement in 1926, and it served as the guide for Committee A's actions for the next fifteen years.<sup>8</sup>

In promoting its enforcement ideals, the Association considered the following topics at its 1927 annual meeting: 1) To what extent objectives of the Association had been obtained? 2) Could better results be obtained

---

<sup>6</sup> H. F. Goodrich, "Report of Committee A," Bulletin of the American Association of University Professors (Feb., 1924), p. 9.

<sup>7</sup> S. A. Mitchell, "Address of Retiring President," Bulletin of the American Association of University Professors (Feb., 1936), p. 94.

<sup>8</sup> Associations attending included the American Association of University Women, the American Association of University Professors, the Association of American Colleges, the Association of American Universities, the Association of Governing Boards, the Association of Land-grant Colleges, the Association of Urban Universities, the National Association of State Universities and the American Council on Education. "Statement of Principles," Bulletin of the American Association of University Professors (February, 1941), p. 43; See Appendix A.

by cooperative action with other agencies? 3) Could methods of publication and publicity be improved?<sup>9</sup> One factor affecting the utilization of publicity as a sanction was the recognition that "In deciding whether to publish comments in the Bulletin, the Committee A is largely guided by the attitude of the University,"<sup>10</sup> a very subjective determination.

While pondering its role and purpose the Association was experiencing an increase in the activities with which it was involved. At the 1928 annual meeting the Association approved a permanent office, with a secretary available for full time service. After the creation of this office, the Association became much more active in the area of enforcement of academic freedom and tenure principles and in the search for an effective sanction.<sup>11</sup>

While codification naturally led to an organizational attempt of enforcement, the Association always emphasized that the direction that any enforcement would take would be professional. Only one year after the Association's formation, the president, John H. Wigmore, assured academicians of the professional nature of the Association when he stated, "I wish to repudiate the notion that the Association is an organizational union which seeks to defend its members by a 'We don't patronize' list, or by any other form of coercion. Its only means of influence is publicity, and thereby an appeal to the common sense of justice."<sup>12</sup> Within

---

<sup>9</sup> "Notes and Announcements," Bulletin of the American Association of University Professors (December, 1927), p. 536.

<sup>10</sup> "Annual Meeting," Bulletin of the American Association of University Professors (February, 1928), p. 104.

<sup>11</sup> "Report of the Council," Bulletin of the American Association of University Professors (February, 1929), p. 121.

<sup>12</sup> John H. Wigmore, "Presidents Report for 1916," Bulletin of the American Association of University Professors (November, 1916), p. 14.

15 years the Association would prove Wigmore wrong, at least in part, and adopt a "non-recommended list" of colleges and universities to indicate their disapproval of institutional academic freedom and tenure practices.

Committee A experienced a large increase in the number of cases it investigated during the 1930's. The economic climate of the nation during the depression was at least partially responsible for this increase. The large number of cases arising in smaller and probably under-financed colleges indicated the difficulty that higher education experienced during that time.<sup>13</sup>

Initially Committee A had no established procedure to guide its investigations. Investigation committees composed of three Association members simply went to institutions to gather all relevant facts concerning a complaint.<sup>14</sup> The chairman, then later the whole of Committee A, would review the findings of the investigations committee. Publishing the report remained the only possible punitive measure if an institution had violated academic freedom and tenure. Committee A divulged its activities only through a published statement of decisions printed in the Bulletin.<sup>15</sup>

A statement adopted at the 1934 annual meeting the Association outlined for the first time in detail Committee A's procedures for investigations.<sup>16</sup> This codification of procedure examined such areas as criteria

---

<sup>13</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (January, 1932), p. 30.

<sup>14</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (February, 1929), p. 101.

<sup>15</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (January, 1932), p. 30.

<sup>16</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (April, 1935), pp. 315-312.

for selection of cases, method of conducting investigations, and reporting procedures and sanctions. The code and its inflexibility led the retiring president of the Association to comment in 1935 that ". . . none of us are [sic] proud of our authorship . . ." the best procedure " . . . is to allow those in charge of Committee A to exert their own best judgment."<sup>17</sup>

From the outset many members criticized the committee for its perceived lack of aggressiveness and speed in its proceedings. The committee responded that " . . . the Association has other purposes besides the defense of academic freedom and tenure, and that our sole weapon is publicity, and therefore we prefer complete thoroughness to speed."<sup>18</sup> The reliance of the Association upon its membership in investigation of cases was seen by many as a root cause of many of Committee A's problems. A general "disinclination of members to serve on committees of investigation" was in part due to time, travel, and expense factors.<sup>19</sup>

As the activities of Committee A increased, other organizations expressed a new interest in a coordination of efforts. The American Civil Liberties Union, the National Education Association, the Progressive Education Association, the American Federation of Teachers, the American Association of Universities, and the Association of American Colleges declared their support of the principles of academic freedom.<sup>20</sup> While

---

<sup>17</sup> S. A. Mitchell, "Address of Retiring President," Bulletin of the American Association of University Professors (February, 1936), p. 93.

<sup>18</sup> Carl Wittke, "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (February, 1936), p. 105.

<sup>19</sup> "Academic Freedom and Tenure," Bulletin of the American Association Academy of Political and Social Science, 200 (1938), pp. 102-118.

<sup>20</sup> Henry W. Tyler and Cheyney, "Academic Freedom," Annals of American Academy of Political and Social Science, 200 (1938), pp. 102-118.

the American Association of University Professor's retained its primary role as an organization for support of academic freedom, it began to work closely with the Association of American Colleges, an educational group composed of primarily of administrators.

Acting in the role of "expert council" the Association was confronted with the issue of how to insure adherence to its standards.<sup>21</sup> Merely publicizing the reports of investigatory committees did not have the impact of a final judgment. With the advent of The Great Depression the Association had many opportunities to consider sanctions. The economic climate combined with cases calling for strong enforcement procedures made the development of an effective sanction for academic freedom and tenure violators a difficult task. Because the Association regarded the organized labor aspect of boycotts as unacceptable such actions were out of the question. Boycotts were unlikely to be effective anyway, in light of the country's economic condition. Ultimately, political interference by a meddlesome state politician forced the Association to adopt an official position in regard to the meaning, definition and procedure to be followed in applying sanctions.

---

<sup>21</sup> Walter P. Metzger, "Academic Tenure in America: A Historical Essay," Faculty Tenure, (San Francisco: Jossey Bass, 1973), p. 148.

## CHAPTER III

### THE "INELIGIBLE LIST"

In 1930 L. L. Thurstone, a professor of Psychology at the University of Chicago, suggested a form of sanction which he argued would strengthen the enforcement procedures of the Association. Thurstone's plan called for the establishment of an "approved list" of all colleges and universities whose academic freedom and tenure practices were in compliance with the principles of the Association. In the event an institution was found to be in violation of those principles, the Association would simply remove it from the approved list. The guilty institution would then remain unapproved until such time as it remedied its offensive behavior or practices.<sup>1</sup>

To insure the professoriate's adherence to these standards, Thurstone proposed that membership in both the Association and other learned societies be limited to those professors who held positions at approved colleges or universities. If a member accepted a position at an institution not on the approved list, he would forfeit his membership in all professional organizations. However, if an institution were taken off the approved list, members who were already at that institution would not lose their membership.<sup>2</sup>

---

<sup>1</sup> L. L. Thurstone, "Academic Freedom," Journal of Higher Education, I (March, 1930), p. 136.

<sup>2</sup> Ibid., p. 137.

Thurstone insisted that this action could increase the effectiveness of the Association's enforcement procedures. He argued that the fact that the Association chose to continuously list an institution as being in disfavor would have more impact on the public than the short term one time publicity generated by a Committee A report. He believed that administrations would try to avoid long term publicity and be more willing to redress wrongs committed against academic freedom and tenure.<sup>3</sup>

The plan had critics. One argument against the proposal was that the Association lacked the stature needed to make the list warrant public attention. While it was generally agreed that other societies might have more influence, it was deemed unlikely that they would have a great deal of concern about the events in academe when many of their members were not employed in higher education. The second criticism was whether the American Association of University Professors had the commitment necessary to confront large prestigious institutions. It might be easy to disapprove of a small local college with few faculty and little influence, but what about Harvard, Yale, or Columbia? Such institutions were probably ". . . too strongly entrenched in wealth and the influence of wealth to be disturbed by a barrage of the intellectuals."<sup>4</sup>

Noting that the current procedure of the Association did little to deter violations, the defenders of the plan supported any strengthening of those procedures. They argued that through continuous indirect pressure the Association could promote both professional status and rights.<sup>5</sup>

---

<sup>3</sup> Ibid., p. 137.

<sup>4</sup> "Enforcing Academic Freedom," The New Republic (December 10, 1930), p. 88.

<sup>5</sup> "Will Professors Do It?" The Nation (November 5, 1930), p. 488.

A situation that required action soon appeared in Mississippi. In June and July of 1930, Theodore G. Bilbo, the Governor of Mississippi, ordered the replacement of all the presidents of the major higher education institutions in the state. He also replaced over one third of the faculty and staff members, often with friends and supporters. The scandal resulting from this political manipulation of the state's academia brought national attention to the state.<sup>6</sup>

The qualifications of those individuals hired to replace the outgoing presidents made the situation even more disconcerting. The new appointee at the Mississippi Agricultural and Mechanical College held a Bachelor of Science Degree from that institution and was a director of public relations for an electric utility company. The new chancellor at the University of Mississippi had no college degree and had been a real estate salesman prior to his appointment. The Mississippi State College for Women's new president had just received his bachelors degree.<sup>7</sup>

Various professional associations and organizations indicated their disapproval of the dismissals through the use of their professional sanctions and accrediting processes. The Association of American Medical Colleges placed the School of Medicine at the University of Mississippi on probation for one year. The American Society of Civil Engineers withdrew its accreditation of the Engineering Schools at both the University of Mississippi and the Mississippi Agricultural and Mechanical College. The Association of American Universities passed a resolution that removed

---

<sup>6</sup> John B. Hudson, "The Spoils System Enters College," The New Republic (September 17, 1930), p. 123; "State Institutions of Mississippi Tenure Conditions," Bulletin of the American Association of University Professors (November, 1930), p. 551.

<sup>7</sup> Hudson, "The Spoils System Enters College," p. 123.

the University of Mississippi from its list of approved institutions. Even the United States Department of Agriculture balked at the moves and indicated that it might cut federal funds for extension work at the Mississippi Agricultural and Mechanical College.<sup>8</sup> The American Association of University Professors was the only organization that reserved judgment. Committee A said that, due to the political factors involved, they believed "more effective pressure can be exerted through other organizations." The Association's hesitance to take action did not endear it to its more militant membership and reflected a basic need to strengthen its enforcement capabilities.<sup>9</sup>

At the 1930 annual meeting held in Cleveland, Ohio, on December 29th, the Association took belated action and dropped the higher education institutions in the state of Mississippi from its "eligible list." The Association also passed a resolution that allowed the Association's Executive Council to modify the list at their own discretion.<sup>10</sup>

---

<sup>8</sup> Ibid., p. 125; "University of Mississippi Tenure Conditions," Bulletin of the American Association of University Professors (December, 1930), p. 614.

<sup>9</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (February, 1931), p. 139.

<sup>10</sup> "Mississippi State Institutions," Bulletin of the American Association of University Professors (February, 1931), p. 140. The Council was the executive governing body of the National Association. It was authorized by Article V of the Association's Constitution which provided,

- "1. The President, Vice-Presidents, General Secretary, and Treasurer shall be members of the Council ex officio and the President shall act as its chairman.
2. The Council shall make all arrangements for the annual meeting, sending a copy of the program at least one month in advance to every member of the Association.
3. The Council shall present a written report to the Association at the annual meeting.
4. The Council may appoint committees to investigate and report upon subjects germane to the purposes of the Association."

Constitution Bulletin of the American Association of University Professors (January, 1931), p. 5).

This method of enforcement served temporarily to reprimand the state of Mississippi, but it had obvious problems that would make some future modification necessary. One problem was that instead of following the lead of Committee A the criteria and actions of another organization were utilized as the basis for the Association's determination of eligible institutions. The eligible list was the American Council of Education's list of accredited institutions, which the Association's committee on Admissions agreed to use as a guideline to determine an individual's eligibility for membership. Another problem was the discretion allowed the Executive Council of the Association in decisions concerning eligibility. The Association recognized these shortcomings and directed the Executive Council and Committee A to study possible alternative methods of enforcement.<sup>11</sup>

The Executive Council took an informal poll of national learned societies for suggestions of possible enforcement procedures. Most associations favored the American Association of University Professors as the most appropriate organization to monitor activities involving academic freedom and tenure and expressed a disinclination toward cooperative action.<sup>12</sup>

At the next annual meeting held in Chicago on November 27 and 28, 1931, the Association passed a resolution calling for the placement of colleges and universities that violated the principles of academic freedom and tenure on a "non-recommended" list. The resolution required

---

<sup>11</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (February, 1931), p. 139.

<sup>12</sup> Ralph E. Himstead, "Recent Council Business," Bulletin of the American Association of University Professors (May, 1931), p. 367.

that institutions placed on that list remain there until the Association decided that satisfactory changes in their policies or procedures had taken place. The Bulletin was to publish the list in every January issue. Thus the Association adopted the basic premise of Professor Thurstone's original proposal, but many questions involving scope and application remained.<sup>13</sup>

The central problem the new resolution raised was brought about by the Executive Council's specific interpretations of the Association's newly adopted general rule. The original resolution as approved by the Association in response to Professor Thurstone's proposal called for a "non-recommended" list, but the Executive Council substituted terminology from the resolution of action taken against the Mississippi State institutions. Terms were changed so that "non-recommended" became "ineligible."<sup>14</sup> In regard to the status of chapters and members at

---

<sup>13</sup> The resolution stated "Resolved, that when a duly authorized Committee of the American Association of University Professors finds, upon investigation, that a given college or university has been guilty of a serious breach of the principle of the freedom of teaching, involving the dismissal of one or more of its teachers, that upon recommendation of such committee, and the endorsement of the Council of this Association, and a vote of the Association itself at its annual meeting such college or university be placed upon a "non-recommended" list, this action to be published in the next issue of the Bulletin; Resolved, further, that such institutions shall remain on this list until it has given satisfactory evidence of a change of policy in this respect; Resolved, furthermore, that a record of such action be printed in the January issue of the Bulletin of the Association for so long a time as the institution in question remains on the non-recommended list." "Annual Meeting," Bulletin of the American Association of University Professors (December, 1931), p. 586.

<sup>14</sup> "Eligibility of Institutions," Bulletin of the American Association of University Professors (January, 1937), p. 25.

institutions placed on the list, the Executive Council decided that it would not effect their standing. In addition, the council decided to require specific reasons as a basis for adding an institution to the ineligible list if it employed active members. Finally the Executive Council decided that new members could join the Association even if their institution was currently on the list.<sup>15</sup> Confusion in interpretation and application was sure to follow.

In the annual report given at the 1934 meeting, Committee A noted the need for a procedure for removing institutions from the ineligible list and restoring them to eligibility. They suggested that, at a minimum, financial settlement between the institution and professor involved and assurances of adherence to American Association of University Professors principles be made before such restoration.<sup>16</sup> They recommended the next year that restoration to eligibility could only take place after approval by vote of the Association at an annual meeting. This requirement passed over the objection of the chairman of Committee A who argued that fairness required that the Executive Council have the power of reinstatement in order not to delay unduly the approval of institutions that took prompt action to remedy their violations.<sup>17</sup>

---

<sup>15</sup> "Notes and Announcements," Bulletin of the American Association of University Professors (May, 1934), p. 283; "April Council Meeting," Bulletin of the American Association of University Professors (May, 1936), p. 309; "Report of the Spring Council Meeting," Bulletin of the American Association of University Professors (October, 1937), p. 454.

<sup>16</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (February, 1935), p. 152.

<sup>17</sup> "Annual Meeting," Bulletin of the American Association of University Professors (February, 1936), p. 99; "Report of Committee A," Bulletin of the American Association of University Professors (February, 1936), p. 103.

At the 1934 meeting the Association also attempted to clarify what addition to the ineligible list meant in regard to an institution's administrative practices. The delegates decided that the list indicated that the present administration at an institution was not complying with principles of academic freedom and tenure, and that it did not effect the whole institution but only its administration. Finally, they decided that an institution's ineligible status did not effect the individual rights of members on the faculty of the institution involved.<sup>18</sup>

The direction taken in clarification of the Association's sanction was in keeping with the general purpose of the organization. The Association had always tried to maintain a professional image in spite of charges of being a union. While the Association disdained labor methods, a satisfactory way to deal with administrations in confrontations concerning academic freedom and tenure remained elusive. Since strikes and boycotts were out of the question, use of the ineligible list was a compromise developed to achieve some enforcement strength while retaining professional orientation.<sup>19</sup>

There was not unanimity as to the desirability of the ineligible list as a sanction or in regard for it as a professional measure. S. P.

---

<sup>18</sup> "Eligibility of Institutions," Bulletin of the American Association of University Professors (January, 1937), p. 25.

<sup>19</sup> Some academicians argued for unionization. "Until the American Association of University Professors creates enough of the cohesiveness of a labor union to invent and enforce some kind of penalties against convicted violators of academic freedom, it will remain the group of impractical theorists that the business men in control of college consider it. Teeth must be put into the actions of the American Association of the University Professors." Howard K. Beale, Are American Teachers Free? (New York: Charles Scribners Sons, 1936), p. 692.

Capen, the president of the Association of American Colleges, called the list a "black list" and a mistake. He said the Association was forming a classification system for colleges and universities that would result in more damage than reward. An even bigger problem, he argued, was that "the Association's classification can make no pretense to being anything but accidental. Therefore, it is bound to be incomplete and hence from the start unjust." Finally he said it was possible that the list could "induce a martyr complex" and strengthen administrators' resistance to the Association.<sup>20</sup>

Suggestions for lists in other academic areas displayed some members' enthusiasm for the development of the list of ineligible institutions. One person favored an eligible list for potential university presidents.<sup>21</sup> Another proposed a "commended" list for those administrator's who had specifically adopted the Association's statement on academic freedom and tenure.<sup>22</sup>

After the Association had acted against the state institutions of Mississippi in response to the political manipulations of Governor Bilbo, it was two years before the next situation requiring a vote on eligibility presented itself to the Association. In 1932 Harris Teachers College and Battle Creek College were declared ineligible because of "unsatisfactory" tenure conditions.<sup>23</sup> Over the next eight years, twelve more institutions

---

<sup>20</sup> S. P. Capen, "Privileges and Immunities," Bulletin of the American Association of University Professors (March, 1937), p. 195-197.

<sup>21</sup> "Communication," Bulletin of the American Association of University Professors (May, 1934), p. 333.

<sup>22</sup> "Council Record," Bulletin of the American Association of University Professors (October, 1939), p. 470.

<sup>23</sup> "Report of the Council," Bulletin of the American Association of University Professors (February, 1933), p. 111.

were removed from eligibility or placed on the ineligible list.<sup>24</sup> In few of these cases were there questions of direct infringement upon academic freedom, instead complaints centered around academic tenure and dismissals. The Great Depression set the stage for the creation and articulation of the Association's sanction and future national and world events would continue to shape its interpretation and application even more, but for the moment the censured list occupied a preeminent position in the deliberations of the Association.

---

<sup>24</sup> See Appendix D.

## CHAPTER IV

### THE CENSURED LIST

Many Association members regarded "Militant and unrelenting publicity regarding unsatisfactory tenure conditions in some institutions as the best practical preventive measure."<sup>1</sup> The yearly publication of the ineligible list brought little exposure to those institutions. To generate more publicity, one Association member suggested that every issue of the Bulletin carry the list, highlighted with a black box surrounding the names. Subsequent issues indicate the acceptance of this advice.<sup>2</sup> The fact that a list was published monthly indicating disapproval of certain administrations did not change the nature of the attempted enforcement. It was still publicity, and little else, that the Association sought to utilize to force compliance with its principles. This reliance upon publicity was often viewed as ineffectual because "usually the violation of academic freedom was attended with publicity in which the administration side of the picture dominated, it if did not monopolize, newspaper accounts."<sup>3</sup>

At their spring meeting on April 30 and May 1, 1937, the Executive Council requested that the Association officers develop a new name for

---

<sup>1</sup> Merle Curti, ed., American Scholarship in the Twentieth Century (Cambridge, Massachusetts: Harvard University Press, 1953), p. 23.

<sup>2</sup> "Communication," Bulletin of the American Association of University Professors (Dec., 1937), P. 698.

<sup>3</sup> Curti, ed., American Scholarship, p. 23.

the ineligible list. The officer's recommendation for a new title was reported at the December 1936 council meeting. The result was the "censured list" of college and university administrations that first appeared in the January 1938 issue of the Bulletin.<sup>4</sup>

The officers included with the "censured list" a brief statement of the implications of being censured, summarizing the rules that the Association had developed in regard to the earlier ineligible list. The Executive Council of the Association adopted this statement at its winter meeting held between December 30, 1937, and January 1, 1938.<sup>5</sup> Along with this statement of definitions, a revision of standards was underway.

By 1936, representatives from the Association of American Colleges and the American Association of University Professors had begun to develop a revised statement on academic freedom and tenure which would provide new standards for enforcement. Working closely with representatives of several other associations, a new statement was formulated in 1938. The membership of the American Association of University Professors endorsed the statement at its 1938 annual meeting, but the Association of American Colleges, a major contributor, failed in its attempts to pass the statement at its annual meeting in that same year. In reviewing the action the Executive Council of the American Association of University Professors, at its spring meeting in Chicago on April 12 & 13, 1940, voted to request a joint meeting with the Association of American Colleges to develop amendments in an effort to make the 1938 statement more acceptable to the voting membership of the AAC. This action was seen as necessary because of

---

<sup>4</sup> See Appendix B.

<sup>5</sup> See Appendix C.

the failure of the American Association of Colleges to endorse the original statement left the issue of standards in turmoil. The joint meeting between the organizations was successful, and the American Association of Colleges passed the statement as amended at its annual meeting in January of 1940.

One of the significant differences between the new revised statement on academic freedom and tenure and the older statement of 1925 was that tenure was no longer tied to rank. The new statement instead defined tenure as a right of all university and college faculty members, without regard to rank, after a "reasonable period" of probation. In addition, the new compromise statement classified what the American Association of University Professors regarded as the procedural steps necessary in termination proceedings for tenured faculty members.<sup>6</sup> The newly adopted statement was most significant in that it served as a guideline for Association activities throughout the ensuing three decades, a period when academic freedom and tenure came under increasing scrutiny as issues concerning communism, unionism, and radicalism became prevalent in academic circles.

The American Association of University Professors' achievement of cordial working relationships with other academic organizations did not totally remove the suspicion and distrust with which the organization was regarded by many members of the academic community and by the public at large. Disputes within the Association often arose when votes were taken

---

<sup>6</sup> Ralph E. Himstead, "Annual Report of the General Secretary," Bulletin of the American Association of University Professors (February, 1940), p. 62.

to place an institution's administration on the censured list. One such debate ensued at the 1939 annual meeting concerning the propriety of adding the University of Tennessee to the Association's censured list.<sup>7</sup>

W. T. Laprade, the chairman of Committee A, explained to the members that previous investigations of the University had shown that conditions were such as to warrant censure. He noted that the University's response need only be to adopt satisfactory tenure rules which "would operate to facilitate its removal from the censured list."<sup>8</sup> Members of the Association representing the University of Tennessee chapter argued against censure on the grounds that the national office had mishandled the initial investigation of the University's administration. In spite of protests from the University of Tennessee chapter, members of the Association finally voted to censure the administration at the University of Tennessee.<sup>9</sup>

The University of Tennessee matter clearly illustrated that while the primary concern of most association members centered around issues involving academic freedom and tenure principles, their views might be in support of an administration, if and when the administration under attack was one at an institution of some special interest to them. Some professors did not want to see the mark of professional displeasure placed upon an institution with which they were affiliated. When the institutions were relatively unknown to them, discrepancies and shortcomings of the Association investigation and enforcement methods could be more easily overlooked.

---

<sup>7</sup> Ralph E. Himstead, "1939 Annual Meeting Record," Bulletin of the American Association of University Professors (April, 1940), p. 290.

<sup>8</sup> Ibid., p. 291.

<sup>9</sup> Ibid., p. 290.

The sanctions of the Association continued to be the source of criticisms of ineffectiveness. While the purpose of investigations by Committee A was to uncover and expose violations of academic freedom and tenure with the result being the penalty of censure, many members felt that "we may confidently set it down as quite vain to hope that appeals for help on the tenure question to the Association of University Professors, or any other body, will clear a man's or woman's good name. The illusion that it will do so is cherished only by those who have not experienced the neighborhood horrors accompanying an AAUP investigation in the surcharged teapot atmosphere of a college community."<sup>10</sup>

In 1941 the general secretary of the Association recognized an element of helplessness in seeking redress for wronged individuals when he noted that the censured list was for such unsatisfactory administrative activities "as regards the Association's principles as to be without any present apparent hope."<sup>11</sup> The Association's clear inability to force any substantial cooperation or compliance through the use of its only available sanction created a situation in which "the dismissed professor does well to bow his head and depart into exile without appeal to the strong arm of the AAUP."<sup>12</sup>

While the effectiveness of the censured list was being criticized in several quarters, it gained a reputation in some professional organi-

---

<sup>10</sup> A. M. Withers, "Professors and Their Association," Journal of Higher Education, Vol. 11 (March, 1940), p. 128.

<sup>11</sup> "Twenty-Seventh Annual Meeting," Bulletin of the American Association of University Professors (Feb., 1941), p. 6.

<sup>12</sup> A. M. Withers, "Professors and Their Association," Journal of Higher Education, Vol. 11 (March 1940), p. 129.

zations as being a solid and clear indication of undesirable conditions at some institutions. As an example, the American Association of University Women considered whether an institution was on the censured list in making membership decisions.<sup>13</sup> The list was defended by some as being a professional device to assure academic freedom and tenure and not a union "black list" as it was sometimes called.<sup>14</sup>

While the Association continued to clarify and reform its principles to the point that they were culminated in the 1940 statements, the practice of censure was also undergoing modifications. At the winter meeting in 1939, the council authorized the President, Chairman of Committee A, and the General Secretary to revise the Association's statement concerning censured administrations to include trustees and regents as part of the administrative structure of censured colleges and universities.<sup>15</sup> This action was taken in response to a suggestion by Professor S. S. Smith at the council meeting held in New Orleans on December 27-29, 1939. While the Association had voted censure upon administrations in response to actions taken by their boards, the official statement had not specifically mentioned trustees or regents. As a result of Smith's recommendations, the council amended the statement on censured administrations to read "the term administration includes the administrative offices and the governing board of the institutions."

---

<sup>13</sup> Louise Pound, "The AAUP and the AAUW," Bulletin of the American Association of University Professors (June, 1940), p. 362.

<sup>14</sup> Ibid.

<sup>15</sup> Ralph E. Himstead, "Council Record," Bulletin of the American Association of University Professors (April, 1940), p. 282.

In 1941 the Association attempted further clarification of its activities in regard to censure. W. T. Laprade, Committee A Chairman, presented revised formal procedures and conditions required for censure in the annual report Committee A for 1941. He cited flagrant academic freedom and tenure violations at an institution and lack of corrective action as a necessary prerequisite for censure action. Association procedures for making censure decisions consisted of considering Committee A's recommendation that censure be voted on the administration, a membership vote on whether to censure held at the annual meeting, and finally publication of censured administrations by name in the Bulletin. Censure remained in effect until by a "similar formal process the administration in question is removed from the list."<sup>16</sup>

Several possible alternatives were available for an administration seeking to be removed from the list. Changes in circumstances that warranted removal of an institution from the censured list included such things as a change of presidents or adoption of "suitable rules regulating freedom and tenure."<sup>17</sup>

The Association's use of the censured list as its vehicle for expressing disapproval of certain college administrative practices was sometimes confused with their eligible list of colleges and universities. In 1941 the Association distinguished between these two unrelated

---

<sup>16</sup> W. T. Laprade, "Annual Report of Committee A," Bulletin of the American Association of University Professors (February, 1941), p. 32.

<sup>17</sup> Ibid., p. 32.

practices.<sup>18</sup> To be an individual member of the Association, a faculty member's institution had to be on the Association's eligible list. The council was responsible for placing institutions on the eligible list, which was primarily a list of institutions that accrediting agencies had previously certified as meeting their accreditation standards. When an institution lost its accreditation, the Association's council subsequently decided whether to remove it from the eligible list. An institution's removal from the eligible list did not affect the membership of persons already members of the Association, but it did mean that no new members from that institution could join the Association as long as it was not on the eligible list.<sup>19</sup> The Association took special efforts to note this distinction between the eligible list of colleges and universities and the censured list of college and university administrations.

With the revision of standards accomplished through the 1940 statement and the modification of its sanctions the Association adopted a new character in its role as representative of the professoriate's interests. The Association became much more administrative and bureaucratic in its approach to resolution of problems. After the adoption of the 1940 statement the Association assumed the model of the "Civil Service."<sup>20</sup> Nowhere was this as obvious as in the increased power enjoyed by the national office as a result of the emergencies of the Second World War.

---

<sup>18</sup> "Association News," Bulletin of the American Association of University Professors (February, 1941), p. 82.

<sup>19</sup> *Ibid.*, p. 82.

<sup>20</sup> Walter P. Metzger, "Academic Tenure in America: A Historical Essay," Faculty Tenure, (San Francisco: Jossey Bass, 1973), p. 148.

## CHAPTER V

### THE WAR YEARS

The Second World War had a great impact upon the operation of the American Association of University Professors, as it did upon all professional civilian activities. W. T. Laprade noted in the annual report of Committee A for 1940 that "as anticipated in the report last year the war and attendant troubles in the world have had an impact on the work of Committee A."<sup>1</sup> Threats to academic freedom evolved from charges of subversive activities, suspicions of people of foreign origins, and intolerance of differences of opinions. Thus on the eve of the involvement of the United States in the war, the threats to academic freedom were growing through public opinion and the conformity required for mobilization of the nation's war efforts. F. J. Tschan noted in a classic understatement in the report of Committee E for 1942 that "the Association's principles and some of its activities run second to the war and wartime problems as a subject of discussion."<sup>2</sup>

One of the major activities of the Association limited by the war was its annual meeting. From 1942 to 1947, in response to a request from the

---

<sup>1</sup> W. T. Laprade, "Annual Report of Committee A," Bulletin of the American Association of University Professors (February, 1941), p. 35.

<sup>2</sup> F. J. Tschan, "Report of Committee E," Bulletin of the American Association of University Professors (February, 1943), p. 106.

Office of Defense Transportation, most national associations and organizations refrained from holding large yearly meetings in an effort to cooperate in the conservation of scarce resources.<sup>3</sup> This action affected decisions in regard to censure because those actions were normally taken at the annual meeting. The Executive Council of the Association assumed the responsibility and the obligations of the entire organization during the war. Although the constitution of the Association made no provision for the conduct of business in the absence of an annual meeting, the executive council concluded that it was empowered to act on behalf of the Association.<sup>4</sup> As a result it readily undertook additional duties and continued all the Association activities during the war years, including those in regard to censure.

Even in the early years the Association recognized that its practice of censure was far from perfect. During the war years, when considerable power was assumed by the Executive Council, the censured list was closely examined to insure its conformity with the Association principles and objectives. The conclusion drawn by W. T. Laprade was that "a quest for a more effective sanction still sometimes suggested by members who feel

---

<sup>3</sup> W. T. Laprade, "Cancellation of 1942 Annual Meeting," Bulletin of the American Association of University Professors (December, 1942), p. 696.

<sup>4</sup> Ibid. The Association subsequently promulgated a constitutional amendment authorizing this action by conducting a vote with mail in ballots. The amendment provided that; "Article X Annual Meeting 1. The Association shall meet annually, at such time and place as the council may select, unless conditions created by war or other national emergency should make the holding of a meeting impossible, or unless the holding of a meeting would, in the opinion of the council, impede the government in its efforts to cope with conditions created by war or other national emergency. 3. If an Annual Meeting is omitted in accordance with the provision in Section 1, the council shall transact the general Annual Meeting business and shall conduct the annual election by mail. Such an election shall be by a proportional vote as described in Section 3 of Article III." "Constitution," Bulletin of the American Association of University Professors (February, 1943), p. 143-144.

themselves to be personally wronged without a means of direct remedy, is probably in the nature of things destined to fail."<sup>5</sup> The council regarded any form of sanction other than the censured list as outside the scope of the professional philosophy of the Association. Methods and practices of organized labor such as pickets, strikes, and boycotts were the only viable alternatives to the censured list, but the national organization regarded them as undesirable "unless the Association is willing to depart from the path blazed by its founders hither to followed by the Association."<sup>6</sup>

Even while wrestling with problems of definition and the scope of its mission, the Association continued to respond to problems facing academic tenure in the United States. During the 1930's the Association had handled a number of investigation requests resulting, at least indirectly, from the economic depression, as both tenured and non-tenured faculty were released because of reduced funding.<sup>7</sup> During the war years the declining enrollments and fewer resources allocated to higher education also caused the dismissals of tenured faculty members. In the same manner as earlier times, the predominant issue in Committee A investigations and censure decisions was not academic freedom per se but tenure and finances.<sup>8</sup>

---

<sup>5</sup> W. T. Laprade, "Annual Report of the Committee A," Bulletin of the American Association of University Professors (February, 1942), p. 79.

<sup>6</sup> Ibid., p. 80.

<sup>7</sup> "Academic Freedom and Tenure," Bulletin of the American Association of University Professors (January, 1932), p. 30.

<sup>8</sup> Edward C. Kirkland, "Annual Report of Committee A," Bulletin of the American Association of University Professors (February, 1943), p. 67.

While the war continued to occupy the attention of the world, the business of the Association was carried on as usual through the Executive Council. One of the more celebrated cases at that time which resulted in Association censure involved the dismissal of the President of the University of Texas by the Board of Regents of that institution.<sup>9</sup>

Homer P. Rainey served as President at the University of Texas from 1938 to 1944. From the beginning of his incumbency he encountered difficulties in working with the University Board of Regents and in dealing with the conservative political environment in Texas.

In March of 1940 three economics professors from the University of Texas issued a statement to Dallas newspapers that refuted statements made at an anti-labor rally condemning the concept of a 40 hour work week. The pro-labor New Deal attitudes of the economics faculty were "abhorred" by the conservative Board of Regents, and at the June board meeting of that year they voted to terminate the employment of the professors involved in issuing the statements.<sup>10</sup>

The American Association of University Professors responded with an investigation of the University for those dismissals, and published reports condemned the terminations as violations of the academic freedom of those

---

<sup>9</sup> The events leading to the termination of Dr. Rainey from the presidency of the University of Texas have been comprehensively treated in; Cox Alice Carol, "The Rainey Affair: A History of the Academic Freedom Controversy at the University of Texas, 1938-1946" (University of Denver, Ph.D. dissertation, August, 1970.)

<sup>10</sup> Ibid., p. 50.

involved.<sup>11</sup> Rainey's defense of the economics professors conflicted with the Board's views and certainly did nothing to improve his standing with its more conservative members.

Rainey again ran afoul of the Board when an effort was undertaken to revise the tenure rules of the University. Rainey opposed the revisions, but the Regents adopted them over his objections. This incident exacerbated the conflict whereupon Rainey issued a statement listing sixteen incidents of what he regarded as repressive actions by the Board of Regents.<sup>12</sup> The Regents responded against Rainey for his actions, and on November 1, 1944, by a vote of six to two, terminated his appointment as President of the University of Texas.

The popular magazines of the day reporting on the incident noted the confrontation between the principles and ideals of American Association of University Professors and the politics of the University of Texas Regents. Two of the more conservative members of the Board of Regents were quoted as saying that "Texas . . . is not going to let any outside organization tell this state how to run her affairs."<sup>13</sup> Encouraging the Association to act, one magazine noted that it had in its power "a weapon

---

<sup>11</sup> Ralph E. Himstead, "Academic Freedom and Tenure at the University of Texas, An Interim Report," Bulletin of the American Association of University Professors (Winter, 1944), p. 627-634; Edward C. Kirkland, "The University of Texas," Bulletin of the American Association of University Professors (Summer, 1946), p. 374-385.

<sup>12</sup> H. Stillwell, "Civil War in Texas," Colliers, Vol. 115 (January 6, 1945), p. 18-19+.

<sup>13</sup> H. Stillwell, "Civil War in Texas," Colliers Vol. 115 (January 6, 1945), p. 18-19+.

that is comparable to that age old labor bludgeon, the black list."<sup>14</sup> The writer asserted that the isolation that censure imposed upon an institution had not been successfully withstood by any university before and that such action might contribute to a successful defense of academic freedom at the University of Texas. Writers compared the situation at Texas to the Association's involvement in Theodore Bilbo's actions in Mississippi.<sup>15</sup> The American Association of University Professors responded to the action of the Texas Regents by placing the institution on its list of censored administrations.<sup>16</sup>

This action of censure established two important bench marks for the Association. The fact that action was taken outside of the regular annual meetings illustrated the increased power of the Executive Council during the war years. In addition the fact that the circumstances that gave rise to the imposition of censure were more closely related to the termination of a president rather than a faculty member was in direct conflict with a longstanding Association policy of acting as the guardian and professional organization for faculty members, not administrators. An emerging professional concern that included extending a helping hand to a president who was friendly to the principles and standards of the Association was exemplified.

The Texas action by the Association helped to improve its relationship with the American Association of Colleges. At the annual meeting held on

---

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., p. 19.

<sup>16</sup> Edward C. Kirkland, "The University of Texas," Bulletin of the Association of University Professors (Summer, 1946), p. 384.

February 22-23, 1947, Guy E. Snavely of the American Association of Colleges noted that relations between the two Associations had improved to the point where the American Association of University Professors had censured an institution for the "abrupt dismissal of a university president."<sup>17</sup> He also noted that prior to that time relations between the two groups had not always been cordial even though they were cooperative. While some members undoubtedly regarded increased goodwill between the organizations favorably, others surely wondered if the Association had forsaken its commitment as an organization for the promotion and protection of the professoriate.

The AAUP's national office, through the Texas action, established censure as the logical course for enforcement of principles by a professional organization whether it was imposed in support of a faculty member or president. Some members, wanting to extend the use of the professional sanction, called for censured lists in other areas. Although these other areas were sometimes supplemental to the existing censured list, they were usually completely unrelated. In a report of Committee A for 1946, George Polk Shannon, the Chairman, rejected a proposed censured list of local university tenure regulations. He noted that "it is hardly feasible to collect and analyze all the local tenure rules of the country and publish a list of censured regulations."<sup>18</sup> Instead the Association continued to encourage institutions to observe the standards set by the

---

<sup>17</sup> Guy E. Snavely, "The American Association of University Professors and the Association of American Colleges," Bulletin of the American Association of University Professors (Summer, 1947), p. 360.

<sup>18</sup> George Pope Shannon, "Report of Committee A for 1946," Bulletin of the American Association of University Professors (Spring, 1947), p. 66.

1925 conference statement and the 1940 statement of principles.<sup>19</sup> Members continued to call for increasing the types of circumstances for which the Association would impose censure, sometimes with "tongue in cheek." One writer proposed that the Association censure any institution which provided for different faculty salaries based on the faculty member's marital status or number of dependents.<sup>20</sup> This suggestion came in response to an article in the Bulletin which had proposed higher pay for married faculty based on a higher cost of living for support of families.<sup>21</sup>

While novel ideas occasionally came from the membership of the Association, it is unlikely that the national office gave any serious thought to actual implementation of many of them. Depending upon what issue or problem was confronting an individual faculty member at a particular time, the enforcement strength of the Association was often seen as the means to assure compliance by colleges and universities. Resort to Association principles and sanction was the only means of redress available to faculty members in some situations.

Many members of academia did not view the Association's enforcement practices as operating from a position of strength. Censure did not force an administration to change its practices, even if it did call transgressions to the attention of those who were interested in such things. The time between events leading to the investigations and the action taken by

---

<sup>19</sup> Ibid.

<sup>20</sup> Hugh J. Hamilton, "Justice for the Unmarried Professor," Bulletin, of the American Association of University Professors (Summer, 1947), p. 313.

<sup>21</sup> Kerby Neill, "A Bill of Rights for the Married Professor," Bulletin of the American Association of University Professors (Spring, 1946).

the Association continued to be lengthy and was seen by many members as a sign of ineffectiveness.

The single solution offered in response to most of the criticism arising from these problems was one which the Association opposed, unionization. A. M. Withers concluded that "There is no guaranteed corrective for this sort of human thing. There might be a partial corrective if professors were really united that is, as a union."<sup>22</sup> However the Association's national office continued to regard unionization as an undesirable step, even in the interest of a more effective procedure or sanction for the enforcement of academic freedom and tenure principles. While some members agreed with this position, there was a growing disagreement between the Executive Council, which had gained considerable power during the Second World War, and the Association membership over appropriate actions for defense of academic freedom and tenure. Association actions and inaction in regard to the "Red Scare" of the 1950's would compound these differences and contribute to the growth of public suspicion of the organization.

---

<sup>22</sup> A. M. Withers, "Academic Tenure Investigation," Educational Forum, Vol. 11 (November, 1946), p. 92.

## CHAPTER VI

### THE COLD WAR AND COMMUNISM

During the decade of the 1950's there was little Association activity in regard to censure. McCarthyism, Communism, and the Cold War all offered a basis for potentially lethal blows to academic freedom and tenure. Surprisingly, the Association took little or no action in utilizing its sanction until the "storm" had passed. The Association's activity during this time centered on its position on Communism in higher education. At the end of the Second World War, the Cold War erupted. A distrust of Communism and the Red Scare gripped the nation. Many individuals and associations were compelled to sign loyalty oaths or otherwise state their opposition to Communism in support of the Democratic ideal.

In 1949 the American Association of University Professors issued its pronouncement regarding the employment of Communists in colleges and universities. The statement provided that "so long as the Communist party in the United States is a legal political party, affiliation with that party in and of itself should not be regarded as a justifiable reason for exclusion from the academic profession."<sup>1</sup> This statement did little to change the suspicion of many that college and university faculties were loaded with Communist supporters, especially in light of declarations by

---

<sup>1</sup> I. L. Kandel, "The Teaching Profession and Communists," School and Society (July 30, 1949), p. 73.

other educational organizations that Communists should be barred from teaching in schools.<sup>2</sup> Many state legislatures and college administrations promulgated regulations requiring loyalty oaths of college faculty members in an attempt to "purge" higher education of this Communist threat.

One of the more celebrated cases involving a loyalty oath resulted in Association censure of the University of California at Berkeley.<sup>3</sup> The University of California Board of Regents adopted a modified form of an existing loyalty oath for all of its faculty and staff on March 25, 1949. This action was taken partially in response to earlier events at the University of Washington which resulted in the dismissal of two tenured instructors and a pending state senate bill which would have deprived the Board of Regents of its powers to determine the loyalty of university faculty and staff.<sup>4</sup> The amended oaths provided for "a disclaimer affidavit of nonmembership [in the Communist Party] and non-belief in any organization that advocated the overthrow of the government."<sup>5</sup> Controversy centered

---

<sup>2</sup> Ibid.

<sup>3</sup> The issues involved and events leading to the controversy over the University of California loyalty oath have been treated comprehensively in, David P. Gardner, The California Oath Controversy (Berkeley, California: University of California Press, 1967) and George R. Stewart, The Year of the Oath (Garden City, NY: Doubleday, 1950).

<sup>4</sup> The action at the University of Washington involved the dismissal of three professors accused of being members of the Communist Party. The University of Washington was suspected of being a "hot bed" of communism. The Washington State legislature investigating "un-american" activities subpoenaed several faculty members who refused to testify before a joint legislative fact-finding committee. Complaints were filed with the University Faculty Committee on Tenure and Academic Freedom and the professors ultimately dismissed. For a detailed report of the events and proceedings in regard to this matter see: Communism and Academic Freedom: The Record of the Tenure Cases at the University of Washington (Seattle, Washington: University of Washington Press, 1949).

<sup>5</sup> Ibid., p. 8.

around the Regents' belief that membership in the Communist Party rendered a faculty member unfit to teach because it "constituted a commitment so inimical to the integrity of the scholar that the Association was in itself adequate and reasonable ground in which to refuse appointment."<sup>6</sup> In response the American Association of University Professors "argued that fitness must be individually ascertained by one's colleagues without regard to one's formal affiliation or associations."<sup>7</sup>

As a result of the controversy which ensued from the loyalty oaths, 31 faculty members were dismissed from their positions at the Board of Regents meeting held on August 25, 1950. The faculty members were dismissed for their failure to sign the amended oath adopted by the Board.<sup>8</sup>

While the AAUP had been involved in the matter since its very early stages, action against the University of California was slow in coming. Not until years later when it issued a "blanket" censure did the Association utilize its official sanction in disapproval of the University of California's action.

The University of California was not alone in its conflict with the Association's stated position. The University of Washington indicated that it did not "agree fully with the generous views taken by Committee A of the American Association of University Professors. We regard membership in the Communist party as a much more dangerous thing than do the members

---

<sup>6</sup> David P. Gardner, The California Oath Controversy (Berkeley, California: University of California Press, 1967), p. 249.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid., p. 201.

of Committee A."<sup>9</sup> The Washington University Committee went on to state however that they "found no reason for dismissal of faculty members on the basis of Communist party membership by itself."<sup>10</sup>

Speaking at the Commonwealth Club in San Francisco on November 23, 1951, one of the Regents primarily responsible for the California oath, J. F. Neylan, reacted to the Association's position on loyalty oaths by labeling the organization as ". . . the little known but increasingly powerful and sinister organization known as the American Association of University Professors."<sup>11</sup>

The problem of the Association's methods and lack of aggression resurfaced at the 39th annual meeting held in Chicago on March 27 and 28, 1953. Delegates of local chapters criticized the national office for its "lack of internal democracy and vertical coordination." "The perception of Association inactivity in regard to dismissals involving academic freedom caused verbal exchanges between the floor and the platform which became increasingly caustic."<sup>12</sup> The session ended with the local chapters securing appointment of a special committee to examine the problems of the relationships between the national office and local organizations.

When the Association eventually moved to take action against colleges and universities that had dismissed faculty for declining to testify

---

<sup>9</sup> Communism and Academic Freedom: The Record of the Tenure Cases at the University of Washington (Seattle, Washington: University of Washington Press, 1949).

<sup>10</sup> Ibid.

<sup>11</sup> J. F. Neylan, "Address . . . Commonwealth Club," November 23, 1951, p. 7, as found in H. Shryock, "The Academic Professor in the United States," Bulletin of the American Association of University Professors (Spring, 1952), p. 68.

<sup>12</sup> Alan Whitney, "Professors Prepare for Action," The Nation (April 11, 1953), (inside cover).

before congressional committees, refusing to sign loyalty oaths, or invoking the fifth amendment, public sentiments were again aroused. Several institutions were censured by the Association in 1956, and many agreed with Raymond Moley, an Association member who dropped his membership after almost thirty years, that "it seems to me that this is about the worse time in our history for a group which includes in its membership a large number of college teachers to make known to the world that it is in direct conflict with its government and with responsible administration of many of our institutions of learning."<sup>13</sup>

The perception of the liberal college professor as serving the cause of Communism by allowing the diversity of opinion characteristic of academic freedom was widely held. That the Association would censure institutions for actions regarded by many as being for the public good gave the Association a "pink" if not necessarily a "red" hue in the eyes of the public.<sup>14</sup>

Membership dissatisfaction with the Association's response and public charges of Communism left the way open for new and different attempts to safeguard the rights of college and university faculty. The professional approach of the American Association of University Professors, whereby they expressed official displeasure through the censured list, began to give way to utilization of the legal system as a way to test grievances in regard to academic freedom and tenure.<sup>15</sup> Whether the courts were in

---

<sup>13</sup> Raymond Moley, "The Pink Flag Flies," Newsweek (April 23, 1956), p. 104.

<sup>14</sup> Ibid.

<sup>15</sup> For a study of the development of the legal aspect of academic freedom and tenure and the AAUP's contributions to that development see William R. Wilkie, "Faculty Academic Freedom a Legal Analysis," Michigan State University, PhD. dissertation, 1969.

fact the appropriate place to determine questions of a professional nature became an issue in the minds of many Association members.

There were many reasons enumerated why professors should not use the courts to test issues of academic freedom. One argument was that no one was certain what would happen in academic freedom cases and that the courts might restrict the hard won rights the Association had already gained through the years. Even if the courts chose not to restrict the concept of academic freedom, the argument continued, it was possible that an unpopular court decision might cause state or federal law-making bodies to take action to overrule a more lenient finding in case law. Finally the difficulty the Association had encountered in finding cases that dealt exclusively with issues of academic freedom might cause courts to make decisions based upon grounds other than academic freedom and tenure, such as contract law or legal technicalities.<sup>16</sup> Nevertheless, the Association could not ignore the deluge of current and impending legal decisions that promised to impact upon the definition of academic freedom.

In succumbing to the call for increased legal involvement, the Association began reporting in its Bulletin certain cases that were before the United States Supreme Court and a comparison of the legal rulings with the stance assumed by the Association on the issue.<sup>17</sup> They also began to assert their prerogative in the legal arena though

---

<sup>16</sup> John Walton Caughey, "The Practical Defense of Academic Freedom," Bulletin of the American Association of University Professors (Summer, 1952), p. 251.

<sup>17</sup> Robert K. Carr, "Academic Freedom, the American Association of University Professors and the United States Supreme Court," Bulletin of the American Association of University Professors (March, 1959), p. 5.

direct action by filing amicus curia briefs in support of Association principles on academic freedom and tenure.<sup>18</sup>

Even as the courts were experiencing burgeoning litigation from the academic sector, and even though the Association was expanding its role in the legal process, the Association continued to question the value of the court's involvement. The Association through Committee A noted that the development and enforcement of academic freedom and tenure might become too much of a legal issue, and the Association would be put in a position of having to educate the courts on an issue about which they already had expertise. If the courts persisted, the Association--in order to maintain its position as defender of academic freedom and tenure--would have to "become aggressive and carry the battle to the foe."<sup>19</sup> It was noted that if enforcement capabilities and attempts of the Association lacked effectiveness, then methods would have to be reevaluated in order to maintain the Association's position as the organization of professorial defense.

The members exemplified their desire for the Association to be more assertive in censure actions at the 1954 annual meeting. In that year the council recommended that the Association remove the administration of the University of Kansas City from the censured list. In an unprecedented move the membership rejected the council's recommendation.<sup>20</sup>

---

<sup>18</sup> Ralph F. Fuchs, "The Barenblatt Decision of the Supreme Court and the Academic Profession," Bulletin of the American Association of University Professors (Autumn (Sept.), 1959), p. 329.

<sup>19</sup> John Walton Caughey, "The Practical Defense of Academic Freedom," Bulletin of the American Association of University Professors (Summer, 1952), p. 258.

<sup>20</sup> Ralph E. Himstead, "The Fortieth Annual Meeting," Bulletin of the American Association of University Professors (Spring, 1954), p. 121.

Until this time members had followed the Executive Council's recommendations obediently, relying on its more advantageous position of being closely attuned to the facts in a particular case. The disagreement between the national office and local chapter delegates centered around the Association's lack of internal democracy as exemplified in 1953 certainly contributed to the refusal of the membership to follow the Executive Council's recommendations blindly.<sup>21</sup> In spite of the trouble the Association experienced during the turmoil of these years, its censured administration list remained an integral part of its activities.

In 1955 faculty members from Winthrop College and Middle Tennessee State College took the initiative and sought removal of their respective institutions from the censured list. The council responded by reminding them of the administrative actions the institutions needed to take in order to accomplish the proposed action.<sup>22</sup> Later in the year, two more administrations of colleges on the list corresponded with the national office seeking to have the Association remove them from the list. If the four colleges had been successful in their efforts, only one college, Westchester State Teachers College, would have been left on the Association's list.<sup>23</sup> With the threat to academic freedom and tenure from loyalty oaths, and with congressional investigations and faculty dismissals at an all

---

<sup>21</sup> Whitney, "Professors Prepare for Action," Nation (April 11, 1953), inside cover.

<sup>22</sup> George Pope Shannon, "Record of Council Meetings," Bulletin of the American Association of University Professors (Spring, 1955), p. 108.

<sup>23</sup> George Pope Shannon, "Central Office Notes," Bulletin of the American Association of University Professors (Summer, 1955), p. 368.

time high, to have only five colleges on the censured list, with four of them protesting that designation, was a contradictory situation.

In an effort to define censure and to avoid accusations of ineffectiveness, the national office began to regard the utilization of censure as a symbol not of Association enforcement actions, but rather of failure to arbitrate a successful resolution to conflicts. George Pope Shannon, the Association general secretary, noted in 1955 that instances in which the Association had to resort to censure indicated failure because if mediation had been effective there would have been no need for the sanction of censure.<sup>24</sup>

In 1956 the Association finally responded to violations that had been taking place for years and censured many institutions for flagrant abuses of academic freedom and tenure during the years of loyalty oaths and charges of subversive activities.<sup>25</sup> In the years from 1955 to 1959, eighteen administrations were censured, although there had been little activity for the previous decade. Quite possibly this increase in activity was in response to the membership's widespread criticism that the Association had been for the most part inactive.

In 1955 the Association appointed a formal special committee to study the effect of the Cold War upon academic freedom. This committee on Academic Freedom and Tenure in a Quest for National Security considered actions taken by colleges and universities in response to loyalty oaths, fifth amendment cases, and communist charges. As a result of the committee's efforts, the Association censured five institutions. In three of these

---

<sup>24</sup> Ibid., 369.

<sup>25</sup> "The Forty-Second Annual Meeting," Bulletin of the American Association of University Professors Vol. 42 (Summer, 1956), p. 341.

cases the committee "relied entirely . . . upon facts of public knowledge and the contents of published documents, including those circulated within the institutions themselves and not regarded as confidential."<sup>26</sup> One commentator called this departure from established procedure "one of the most disturbing events in the higher education field in many years."<sup>27</sup>

Commentators accused the Association of arranging the recommendations of censure as a way of quickly disposing of the numerous pending cases in its files.<sup>28</sup> The expediency with which the cases were handled extended beyond the mere drafting of the reports. Administrations, normally given opportunities to respond to allegations, were not informed that their institutions were under investigation. Additionally, the administrators were given little or no opportunity to present rebuttal to the alleged violations before the committee published its reports. At the Association's annual meeting, the committee reports and discussions were kept to a minimum as the membership voted by a large majority in favor of censure.<sup>29</sup> The Association's deviation from its normal procedures was decried by members of academe outside of the Association. Academicians attributed the action to "a widespread feeling among the membership that during recent years the national office had been apathetic and negligent, due to the illness of their general secretary and perhaps other causes."<sup>30</sup> In seeking to

---

<sup>26</sup> Ibid., p. 224.

<sup>27</sup> R. H. Eckelberry, "Double Standards," Journal of Higher Education (April, 1956), p. 223.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid., p. 225.

<sup>30</sup> Ibid.

reassure members of the Association of their commitment and resolve to further the Association's efforts, one official was quoted as saying "we've lost members because we were afraid to act in the past. Now the nation's faculty members will know that we are not a paper organization. We've got courage to stand up and fight for our professional standards."<sup>31</sup> Critics might have asked whether straying from its previously well-defined rules of procedure on censure negated the Association's point.

In addition to the attacks on the Association's actions in censuring institutions without a full investigation, other interested groups were scrutinizing their activities. Members of the Catholic church questioned the extent to which Catholic church members were involved in Association matters. The activities of the organization were brought most seriously to the attention of American Catholics when the Association censured the St. Louis University in 1956.<sup>32</sup>

Writing in Commonwealth, a publication for the Catholic Church, H. J. Browne, a former president of the AAUP chapter at the Catholic University of America, noted that "while a total membership of the group approaches 40,000, the representatives of Catholic institutions in its ranks are a little over 900, and they are found in 64 schools out of a total of somewhat over 200. These members represent about four and one-half percent of all professors in Catholic colleges and universities."<sup>33</sup> Increased Catholic involvement in Association activities he argued could

---

<sup>31</sup> R. H. Eckelberry, "Double Standards," Journal of Higher Education, Vol. 27, (April, 1956), 0. 225.

<sup>32</sup> "Forty-Second Annual Meeting," Bulletin of the American Association of University Professors (Summer, 1956), p. 339.

<sup>33</sup> H. J. Browne, "Catholics and the AAUP," Commonwealth, Vol. 65, (October 5, 1956), p. 11.

establish "ethical concepts that might add strength, and even clarity to consideration of the dignity of the profession."<sup>34</sup> The author continued that even though there was overall low representation of Catholics in the Association, several Catholic members had served as national officers, including the then sitting President, Helen C. White. In describing the Association's activities, Browne took care to describe its censure practices, how they affected St. Louis University, and what he regarded as the organized labor aspects of the Association's practices. He implied that if more Catholics were involved in Association activities they might avoid situations like the censure of St. Louis University.<sup>35</sup>

One of the most scathing attacks upon the Association came in an article written by Myron Lieberman entitled the "Disorganization Man." Reflecting upon the nature of the Association and its professional aspirations, he noted that "more often than not the AAUP's activities are a matter of sound and fury, signifying next to nothing. A local union of plumbers is typically more affective in protecting the occupational and civic rights of plumbers than all the national, state, and local chapters of the AAUP are in protecting the occupational and civic rights of professors."<sup>36</sup> He contended that censure was of little or no value in that it usually took place a long time after the complained violations occurred and that the victims of the alleged administrative violations never won redress for the wrongs administrations committed against them. He derided the influence of the Association and claimed that "politically

---

<sup>34</sup> Ibid.

<sup>35</sup> Ibid., p. 10-12.

<sup>36</sup> M. Lieberman, "Disorganization Man," Schools and Society, Vol. 86, (April 12, 1985), p. 166.

it is doubtful that the Association has even nuisance value. If Congress ever has paid any attention to the AAUP the incident has escaped my attention."<sup>37</sup> Mr. Lieberman however failed to propose any appropriate alternative course of action for the Association.

In 1958 the Association reaffirmed the procedure for which it had come under such intense criticism in 1956. In addressing the procedure to be used in its investigations, Committee A decided that it was not necessary to visit a campus before an investigatory report was made or published in the Bulletin. If the public record was clear and undisputable and indicated a violation of academic freedom, tenure, or due process, then the public record would suffice.<sup>38</sup> This new procedure, while certainly alleviating the costs and hardships of investigations in well publicized cases, hardly advanced the earlier espoused judicious investigations of previous committees.

Standardization was underway in many Association activities. In regard to its published reports, Committee A agreed that the goal should be greater uniformity. In addition, they stated that the investigating committee should have specifically defined responsibilities, that Committee A's roles should be better defined, and finally that Committee A should have final responsibility for all reports. Such practices were seen as a way to help ward off some of the accusations of arbitrary committee decision-making as well as make for more efficient use of the committee's time.<sup>39</sup>

---

<sup>37</sup> Ibid., p. 165.

<sup>38</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1959), p. 92.

<sup>39</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1959), p. 93.

The practice of censure was not immune from consideration as the membership moved to define more clearly the activities of the Association. Committee A decided that beginning the first of each year they would ask the Association President and Chapter President of each institution on the censured list if anything had occurred at the offending institution to change the nature of the offense which had led to censure. Such action gave institutions at least yearly opportunities, initiated by the Association, to clear their names from the censured list. In addition the Committee decided to include a report in each spring Bulletin stating the grounds for censure of each institution on the list and any changes that might justify the removal of censure.<sup>40</sup>

In June, 1958, Committee A reverted to an earlier concept of the appropriate use of the censure list when, in addressing a longstanding complaint about the efficiency and effectiveness of censure, they reported that "redress for wronged teachers or lack of it should be emphasized in Committee A discussions and Association's actions relating to removal of censure."<sup>41</sup> No longer would the Association regard the list as an indication of failure to win relief through mediation; now it was to become once again a weapon in the fight for academic freedom.

The council, at the time of its fall meeting in 1958, concurred with Committee A's recommendation that the status of all cases of censure should be published in the Bulletin.<sup>42</sup> No action was taken on committee proposals

---

<sup>40</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1959), p. 93.

<sup>41</sup> Ibid.

<sup>42</sup> "Report of Committee A," 1959, Bulletin of the American Association of University Professors (September, 1959), p. 393.

that would move the Association toward a more aggressive and militant use of its power which some of the membership advocated.

In practice, the Association received Committee A's recommendations in an ambiguous way. At its 45th annual meeting in 1959, the Association voted to remove censure from the University of Michigan even though redress was not offered to the offended faculty member. The removal of censure was made contingent upon a Committee A finding that the University had actually adopted proposed dismissal procedure regulations.<sup>43</sup> In addition to this action, Princeton Theological Seminary "was deemed censurable" but was allowed one year to remedy its unacceptable behavior. In order to become acceptable, the Association required that the Seminary adopt a more appropriate tenure system, allow more faculty participation in the governance system, and offer reinstatement to certain dismissed faculty members.<sup>44</sup> This insistence upon redress for wronged faculty members would set the tone and thrust of Association censure action in years to come.

Censure actions taken at the 1959 annual meeting were moderate in comparison to those taken in 1956. Robert K. Carr, Chairman of Committee A, noted that the action by the Association in regard to censure usually followed the recommendations of Committee A. Those recommendations adopted at the 1959 meeting included censure of Fisk University and New York University. In addition, censure was withheld from one other institu-

---

<sup>43</sup> "Forty-fifth Annual Meeting," Bulletin of the American Association of University Professors (June, 1959), p. 273.

<sup>44</sup> Ibid., p. 273.

tion in addition to the Princeton Theological Seminary, and three institutions in addition to Michigan were removed from the list.<sup>45</sup>

Meanwhile Committee A continued its efforts to define the purpose and the effect of censure. Focusing "on the theory that censure is a blunt and inflexible instrument . . . [the Committee considered] what additional sanctions are available or may be developed to supplement censure?"<sup>46</sup> If other sanctions were not available, then possibly censure itself could be made more effective.

The first difficulty the committee faced in its task was that the effectiveness of censure was "difficult if not impossible to determine." "It defied quantitative measurement but nevertheless [the committee thought it] provided some desirable effects."<sup>47</sup> Some doubt would always exist as to whether administrative action was taken to improve conditions of academic freedom and tenure because of Association censure, outside pressure, new administrations, or perhaps just a lapse of time with no real change in practices, or a tendency to forget the conditions or events that had prompted the Association to take action.

Part of the problem with the effectiveness of censure was Committee A's deviation from the procedure originally proposed by Professor Thurston when the Association initiated the practice. Some Association members had anticipated that faculty members would refuse employment at institutions with censured administrations. While the Association had always stopped short of requiring its members to refuse employment at censured

---

<sup>45</sup> Robert K. Carr, "Report of Committee A," Bulletin of the American Association of University Professors (September, 1959), p. 385.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

institutions, they hoped that they would do so on professional grounds. This hope, according to Robert Carr, had "not been fully realized by 1959."<sup>48</sup> In addition Carr recognized that while administrations sometimes would react quickly to Association censure action and seek to have censure removed, other administrations simply ignored it.

The result of Committee A's efforts to review its censure practices was a recommendation that the issue of sanctions be "intensively and continuously studied in the years ahead."<sup>49</sup> They further suggested that they might experiment with several cases by withholding censure while seeking redress for individuals through negotiation. Such action might answer the complaint that individuals usually came out of Association investigations in a worse position economically and professionally than if they would not have resorted to Association action. The Committee A advanced the possibility that the Association's fledgling academic freedom funds might be used to help wrongfully dismissed faculty members where censure did not help in obtaining satisfactory redress of wrongs.<sup>50</sup>

To decide what purpose and direction the sanction of censure should take, the committee considered what institutional response constituted sufficient action to remove censure. Up until 1959 actions such as an improvement in regulations and "promises not to sin again" were sufficient to remove censure. Committee A argued strongly that redress for the wronged individual should be necessary before it would consider removal

---

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid., p. 390-391.

of censure. It was agreed that censure had until that time been an indication of Association failure because they had historically imposed the sanction when they recognized that a case was one in which any hope of solution was absent. In spite of the rather obvious practice of decision-making by default, Carr argued that censure was not futile and that it "still served as a reminder to faculty at censured institutions that their administrations were in bad standing with the academic profession."<sup>51</sup>

This signal was not strong enough for many members of the Association. They had observed the academic freedom and tenure rights of college and university faculties being trampled upon by requirements of loyalty oaths and dismissals for exercise of their constitutional rights. They had witnessed labor unions successfully winning concessions through more aggressive and militant means than merely labeling organizations as transgressors against their cause. In the years ahead they would call upon the Association to adopt a more militant posture in its activities, including those of sanctions. The Association would face a dilemma as it considered the merits of professional versus organized labor methods.

Whether to insist upon redress for wronged individuals as a requirement for the removal of censure was still unsettled in the eyes of the Committee A. The Washington office had undertaken the task of preparing a draft statement which considered the various sanctions available to the Association. Committee A members hoped to be able to review the report prior to the April, 1960, committee meeting. The subcommittee of Committee A considering the issue and preparing the drafts consisted of

---

<sup>51</sup> Ibid., p. 390.

Walter P. Metzger and Francis C. Brown.<sup>52</sup> Meanwhile two other recommendations and changes in regard to censure were considered.

The recommendation that developments relating to censure be published in the Bulletin was implemented, with a report appearing in the March 1960 issue of the Bulletin.<sup>53</sup> Committee A considered the possibility of censuring administrations for a certain number of years in cases in which the institution could have reinstated a faculty member but refused to do so. Such an action would rid the list of those institutions that time or circumstances had caused to make reinstatement impractical if not impossible. The recommendation, although seriously considered and generally accepted, was never implemented.<sup>54</sup>

In an attempt to provide wider dissemination and knowledge of the Association's principles and activities, Committee A and the Washington office began to prepare a handbook of principles of the Association. Although the Association had occasionally printed these principles in the Bulletin, its officers believed that a handbook would offer more advantages than occasional publications.<sup>55</sup>

---

<sup>52</sup> David Fellman, "Report of Committee A 1960-1961," Bulletin of the American Association of University Professors (June, 1961), p. 171.

<sup>53</sup> William P. Fidler, "Developments Relating to Censure by the Association," Bulletin of the American Association of University Professors (March, 1960), p. 79.

<sup>54</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1960), p. 107.

<sup>55</sup> David Fellman, "Report of Committee A 1959-1960," Bulletin of the American Association of University Professors (June, 1960), p. 226.

The Association continued to give consideration to the practice of censure and contemplated the following issues in 1960, "1) Acceptance of teaching or research appointments by Association members at institutions where the administration is on the censured list, 2) Procedures for removal of censure . . . , 8) The range and variety of Association sanctions, and 9) Revision of the headnote to the list of the censured administrations as published in the Bulletin."<sup>56</sup>

While the Association continued to give active consideration to its sanctions the national office's actions in response to charges of communism focused the membership's attention on the effectiveness of censure and indeed on the Association's overall ability to enforce the academic freedom and tenure rights of the American professoriate. While the courts provided an increasingly stronger protection mechanism the Association, through its national office, grudgingly began to adopt a more congenial attitude toward the legal system and the legalistic means of strengthened enforcement procedures. During the 1960's the Association itself took on a new character as a "criminal court," judging the accused transgressors for their crimes against academic freedom and tenure.<sup>57</sup> In spite of the national office's increased attention to the perceived effectiveness of the Association's sanction and procedures the rank and file membership continued to increase their demand that the Association take a more activist approach to academic freedom and tenure matters.

---

<sup>56</sup> Ibid., p. 226.

<sup>57</sup> Walter P. Metzger, "Academic Tenure in America: A Historical Essay," Faculty Tenure, (San Francisco: Jossey Bass, 1973), p. 148.

## CHAPTER VII

### THE COURTS AND MILITANCY

Complaints of ineffectiveness and lack of speed had been leveled against the censure list from its inception. The Association continually gave consideration to revision of the principles and implementation of the sanction of censure to remedy the insufficiencies that members, administrators, and the public complained about. During the lengthy time that the Association was mulling over censure, additional sanctions and enforcement procedures were also being considered.

During the 1950's the Association had become involved indirectly in a number of lawsuits which addressed the issues of academic freedom and tenure. Prior to that time there was "little if any encouragement by any professional association to involve the court system in what was considered essentially an extra legal issue."<sup>1</sup> However with legal activity in higher education rapidly increasing, Committee A decided to increase its involvement in legal matters relating to academic freedom and tenure. In addition, in a move calculated to allow quick and timely action, the committee decided to allow the general secretary to take emergency action for the committee in some cases. The granting of such power to the general secretary was approved by Committee A upon the advice of the committee's chairman and the Association's legal counsel.

---

<sup>1</sup> William R. Wilkie, "Faculty Academic Freedom a Legal Analysis," Michigan State University Ph.D. dissertation, 1969, p. 23.

To support its new commitment to legal activity, a full-time lawyer was added to the Washington staff of the Association. The reasons Committee A gave for these needs of the Association were that "items within the scope of the Association's activities were being litigated, administrators were resisting the Association's efforts through legal channels, faculty members were having to explore the option of legal remedies, redress for wronged individuals as sought by the Association and wronged individuals was more likely to involve legal action and finally possible new theories of law and causes of action for violation of academic freedom and tenure might be developed by the courts with Association guidance."<sup>2</sup>

The decision to become more involved in legal matters was one which required a reevaluation of the Association's expenditure of time and funds. Methods of intervention such as filing of amicus curi briefs or helping dismissed professors finance the cost of litigation would add to the already expected costs of additional staffing. However the Association was committed to its goal and appointed Clark Byse as Counsel of the Association. Herman I. Orentlicher became a staff associate and was assigned to "handle all legal aspects of the Association program in collaboration with the new counsel."<sup>3</sup>

As the Association's involvement in legal action increased, an issue arose as to what enforcement action should be taken when a dismissed professor or wronged faculty member pursued remedies in both the courts

---

<sup>2</sup> Ibid., p. 223.

<sup>3</sup> William P. Fidler, "The Association New Offices, Staff Associates and Bulletin Editor," Bulletin of the American Association of University Professors (September, 1960), p. 262-263.

and through Committee A. Should the Association bide its time waiting for the outcome of the legal procedures? Should investigations still be conducted? Should censure be voted upon an administration in spite of a court ruling negative to the Association's cause? These questions were answered at least in part by the position of Committee A in instances in which a court order might have reinstated a dismissed faculty member. The Committee's position was that "a change of heart and indicated desire to meet the Association's standards is a requirement for the removal of censure when it has been imposed."<sup>4</sup> The Association favored redress as a requirement for the removal of censure.

With the Association membership widely supporting the movement toward strengthening censure as an Association sanction, Committee A gave consideration to the membership's obligations in regard to the censured list. While initially the concept of a censured list included the idea of disapproving of or even ostracizing members who joined the faculty of an institution on the list, there had been little if any development in that direction. In the spring of 1961, Committee A gave serious consideration to changing the headnote of the censured Administration's list to include a statement indicating disapproval of members accepting positions at institutions where administrations were on the list.<sup>5</sup> Later in that year a Committee A report specifically rejected advising members of the Association not to accept positions at institutions where the administration was under censure. What the Association would do to members who did

---

<sup>4</sup> David Fellman, "Report of Committee A 1960-1961," Bulletin of the American Association of University Professors (June, 1961), p. 141.

<sup>5</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1961), p. 65.

accept a position at a censured institution was a major problem according to a special subcommittee. Should they be "dropped as members" or "blacklisted?" The committee decided not.<sup>6</sup> The Association's lack of power to compel adherence to its rules and procedures was at least partially responsible for their position. A Committee A subcommittee prepared a memorandum which addressed the issue of Association sanctions. That memo read in part "neither a lawmaking body nor a court, the Association has not had and has not sought any coercive power, fines reprisals, boycotts, strikes or disaccreditations. Its methods have been definition, example and advice." The subcommittee report continued by saying that "the negative sanctions of the Association accordingly are destructive of neither personality, principle nor just procedures. On occasion they become the necessary means for furthering the constructive work of the Association. They do not exceed moral suasion."<sup>7</sup>

The process of "moral suasion" took longer than many members cared to accept. At the fall council meeting on October 27-28, 1961, David Fellman, Chairman of Committee A, responded to criticisms that Committee A worked too slowly. He noted that there were few ways to speed up the process and that higher education could best be served through "thorough examination." In deciding to recommend censure, it was the judgment of Committee A members that was controlling, and it was "not recommended in many cases in which there has been clear violations of standards."<sup>8</sup>

---

<sup>6</sup> David Fellman, "Report of Committee A 1960-1961," Bulletin of the American Association of University Professors (June, 1961), p. 141.

<sup>7</sup> Ibid., p. 141.

<sup>8</sup> "Record of Council Meeting," Bulletin of the American Association of University Professors (March, 1962), p. 53.

The discretion left to the committee members to decide which cases to pursue left many members with meritorious claims against university administrators wondering about the ability or the desire of the Association to protect their professional interests.

In the 1961-62 report of Committee A, David Fellman, the chairman, noted that it was the committee's policy never to recommend censure until members had an "adequate opportunity to read and study the report" of the investigation committee.<sup>9</sup> The actual procedure followed by Committee A in decisions of censure began 48 hours before the annual meeting. The committee would meet and vote on whether to continue, remove, or impose censure. The vote was generally communicated to the council the next day. Annual meeting action was necessary on the censure decision only if removal or imposition of censure was voted for by the committee. Fellman emphasized that the publication of reports did not necessarily indicate an intention to impose censure. Sometimes the reports were published if there was an interesting issue involving administration, faculty, or Association action.<sup>10</sup> Reasons Fellman cited for possible removal of censure included redress, changes in administrative personnel, adoption of satisfactory rules, or committee belief that the violation would not reoccur.<sup>11</sup> In

---

<sup>9</sup> David Fellman, "Report of Committee A 1961-1962," Bulletin of the American Association of University Professors (June, 1962), p. 157.

<sup>10</sup> Ibid., p. 157.

<sup>11</sup> Ibid., p. 158.

addressing the effectiveness of the list, Fellman regarded it as necessary to keep it as short as possible.<sup>12</sup>

Since 1931 the Association had voted censure 50 times on 48 administrations. The average time each administration had remained on the list was five years. While the Association was assuming an aggressive stance with its practice of censure, some people responded negatively to its actions.

Congressman Francis Walter of Pennsylvania, speaking before the United States House of Representatives on October 10, 1962, derided the Association for its investigation of George Washington University.<sup>13</sup> While Congressman Walter did not fully understand the methods and practices of the Association, accusing them of censuring George Washington University when in fact all they had done was publish the investigation committee's reports, he did take issue with the Association's position on Communism. The censure of the University of Washington, University of California, Temple University, Ohio State University, the University of Michigan, and New York University for violations of academic freedom related to charges of Communism were actions that he argued "should be sufficient to discredit the organization in the minds of any thinking person."<sup>14</sup> Emphasizing an idea that many administrators had expressed before, that censure was a kind of "badge of honor," he stated "in view of the record of the AAUP I believe that every member of this house should be pleased that a University in our capital has won the censure of the organization. Had it won praise from

---

<sup>12</sup> Ibid., p. 158.

<sup>13</sup> 108 Cong. Rec., 23,064 (1962).

<sup>14</sup> Ibid.

the American Association of University Professors there would be cause to be concerned about George Washington University."<sup>15</sup>

The Association continued its efforts to provide legal protection for academic freedom and tenure during the 1960's. Although the law did not treat academic freedom comprehensively until the 1950's. Committee A continued to accuse judges of failing to understand the nature of academic freedom and therefore regarded it as their duty to educate courts thoroughly through the development of legal literature on the topic.<sup>16</sup> This continuing development of Association action was viewed as being in the best interest of the Association because it was increasingly evident that involvement in lawsuits could not very well be avoided. Additionally the Association continued to take action through the use of amicus curri briefs.

In 1965 the American Association of University Professors completed an indepth study of their practices and procedures, and the topic of censure was one addressed in detail by the committee assigned to carry out the study. In the "Report of the Self Survey Committee of the AAUP," one committee member commented that colleges guilty of far greater violations of academic freedom and tenure than the ones the Association censured were remaining unpunished because no one complained. He blamed administrations who "need only be clever enough to bind its faculties with ties of sentiment and deferred salary payments in the guise of retirement benefits and to making joining the AAUP a cardinal sin" for distracting faculty members from these violations.<sup>17</sup> The report suggested that the American

---

<sup>15</sup> Ibid.

<sup>16</sup> David Fellman, "Report of Committee A, 1963-1964," Bulletin of the American Association of University Professors (June, 1964), p. 125.

<sup>17</sup> "Report of the Self Survey Committee of the AAUP," Bulletin of the American Association of University Professors (May, 1965), p. 202.

Association of University Professors would never be affective until it could find a way to "reprimand backward institutions whose faculty members are too cowed or too ignorant to make a formal complaint."<sup>18</sup> The committee report was hardly one that as likely to win over the "cowed" and "ignorant" members of the "backward institutions." The elitist aristocratic nature of the Association's beginnings had not been completely forgotten by some members.

In addition to the self survey committee's report dealing in part with censure, Committee A was undertaking its own investigations into the role of censure in the Association. At the April, 1965, Committee A meeting, a special committee was authorized to study the effectiveness of censure. The committee on "improving the effectiveness of censure" was to consider material and suggestions from members, chapters, conferences, other organizations, other association committees, and all other interested persons" when deliberating on potential modifications of their practices.<sup>19</sup>

The Pennsylvania division of the Association recommended changing the prefatory statement in the list of censured administrations. The second to the last paragraph of the statement, which dealt with the acceptance of employment at censured institutions, was changed to indicate that members should seek information on the conditions of academic freedom and tenure at institutions where they were contemplating taking positions. It was made clear that individuals still had a choice in making a decision on whether to accept employment at a censured institution, but that choice

---

<sup>18</sup> Ibid., p. 207.

<sup>19</sup> Clark Byse, "Report of Committee A, 1964-65," Bulletin of the American Association of University Professors (June, 1965), p. 240.

should be an informed one.<sup>20</sup> An earlier modification of the prefatory statement to the censured administrations list had expressed the Association's position that it was inadvisable for a faculty member to accept a position at an institution on the list. In making the change, the Association moved closer to an organized labor approach of a "boycott" for academic freedom and tenure.

To implement a more comprehensive guide to academic freedom and tenure practices and to let members know which colleges and universities should be avoided, some members suggested that the Association "grade" institutions on their performance in relation to academic freedom and tenure. In response Committee A Chairman Clark Byse suggested possible chapter evaluation of these conditions but fell short of recommending a nationwide grading system.<sup>21</sup> Another possible method for presenting the Association's position to the public was to send copies of investigation committee reports and any reports published subsequent to censure to all alumni and trustees of the institution censured.<sup>22</sup> This suggestion also failed to gain Association approval.

Even though the Association continued to study its censured list and attempted to reinforce its credibility, the public became increasingly doubtful of the ability of the "egghead world" to influence academic

---

<sup>20</sup> Ibid., p. 241.

<sup>21</sup> Ibid., p. 241.

<sup>22</sup> William Sloane, "Letters," Bulletin of the American Association of University Professors (September, 1965), p. 390.

freedom and tenure decisions within higher education. "The American Association of University Professors has been quietly blacklisting colleges for years. It has 20 censured institutions at present. Some are hardened offenders . . . presumably they don't care."<sup>23</sup> In a tongue in cheek editorial in the New Republic, the editor noted "The Association is terribly polite. It is a blacklist as genteel as a convocation. The officials who sit in the exhibitors parlor of the AAUP's Standing Committee in Washington sometimes wonder if they haven't been too polite."<sup>24</sup>

"The center of the blacklist operation is in a partitioned-off butler's pantry of the old Andrew W. Mellon suite in a mansion off DuPont Circle in Washington, D.C. The mansion is now owned by the American Council of Education. To be accurate, Andy was on the top floor, the fifth, while his friend Joseph Queen, the famous art collector, was on the fourth floor where the AAUP is now located . . . Queen brought 21 million dollars of art treasures into his suite and gradually got Neighbor Mellon to feel at home among them. Result: Washington's superb Mellon Gallery. Also a butler's pantry for blacklisting." Administration trustees and regents were "astonished" as to "how these amusingly unwordly professors suddenly lash out when touched on certain sensitive nerves. Trustees would be no more flabbergasted if trampled by a charge of sheep."<sup>25</sup>

Turning to a more serious criticism which the magazine had made against the Association in 1930, they noted that "mostly the current 23

---

<sup>23</sup> "T R B From Washington," New Republic, June 26, 1965, p. 4.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

[institutions on the censured list] are small state institutions, where the president is more afraid of the legislature than concerned with national reputation."<sup>26</sup> Perhaps some institutions were the small backward institutions the Association accused of most of the violations of academic freedom and tenure, but larger well respected institutions had not necessarily escaped the Association's wrath. Opponents supported the idea that the more prestigious and elite institutions could escape censure merely because of their status. While Association supporters argued that the more prestigious institutions were more attuned to academic freedom and tenure considerations than the backward ignorant institutions on the censured list or that in fact any institution would, when the situation called for such action, be censured.

One case which received wide publicity and resulted in Association censure was the case of Koch at the University of Illinois. Koch, an assistant professor of biology, had written a letter to the school newspaper in which "he argued that premarital sexual intercourse might be condoned among those sufficiently mature to engage in it." "There was hell to pay" when "Rev. Ira H. Latimer, a member of the University of Illinois Dads Association" found out about Koch's letter. The resulting furor ended with Koch's dismissal, an American Association of University Professors investigation, and subsequent censure.<sup>27</sup> The Association's efforts to clarify the role of censure continued through the Koch affair.

The subcommittee on Implementation of Censure issued an interim report to Committee A in time to be included in the "Report of Committee

---

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

A 1965-1966." Parts of the interim report were contained verbatim in the report. Three aspects of censure were discussed by the Committee which included conditions for imposing censure, Association action after censure, and conditions for the removal of censure.<sup>28</sup>

In discussing types of censure the subcommittee noted that the seriousness of the offense against academic freedom and tenure that had occurred at the different institutions on the list varied a great deal. In an attempt to distinguish greater offenses for those of a lesser nature, they called for the establishment of two types of sanctions, censure and reprimands. Censure was the appropriate sanction, the subcommittee argued, for "serious violation" of Association principles while reprimands would be issued "when a specific violation of academic freedom and tenure has been demonstrated but general conditions appear satisfactory."<sup>29</sup> Two other suggestions that the subcommittee made in regard to the imposition of censure dealt with issues that were more controversial. The subcommittee stated that "we do not favor the initiation of conferences with other organizations designed to establish government tribunals for the imposition of censure."<sup>30</sup> This recommendation was in direct contrast to earlier Association calls for unified action in defense of academic freedom and tenure. The other controversial suggestion made by the subcommittee was not to allow a "vote [of] censure apart from a recommendation of Committee

---

<sup>28</sup> Clark Byse, "Report of Committee A 1965-1966," Bulletin of the American Association of University Professors (June, 1966), p. 116-118.

<sup>29</sup> Ibid., p. 116.

<sup>30</sup> Ibid., p. 117

A concurred in by the council."<sup>31</sup> The impetus for this suggestion came at the annual meeting the previous year in regard to a case involving the University of Arizona.<sup>32</sup> Committee A had recommended in its Annual Report at the Fiftieth annual meeting that no action be taken against the University of Arizona for accusation of violations investigated in a previous report. After discussion of Committee A's recommendation, a motion from the floor was made for censure of the university's administration. The motion was seconded, and after a vote was taken the annual meeting had censured the University of Arizona. Ralph Fuchs, retired president and member of Committee A, called for a proportional vote on the motion pursuant to Article VI section 3 of the Association constitution.<sup>33</sup> The Association constitution provided for a proportional vote upon approval by 1/3 of the delegates present at the annual meeting. In a proportional vote, accredited delegates were "entitled to a number of votes equal to the number of active members at their institution."<sup>34</sup> The call for a proportional vote was "unprecedented in the recent history of the Association."<sup>35</sup>

When the proportional vote was taken, the earlier vote was reversed. The parliamentary maneuvering of the national office personnel left many of the more activist local chapter members of the Association disgruntled.

---

<sup>31</sup> Ibid.

<sup>32</sup> "Fiftieth Annual Meeting," Bulletin of the American Association of University Professors (June, 1964), p. 189.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid., p. 191.

<sup>35</sup> Ibid.

After the meeting, V. Edwin Bixenstine and James Kayes Olsen, members of the Association, wrote to the Bulletin encouraging more active involvement of local chapters in Association decisions. They argued that the University of Arizona case where local chapter members through floor actions tried to reverse Committee A and council recommendations and were stymied was an example of the national office restricting "the spirit of asserting a voice and of imposing a more active image."<sup>36</sup>

Fuch responded with a statement explaining why he proposed the proportional vote. He said the issue of whether the Association at the annual meeting should override the recommendation of Committee A and the council was one of too great importance to allow to pass in the heat of the debate over the University of Arizona. Action at the meeting was taken on the basis of recitals of facts contained in the published report and allegation from the floor. Such a vote for censure, he contended, "would fail to accord procedural due process on the part of the Association toward the persons against whom the censure would have been directed."<sup>37</sup>

As a final barrier to any other membership-initiated censure proceedings, the Self Survey Committee of the AAUP reported in 1965 that a constitutional provision required that proposals initiated at the Annual Meeting receive subsequent ratification by either the Executive Council or the members at the next annual meeting. This provision also applied to censure activities, therefore making the initial vote taken on the University of Arizona in 1964 one that would have required subsequent

---

<sup>36</sup> Bixenstine and Olsen, "Letters," Bulletin of the American Association of University Professors (September, 1964), p. 287.

<sup>37</sup> "Fiftieth Annual Meeting," Bulletin of the American Association of University Professors (June, 1964), p. 192.

ratification. If a proposal were initiated by the Executive Council, there would have been no requirement for ratification.<sup>38</sup>

The Subcommittee of Committee A on Implementation of Censure also made recommendations as to appropriate Association actions after it had imposed censure. The headnote to the list of censured administrations again was a prime target for modification. This time the Association, according to the subcommittee, should move "the last two sentences of the second paragraph of the headnote . . . to precede the first two sentences of that paragraph."<sup>39</sup> Another suggestion of the subcommittee was in particularly serious cases of violations to publish a statement that it was a particularly serious case with hope that it would "strengthen the action which individual members will take in support of censure."<sup>40</sup> In regard to substantive action the subcommittee merely stated that "all of the endorsers of the 1940 statement [should] be sent a letter immediately after a censure vote which would advise the organization of the fact of censure and the circumstances thereof."<sup>41</sup>

The final topic the subcommittee addressed dealt with the grounds for removal of censure. They specifically rejected the requirement of redress as a prerequisite for removal of censure, noting however that it might "be so intertwined with the general state of academic freedom and tenure that

---

<sup>38</sup> "Report of the Self Survey Committee of the AAUP," Bulletin of the American Association of University Professors (May, 1965), p. 138.

<sup>39</sup> Clark Byse, "Report of Committee A 1965-1966," Bulletin of the American Association of University Professors (June, 1966), p. 117.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid., p. 118.

the two cannot be separated."<sup>42</sup> They also considered instituting a procedure where institutions on the censure list would be periodically reviewed as a possible initiative on the part of the Association to encourage administrative action. Such a review was already being made on a yearly basis by the national office, and the results were published in the Bulletin in articles entitled "Development Relating to Censure." Committee A voted to adopt most of the Subcommittee's recommendations, but they tabled the suggestion of a list of reprimanded institutions for further discussion.<sup>43</sup>

The Self Survey Committee of the AAUP also explored additional possible uses for the sanction of censure within the Association. They suggested that Committee T, the Association's committee on College and University Government, might appropriately use the sanction in cases within its jurisdiction. Committee T had previously considered censure as a possible means to enforce its standards, however in a 1962 report the Chairman of Committee T said that the complexity of the situation involved in Committee T work made censure inappropriate. The closest Committee T ever came to censuring an administration was in 1961 when conditions at Monmouth College in New Jersey were declared "intolerable."<sup>44</sup> The writers of the survey stated, in regard to the statement by the Committee T chairman, that "Admittedly Committee T's experience is limited but the egregiousness of the offenses and damage to the institution revealed in the few published cases make Committee T's aversion to censuring difficult to

---

<sup>42</sup> Ibid., p. 118.

<sup>43</sup> Ibid.

<sup>44</sup> "Report of the Self Survey Committee of the AAUP," Bulletin of the American Association of University Professors (May, 1965), p. 171.

share."<sup>45</sup> The Survey Committee recommended that Committee T consider the possibility of censure as a sanction. Committee T responded that in a clear case they would consider utilization of censure, but the complexity of the types of cases they normally dealt with made it doubtful that any such cases would be so clear cut. They regarded the possibility of a "double censure" by the Association as a problem with censure by both Committee T for administration violations and Committee A for academic freedom and tenure violation.<sup>46</sup>

While the appropriate role for Committee T was the subject of considerable debate, the accusation of unionism which had haunted the Association since its inception had not been dispelled, and radicalism in the academies brought this issue to the forefront. In the 1960's the Association members did not demand professionalism but a called for utilization of labor oriented tactics. One writer to the Bulletin argued that the AAUP censured list was basically ineffective and that it would remain so until the Association established an effective boycott procedure.<sup>47</sup> Two professors wrote encouraging the Association to become more activist in it's approach to sanctions. Specific recommendations they made included the recommendation that following censure of an administration the Association should issue a "blanket authorization, extending for a certain period of time for all faculty associated therewith to resign

---

<sup>45</sup> Ibid., p. 172.

<sup>46</sup> Ralph S. Brown, Jr., "Report of Committee T, 1965-1966," Bulletin of the American Association of University Professors (June, 1966), p. 221.

<sup>47</sup> Eugene F. Mooney, "Letters," Bulletin of the American Association of University Professors (September, 1963), p. 284.

with the costs in loss of salary, finding a new position, transportation, etc. to be assumed by the AAUP." They felt sure that then "censure would take on an altogether new and portentous meaning."<sup>48</sup>

One writer, in supporting the professor's suggestion, said that the Association needed to become more activist in its orientation. Noting the shortage of qualified members of the profession, he stated that college professors had acquired an "unprecedented value in the U.S."<sup>49</sup> This value would strengthen the professor's actions in regard to academic freedom and tenure when institutions were sanctioned. The new call for activism was not lost on the national association office. The growing gap between the professionalism espoused by the national office and the activism called for by many local chapter members was typified by the call for censure of the University of Arizona. The national office attributed this call for action to a very vocal minority of the Association's total membership and recognized that those members "who took the initiative to come to the annual meeting might be more activist and militant than the membership overall or the Executive Council and officers who were elected mainly on the strength of their national prestige."<sup>50</sup> The horns of the dilemma were thus joined, and the Association embarked upon a new era of conflict between the demands of professionalism and the equally emphatic calls for union tactics.

---

<sup>48</sup> Edwin Bixenstine and James K. Olsen, "Letters," Bulletin of the American Association of University Professors (September, 1964), p. 285.

<sup>49</sup> Claude C. Bowman, "Letters," Bulletin of the American Association of University Professors (March, 1965), p. 58.

<sup>50</sup> "Report of the Self Survey Committee of the AAUP," Bulletin of the American Association of University Professors (May, 1965), p. 137.

## CHAPTER VIII

### PROFESSIONAL ASSOCIATION OR ORGANIZED LABOR

The Association confronted the issue of unionism head on in 1966-1967, when it formed a joint committee consisting of the Chairmen of Committees A, B, T and the Special Committee on Representation of Economic Interest "as well as other persons as the President deems appropriate to approve."<sup>1</sup> The purpose of the Committee was to formulate the Association's policy in regard to professorial strikes. This Special Joint Committee on Representative Bargaining and Sanction was the Association's response to developments at numerous institutions which emphasized the need for such a policy.<sup>2</sup>

The major issue confronting the American Association of University Professors during the decade of the 1960's was one which they had never been able to avoid, use of organized labor tactics. Throughout its history the issue of professionalism versus trade unionism had continually surfaced. In the 1960's the Association would no longer be able to deny the increasingly vocal call of members for more radical means of enforcement. A great deal of the impetus for change came from members who were

---

<sup>1</sup> Sanford H. Kadish, "Report of Committee A 1966-1967," Bulletin of the American Association of University Professors (June 1967), p. 121.

<sup>2</sup> An example of the referenced developments was the impending vote by eight thousand faculty members of the 18 California State Colleges who were going to vote on a proposal for Collective Bargaining. C. M. Larsen, "Collective Bargaining," Issues in the California State Colleges. Bulletin of the American Association of University Professors (Summer 1967), p. 217.

noticing the results being obtained by another education organization, the American Federation of Teachers. Although the American Federation of Teachers had traditionally been regarded as an organization for public school teachers, inroads were being made into higher education. Although the A.F.T.'s affiliation with organized labor and support of union tactics was abhorred by the American Association of University Professors national organization, the growing support for unionism in higher education was seen as a reaction by the members of the American Association of University Professors to the apparent lack of success enjoyed by the Association in its enforcement activities. The more militant Association members and the AFT said that the inability of the Association to make its standards meaningful to the administrations of colleges and universities through its program of sanctions was an example of the major problem with the Association's "professional" approach.

The Association responded by stating that "Censorship of academic institutions has admittedly been ineffectual. The National Council of the AAUP, partly because of pressure brought by many of its chapters, has recently been considering a variety of new ways to strengthen its censorship procedures."<sup>3</sup> Professional organizations were said to be able to increase the effectiveness of their sanction by becoming "more political" and by convincing the public, administration, and the government that the professional interests of education must be defended. Organization and labor union methods were singled out as the most expeditious ways to force that recognition. The opportunity for greater influence and expanded membership that this new emphasis presented was not lost on the AFT as

---

<sup>3</sup> Rubin Gotesky, "Charter of Academic Rights and Governance," The Educational Forum (November, 1967), p. 10.

they moved to assume a more important stance in higher education. Members of the Federation ridiculed the "myths sedulously disseminated to the AAUP leadership and administration . . . that collective bargaining and unions presume an adversary relationship between the administration and working faculty."<sup>4</sup> The AFT rejected the ability of the AAUP to operate as an agency of professional defense until reform was made, stating that the "AAUP's cultural inertia in adhering to outmoded concepts and organizational forms will doom it to continued impotence."<sup>5</sup> Although the AFT suggested remedies that called for the merger of the two organizations to combine efforts in defense of common interests, the professional nature of the Association was still regarded as a necessary attitude by enough of the membership to preclude such a union. However an increasing number of members were forcing the Association toward militancy. "Expressing outrage at union tactics, AAUP is forced first to tolerate and then to adopt them. Lamenting use of the big stick, the Association constantly broadens definition of the extreme 'circumstances' that may justify the cudgel and as in the public schools whispers are getting louder in the colleges concerning an eventual shotgun marriage of the 'professional association' and the (pardon the expression) union."<sup>6</sup>

In support of the growing militancy in the Association, one writer noted that a resolution made at the annual meeting held on April 28, 1967,

---

<sup>4</sup> Israel Kugler, "The Union Speaks for Itself," Educational Record (Fall, 1968), p. 416.

<sup>5</sup> Ibid., p. 418.

<sup>6</sup> Donald A. Erickson, "A Fast Express Named Militance," The North Central Association Quarterly (Winter, 1968), p. 229.

<sup>7</sup> Arnold Beckleand, "Letters," Bulletin of the American Association of University Professors (September, 1967), p. 345.

proposed that the AAUP endorse a statement of the American Civil Liberties Union on the freedom to organize.<sup>7</sup> The ACLU statement provided for a right to strike by all endorsing organizations. Delegates to the annual meeting voted to refer the resolution to Committee A because of the controversial nature of the proposal. The member of the Association who proposed the adoption of the statement was the President of the American Federation of Teachers.<sup>8</sup>

The sanction of censure remained a target for many complaints of overall Association ineffectiveness. Association members desired that their organization's chief sanction and weapon in defense of academic freedom and tenure be one that would force offending institutions and administration to remedy their behavior quickly. However such was not the case, partly because of "the inordinate period of time spent in investigation and the settling of a case. The average time is from two to four years. Few professors have the economic resources or the stubbornness to continue fighting for their rights over so long a period of time."<sup>9</sup>

Meanwhile more members were encouraging a more timely and judgmental approach to Association concern and more effective utilization of censure. These calls for increasing the types and effectiveness of sanctions were not ignored by the national office. While stating that the censure procedures of the Association were "intelligently conceived, and that they served a useful and desirable purpose," David Fellman, the retiring president, noted that the ineffectiveness of censure might be attributed

---

<sup>8</sup> Ibid.

<sup>9</sup> Gotesky, "Charter of Academic Rights and Governance," Educational Forum (November, 1967), p. 10.

to the fact that no more than 30% of the faculty members in the country had ever belonged to the Association at one time.<sup>10</sup> This lack of a majority membership of the American professoriate undoubtedly had a negative impact on the effectiveness of Association censure.

In 1966 the Association adopted a resolution at its annual meeting which called for increased cooperation with other organizations in an attempt to gain greater effectiveness in dealing with critical problems. If the members were not available through Association membership, then maybe through increased interorganizational cooperation the goals of the organization could be reached. The professional aspirations of the Association caused it to regard cooperation with other professional organizations as more desirable than any relationship or affiliation with more labor oriented groups. Little recognition was given to the fact that the Association usually had little in the way of common interest with those other organizations with whom they sought to cooperate. The AFT and the NEA, the organizations that it had the most in common with in so far as interest in academic freedom, tenure and economies of the profession were concerned, remained tainted by the specter of unionization and were not the "aristocrats of academic labor" or the elite of educational society typical of professional organizations.

---

<sup>10</sup> David Fellman, "The Association Agenda," Bulletin of the American Association of University Professors (June, 1966), p. 106.

The Association principles were based on a recognition of the dependency of academic freedom upon faculty tenure. The major issues confronting the Association in regard to censure were still ones of tenure as opposed to actual denial of academic freedom. While the courts had expanded the concept of academic freedom during the 1950's and 1960's, academic tenure was still for the most part a question of the contractual relationship between the institutions and the faculty members. The administrative nature of these contractual rights and the administrator's greater relative bargaining strength led to decisions in favor of the institutional interpretations of tenure. Since the 1930's Association pressure, as a professional organization, was a primary remedy available to dismissed professors who could not hope to succeed in law suits to protect their claim to tenure. While the ideals of academic freedom and tenure as defined by the Association called for something more, arbitrary contractual terms and undeveloped case law actually determined the validity of tenure claims in the courts.

In the late 1960's events occurred which would ultimately defeat the Association's claim of professional status and negate censure as a professional sanction. During this time the law finally developed as an effective means for individual faculty members to seek redress and made the mere declaration of professional displeasure through censure much less noteworthy and appealing to faculty members as a vehicle for enforcement. Dismissed professors were more concerned in seeing their interest in salaries and careers vindicated through official legal proceedings than being sacrificed on the altar of professional standards. The Association had noted the trend toward increased legalization of the concepts of

academic freedom and tenure and, although grudgingly, found themselves drawn into the fray.<sup>11</sup> The legalization of academe was typified by the United States Supreme Court's 1972 interpretation of case law which established the concept of de facto academic tenure.

In the companion cases of Board of Regents v. Roth and Perry v. Sinderman, the concept of faculty tenure was strengthened by an expansive interpretation of tenure rights as a property interest under the 14th amendment.<sup>12</sup> Both cases dealt with the dismissal of faculty members from their position at public colleges or universities. In neither case was the faculty member tenured in regard to either meeting formal criteria for tenure or because of the absence of a formal tenure system. The issues involved in the cases centered around the concept of what property interest did a faculty member have in continued employment and what procedural due process requirements did the fourteenth amendment require to protect those interests? The American Association of University Professors, in keeping with its commitment to increased involvement in legal matters regarding academic freedom and tenure, filed amicus curiae briefs with the United States Supreme Court and urged the court to find in favor of the dismissed faculty members in both cases.<sup>13</sup>

The decision of the Court gave faculty an expanded and more powerful means of enforcing academic freedom through the protection of academic tenure

---

<sup>11</sup> David Fellman, "Report of Committee A 1963-1964," Bulletin of the American Association of University Professors (June, 1964), p. 126.

<sup>12</sup> Board of Regents V. Roth, 408, U.S., 564 (1972); Sinderman V. Perry, 408, U.S. 593 (1972).

<sup>13</sup> Ibid., p. 565.

rights in appropriate cases. In the Sinderman case, the Court went so far as to declare that a faculty member might achieve tenure notwithstanding the fact that the institution lacked a formal tenure system. The recognition of tenure as a protected property interest required that, in order for an institution to dismiss tenured professors, they would have to comply with the due process requirements of a notice and hearing. The development of legal theories for redress which culminated with these decisions, combined with the new activism of college and university faculty members, eroded the impact of Association censure actions which were far less direct and immediate. Through the courts, dismissed faculty members could protect their property rights through the guarantee of due process with possible reinstatement or even money damages as a remedy. The professional sanction of censure with its process of "moral suasion" offered an inferior avenue of redress when compared to the more immediate relief available through the courts. The intertwined nature of tenure and academic freedom and the due process that the courts provided created substantial interest within higher education in the use of the courts as the ultimate decision maker regarding institutional and administrative misconduct. Because a tenured faculty member was regarded as having a property interest in his continued employment, the due process procedures required for termination provided safeguards that the Association had never been able to force institutions to accept.

The other change that lessened the impact of censure as a sanction was the culmination of events leading to the Association's outright acceptance of organized labor methods. Heeding the call of activist local chapter members, the national Association had begun to investigate collective bargaining as a means of achieving some Association goals.

While still regarding itself as a "professional" Association, the organization was adopting more labor oriented methods. This trend culminated in 1971 when the Association adopted a resolution calling for its participation in collective bargaining as an agent for college and university faculty.<sup>14</sup>

On October 29 and 30, 1971, the Council of the American Association of University Professors encouraged the membership to adopt its proposed resolution that the "AAUP will pursue collective bargaining as a major additional way of realizing the Association goals in higher education."<sup>15</sup> The council agreed that "the implementation of Association supported principles resting upon appeals to professional traditions and upon moral suasion can be effectively supplemented by a collective bargaining agreement and given the force of law."<sup>16</sup> It did not seem to concern the council that such a resort to such an obvious organized labor device for securing desired employment conditions was not in keeping with the professional methods of definition, example and advice utilized by the Association for the previous 56 years of its existence.

The censured list became a sanction wielded by an organization which practiced organized labor methods for securing desired changes in working conditions. This was a major shift for the Association for through out its history, it had insisted upon a professional sanction. Members said that the censured list was not a union blacklist and that the Association was not a "professorial union." The censured list was the Association

---

<sup>14</sup> "Annual Meeting," Bulletin of the American Association of University Professors (Spring, 1972).

<sup>15</sup> "Council Position on Collective Bargaining," Bulletin of the American Association of University Professors (Winter, 1971), p. 511.

<sup>16</sup> Ibid.

sanction that had for years rested upon the "appeal to professional tradition and upon moral suasion."<sup>17</sup> Its entire claim of effectiveness was centered around its appeal to public opinion. The Association action in adopting a clearly organized labor method of seeking economic gain exposed a more labor oriented aspect of the Association and its censured list.

---

<sup>17</sup> Ibid.

## CHAPTER IX

### CONCLUSION

From 1930 to the early 1970's the censured list as developed by the American Association of University Professors existed as a final expression of the Association's professional disapproval of an administration's academic freedom and tenure actions. The history of the Association's ultimate sanction, its application and procedure effectively trace the controversy and dissension that has surrounded the Association's professional aspirations since its inception.

During the 1930's issues centered upon tenure and job security and the effects of the economic depression. During the 1940's the Second World War was responsible for the modification of most of the Association's procedures. During the 1950's the threat of communism and the Red Scare caused considerable controversy and disagreement as to the Association's appropriate role and reaction to cases involving loyalty oaths, charges of subversive activities and faculty dismissals for charges of being a member of the communist party. The 1960's mark a period when the increasingly militant behavior of the professoriate in American higher education was responsible for a radical shift in Association activities which led to its demise as an organization that could claim to be truly professionally based.

Throughout the history of the American Association of University Professors and its censured list, the membership exhibited a pattern of increasing dissatisfaction with the Association's ability to insure the

professoriate's academic freedom and tenure. The attitude of many administrators leaned toward a candid disregard, if not outright contempt, for the Association and its use of censure. Censure, while similar to sanctions which most other professional organizations used to enforce minimum rules of conduct, behavior, and standards to suit their professional causes and goals, was regarded by many Association constituents as labor oriented or plainly ineffective. Other professional organizations were in an enviable position in regard to enforcing their standards upon colleges and universities. Some of their professionals were employed outside the academic community and constituted an outside economic force which was the consumer of the products of the colleges and universities and therefore were in a position to dictate higher education's practices. The Association did not operate from this advantage. It was a part of the system and institutions which it was trying to change, and its membership drew their livelihood from the institution. Censure by the Association was the academic community reprimanding itself, hardly an action that could hope to generate wide support from people outside of the academic community who felt little or no involvement with the action.

Given the traditional minority membership of the professoriate in the American Association of University Professors and the fact that censure was a controversial practice, it is not surprising that even a large number of the academic community members never supported or accepted the validity of censure. This may account for the academic community's ready acceptance of the courts and organized labor methods to achieve its goals in regard to academic freedom and tenure. The constituency of the Association perceived the sanction of censure as an ineffective, a self fulfilling prophecy when relying on public opinion as a sanction.

The Association, throughout its history, tried to improve the effectiveness of censure. The process of moral suasion, while in keeping with a professional emphasis, lacked the aggressiveness desired by many members. Whether the legal system or organized labor activities will in fact emerge as the appropriate tool for enforcing academic freedom and tenure standards is a matter of conjecture, but throughout its history the American Association of University Professors censured list provided neither the method or the means.

## BIBLIOGRAPHY

### PRIMARY SOURCES

- "Academic Freedom in Texas." New Republic, Vol. 111 (November 13, 1944), p. 615
- "American Association of University Professors," Bulletin (1915-1986)
- Browne, H.J. "Catholics and the AAUP," Commonwealth, Vol. 65 (Oct. 5, 1956), p. 10-12.
- Buckley, Priscilla L. "The Hounds of Academe," National Review (Oct. 7, 1961), p. 231-232.
- Communism and Academic Freedom: The Record of the Tenure Cases at the University of Washington. Seattle, Washington: University of Washington Press, (1949).
- Eckelberry, R. H. "Double Standards," Journal of Higher Education, Vol. 27 (April, 1956), p. 223-235.
- "Enforcing Academic Freedom." The New Republic (December 10, 1930), pp. 87-88.
- Erickson, D. A. "Fast Express Named Militance; Unionization of College Teachers," North Central Association Quarterly, Vol. 42 (Winter, 1968), p. 229-232.
- Gatesby, R. "Charter of Academic Rights and Governance," Educational Forum, Vol. 32 (Nov., 1967), p. 9-18.
- Hudson, John B. "The Spoils System Enters College," The New Republic (September 17, 1930), pp. 123-125.
- Kandel, I. L. "Teaching Profession and Communists," Schools and Society, Vol. 70 (July 30, 1949), p. 73.
- Kugler, Isreal. "The Union Speaks for Itself," Education Record (Fall, 1968), p. 414-418.
- Lieberman, M. "Disorganization Man," Schools and Society, Vol. 86 (April 12, 1958), p. 165-167.
- Moley, Raymond. "The Pink Flag Flies," Newsweek (April 23, 1956).

- Pegues, F. J. "In Defense of the Professors," Journal of Higher Education, Vol. 36 (June, 1956), p. 339-42.
- Stillwell, H. "Civil War in Texas," Colliers (January 6, 1945), p. 18-19+.
- "T. R. B. From Washington." New Republic (June 26, 1965), p. 4.
- Thurston, L. L. "Academic Freedom," Journal of Higher Education 1 (March, 1930), pp. 136-140.
- Tyler, Henry W. and Cheyney. "Academic Freedom," Annals of American Academy of Political and Social Science, Vol. 200 (1938), pp. 102-118.
- Whitney, Alan. "Professors Prepare for Action," Nation (April 11, 1953), p. 296.
- "Will Professors Do It; Proposal of Prof. Thurstone." Nation, Vol. 131 (November 5, 1930), p. 488.
- Withers, A. M. "Professors and Their Association," Journal of Higher Education, Vol. 11 (March, 1940), pp. 125-129.

## BIBLIOGRAPHY

### SECONDARY SOURCES

- AAUP Policy Documents and Reports. Washington: American Association of University Professors, (1973).
- Beale, Howard K. Are American Teachers Free? New York: Charles Scribners Sons, 1936.
- Byse, Charles and Joughin, Tours. Tenure in American Higher Education Plans, Practices and the Law. Ithaca, NY: 1959.
- Cox, Alice Carol. The Rainey Affair: A History of the Academic Freedom Controversy at the University of Texas, 1938-1946. University of Denver, Ph.D. dissertation, (August, 1970).
- Curti, Merle, ed. American Scholarship in the Twentieth Century. Cambridge, Massachusetts: Harvard University Press, 1953.
- Gardiner, David. The California Oath Controversy. Berkeley, California: University of California Press, 1967.
- Hofstadter, Richard and Metzger, Walter P. The Development of Academic Freedom in the United States. New York: Columbia University Press, 1955.
- Joughin, Louis, ed. Academic Freedom and Tenure: A Handbook of the American Association of University Professors. Madison, Wisconsin: University of Wisconsin Press, 1967.
- Kerr, Kenneth Miller. "An Analysis of the Cases Leading to Institutional Censure by the American Association of University Professors, 1940-1965." Ph.D. dissertation, Indiana University, 1967.
- MacIver, Robert M. Academic Freedom in Our Time. New York: Gordian Press, 1967.
- Metzger, Walter P. "Academic Tenure in America: A Historical Essay." Faculty Tenure. San Francisco: Jossey Bass, 1973.
- Pearson, Gaynor. "The Decisions of Committee A". unpublished Ed.D. dissertation, Teacher's College, Columbia University, 1948.
- Rudolph, Frederick. The American College and University: A History. New York: Alfred A. Knopf, 1962.

Stewart, George R. The Year of the Oath. Garden City, NY: Doubleday, 1950.

Wilkie, William R. Faculty Academic Freedom: A Legal Analysis. Michigan State University Ph.D. dissertation, 1969.

Wilson, Logan. American Academics: Then and Now. New York: Oxford University Press, 1979.

Wilson, Logan. The Academic Man. London: Oxford University Press, 1942.

**APPENDIXES**

APPENDIX A

CONFERENCE STATEMENT OF 1925

Academic Freedom

(a) A university or college may not place any restraint upon the teacher's freedom in investigation, unless restriction upon the amount of time devoted to it becomes necessary in order to prevent undue interference with teaching duties.

(b) A university or college may not impose any limitation upon the teacher's freedom in the exposition of his own subject in the classroom or in addresses and publications outside the college, except in so far as the necessity of adapting instruction to the needs of immature students, or in the case of institutions of a denominational or partisan character, specific stipulations in advance, fully understood and accepted by both parties, limit the scope and character of instruction.

(c) No teacher may claim as his right the privilege of discussing in his classroom controversial topics outside of his own field of study. The teacher is morally bound not to take advantage of his position by introducing into the classroom provocative discussions of irrelevant subjects not within the field of his study.

(d) A University or college should recognize that the teacher in speaking and writing outside of the institution upon subjects beyond the scope of his own field of study is entitled precisely the same freedom and is subject to the same responsibility as attach to all other citizens.

## APPENDIX A (CONTINUED)

If the extra-mural utterances of a teacher should be such as to raise grave doubts concerning his fitness for his position, the question should in all cases be submitted to an appropriate committee of the faculty of which he is a member. It should be clearly understood that an institution assumes no responsibility for views expressed by members of its staff; and teachers should when necessary take pains to make it clear that they are expressing only their personal opinions.

## Academic Tenure

(a) The precise terms and expectations of every appointment should be stated in writing and be in the possession of both college and teacher.

(b) Termination of a temporary or a short-term appointment should always be possible at the expiration of the term by the mere act of giving timely notice of the desire to terminate. The decision to terminate should always be taken, however, in conference with the department concerned, and might well be subject to approval by a faculty or council committee or by the faculty or council. It is desirable that the question of appointments for the ensuing year be taken up as early as possible. Notice of the decision to terminate should be given in ample time to allow the teacher an opportunity to secure a new position. The extreme limit for such notice should not be less than three months before the expiration of the academic year. The teacher who proposes to withdraw should also give notice in ample time to enable the institution to make a new appointment.

## APPENDIX A (CONTINUED)

(c) It is desirable that termination of a permanent or long-term appointment for cause should regularly require action by both a faculty committee and the governing board of the college. Exceptions to this rule may be necessary in cases of gross immorality or treason, when the facts are admitted. In such cases summary dismissal would naturally ensue. In cases where other offenses are charged, and in all cases where the facts are in dispute, the accused teacher should always have the opportunity to face his accusers and to be heard in his own defense by all bodies that pass judgment upon the case. In the trial of charges of professional incompetence the testimony of scholars in the same field, either from his own or from other institutions, should always be taken. Dismissal for other reason than immortality or treason should not ordinarily take effect in less than a year from the time the decision is reached.

(d) Termination of permanent or long-term appointments because of financial exigencies should be sought only as a last resort, after every effort has been made to meet the need in other ways and to find for the teacher other employment in the institution. Situations which make drastic retrenchment of this sort necessary should preclude expansions of the staff at other points at the same time, except in extraordinary circumstances.

"Conference Statement of 1925," Bulletin of the American Association of University Professors, February 1941, p. 43-45.

## APPENDIX B

### ACADEMIC FREEDOM AND TENURE

#### Statement of Principles, 1940

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 the 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 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.

## APPENDIX B (CONTINUED)

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.

(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

## APPENDIX B (CONTINUED)

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 provision 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

APPENDIX B (CONTINUED)

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.

"Academic Freedom and Tenure," Bulletin of the American Association of University Professors, February 1941, p. 40.

## APPENDIX C

### CENSURED ADMINISTRATIONS

Investigations by this Association of the administrations of the several institutions listed below show that they are not maintaining conditions of academic freedom and tenure in accordance with academic custom and usage as endorsed by this Association, the Association of American Colleges, and other associations interested in higher education.

Placing the name of an institution on this list does not mean that censure is visited by this Association either upon the whole of that institution or upon the faculty, but specifically upon its present administration. This procedure does not affect the eligibility of non-members for membership in the Association, nor does it affect the individual rights of our members at the institution in question, nor do members of the Association who accept positions on the faculty of an institution whose administration is thus censured forfeit their membership. This list is published for the sole purpose of informing our members, the profession at large, and the public that unsatisfactory conditions of academic freedom and tenure have been found to prevail at these institutions. Names are placed on or removed from this censured list only by vote of the Association's annual meeting.

"Censured Administrations," Bulletin of the American Association of University Professors, January 1938, p. 5.

APPENDIX D

The American Association of University Professors declared ineligible or censured the administrations of 73 institutions between 1930 and 1970:

<u>Institution</u>	<u>Year Censured</u>	<u>Year Censure Removed</u>	<u>Number of Years Censured</u>
Mississippi Agricultural and Mechanical College	1930	1932	2
University of Mississippi	1930	1932	2
Mississippi State College for Women	1930	1932	2
Harris Teacher's College	1932	1935	3
Battle Creek College	1932	1933	1
Brenau College	1933	1943	10
Rollins College	1933	1938	5
United States Naval Academy	1933	1938	5
De Pauw University	1934	1936	2
University of Pittsburgh	1935	1947	12
North Dakota Agricultural College	1938	1939	1
John B. Stetson University	1939	1949	10
Montana State University	1939	1945	6
St. Louis University	1939	1947	8
University of Tennessee	1939	1947	8
West Chester State Teacher's College	1939	1959	20
Central Washington College of Education	1940	1948	8
Adelphi	1941	1952	11
University of Kansas City	1941	1957	16
Western Washington College of Education	1941	1944	3
State Teachers College	1943	1956	13
Winthrop College	1943	1957	14
Memphis State College	1944	1949	5
University of Missouri	1946	1952	6
University of Texas	1946	1953	7
Evansville College	1950	1956	6
University of California	1956	1958	2
The Jefferson Medical College	1956	1968	12
North Dakota Agricultural College	1956	1964	8

## APPENDIX D (CONTINUED)

<u>Institution</u>	<u>Year Censured</u>	<u>Year Censure Removed</u>	<u>Number of Years Censured</u>
Ohio State University	1956	1959	3
University of Oklahoma	1956	1957	1
Rutgers University	1956	1958	2
St. Louis University	1956	1957	1
Temple University	1956	1961	5
Catawba College	1957	1964	7
University of Nevada	1957	1959	2
Alabama Polytechnic Institute	1958	1964	6
Dickinson College	1958	1963	5
Livingstone College	1958	1960	2
University of Michigan	1958	1959	1
Southwestern Louisiana Institute	1958	1960	2
Texas Technological College	1958	1967	9
Fisk University	1959	1966	7
New York University	1959	1961	2
Lowell Technological Institute	1960	1971	11
Princeton Theological Seminary	1960	1961	1
Allen University	1961	1962	1
Benedict College	1961	1969	8
Alabama State College	1962	1982	20
South Dakota State University	1962	--	
Alcorn Agricultural And Mechanical College	1963	1973	10
Grove City College	1963	--	
University of Illinois	1963	1967	4
Sam Houston State College	1963	1970	7
State College of Arkansas	1963	1968	5
Arkansas Agricultural Mechanical and Normal College	1964	1965	1
University of Arkansas	1964	1968	4
Mercy College of Detroit	1964	1968	4
College of the Ozarks	1964	--	
University of South Florida	1964	1968	4
University of Arizona	1965	1966	1
Lincoln College	1965	1968	3
Wayne State College	1965	--	
St. Johns University (New York)	1966	1971	5
Amarillo College	1968	--	
Arkansas Agricultural and Mechanical College	1968	1970	2
Cheyney State College	1968	1972	4
Lorain County Community College	1968	1970	2
St. Mary's College (Minnesota)	1968	1969	1
Southern University Agricultural and Mechanical College	1968	--	

## APPENDIX D (CONTINUED)

<u>Institution</u>	<u>Year Censured</u>	<u>Year Censure Removed</u>	<u>Number of Years Censured</u>
Texas A & M University	1968	1982	14
Trenton State College	1968	1969	1
Wisconsin State University Whitewater	1968	1975	7

VITA

Gregory Charles Mosier  
Candidate for the Degree of  
Doctor of Education

**Thesis:** THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS: THEIR PROFESSIONAL SANCTION FOR THE ENFORCEMENT OF ACADEMIC FREEDOM AND TENURE, 1930-1970

**Major Field:** Higher Education Administration

**Biographical:**

**Personal Data:** Born Fort Sill, Oklahoma, September 21, 1956, the son of Richard H. and Mary M. Mosier.

**Education:** Graduated from Claremore High School, Claremore, Oklahoma, May, 1974; received Associate of Science degree from Claremore College in May, 1976; received Bachelor of Science degree in Secondary Education from Oklahoma State University in May, 1978; received Juris Doctorate degree from Kansas University in May, 1981; completed requirements for the Doctor of Education degree at Oklahoma State University in July, 1986.

**Professional Experience:** Attorney, Parker Drilling Company, Odessa, Texas and Houston, Texas, 1981-1983; Research Assistant, Affirmative Action Office, Oklahoma State University, 1983-1985; Research Assistant, Financial Aids Office, Oklahoma State University, Spring 1985; Assistant Professor, Administrative Services and Business Education, Business Law, Oklahoma State University, 1985 to present.

**Professional Organization:** State Bar of Kansas, State Bar of Texas, State Bar of Oklahoma.