

# Report

## Academic Freedom and Tenure

### North Greenville College (South Carolina)<sup>1</sup>

#### I. The Background

This report deals with the decisions by the administration of North Greenville College in 1992 to terminate the services of Professors Marie T. Burgess and Stephen Z. Hearne. North Greenville College, located in Tigerville, South Carolina, is a private college affiliated with the South Carolina Baptist Convention. Founded as an academy in 1892, the institution began offering postsecondary education in 1934 and has been accredited by the Southern Association of Colleges and Schools (SACS) as a two-year liberal arts college since 1957. In 1992, the college began to offer a four-year degree program with concentrations in Christian vocations. That year there were some 475 students and twenty-five full-time faculty members.

President James B. Epting assumed office in 1991. He pursued undergraduate studies at Mars Hill College in North Carolina and earned a doctorate in school administration from the University of Alabama. From 1978 to 1990, he served as vice president for student development, director of athletics, and vice president for institutional advancement at North Greenville College. He left to head the athletic booster club at Furman University, but returned upon being selected for the North Greenville College presidency. The college's dean, at the time of the events discussed in this report, was Dr. J. Samuel Isgett.

The financial condition of North Greenville College had been the subject of concern for some time. According to the college's institutional self-study report prepared for SACS in 1988, construction projects in the 1970s and 1980s caused the college to incur substantial long-term indebtedness. In the 1980s, failures to reach budgeted income goals because of lower-than-expected enrollments, along with failures to realize anticipated gifts, led to the accumulation of significant short-term debt and the necessity for the college to establish bank lines of credit.

In the late 1980s, the administration took several steps to ease the college's financial problems, among them increasing the tu-

ition-paying student body. These steps succeeded in increasing total and full-time-equivalent enrollment slightly, but also brought to the campus students with less academic preparation, requiring developmental writing, reading, and mathematics courses. The trend worried faculty members concerned about the college's enrolling students who might have little chance of satisfactorily completing required courses. The administration also sought to build enrollment by adding athletic programs and intercollegiate teams. The faculty opposed establishing a football program but did not carry the day.

Among the consequences of the 1988 institutional review for SACS was the conclusion, reached by faculty members serving on different self-study committees, that Dr. Epting had performed inadequately as vice-president for student development and director of athletics. The faculty's criticism of Dr. Epting would resurface when he became the leading candidate for the presidency of the college in 1991.

One step taken by the administration to deal with the college's financial problems, a plan to sell 483 of the college's eight hundred acres to private developers, embroiled it in controversy with the faculty in general and with Professor Burgess in particular. Most of the 483 acres was to be divided into one-acre lots to be sold at \$30,000 each for houses priced at \$200,000 or more. The remainder of the land would become a golf course. According to press reports, quoting then-President Paul A. Talmadge, land which was not benefiting the college financially was to be sold to help offset its short-term debts. Pressed for details about what made such a sale necessary, President Talmadge said that the figures were private and he could not disclose them. The land proposed for sale included portions of the college's nature trail, which had been created, developed, and maintained by Professor Burgess, and land used by Centrifuge, a summer program using college grounds for numerous outdoor activities.

In January 1991, President Talmadge announced his resignation, and a search committee to select his successor was appointed. When Dr. Epting's candidacy for the position became known, faculty opposition took the form of a four-page, single-spaced statement titled "Reasons for the Faculty's Position Regarding Jimmy Epting as a Presidential Candidate for North Greenville College." The draft was discussed at a special faculty meeting on February 22, during which the faculty, by a vote of 21-1 with three abstentions, adopted a resolution of no confidence in Dr. Epting's candidacy. Five days later, the resolution was presented to the presidential search committee.

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

President Talmadge retired on March 1, 1991. On April 1, the search committee recommended to the board of trustees that Dr. Epting be selected as president. Responding to the search committee's position, the faculty sent to all trustees an updated version of the "Reasons" document in the form of a letter urging against the appointment of Dr. Epting. The letter included the following:

Faculty opposition is based on the fact that we've worked intimately with the candidate as an administrator (some of us for his entire career at North Greenville). We have reason to believe that he did an inadequate job as Vice President for Student Development. He often took actions which were diametrically opposed to our goals, which have now been articulated in our Direction for the Decade reports. Many of these opinions are based on information which came to light during the self-study for re-accreditation and are available from the faculty chair....The thing that is so troubling to us is that his record at North Greenville is characterized by many actions which could be expected to lead to exactly the problems we have identified during the last few years as our most serious ones.

The lack of a tenure policy at North Greenville College heightened concern among members of the faculty. In the 1970s, the college's board of trustees, following a controversial release of a tenured faculty member, abandoned the future granting of tenure. The college's current regulations recognize the tenured status of those faculty members—nine in all—who had attained tenure before the 1979-80 academic year. As for all other faculty members, upon successfully completing three one-year appointments they receive three-year appointments that are renewable indefinitely at the administration's discretion.

Added to the faculty's concerns about President Epting were issues focusing on the status of the college as a Baptist institution. The selection of Dr. Epting as president of North Greenville College was announced on April 17. According to reports in the local press, Dr. Epting, at a meeting with faculty, staff, and student leaders that same day, laid out goals for a stronger commitment to North Greenville College's Christian purpose in order to emphasize Christian education and character-building. He was quoted as saying that the college had to "reclaim its heritage" as a center for biblical studies.

President Epting's specific initiatives were reiterated in a mission statement titled "North Greenville College, A New Beginning." The eight policies he listed under "Academics," to be implemented by June 1991, included prayer and devotions to occur at the beginning of every class; a statement that faculty, staff, and administration were to serve the Lord first and foremost; and a declaration that "Each member of the Faculty, Staff, and Administration are born-again Christians." He stated at the April 17 meeting that he planned to have individual conferences with each of them.

Dr. Epting assumed the presidency on May 1. On his first day in office, he dismissed all three of the college's vice-presidents, including the person who had been acting president until that day. In news reports the next day, the chair of the board of trustees referred to "some possible disagreements in philosophy over the direction of the college" but stated that financial conditions necessitated the abruptness of the decisions that had been made. Faculty apprehensions increased over the following days as President Epting held individual conferences amid rumors that at least four faculty members were slated to be dismissed. Many faculty members expressed concern about meeting with the president alone, and President Epting agreed, after discussions with Faculty Chair Shirley A. Hickson, to allow faculty members who wished to do so to bring a colleague with them to their conference. As described by members of the faculty to the undersigned investigating committee, the meetings evolved from a brief exchange of pleasantries into questions about the faculty member's religious faith, an explanation of the college's financial problems, discussion of the president's plans, and whether or not the faculty member would be loyal to him.

In September 1991, the local press reported that the college had sold 234 acres of its property for just over \$520,000 and had received \$25,000 for an option to purchase additional acreage for approximately \$1 million. A country club and golf course were to be developed on the 234-acre site. The faculty was formally told of the arrangement shortly thereafter.

At his meeting on April 17, President Epting had described in general terms plans to develop a four-year degree program with concentrations for students interested in Christian vocations. A document subsequently circulated to the faculty proposed a four-year program based on the church-related heritage of the college's predominantly Baptist constituency. Following a reaffirmation of the plan by the board of trustees on October 22, 1991, an application for candidate status was sent to SACS. It referred to a plan to liquidate the college's most serious debt, the land sale, conservative fiscal policies, donations already pledged, and the expected results of a large fund-raising campaign.

## II. The Case of Professor Marie T. Burgess

Ms. Marie T. Burgess, with a master's degree in education from Furman University, taught at North Greenville College from 1964 to 1968, rejoined the faculty in 1981 as an instructor, and was promoted to the rank of assistant professor in 1988. She taught courses in education, physical education, and recreation and leisure services. In 1988, asked to study the physical education curriculum and to make suggestions to the curriculum committee for improving it, Professor Burgess recommended halting the practice of granting one hour of academic credit for physical education to students for membership on athletic teams. Dr. Epting, then vice-president for student development and director of athletics, severely criticized the recommendation.

Professor Burgess had taught a course in outdoor education for eleven years and had long been an advocate of environmental issues. Following press reports in September 1991 of the sale of college land, she states that she was approached by a professor of art about developing a conceptual art project "that would depict humankind's destruction of God's creation and that would also depict the grieving forest." Considering this to be an appropriate way to help alleviate the frustration many felt over the land sale, she agreed to participate. The project included tying black ribbons around trees at the beginning of the nature trail next to the land that had been sold, placing a vase with black flowers next to a bulletin board in the administration building, and posting signs announcing the project, entitled "God Creates and Man Destroys."

Professor Burgess and other project members informed the dean's office in advance of their intentions. On December 12, 1991, with the project at an end, she went to remove the vase of flowers and one of the signs. She learned that the items had been taken away by Dean Isgett, and that she could retrieve them from his office. She found Dean Isgett in conversation in his outer office with that year's chair of the faculty, Professor Stephen Z. Hearne. In a memorandum written immediately after what ensued, Professor Burgess wrote that she

...asked Dr. Isgett if he had removed my material. He stated: "Yes, I did remove it" and that he wanted me to "personally come to him and ask for it." I asked him if I was supposed to be threatened by this. He then said: "Would you like to step into my office and discuss this privately or did I want to stay in this public outer office?" I took this as a question of choice and said that I preferred to stay where we were. I did this so that Steve Hearne could be a witness to what Isgett was about to say. He said that the college sold the land to benefit the financial situation at the college and he did not want to hear another word about it. I then stated that sometimes a principle is worth standing up for even if it puts one's job in jeopardy. He startled both Steve and me by saying that he "accepted my resignation." I said "what resignation?" Isgett stated that it was the "one you just gave me." I turned to Steve and said: "Did you hear me resign?" Steve shook his head, meaning "no." We were both shocked by Isgett's words...

Isgett also informed me at this time that I could not put anything on the faculty bulletin board about the land deal or the environment. I asked for his statement in writing and he refused. I asked him if I could put Scripture verses on the bulletin board. He said "no," because I was pulling verses out of context and interpreting them literally.... I stated that not allowing me to place articles on the bulletin board pertaining to the environment was a violation of my academic freedom. Isgett stated that the only place that I had academic freedom was in my classroom, at faculty meetings..., and at Honors Seminar[s]....

The discussion was followed by an exchange of correspondence. In a memorandum of December 16, Professor Burgess wrote the following to Dean Isgett:

For several years faculty members at our College have used the bulletin board in the faculty mail area in Donnan Administration Building for the free and open expression of thought pertaining to political, social, religious, ethical, environmental, and other issues. It has also been used as a means of communication on personal and professional matters. During my conversation with you on December 12, 1991, you indicated that you would *not* allow the faculty to display information or use other means of expression pertaining to certain subjects on the faculty bulletin board or in the work area. If you are limiting the freedom of expression that the faculty has had, then it would be appropriate for you to inform the faculty of your guidelines for use of the bulletin board and ensuing area.

Responding on December 17 to Professor Burgess, Dean Isgett wrote that "the land sale is a settled matter." His letter also stated that the "administration acknowledges your considerable efforts in improving the [nature] trail and recognizes that the necessary changes are apt to cause you personal discomfort. These results cannot always be avoided." The dean then turned to his exchange with Professor Burgess on December 12:

[Y]our refusal to come into my office and discuss this matter behind closed doors amounts to insubordination. The subsequent scene which ensued in the very public outer office caused embarrassment for me, for others in the area, and, I am sure, for you. Neither insubordination nor public scenes will be tolerated in the future. These will be considered grounds for dismissal. I remind you, also, that you have complete freedom to bring any grievance or concern to me for civil and appropriate discussion within the bounds of good manners.

Professor Burgess replied on January 13, 1992:

I have always conducted my professional and personal relationships in a civil and Christian manner. It is regrettable that you felt our discussion was considered to be a "scene" rather than an exchange of thought and opinions.... When a faculty member has an opposing point of view related to a College issue, will this difference of opinion now be considered by the Administration as insubordination? The charge of insubordination is a serious matter. Therefore, I have sent copies of all correspondence related to our discussion on December 12, 1991, to the North Greenville College Chapter of AAUP, to the College Faculty Chairperson, and to my attorney for scrutiny.

In his Fall 1991 "Update for the North Greenville College Family," President Epting had described financial aspects of the land sale in these words:

Now let me tell you about [the] *Land Deal*—we have officially sold 233.98 acres of land for \$521,917.80. Also, we have received \$25,000 on an option to purchase the remaining 259.68 acres for approximately \$1,000,000 within the next 30 months. We are using the \$546,917.80 as follows: \$100,000 repayment to White Hall Renovations account; \$50,000 to plant fund for interest and principal payments on current loans; \$200,000—90 day C.D. to be used as needed for operations; and remainder of the money to clear up our line of credit and for current operations.... (emphasis in original)

In his January 1992 “Update,” President Epting reported that the college had “turned the corner on enrollment”; that the college’s budget as of the end of December showed a surplus of just over \$44,000; that the fund-raising campaign had begun successfully, with \$1.7 million in pledges and gifts raised since October 1991; and that planning for the four-year, church-related vocations program was meeting the necessary timetables for obtaining board approval and complying with SACS’s standards for accreditation. The “Update” also included the following paragraph:

*Financial Cutbacks*—It will be necessary to reduce spending even more next year. Also, all programs (academics, athletics, etc.) are being reviewed and will need to be justified. *Programs with few students participating may need to be eliminated* (emphasis in the original).

On February 14, President Epting informed Professor Burgess that her appointment would not be renewed beyond the end of the 1991–92 academic year because the Recreation Department was being eliminated to ameliorate a condition of financial exigency. The president said that the administration had “declared a retrenchment as set forth in paragraph 3.12 of the faculty handbook.” Professor Burgess was the only faculty member who was notified that her services were being terminated pursuant to an asserted condition of financial exigency.

The termination notice was as much a surprise to Professor Robert Detjen, the head of Professor Burgess’s division, as it was to Professor Burgess, for he was neither informed of the exigent condition nor consulted about the decision not to renew Professor Burgess’s contract. Professor Detjen’s efforts in several meetings with Dean Isgett and President Epting to persuade them to withdraw the notice were unavailing.

On February 17, Professor Burgess filed an appeal to contest the termination of her services under the *Constitution and Bylaws for the Faculty* of North Greenville College. On March 6, she specifically requested that an *ad hoc* grievance committee be appointed by the Faculty Status and Welfare Committee to hear her appeal. On April 8, Professor Deanna G. Bland, chair of the *ad hoc* committee convened to consider the appeal, informed President Epting that a hearing was scheduled for April 23. In a

memorandum of April 17 to Professor Bland, President Epting stated that, pursuant to the college’s faculty handbook, the administration has the “responsibility for declaring a state of financial exigency,” that the administration did not believe that an appeal was appropriate “since there is a procedure for employee reduction when retrenchment becomes necessary,” and that the “real issue is survival and we must make the necessary decisions to assure financial stability.” The college, President Epting said, had a debt in excess of \$2.6 million and faced a projected shortfall of income through August 1992 of just under \$270,000. He continued: “last year’s audit report through May 1991 showed us over \$600,000 in the negative. Therefore, our dilemma should be obvious to anyone.”

The *ad hoc* committee went forward with its hearing as scheduled, and its report of April 29 spoke to the issue of financial exigency:

The burden of proof regarding financial exigency belongs to the administration. They have chosen not to involve the faculty in the decision [to terminate Professor Burgess’s services] or to provide this committee with any evidence to prove that financial exigency does indeed exist.

Turning to the procedures employed in dismissing Professor Burgess, the committee reported:

Evidence provided to this committee shows that the Administration did not follow proper procedure in regard to declaring financial exigency and determining the needed reductions in personnel and programs. Therefore, they failed to establish “good cause” for Marie Burgess’s dismissal, and they also failed to provide her a written list of the charges against her. They also questioned her right to a grievance hearing and refused to participate in the Hearing arranged by the Committee on the ground that retrenchment nullifies the appeals process.

The committee recommended that Professor Burgess be reinstated for the 1992–93 academic year and that a faculty body be charged with investigating issues of enrollment and finances, of academic freedom, and of procedure that had been raised by Professor Burgess’s case, including why, in lieu of dismissal, she had not been offered courses in other departments that she was qualified to teach.

On April 29, under the college’s faculty regulations, the report of the grievance committee was delivered to President Epting in his capacity as acting chair of the Administrative Council, which constituted the final step in the college’s appeals process. Two of the council’s ten members were faculty members elected by their peers. Professor Burgess, accompanied by her attorney and an AAUP member from a neighboring college, met with the council for approximately five minutes on May 21. Five days later, President Epting notified Professor Burgess as follows:

The Administrative Council did not accept the recommendations of the Faculty Status and Welfare Committee *ad hoc* Grievance Committee. The Council did approve the school's decision to eliminate the Recreation Department and dismissed your grievance.

The Council's position was that the application of the re-trenchment policy due to financial exigency has required a cutback in faculty and, with the application of that policy... in an effort to preserve the academic integrity of the institution, it was necessary to eliminate the Recreation Department and the position held by you. This is the sole reason for the elimination of that department and your position.

In his April "Update" President Epting reported an increase in enrollment applications, slight increases in the college bank accounts, and \$2.9 million received through the endowment fund-raising campaign, an increase of more than \$1.2 million over the previous January. The September 24 issue of *The Greenville News* reported that enrollment at North Greenville College had increased from 387 students in the fall of 1991 to 476 students in the fall of 1992, and that the college's operating budget for the fiscal year ending May 31 was \$22,000 in the black.

In June 1992, Professor Burgess filed a complaint with the Equal Employment Opportunity Commission charging discrimination on the basis of sex and religion, specifically, that her Episcopalian beliefs were viewed by the administration as being moderate to liberal, thus conflicting with President Epting's determination to bring the college back to what he perceived to be its conservative Baptist roots, and that her specialty at the college was dominated by men in the Southern Baptist hierarchy. The EEOC subsequently issued to Professor Burgess a right-to-sue letter.

Professor Burgess sought the assistance of the Association, and by letter of March 3, 1992, the staff conveyed the Association's concerns to the administration over its decision to terminate her appointment. The letter urged the administration to afford Professor Burgess the protections of academic due process that accrue with continuous appointment. The letter also referred to concerns that the action against Professor Burgess might have been in violation of her academic freedom. Replying on March 5, President Epting stated that the administration was following the policies set forth in the faculty handbook as approved by the board of trustees.

The staff wrote again to President Epting on June 24. Noting the findings and recommendation of the *ad hoc* grievance committee and the decision of the administrative council, the staff reiterated the Association's procedural and substantive concerns with regard to Professor Burgess's case. In a letter to the staff dated July 2, President Epting disputed the findings of the *ad hoc* grievance committee and stated that "it is the responsibility

of the Administration alone to determine what personnel and programs should be curtailed or cut." He added that, since May 1, 1991, twenty specific positions had been "changed and/or eliminated." Replying to the president on September 9, the staff questioned the *bona fides* of an asserted financial exigency sufficient to necessitate the termination of Professor Burgess's appointment. The staff's letter also again questioned whether the decision to terminate Professor Burgess's services may have been motivated by considerations violative of her academic freedom. On September 18, President Epting wrote to the Association's staff that the college "has resolved this matter."

On October 8, with the Association's concerns relating to the case of Professor Burgess remaining unresolved, the general secretary authorized this investigation.

### III. The Case of Professor Stephen Z. Hearne

Following authorization of the investigation of Professor Burgess's case, the Association's staff received papers from Mr. Hearne, Assistant Professor of Religion, who received notice dated October 15 from President Epting that his appointment would not be renewed beyond the end of the 1992-93 academic year.

Professor Hearne, with master's degrees in divinity and theology from Southeastern Baptist Theological Seminary, had joined the faculty of North Greenville College in 1981 as an instructor and was promoted to assistant professor in 1984. From 1981 to 1987 he also served as campus minister. In 1987-88 he served on the institution's educational program self-study committee, whose report expressed concern over the selection of college priorities and allocation of resources. Professor Hearne was instrumental in the development of faculty recommendations to raise admission standards and in the passage of subsequent faculty motions, in 1989 and 1990, to implement the new standards. During the 1991-92 academic year, Professor Hearne served as chair of the faculty.

Professor Hearne's concern for church-related higher education issues extended beyond North Greenville College. Neighboring Furman University had sought independence from the South Carolina Baptist Convention, and at a November 1991 convention meeting Professor Hearne spoke as a messenger from his church in favor of accepting Furman's position. He asked delegates to remember that "Furman's primary purpose and directive is education, not indoctrination." Someone else who was in attendance at the convention assured this investigating committee that Professor Hearne had not presented himself as representing North Greenville College, and there was no mention of his institutional affiliation.

Professor Hearne had his individual conference with President Epting on May 1, 1991. According to Professor Hearne's diary written immediately after the conference, he was asked several times "whether he could be loyal to the president." The

matter of loyalty was addressed by President Epting later that year in his "Fall Update for the North Greenville College Family," which called for the commitment of all at the college to a narrowly defined Christian position:

As I have travelled across this state it has been refreshing and exciting to see the enthusiasm about and support of our new plan by South Carolina Baptists (especially the pastors). They are proud that our staff and faculty are Christians, prayer and/or devotions occur in classes, practices, and meetings, we provide quality education in a Biblically sound, Christ-centered environment, and we care as much about the spiritual well-being of our students as their academic achievements. They have been impressed with our new slogan: *North Greenville College—Where Christ Makes the Difference* and very positive about the four-year church-related vocations program. We need to all remain committed to the above and be eager to share Jesus Christ with those on our campus who do not know Him. We need to all remain committed and expect every trustee member, administrator, faculty member, and staff member to also be committed to the above. Obviously, anyone who is not should not be working with our students and does not belong at North Greenville.

Professor Hearne met with Dean Isgett in May 1992 to seek an explanation for the rejection of his candidacy for promotion that spring. He said that during the conversation, which he described as not unfriendly, Dean Isgett touched on whether he might not be happier at another institution, and went on to suggest specific openings for which he might apply and to offer to assist him in relocating. According to Professor Hearne, Dean Isgett also stated that Professor Hearne's having spoken in favor of the Furman "Compromise" at the Baptist Convention meeting the previous November had not gone unnoticed, and that a number of people had made negative remarks about what he had said. Additionally, Professor Hearne reported, Dean Isgett relayed the perceptions of "some people" that his greetings as faculty chair to the guests at President Epting's inauguration had been rather perfunctory, that during the ceremony he had not applauded, and that he seemed to be "sitting in a manner that suggested protest."

At a meeting on September 17, 1992, the executive committee of the North Greenville College board of trustees approved several changes in policies governing faculty appointments, including a policy that henceforth "[a]ll full-time faculty members teaching in the major area in which North Greenville College offers or plans to offer a bachelor's degree must hold the appropriate terminal degree in their respective teaching areas." Professor Hearne was called to a meeting on October 15 in the president's office, at which he was handed a letter from President Epting, dated the same day, referring to the new policy and stating that it was "effective immediately." "Therefore,"

the letter said, "you will not be offered a new contract." The letter went on to offer him paid terminal leave, beginning in January, if he chose to spend the final semester elsewhere as a full-time student in a doctoral program. Professor Hearne was also given a copy of a memorandum being sent from the trustees' executive committee to the faculty, dated that same October 15. Titled "New Policies," it included the following:

As North Greenville College develops more fully into a four-year, bachelor's degree-granting institution, we need to position ourselves favorably relative to other four-year institutions. Other four-year colleges routinely require that persons hold terminal degrees in order to continue in employment, to qualify for promotions, or to teach in major areas. While SACS only requires that 25% of classes taught in a major area be taught by persons holding a terminal degree, they expect that this minimum be exceeded in practice.

On October 16, Professor Hearne appealed to the Faculty Status and Welfare Committee, requesting the appointment of an *ad hoc* grievance committee to review the decision to terminate his services. Three days later he asked President Epting to reconsider his decision. The president replied on October 22, reaffirming the decision and asking Professor Hearne to inform Dean Isgett by November 4 whether he expected to teach in the spring semester or to go on leave to concentrate on doctoral studies. Professor Hearne initially responded that he intended to teach in the spring, but subsequently decided, following discussions with the administration, to enroll in a doctorate course during the spring. The matter was reviewed on October 29 by the executive committee of the board of trustees, which affirmed the policies it had adopted on September 17. The new policies were then presented to the full membership of the board and adopted without objection for immediate implementation.

The action against Professor Hearne quickly aroused campus concern. A student petition favoring Professor Hearne's retention on the faculty was signed by some 127 students in a two-day period and delivered to the president's office and to a trustee on the day of the fall trustee meeting. An informal group of faculty members drafted a statement which was signed by 23 of the 26 members of the faculty who reviewed it. Delivered to Dean Isgett and President Epting on November 9, the statement took issue with the retroactive application of a new policy affecting faculty members at North Greenville College which had been developed without any consultation with the faculty. Dean Isgett, in a November 9 memorandum to the faculty, questioned the use of the word "retroactive" in connection with the new policy, stating that the policy "became effective in October 1992, and was not made retroactive to 1991, 1990, or any other earlier time."

The Faculty Status and Welfare Committee subsequently formed an *ad hoc* grievance committee, which wrote to President Epting on November 5, asking him to provide infor-

mation and documents concerning the new policies and, with the chair of the board of trustees, to meet with the committee. Replying by letter of November 12, President Epting said:

As you know, the South Carolina Baptist Convention has given the Board of Trustees at North Greenville College the full and plenary control, management, and disposition of this institution. The Board's authority is obvious.

Restating his position that the policies adopted by the board "would signify quality and help us overcome the perception [that] 'an education at North Greenville College is second rate,'" President Epting asserted that the trustees' decision required the action that affected only Professor Hearne. While agreeing to send the grievance committee the requested documents, he stated that neither he nor the chair of the board would be available to meet with the committee.

The report of the grievance committee, dated January 18, 1993, concluded that Professor Hearne was treated unfairly and in ways which violated his rights as set forth in the college's *Faculty Handbook*, that the new policies established by the trustees were more likely to reduce than to enhance the chances of SACS accreditation for the new four-year programs; and that the "decision not to renew Mr. Hearne's contract based on the unilateral adoption of a new policy has already had and will continue to have a negative impact on the College." Moreover, according to the report,

The committee feels there is adequate evidence to indicate that the lack of a doctorate is not the real reason Mr. Hearne is to be terminated. The manner in which he has been treated in the past, and the manner in which the new rule was adopted so that it only applied to him led the committee to conclude that the degree issue is an excuse rather than a reason for his dismissal.

The report was forwarded to the Administrative Council for consideration. By letter of January 29, 1993, Professor Hearne was informed by President Epting that the Administrative Council did not accept the grievance committee's report.

As was stated earlier, Professor Hearne's case was brought to the Association's attention after this investigation had been authorized. President Epting had informed the Association's staff that the investigating committee would not be welcome on the campus. After examining available documentation, the investigating committee journeyed to Travelers Rest, South Carolina, a short distance from Tigerville, on December 14, 1992, and met at length with Professors Burgess and Hearne, current and former members of the North Greenville College faculty, and former college administrators. The committee is grateful to those faculty members who assisted in the arrangements for the committee's visit, securing a room off campus for the committee's use.

## IV. Issues

What follows is an analysis of the issues raised by the cases of Professors Burgess and Hearne at North Greenville College, as developed by the *ad hoc* investigating committee and as related to the 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative principles and procedural standards endorsed by the Association.

1. Tenure and Applicable Standards. The 1940 *Statement of Principles* calls for a maximum period of probation not to exceed seven years of full-time faculty service, irrespective of rank. Upon continuance of full-time service beyond the maximum probationary period, faculty members who so serve are viewed by the Association as entitled under the 1940 *Statement* to the protections of tenure, even in the absence of institutional regulations to that effect or of action by a college or university to grant tenure in a particular faculty member's case.

Under the North Greenville College faculty regulations (Section 3.9.1), the college continues to recognize tenure that was granted to faculty members prior to the 1979–80 academic year, when the college regulations were changed. Currently, new faculty appointments are for one year, with second and third one-year contracts issued after satisfactory service. Following the third year, appointments are in the form of three-year terms that are renewable as the administration chooses. In reality, the three-year contracts are not precisely that; they provide only that faculty "may expect to receive an annual contract" for the term's duration. Termination of these appointments "may occur by action of the Board of Trustees" at any time "for good cause," a generalization under which are subsumed such reasons as "insubordination," "financial exigency," and "program reduction."

Professor Burgess was completing her eleventh year of continuous, full-time service at North Greenville College (she had previously taught at the college from 1964 to 1968) when she was notified by President Epting that her contract would not be renewed beyond the 1991–92 academic year. Professor Hearne joined the faculty of North Greenville College in 1981, and was beginning his twelfth year of full-time, uninterrupted service when notified by President Epting in October 1992 that his appointment would not be renewed beyond the end of that academic year. Under the standards set forth in the 1940 *Statement of Principles*, the investigating committee finds that Professors Burgess and Hearne were entitled through length of service to the safeguards of academic due process that accrue with continuous appointment or tenure in any action to terminate their services involuntarily.

2. The Termination of Professor Burgess's Services. The 1940 *Statement of Principles* allows for the termination of a continuous appointment when it is a demonstrably *bona fide* action necessitated by financial exigency. Regulation 4(c)(1) of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* defines financial exigency as an imminent

financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means than the termination of continuous appointments. Primary responsibility for identifying individuals whose appointments are to be terminated rests with the faculty or an appropriate faculty body. Under Regulation 4(c)(2) of the *Recommended Institutional Regulations*, the administration in a contested case bears the burden of demonstrating the existence and extent of financial exigency in a hearing of record before a faculty body. A tenured faculty member whose appointment is thereupon terminated is entitled to at least one year of notice or severance salary.

As stated previously, following the meeting of the college's board of trustees on October 22, 1991, the administration sent SACS a prospectus for a new four-year program. While the document that had gone to the faculty describing the program spoke about building on existing student interest in the ministry, missions, education, recreation, and music, the prospectus sent to SACS dropped the word "recreation," Professor Burgess's discipline. The prospectus also spoke directly to questions of resources by outlining steps that had been taken to stabilize the college's finances. Five months later, in his letter of February 14, 1992, to Professor Burgess, President Epting stated that her services were being terminated for reasons of financial exigency.

In its report of April 29, 1992, the grievance committee that had considered Professor Burgess's case stated that the administration had not provided it "with any evidence to prove [that] the financial exigency does exist." The head of Professor Burgess's academic division was neither told that the institution was in a state of financial exigency nor informed in advance that Professor Burgess was receiving notice of termination. Though President Epting had responded to Association inquiries by detailing a number of "cost-cutting measures" taken at the college, the information available to the investigating committee suggests that the extraordinarily high number of departures of faculty and staff reflects turnover rather than the elimination of positions. Advertisements in the local press and in Baptist publications of vacant positions, announcements in the newspapers of filled positions, and the many "Updates" issued by President Epting indicate that replacements were engaged for a substantial majority of those who resigned or were released, and that a number of new positions have been created. References to the college's poor financial condition, communicated by President Epting in his April 17, 1992, response to the chair of the grievance committee, are disputed by members of the college faculty who refer to a \$6 million fund-raising campaign, to projected expansion as the college moves toward becoming a four-year institution, and, most pointedly, to the land sale for which the college received \$521,917 plus a \$25,000 option on purchase of 259.68 acres for "approximately \$1,000,000 within the next 30 months." President Epting's references to financial exi-

gency in his statements to Professor Burgess and to the Association's staff are inconsistent with the statement of North Greenville College finances that he sent to the Southern Association in October 1991.

The investigating committee could not ascertain the date of any declaration of financial exigency or evidence of its having been reported to the faculty. While there is abundant evidence of financial problems at North Greenville College, the following facts seem incontrovertible:

- a balanced budget was submitted for 1991-92, before Dr. Epting became president;
- in October 1991, four months before Professor Burgess was issued notice of termination, the administration informed the Southern Association of its financial stability;
- in a letter sent to donors in 1992, President Epting referred to an audit report that showed college finances for the previous year in the black;
- in the "January 1992 Update for the North Greenville College Family," the president indicated that the college ended calendar year 1991 with a surplus of \$44,753; and
- on February 13, 1992, one day before Professor Burgess received notice of termination, the *Baptist Courier* reported that at North Greenville College, in contrast to the previous year, "the picture is dramatically and encouragingly different—359 students and \$300,000 in the bank compared to 329 students and an empty bank account."

The investigating committee thus seriously questions whether North Greenville College was in a condition of financial exigency in the spring of 1992. The committee finds that the college administration failed to demonstrate the existence of such a condition when it proceeded against Professor Burgess.

3. The Termination of Professor Hearne's Services. Regulation 5 of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* provides that "Adequate cause for dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers." On October 15, 1992, Professor Hearne was informed by President Epting that his appointment would not be renewed beyond the end of the academic year. The stated reason for the action against Professor Hearne was that, pursuant to a policy adopted by the executive committee of the board of trustees and made "effective immediately," he lacked the terminal degree "in the major area in which North Greenville College plans to offer a bachelor's degree."

In a memorandum also dated October 15, the trustees' executive committee informed the faculty that, while for a baccalaureate program SACS requires only that 25 percent of classes in a major area be taught by persons holding a terminal degree, SACS expected the minimum to be exceeded in practice. The faculty's virtually unanimous response expressed serious concerns regarding the policy, disputed the administration's contentions about the necessity for exceeding the SACS criteria, and



warned against retroactively enacting and applying new policies as potentially inconsistent with SACS's guidelines and harmful to the college.

The grievance committee that was convened to hear Professor Hearne's appeal against the termination of his services framed its inquiry in the form of three questions:

1. Was the procedure used to adopt the new requirement for 100 percent terminal degrees in areas where the college offers a bachelor's degree a proper procedure?
2. Is the requirement of 100 percent terminal degrees a reasonable and appropriate requirement at North Greenville College, or is there a hidden agenda on behalf of the college administration?
3. Is the application of the new requirement to Mr. Hearne justified at this time?

After as thorough a review of the matter as it could accomplish, the committee concluded that the procedure used to adopt the 100-percent requirement for terminal degrees in bachelor's degree programs was improper, that the requirement at North Greenville College was inappropriate, that its application to Professor Hearne was unjustified, and that "adequate evidence" existed to indicate that the action against Professor Hearne was based on reasons other than his lack of the terminal degree.

Professor Hearne had completed eleven years of teaching at North Greenville College when notified in October 1992 that he would not be retained beyond the 1992-93 academic year because he did not have the terminal degree in his academic field. The investigating committee is aware of no evidence that his competence as a classroom teacher had ever been called into doubt; on the contrary, President Epting's October 15 letter notifying him of termination referred to him as "a good teacher." This investigating committee seriously questions whether the lack of certain formal academic credentials is appropriate cause for terminating the services of a faculty member of long standing with a continuing record of satisfactory performance.

4. The Role of the Faculty in the Cases of Professors Burgess and Hearne. As previously stated, Professors Burgess and Hearne, because of the length of their service, should have been viewed under the 1940 *Statement of Principles* as faculty members on continuous appointment. Regulation 4(c) of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* calls for meaningful faculty involvement, early in the process and at every significant stage, in the decision to terminate a continuous appointment for reasons of financial exigency. From what the investigating committee could ascertain, the North Greenville College administration alone determined that discontinuance of the program in recreation would occur, and it selected only Professor Burgess as a faculty member to receive notice of termination because of the alleged financial exigency. The faculty committee which considered Professor Burgess's appeal found that the administration had "chosen not to involve the faculty" in the decision.

A similar pattern of unilateral action by the administration is apparent in Professor Hearne's case. Here, too, the investigating committee could find no evidence that the administration consulted with the faculty about its decision and that of the trustees to alter college policy with regard to the requirement of a terminal degree, nor evidence that the administration consulted with the faculty preceding its decision to terminate Professor Hearne's appointment.

5. Hearings and Notice. Regulation 4(c)(2) of the Association's *Recommended Institutional Regulations* provides that a faculty member subject to termination of appointment because of financial exigency will have the right to a full hearing before a faculty committee on issues which may include, *inter alia*, the existence and extent of the exigency, with the administration bearing the burden of proof. The 1940 *Statement of Principles* calls for the following procedures in cases where the appointment of a faculty member with continuous tenure stands to be terminated for cause:

Termination for cause of a continuous 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 and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an adviser of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned.

Professors Burgess and Hearne each requested hearings under Article VI, "Grievance and Due Process," of the faculty's Constitution and Bylaws. The opening paragraph of Article VI states, with respect to due process, that "standards established by the American Association of University Professors along with current and accepted principles and practices in academia shall be used as guidelines."

The procedures for due process that were afforded Professors Burgess and Hearne have little resemblance to applicable AAUP-established standards. With no encouragement from President Epting, the Faculty Status and Welfare Committee established an *ad hoc* grievance committee to hear Professor Burgess's appeal, and its report, which found in Professor Burgess's favor, was submitted to the Administrative Council. The council, which was chaired by President Epting, reaffirmed his decision to terminate Professor Burgess's appointment. In Professor Hearne's case, the report of that grievance committee, which also concluded that the administration had acted improperly, was also rejected by the Administrative Council.

The investigating committee finds that (1) the failure of the North Greenville College administration to establish the existence or extent of a financially exigent condition sufficient to

warrant the action against Professor Burgess; and (2) its failure to demonstrate adequacy of cause for its action against Professor Hearne; and (3) the role of President Epting in the review of his own decisions, all served to deny Professors Burgess and Hearne the academic due process to which they were entitled under Association-supported standards.

The *Recommended Institutional Regulations* and the 1940 *Statement of Principles* call for the provision of at least a year of notice or severance salary in cases such as those of Professors Burgess and Hearne. The faculty regulations of North Greenville College are silent on the subject of notice or terminal salary. Professor Burgess received only four months of notice, Professor Hearne eight months of notice. The investigating committee finds that the notices given to Professors Burgess and Hearne were inadequate when measured against the Association's recommended standards.

6. Academic Freedom. The 1940 *Statement of Principles* declares that academic freedom is essential to the purposes of institutions of higher education and should be assured for all faculty members. The faculty regulations of North Greenville College state that the "principle of academic freedom is essential to the faculty member's pursuit of truth and applies to both teaching and research"; at the same time, they hold faculty members individually responsible for "[s]upporting and implementing administrative policies and regulations."

In the case of Professor Burgess, she had disagreed with President Epting over issues of academic credit for student athletes when he was vice-president for student affairs and director of athletics and later was an outspoken critic of the sale of the college land. In December 1991, she was warned by Dean Isgett that "[n]either insubordination [n]or public scenes will be tolerated in the future. These will be considered grounds for dismissal." Two months later, Professor Burgess was notified by President Epting of the termination of her appointment for reasons of financial exigency, the only faculty member at the college known by the investigating committee to have received such notification. President Epting stated to Professor Burgess, to the *ad hoc* grievance committee, and to the Association's staff that financial exigency was the "sole reason" for eliminating the program in recreation and thus for terminating Professor Burgess's appointment. The grievance committee concluded that the administration had not established "good cause" for terminating Professor Burgess's appointment and also recommended that an investigation be undertaken into a number of serious problems at the college that she had identified. The investigating committee finds that a significant factor in the administration's decision to act against Professor Burgess was its displeasure with her having spoken out against the administration. The committee finds that she did so in a manner that should have been protected under principles of academic freedom.

With respect to Professor Hearne, he was active in faculty governance for many years, was elected chair of the faculty for

the 1991-92 academic year, and was active in campus and statewide church matters. In his appearance before the grievance committee, Professor Hearne spoke of the special scrutiny he had received in his interview when Dr. Epting became president and about subsequent challenges to him on several occasions by the president and the dean about a variety of issues. The committee's report concluded that the new policy about terminal degrees was adopted by the board of trustees and implemented by the administration in a manner that affected only Professor Hearne. The report concluded further that "the degree issue is an excuse rather than a reason for [Professor Hearne's] dismissal." The investigating committee concurs with this judgment. It finds that the decision by the administration of North Greenville College to terminate Professor Hearne's appointment resulted from statements and conduct by him that warranted protection under principles of academic freedom.

The investigating committee, in assessing the allegations of these two professors that the administration's actions against them were based in significant measure on considerations violative of their academic freedom, has necessarily done so without having been given the opportunity to discuss the reasons for the actions with President Epting and other administrative officers. The committee has reported that the administration acted against Professor Burgess on stated grounds of financial exigency and acted against Professor Hearne on stated grounds of insufficient academic qualifications. The committee has gone on to question whether the real grounds involve retaliation for their exercise of academic freedom. The committee questions, moreover, whether the administration acted as it did in the two cases in order to curtail the opportunity for faculty dissent. The faculty collectively and through its representative bodies had been highly critical of the decision to appoint Dr. Epting as president of North Greenville College, to sell college land for development, to revise the curriculum, and to terminate the appointments of Professors Burgess and Hearne. Under President Epting the administration issued new policies affecting the faculty and the college without prior faculty knowledge or discussion. Individuals interviewed by the investigating committee described an atmosphere at North Greenville College not unlike the following characterization of it by the grievance committee that considered Professor Hearne's case:

"Who will be next?" or "What new rule will be handed down that will cost someone else his or her job?" are questions often heard. Mr. Hearne is but the latest in a long line of good people who were forced out of the college for reasons that appear questionable to most people here. Fear, mistrust, and suspicion are an increasing fact of life on our campus. Everyone is polite and cordial, but as a committee, we are not sure that the administration is really aware of the deep feelings just under the surface. People are afraid to ask questions or suggest alternate ideas for fear of being consid-

ered disloyal. The administration has effectively cut itself off from the many years of experience of trained professionals in education.<sup>2</sup>

## V. Conclusions

1. The administration of North Greenville College terminated the appointments of Professors Marie T. Burgess and Stephen Z. Hearne without affording them the safeguards of academic due process called for in the 1940 *Statement of Principles on Academic Freedom and Tenure* for faculty members who have served beyond a maximum probationary period of seven years and thus are entitled to the protections that accrue with continuous appointment or tenure. Because tenure is no longer granted at North Greenville College, its procedural protections are not available to the majority of faculty members who serve indefinitely on term appointments renewable at the administration's discretion.

2. The administration of North Greenville College, despite the provision in the 1940 *Statement of Principles* that termination of an appointment because of financial exigency is to be demonstrably *bona fide*, terminated the appointment of Professor Burgess without having established the existence and extent of the college's exigent condition. The administration also departed from the provisions of the 1940 *Statement of Principles* by dismissing Professor Hearne without having established adequacy of cause for its action before a duly constituted faculty hearing body. There was no meaningful faculty involvement in the decisions to terminate the services of Professors Burgess and Hearne, and the notice afforded each of them was inadequate under the Association's recommended standards.

<sup>2</sup>President Epting, commenting on a draft text of this report sent to him prior to publication, stated that the American Association of University Professors, "no matter how well intended, cannot protect academic jobs which have become obsolete and a burden to the collegiate institution which they serve." The college, according to President Epting, regretfully "had to delete the department and the faculty members in question...in order to maintain financial responsibility and integrity to the community...."

3. The available evidence indicates that the decisions by the administration to terminate the services of Professors Burgess and Hearne were based significantly on displeasure with their having spoken out in opposition to the administration's policies in a manner that warranted protection under principles of academic freedom.

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### *Investigating Committee*

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

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