

PREFATORY COMMENTS FROM THE COMMITTEE ON COLLEGE AND UNIVERSITY GOVERNANCE TO THE REPORT ON ANTIOCH UNIVERSITY AND THE CLOSING OF ANTIOCH COLLEGE

(NOVEMBER–DECEMBER 2009)

The Association's Committee on College and University Governance has discussed the investigating committee's comprehensive report on the action by Antioch University's administration and board to suspend operations at Antioch College and believes that an introduction emphasizing the wider implications of Antioch's closing for American higher education would enhance an appreciation of the complexity and multiplicity of the developments treated in the report.

Antioch College was founded in 1852 in Yellow Springs, Ohio, with an inaugural faculty of six, one of whom was the first female college professor in the United States to share equal status and salary with her male colleagues. With the internationally acclaimed education reformer Horace Mann serving as the college's first president, Antioch quickly established its reputation for educational innovation. Novel educational practices, subsequently adopted by many other institutions, included the blending of practical work experience with classroom learning, community governance, active recruitment of African American students beginning as early as the 1940s, and the first study-abroad program. The college continuously ranked highly among colleges whose graduates complete the doctoral degree and maintained its reputation for combining academic rigor and collaborative learning to provide an enriching educational experience. The decision to close Antioch College in 2008, if allowed to stand, would mean a loss to liberal arts education, and would thus be of concern to all in the academic community who share the values it embodied throughout much of its storied history.

The investigating committee's report points particularly to the kinds of problems that arise when the faculty is overlooked while key managerial decisions are made, and it analyzes each phase of the dissolution of Antioch College in relation to the Association's recommended standards for faculty governance. It details the gradual deterioration of faculty governance at the college through a series of administrative actions that culminated in the suspension of its operations.

1. There was an expansion of the college's outreach to various communities beyond its core campus, leading to the establishment of some forty autonomous satellite campuses located far afield from any central administration and common mission that required resources beyond what the college could provide. Once adult education and vocational campuses were established without any organic relation to the founding Yellow Springs campus, in places like Seattle, Los Angeles, Santa Barbara, Keene (New Hampshire), and even Yellow Springs itself, institutional governance became scattered, unwieldy, and, eventually, dysfunctional.
2. The cooperative faculty structure on the home campus fell into disuse, while the college's status declined within the emerging system now renamed Antioch University.
3. In the absence of effective structures for faculty participation in the affairs of the college, Antioch University's administration and board of trustees turned to nonparticipatory management practices, addressing the institution's problems by making decisions without consultation; faculty participation in devising solutions came to be perceived by the administration as a waste of time and inevitably subversive.
4. The dispersed organization of units within Antioch University fractured the administration itself—creating competition among the different campus leaders, a dispersal of scarce resources, and resentment of Antioch College by the other campuses, now independent and removed from the college's commitment to liberal education.
5. With the establishment of Antioch's satellite campuses without systems of faculty tenure, only on the core campus did the university board and administration face active and engaged tenured faculty members who could be expected to speak their minds and to insist upon a role in institutional decision making.
6. Proceeding to intervene in curricular matters, a fundamental area for faculty participation in academic

decisions, the board in 2004 imposed a new curriculum on the college over faculty objections, precipitating a crisis that accelerated the enrollment declines.

7. The board, unable to match its stated commitment to the new curriculum, and notwithstanding a promised five-year trial period for success, voted in June 2007 to declare the college in financial exigency and to suspend its operations.

The university board and administration, in suspending the operations of Antioch College with its reopening highly uncertain, appeared not only unconcerned with the college's rich history of progressive education but also determined to eliminate the financial obligations attendant upon maintaining a residential liberal arts program. During its 156-year history, the college had struggled through many hard times but had been sustained by the strong tradition of its faculty's engagement with enlightened boards, distinguished administrators, eminent alumni, and talented students working together to serve the common good. To the great fortune of those committed to progressive education, those devoted to the Antioch tradition have once again taken critical steps toward reopening Antioch College. As announced on June 30, 2009, the governing boards of Antioch University and an organization known as the Antioch Continuation Corporation have reached agreement on opening a new Antioch college, independent of the university. Reopening is anticipated for fall 2011. ■

COLLEGE AND UNIVERSITY GOVERNMENT: ANTIOCH UNIVERSITY AND THE CLOSING OF ANTIOCH COLLEGE¹

I. Introduction

Antioch College, an independent liberal arts institution located in Yellow Springs, Ohio, was founded in 1852 with a resolution passed by the general convention of the Christian Church. In 1853, the college admitted its first class of six students, four men and two women, with an inaugural faculty of six, one of whom was the first female college professor in the United States to have status and salary equal to that of her male colleagues. With the internationally acclaimed educator Horace Mann serving as the college's first president until his death in 1859, Antioch began from the outset to establish its reputation for educational innovation and progressive politics. Financial difficulties, which beset the college throughout its history, forced its closure in 1862. The college remained closed through the end of the Civil War and reopened in 1865 under the auspices of the Unitarian Church. Another brief closure for financial difficulties occurred in 1881–82. From 1919 to 1921, the college closed for a third time during the reorganization of its curriculum by incoming president Arthur Morgan. The new curriculum, requiring students to combine practical industrial experience with classroom learning, together with its focus on

student participation in the governance of the college community, became the educational model many institutions would emulate in the coming years. The 1960s and 1970s witnessed a large expansion in student enrollment, along with the opening of numerous branch campuses, as detailed below, which were subsequently greatly reduced in number. In 1978, before the end of the consolidation, the Antioch College corporation formally changed its name to Antioch University. By the late 1980s, Antioch included five additional units (Antioch University McGregor in Yellow Springs; Antioch University New England in Keene, New Hampshire; Antioch University Los Angeles; Antioch University Santa Barbara; and Antioch University Seattle).

On June 7, 2007, the Antioch University board of trustees declared Antioch College to be in a state of financial exigency and authorized college president Steven Lawry “to suspend campus governance rules, regulations, policies, and practices to the extent necessary or desirable to take the actions he deems necessary to appropriately abate the current financial crisis at the college.” Two days later the board voted to suspend Antioch College’s operations after one more year. The college at that time had an enrollment of approximately 260 full-time students with a full-time faculty of thirty-five. The suspension became effective July 1, 2008, with the board having stated its intention of reopening the college no later than 2012. The members of the college’s faculty, including twenty-eight with tenure, continued to receive compensation from Antioch University through August 2008.

With the sole exception of Antioch College, the Antioch University system has not had a system of academic tenure, and all full- and part-time faculty members at the other campuses serve on indefinitely renewable term appointments. The five nonresidential units offer a variety of programs to adult learners leading to bachelor’s, master’s, and doctoral degrees. In

1. 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 the Committee on College and University Governance. With that committee’s approval, the report was subsequently sent to the administration of Antioch University, to former administrative and faculty officers at Antioch 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.

2007, they enrolled approximately 3,600 full- and part-time students who were taught by approximately 140 full-time and 290 part-time faculty members.

Members of the Antioch College faculty first sought the Association's assistance shortly following the June 2007 resolutions of the university board declaring financial exigency and suspending college operations. As the date for suspension approached, the college's faculty voted to request that the Association proceed with an investigation, emphasizing in a letter of May 14, 2008, the administration's failure to consult significantly with the faculty both before and after the June 2007 declaration of financial exigency and asserting that the university system had a "well-established pattern" of "neglecting consultation with the faculty or with the Administrative Council (AdCil) about the financial well-being of the college." The Association's staff had written previously to the university administration setting forth concerns about apparent departures from AAUP-supported principles and procedural standards relating to sound academic government, and in October 2008 the staff informed the university's chief administrative officer, Chancellor Tullisse (Toni) A. Murdock, that the Association's general secretary had authorized an investigation of university governance.

In addition to meeting with current and former Antioch College and Antioch University faculty members and former administrators in December 2008 and January 2009, members of the undersigned ad hoc investigating committee conducted telephone interviews, read through extensive documentation gathered by the Association's staff, collected additional documentation, met with the university vice chancellor for finance, and corresponded with Chancellor Murdock.

A draft report based on the information acquired from the above sources was prepared by the investigating committee, approved by the Association's Committee on College and University Governance for release to the concerned parties, and sent to those parties on May 13, 2009, with an invitation for corrections and comments. In a detailed late June response, Chancellor Murdock referred to discussions between the Antioch University board of trustees and the Antioch College Continuation Corporation, begun when college operations were suspended the previous June, that would provide for the reopening of Antioch College as an independent institution under its own governing board, separate from the remaining units of Antioch University. An agreement to create the new

Antioch College was announced on June 30, 2009, with the reopening anticipated in fall 2011.

II. The Institution's Governance

Until February 2009, Antioch University was governed by a single twenty-member board of trustees. That board has since been replaced by a university governance structure that includes previous trustees as a university-wide board of governors and new boards of trustees for each individual campus to oversee local campus operations. The board of governors is currently chaired by Mr. Arthur J. Zucker. Dr. Murdock was appointed chancellor in November 2005, while she was serving as president of Antioch Seattle, where her Antioch service as an administrator had begun in 1997. Before moving to Antioch University, Dr. Murdock had served for eight years as associate provost at Seattle University. She received her BA and MA degrees from New Mexico State University and her PhD in education from the University of Arizona. Antioch University, like Antioch College, is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools; in addition, Antioch Los Angeles and Antioch Santa Barbara are separately accredited by the Western Association of Schools and Colleges. Each Antioch campus has its own president, who is responsible for day-to-day operations and who participates with the chancellor and the university's chief financial officer in the University Leadership Council (ULC), which is charged with formulating university-wide operational policies and procedures. No similar university-wide body exists to which faculty representatives may belong.

At Antioch College, the faculty had been represented in institutional governance through a variety of mechanisms, including the Administrative Council, which first appeared in 1926. From its inception, AdCil members, who were representatives from the faculty, administration, student body, and staff appointed originally by the president and later elected, were advisory to the president and "the focal point for the formation of current policy in the college." After 1930, AdCil was provided for in the charter of the college. The Administrative Council's purview was broad: "All major matters of college policy . . . come to it for review and decision, or originate there. It passes on all questions of personnel. It counsels with the president concerning college finances and passes on the budget. It appoints faculty policy-making and administrative committees to handle admissions, student counseling, curriculum, and examinations, as well as to establish the policies of the

cooperative plan.”² In 1978, when the college became part of a university system, a university-wide AdCil was attempted. It proved too large and unwieldy, however, and was abandoned, with AdCil again becoming the advisory body to the Antioch College president, while university governance shifted in composition to consist only of administrators. In 2005, the college’s faculty approved a proposal to establish a faculty senate in addition to AdCil, which, at the time of the college’s closing, had not yet been approved by the university board.

III. Faculty Participation in Antioch College Governance: Background

Determining the extent of faculty participation in the governance of Antioch College is fundamental to an assessment of key issues in this case. Questions arose as to the precise nature and extent of the faculty’s knowledge of both the financial situation of the college and the board’s intention to declare financial exigency and to suspend college operations. As noted above, Antioch College did have a system of shared governance that, according to college faculty members with whom the investigating committee spoke, had functioned well historically, but a sequence of structural changes in the relationship between the college and what had become the wider university allowed for a series of administrative actions that had the cumulative effect of ending the centrality of Antioch College in the university system and reducing the ability of the Antioch College faculty to participate meaningfully in the governance of their own college. By the beginning of this decade, the university administration and board were including the faculty in governance decisions less frequently, and the faculty was hardly included at all when the board in 2004 adopted a renewal plan that called for a dramatically changed curriculum or when it declared financial exigency and voted to suspend college operations three years later. The history of the relationship between the college and the university is central to an understanding of the participation of the faculty in governance decisions.

From the early 1960s through the mid-1970s, as enrollment at Antioch College expanded from 1,700 to

nearly 2,500 students and the Ford Foundation advanced its interest in funding partnerships that would bring the liberal arts to diverse communities, no fewer than forty “learning communities” with an Antioch affiliation were initiated in the United States and abroad by Antioch College faculty members, by various community groups and nonprofit organizations, and by entrepreneurs outside the college. Those programs initiated by members of the college faculty—for example, Antioch Graduate School of Education in Putney, Vermont, and Antioch Education Abroad—went through the regular process of faculty curricular planning and approval. Since 1926, the Administrative Council of the college had dealt with academic, curricular, and faculty affairs, and the new programs created by the faculty in the 1960s and 1970s were monitored by the faculty through AdCil. Most of the programs, however, were not created by the faculty; the administration created and oversaw these other programs without faculty or AdCil involvement. Indeed, many of the enterprises evolved at more than one remove from Antioch and its oversight and control. For example, a Baltimore Center of Antioch University created a Huntington, West Virginia, Center for Miners, and the Huntington Center for Miners, in turn, created a Mercedes, Texas, Center for Migrant Workers. Most of the new centers had no connection to Antioch College programs or to the college faculty. While there was a concern with outgoing cash flow for those enterprises that received college funding, one of the main criticisms of the burgeoning satellite system was that its oversight and monitoring drew administrative energy away from the college, a criticism that would be repeated until the suspension of the college’s operations.

Beginning in 1975 and continuing through the late 1980s, most of the new programs were gradually shut down. While Antioch College faculty members were not involved in the decisions to close these various campuses and centers, they had been vocal in expressing their concerns about many of the sites. Academic standards were inconsistent, cash flow was a problem at many sites, and several of them utterly failed financially. During the 1960s and 1970s there had been little fundraising for Antioch College, and its endowment remained around \$5 million. Enrollment at the college had fallen from a maximum of nearly 2,500 to 1,600 students by 1975 and much further to 500 by 1981.³ AdCil remained an

2. Algo Henderson and Dorothy Hall, *Antioch College: Its Design for Liberal Education* (New York: Harper and Brothers, 1946), 206–7. Henderson was Antioch College’s executive vice president and acting president from 1934 to 1936, president from 1936 to 1947, and the leader to whom shared governance is most often attributed.

3. Chancellor Murdock, who provided extensive comment on a prepublication draft, stated, “The early 1970s was a difficult time for all private higher education

active participant in setting budgetary priorities and making budget decisions. After initial faculty layoffs in the late 1970s, AdCil and the faculty voted twice to reduce faculty salaries by 5 percent to avoid additional layoffs. That the college was subsidizing off-campus centers, absent a significant endowment of its own and with a greatly reduced student body, complicated the situation even further. Some faculty members became increasingly frustrated with the poorly planned expansion, which, they maintained, was damaging the college's strong academic reputation and draining financial resources better used to maintain the Yellow Springs campus and its academic programs. After the closings, five units in addition to Antioch College remained. Two of these were housed on the campus of the college: the School for Adult and Experiential Learning, which later became Antioch McGregor, and Antioch Education Abroad, later renamed Antioch International. The School for Adult and Experiential Learning was operated primarily by members of the college faculty and provided supplemental revenue streams for the college's undergraduate programs. Its director reported to the president of the college. Antioch Education Abroad, created in 1957, had been a creature of the college faculty until the college suspended operations. It included faculty members from elsewhere who were appointed through formal channels to the college faculty, regular Antioch College faculty members serving in program and leadership roles, and program faculty members housed on the college's campus and included in the college's budget, with regular faculty and AdCil oversight of the program. Programs,

institutions throughout the nation. The private sector institutions had the lowest proportion of the traditional, four-year residential student market in its history, less than twenty percent. Many institutions faced budget reductions, cuts, layoffs, and closure. Some institutions survived and some did not. College alumni folklore attributes Antioch College's decline in the enrollments in the 1970s/1980s to (1) the student strikes in 1973 and 1978, which resulted in the closing of the campus for several months and from which the college never recovered, (2) expansion of the non-residential campuses and the drain on the college revenue, (3) lack of oversight from the college president, (4) dominance of the campus by the left-wing radical sector of the faculty and staff causing an environment of oppression that dissuaded new students from attending, or (5) a combination of two or more of these elements."

courses, and initiatives were approved through regular faculty processes.

While there is some controversy over the criteria used in determining which programs and units survived to become part of the Antioch system, there is agreement that the surviving units were seen as economically viable. They were nonresidential, did not have large infrastructures, and engaged only part- and full-time non-tenure-track faculty members. Only at Antioch College was there tenure. More than one past Antioch College president stated to this investigating committee that most top administrators at the other campuses did not appreciate tenure, viewed it as problematic for them, and did not want the issue of tenure raised on their campuses. In 2007, Laurien Alexandre, Antioch University's vice chancellor for academic affairs, was asked about tenure at these other units and was quoted as saying, "Tenure has never been available and it had never been thought of when those campuses were created. The early vision of the campuses was that they were satellites of the college and need not be fully vested in tenure and academic culture." Several faculty members pointed out to the investigating committee that in university-wide meetings of the faculty, which began in the mid-1990s and continued until the early 2000s, there was tension over the college's being the only Antioch unit with tenured and tenure-track faculty members.

In 1978, when the Antioch College corporation formally changed the institution's name to Antioch University, then-Antioch president William Birenbaum explained in the *Yellow Springs News* that the change was in response both to an external study of the institution and to the Ohio State Board of Regents' recently redefined distinctions between colleges and universities. The president added, "The change . . . will have no direct effect on the institution's program or administrative and financial structure. Instead, . . . it should clarify what Antioch is to the public." The change was discussed with AdCil, and the dean of the college reported, "I think there was general approval of the change." In fact, both the administrative and financial structures did change. The president of the college, who also served as the chancellor of the university, retained college leadership, chaired AdCil, and participated with the faculty in some decision making at the college level. Most often, however, he delegated these responsibilities to a provost, vice president, or dean. The college lost to the university its president's undivided attention as well as its development office, public relations staff, and chief financial officer. The college's

administration became the university's administration. With the shift to Antioch University, essential matters of governance, especially those related to resources, moved entirely from the college to the university.⁴ While Antioch College faculty members retained primary responsibility for the curriculum and general academic policies at the college, they were excluded from academic decisions affecting other university units. AdCil continued to work on the college's budget, but the university, not the college, was in control of resources. A number of efforts were made to gain college representation in university decision making, including the formation of a systemwide AdCil with faculty and student representatives from each unit, but the systemwide AdCil was disbanded. AdCil continued to deal with the budget, all matters of major policy, and faculty hiring and evaluation, but only for the college. No shared governance structure included the college faculty in university-level decision making. This fundamental flaw in the governance structure would persist and become of central importance in understanding why Antioch faculty members state that they were largely taken by surprise when financial exigency was announced.

Dr. Alan Guskin, president of both the college and the university from 1985 to 1994, made substantial changes in the structure of the relationship between Antioch College and the university, changes that some have seen as repositioning Antioch College as "a first among equals" in the Antioch University system. Others hold this reorganization responsible for reducing the position of the college from "the apex of the Antioch University pyramid" to "one among equals." President Guskin separated his roles, creating a university chancellor's position (a position that he himself filled) and a college president's position. What had been a dual administration moved to university quarters, while the college searched for and engaged a new administration that included its own president, a vice president for development, and a chief financial officer. The president of Antioch College did retain direct access to the board of trustees and was not required to report through the chancellor, whereas the same was not true for the provosts at the other sites. The college president was given autonomy within a framework of policy

negotiated with other university leaders, the initiation of a federal model of governance for the university. In addition, Dr. Guskin created the University Leadership Council (ULC), consisting of the heads of the five campuses, including the vice chancellors for finance and development, and chaired by the chancellor. Finally, Dr. Guskin consolidated the graduate and adult extension programs originally at the college into Antioch McGregor and appointed a provost for McGregor, which was effectively separated from college control at the end of the 1980s. Because the graduate and adult extension programs did bring revenue to the college, Dr. Guskin ensured that the college would share in McGregor's success by contributing 7 percent of its student-derived revenue to the college. He solidified additional revenue for the college, drawn from the overhead that the other campuses paid to the university, to replace the administrative leadership that had been removed from the campus (for example, the president, the development officer, public relations). In return for what some describe as using the Antioch name, each unit paid a sum into a college fund. Later these would be called "subsidies" to the college rather than revenue that was due to the college for what had been lost or shared. Eventually, the university administration would view these subsidies as unacceptable burdens on the units.⁵

While these changes were initiated by Dr. Guskin, they were based on full discussions with Antioch College faculty members who wanted to regain autonomy for the college and to protect its role in institutional governance. Some of these faculty members, who met with the investigating committee, state that they negotiated these arrangements with Dr. Guskin, with great trepidation, over several years; they were concerned about losing governance of the college to the university. The faculty and AdCil continued to manage

4. Chancellor Murdock states that the new arrangement "allowed the college to continue to be the center of the university in the system as the chancellor continued to use the other campuses' resources in order to bolster the college."

5. The board and the other campus presidents, according to Chancellor Murdock, were not concerned about the annual subsidies, which varied from \$600,000 to \$740,000, but rather about the fact that repeatedly "the college proposed budgets that were not balanced and far beyond its means to achieve." With respect to the annual subsidies, a former Antioch College professor, Thomas Haugsby, stated in a letter to the Association that the annual payment to the college was "intended to provide a 'living endowment' for the college by providing resources back to the college. This was partly in recognition of the investment made through the college's endowment, faculty, administrative services, reputation, and accreditation."

the governance of the college, participating in decisions on policy, personnel, and budget, but they had no role in university governance. While AdCil had always been “legally” advisory to the college president, its decisions had almost always been implemented without administrative intervention or constraint, according to both former college faculty members and former college administrators. During the Guskin presidency, this continued to be the case.

The provosts of the nonresidential units petitioned the board of trustees, through the ULC, to become presidents.⁶ They argued that presidential status was needed for them to be credible in their regions, to raise funds, and to negotiate contracts. The decision to accede to their wishes was made by the board, on the recommendation of the chancellor, in February 1998. The college faculty had no knowledge of this change until after the fact, and they expressed their concern about the reduced centrality of the college in the university structure.

From the late 1990s into 2001, the faculty continued to share actively in the governance of the college. Student enrollment had by then dropped to below five hundred, and the endowment stood at only \$11 million. In late 1996 and early 1997, the faculty, AdCil, and the general college community developed and voted on a strategic plan. In 1997, the board adopted the plan, and it congratulated the college on taking matters into its own hands. Included in the plan were overarching mandates for the board to raise funds for improvements in the physical plant and to initiate fundraising to build the college’s endowment. The college implemented 85 percent of the strategic plan’s more than one hundred action items, and it balanced the budget for the second and third years of the plan. The board, however, failed to implement its part of the plan. Not only did it not raise funds for physical facilities, board members’ giving to the college declined after the approval of the plan, according to a past president. A comprehensive campaign for the college was not launched until 2001–02. Several former presidents pointed to the board’s many years of failed stewardship and lack of understanding of the need for both development resources and a separate college board of trustees as a fundamental problem for the college.

During a mid-year budget shortfall in 2000, the faculty, working through department chairs and AdCil, participated in deciding which staff positions to cut and where to reduce the budget in order to balance it. Ultimately, with the voluntary support of faculty and staff members who took reductions in salary and benefits, and with contributions of townspeople from Yellow Springs, the faculty, working with the college’s chief financial officer, managed to avoid permanent cuts. According to faculty members involved, and as evidenced in AdCil minutes, the college faculty on that occasion, working with AdCil, closely tracked the finances and the goals of the strategic plan.

IV. Excluding the College Faculty from Budgetary Decisions

According to Robert Devine, Antioch College’s interim president from 1996 to 1998 and president from 1998 to 2001, the vice chancellor for finance and the ULC became more vocal during his time in office in their criticism of the college’s budget, specifically the revenue obtained from the other units and the college’s autonomy in developing its own budget priorities. The college’s budgetary process normally would involve full discussions with AdCil and representatives of the faculty, after which the president would carry the budget through the ULC and then to the board. The ULC gradually began to exercise greater control over the budget, according to President Devine. In 2001, the vice chancellor for finance completely changed the budget that the college president had brought from AdCil to the ULC and presented it to the board’s finance committee as an example of why it was necessary for the board to delegate to the vice chancellor the authority to intervene in the finances of the college. Shortly after President Devine stepped down, with the university administration having concluded that the college’s leadership was unable to exercise financial accountability, the vice chancellor for finance eliminated the position of chief financial officer at the college and assumed those duties himself.

After the Devine presidency, Antioch College presidents ceased reporting directly to the board and instead began reporting only to the chancellor. Faculty members were not involved in the decision to change the reporting relationship. The status of the college’s president within the ULC came to depend both upon the facilitation and mediation skills of the chancellor and upon the willingness of that person to defend the centrality and importance of the college to the university as a whole. Faculty members and former presidents of

6. According to Chancellor Murdock, “Records show that no petition was made to the Board, that this was a Board action independent of the provosts.”

the college who spoke with the investigating committee said they believe that then-chancellor James Hall, who served in that capacity from 1998 to 2002, was not willing to assume this role. With respect to the president's relationship with the board itself, one former president of the college explained that, while the president of the college could attend board meetings, that officer had no direct access to the board. The presentations that the president made to the board were only on matters prescribed to the president by the chancellor. The investigating committee was told that the entire structure was dysfunctional and "set the [campus] presidents up as rivals." For example, as part of the financial reorganization, revenues from the other campuses to the college, intended to continue until such time as the college's endowment grew sufficiently to replace them, were reframed as "allowable deficits" to be negotiated annually at the level of the ULC. The cumulative result of these changes was to diminish the centrality of the college. While the president's ability to advocate for the college was weakened, AdCil members also complained about their own reduced role in policy development and decision making at the college.

Following the 2001–02 financial reorganization, the college was not to regain control of its budget, which was thereafter formulated by the university's chief financial officer. Although the college still had a controller and AdCil approval of the budget continued to be required, budget preparation, budget oversight, and decision making at the college level gradually disappeared. A former president writing in 2003 to Chancellor Hall protested that the board and the chancellor had "delegated far too much responsibility, authority, and trust" to the position of the university's chief financial officer. The president continued that "my campus is unable to get detailed, accurate, timely, and transparent reporting of critical issues of finance, revenue, and expenditures. . . . It is a recipe for disaster." At the time of the suspension of the college's operations, the college's controller had resigned and a university-wide official had taken over some of his responsibilities.

The faculty's loss of participation in the budgetary process was addressed in a letter from the Antioch College chapter of the AAUP to the greater Antioch community in February 2004, written in response to budget decisions made by "administrative fiat" rather than through discussions with the College Budget Committee of AdCil:

From the point of view of the AAUP, perhaps most troubling is the way Antioch's traditions of democratic self-governance have been thoroughly

undermined and disregarded. Long-established college procedures by which budget information was provided to AdCil on a regular basis, and which, if in place, would have led to an earlier awareness of this year's deficit, have been replaced by a top-down, non-participatory governance structure. The College Budget Committee, a subcommittee of AdCil, received its charge this past fall, but was not convened because those administrators to whom the university had granted budget control apparently refused to meet with them. Thus both AdCil and the College Budget Committee were denied access to vital financial information. We find it particularly disturbing that the college is being forced to absorb all of the negative impacts of budget shortfalls when much of the current budget deficit happened outside of college control.

The [Antioch chapter of the] AAUP continues to be concerned by the unimaginative "solutions" which are being advanced by administrators charged with budget decision making. We expect future consultation with the faculty about the effects of this proposed budget and our ability to work within its constraints. We remain committed to public discussion of these issues, and to a thoughtful process by which Antioch's time-honored traditions of self-governance continue to guide the college budget, staffing, and curriculum.⁷

By the beginning of this decade, Antioch College's system of shared governance had become limited to reacting to decisions made at the university level by the board and the chancellor.

V. Issues of Concern

Summarized here are what appear to the investigating committee to be the central issues raised by the actions taken concerning Antioch College and its faculty by the administration and the board of Antioch University.

A. FUNDAMENTAL RESPONSIBILITY FOR THE CURRICULUM

According to the *Statement on Government of Colleges and Universities*, the Association's foundational document on academic governance, "the faculty has primary responsibility for such fundamental areas

7. Chancellor Murdock writes that "the college president was always responsible, and AdCil always knew when they were 'off the mark' concerning the budget."

as curriculum [and] subject matter and methods of instruction.” In October 2003, a board-appointed Sesquicentennial Commission for the Renewal of Antioch College was charged with outlining a “sustainable vision” for that renewal. The renewal commission’s report, presented to the board at its June 2004 meeting, called for a radical transformation of the college’s curriculum to commence in fall 2006. Central to the new curriculum was the creation of “experiential learning communities” organized around a single theme and taught collaboratively by two or three faculty members from relevant disciplines. In January 2005, the college’s faculty was informed that the new curriculum would begin in fall 2005, a year earlier than originally scheduled. Faculty members interviewed by this investigating committee stated that the curriculum was imposed on them without adequate consultation, that they never voted to approve it, and that they had no role in determining its commencement date.

The thirteen-member renewal commission, co-chaired by the chancellor and the chair of the board, included only two faculty members, neither of whom, according to faculty members with whom the investigating committee spoke, represented the faculty on the commission in any formal or substantive manner. According to a professor who had requested more faculty representation on the renewal commission, a university administrator told him that “more faculty would have too conservative an impact on the thinking of the group.” Until midway through the process, members of the commission, including the dean and the president of the college, were not permitted to discuss the commission’s work with the Antioch faculty members who would be responsible for implementing the curricular changes. The university administration promised the college community that it would be brought into the shaping of the renewal plan when the commission was closer to completing its work. Until February 2004, communication with the college’s faculty, for the most part, had to do with additional appointments to the commission and the commission’s projected timetable for presenting its recommendations. Most members of the faculty were unaware that a curricular overhaul was part of the commission’s work, and the investigating committee was told that many faculty members were shocked when that overhaul was announced at a meeting in February 2004. Before that meeting, the board had already endorsed the initial work and the stated vision of the commission, including a curriculum based on experi-

ential learning communities.⁸ The commission had not been mandated to focus on the college’s curriculum, and, according to a member of the commission, the curriculum “turned out to be the path of least resistance, given the chairs’ prohibition on addressing governance and finances.”⁹ Faculty members interviewed by the investigating committee were perplexed by the focus on the curriculum, because in a recent review for reaccreditation the visiting team had found fault with governance but not with the curriculum.

During March and April 2004, a series of sessions, to which particular faculty members and students were invited, focused on formulating a workable design for the curriculum in order to make the commission’s prescriptions viable.¹⁰ Each time faculty members raised concerns about the financial viability of the renewal plan, they were assured of the board’s long-term commitment to a new plan. At these meetings concerned faculty members asked fundamental questions, such as “Who ‘owns’ the curriculum?” and “By what processes will curricular, staffing, and hiring decisions be made?” They questioned the potential impact of the renewal plan on continuing employment of the current faculty and asked whether the board would guarantee the provision of adequate long-term financial support for the plan’s implementation. The faculty received assurances that they would have five years to make the transition fully to the new plan, during which time the plan would have the board’s unqualified support, including financial support. According to a former president, this promise was “rhetorical,” because the money was not there to support a major college project such as the new curriculum. The commission’s report, approved by the board at its June 2004 meeting, included a new curriculum

8. “The Renewal Commission,” Chancellor Murdock writes, “gave a broad outline of the vision and then asked the faculty to design an academic program and curriculum that would fit the vision. Most everyone would agree that curriculum is the purview of the faculty. And, as recognized by the Association of Governing Boards, any private institution’s board has the responsibility and obligation to set the mission and direction of an institution.”

9. According to Chancellor Murdock, “the commission explored many options, looking at governance, finances, community, and curriculum, among other things.”

10. Chancellor Murdock reports that the roster of the implementation teams, which were led by dean of faculty Ann Filemyr, included forty members of the faculty.

and the benchmarks for implementation on which some members of the college community had worked. The sentiments of faculty members with whom the investigating committee spoke can be summed up in the words of one professor who said, “I was appalled at the process by which [the new curriculum] had been drafted and by which it was being presented. I was also deeply frustrated by being subjected to this process.”

The faculty responded to the renewal commission’s plan and to the absence of faculty involvement in its formulation in three ways. Some faculty members left the college. Some who remained worked energetically to create, design, and implement the “learning communities,” which were to be the core of the new curriculum. (A former president described the effort of the faculty in this regard as “noble.”) A third faculty reaction during the 2004–05 academic year was the development of a new college governance body—a faculty senate—in the hope of strengthening faculty participation. The proposal calling for its creation stated that “Antioch College is currently undergoing fundamental change that dramatically impacts faculty: the curriculum is being transformed, classroom and co-op delivery systems are being altered, and our departmental structure is being closely examined. These changes require updated and transformed faculty structures.” The proposed establishment of a faculty senate was intended “to restore faculty oversight to those matters that either most draw upon [faculty] expertise (the curriculum) or those that most directly affect their lives (faculty personnel issues). There is a collective sense of progressive disempowerment among the faculty with regard to these two issues. . . . The proposed changes in faculty governance seek merely to reassert the faculty’s right to oversee those matters that have historically been under faculty purview.” The faculty approved the proposal in April 2005. Thus, in addition to AdCil, the college now had a faculty senate through which institutional governance could potentially be shared.

In September 2005, implementation of the first element of the renewal plan’s curriculum began. Enrollments for the entering class under the plan steadily declined over the course of the 2005–06 academic year, however, falling from a high of sixty-three students in the fall to thirty students by the end of the spring term. An October 2005 university announcement inviting applications for the chancellor’s position confirmed that enrollments had declined because the curriculum was instituted before it was complete: “since only the first year of the [Renewal] Plan had been prepared and many materials were not available for the

full cycle of 2004–05 admissions recruiting, the entering class in the fall 2005 is very small.”¹¹

The Association’s *Statement on Government* and its derivative *The Role of the Faculty in Budgetary and Salary Matters* emphasize the need for accessibility of important financial information to those groups with a legitimate interest in it and the participation by each group appropriate to the particular expertise of each. Such a radical change in the curriculum as had been undertaken at Antioch College was risky, to put it mildly. The rationale for making a dramatic change in the curriculum was subsequently characterized in terms of its purported value to the implementation of a capital campaign, to the reduction in the high faculty-to-student ratio, and to the salvation of the college. Fundamentally, it appears to the investigating committee, the impetus for the new curriculum was financial. One member of the commission recalled that midway through that body’s work the university administration decided that incremental change would not be sufficient to address the financial problems of the college. Rather, dramatic change was needed. The investigating committee finds that the Antioch College faculty, far from having a primary role in the development of the new curriculum as called for under the *Statement on Government*, was charged primarily with implementing a new focus for undergraduate education being imposed on the college by the board. The committee finds further that the board acted to have the faculty implement a new curriculum without having consulted with the faculty regarding the reasons why it thought a new focus was needed and without including the faculty in considering possible alternative approaches to the college’s financial problems. It is just at these

11. Chancellor Murdock reports, “With the fundamental changes in the delivery of the academic program and the emphasis on a successful capital campaign to fund campus improvements, it was the hope of the Renewal Commission and the Board that the College could be turned around and enrollments would gradually increase. While the Renewal Plan may have been successful in the long run in attracting and retaining students, it was not successful in the short term. Time was of the essence. The transition from the College’s traditional academic program to the bold ELC [Experiential Learning Communities] concept was difficult to market and may have contributed to an acceleration of student attrition. Likewise, neither the annual development campaign nor the capital campaign was as successful as hoped.”

moments, when dramatic steps that could change the character of the institution are seen as necessary, that full and open discussion is essential. The faculty would have to see the risky decision through, and its close involvement should have been considered crucial, not only in understanding the financial situation but also in planning for possible solutions.¹²

B. FACULTY INVOLVEMENT IN THE DECISIONS TO DECLARE FINANCIAL EXIGENCY AND SUSPEND COLLEGE OPERATIONS
The widely accepted standards of academic governance articulated in the *Statement on Government of Colleges and Universities*, which rest on the premise of an “inescapable interdependence among governing board, administration, faculty,” and others, call for “adequate communication among these components, and full opportunity for appropriate joint planning and effort.” With regard to the internal operations of the institution, the document further provides that “[e]ffective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college” and that the faculty should be fully informed on all budgetary matters. The Association’s derivative *The Role of the Faculty in Budgetary and Salary Matters* states,

At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and as specifically as possible of significant impending financial difficulties. The faculty . . . should participate at the department, college or professional school, and institution-wide levels in key decisions as to the future of the institution and of specific academic programs within the institution. . . . The faculty should play a fundamental role in any

decision that would change the basic character and purpose of the institution, including transformation of the institution, affiliation of part of the existing operation with another institution, or merger, with the resulting abandonment or curtailment of duplicate programs.

When the Antioch University trustees resolved on June 7, 2007, to declare financial exigency and then on June 9 to suspend Antioch College operations, they took actions of far-reaching consequences, not only for the whole Antioch community, and particularly for its faculty members, staff, and students, but also for the national academic community, many of whose members saw in the college’s historic commitment to progressive education and social justice an example of liberal education at its best. Representatives of the faculty at the college immediately charged that the board had taken these critical actions without advance notice or consultation with them and in contradiction of previous board assurances that the college would remain open for five years following the implementation of a new board-mandated curriculum initiated in fall 2005.¹³ Subsequently, former administrators and prominent alumni, including potential significant donors among the latter, also alleged a lack of consultation, regarding both the college’s precarious financial condition prior to the June 7 declaration of financial exigency and the process by which university administrators and board members had reached the decision. Thus the key issue of whether the college faculty was afforded an opportunity to take part in the decision-making process was raised from the very beginning and became the basis around which vocal opposition to the planned suspension coalesced among members of the college faculty and staff, students, and alumni in the days immediately after the announcements.

12. According to Chancellor Murdock, “Looking at the actions taken by the board of trustees over the last two decades in dealing with the declining financial health of the College, it is unfathomable that anyone associated with the College would not be aware that there was a financial emergency.” She further states, “AdCil and the faculty were vividly aware throughout the entire decade of the college’s financial woes; however, they never came up with any alternative approaches.”

According to the AdCil minutes of November 7, 2005, however, “[Dean of faculty] Andrzej [Bloch] stated that this year no adjustment of the current budget was needed because there was not a budget crisis.”

13. According to Chancellor Murdock, at the November 2006 board meeting, the board was “very concerned about the short-term continuation of the College and appointed a task force of trustees to work with the Chancellor and CFO to examine alternatives, options, and proposed solutions to the College deficits.” The findings of the task force were discussed at the February 2007 board meeting. In March, the board hired a legal firm with expertise in bankruptcy and turn-around efforts. In May 2007, Gateway Consultants Group was hired “to review the financial analyses and the sustainability models developed by the University CFO.”

Following the institution of the new curriculum, university officials turned their attention in 2007 to the state of the university's governance structure. In January 2007, the ULC met with consultant Richard T. Ingram, president emeritus of the Association of Governing Boards of Universities and Colleges, to discuss the university's governance structure.¹⁴ According to his revised May 2007 report, *A Proposed Governing Structure for Antioch University*, a draft of which he had first submitted to the board in February of that year, the goal of the meeting was "to facilitate a wide-ranging discussion of Antioch University's governance (and related financial, academic, and management) challenges and to recommend a structure befitting a multi-campus, private university." Two of the report's most salient recommendations were that "[t]here should be an 'Antioch University Yellow Springs,' with an undergraduate school (named Antioch College) and a graduate school (named The McGregor School of Graduate Studies). It [Antioch College] should have its own Board of Trustees." There is no record of the Ingram report having been made available to the college faculty. The creation of a separate board, dedicated only to the college, that would focus on the issues the college faced (including improved facilities, raising funds, and building back the trust and financial support of the alumni), had been raised repeatedly by the college's faculty and presidents and rejected by the existing board. Not sharing the May 2007 report with the faculty was a significant omission, according to former president Devine, because the report's recommendations would have provided considerable support to those faculty members already convinced that a separate board for the college would be a solution to the college's governance and financial problems. Shortly after President Steven Lawry assumed office in January 2006, he was asked, but declined, to sign a legal document prepared by the university counsel and approved by the board's executive committee stating that his suggesting to anyone the idea of a separate board for the college would be grounds for his dismissal.

In March 2007, another board-commissioned report on the financial condition and continuing viability of Antioch College, prepared by Gateway Group consultants Thomas Chema and Lisa Thibodeau, former presi-

dent and chief financial officer, respectively, of Hiram College, was presented to the trustees. The report suggested three choices with regard to the college's future. The first option was "to attempt to turn-around" Antioch College by instituting significant expense reductions, among them "combining units of the university, [which] could achieve significant savings," and reducing or eliminating the college's contribution to the faculty and staff retirement plan. The second choice was to fold the college into Antioch McGregor, "which appeared to be operating successfully, and has an existing administrative structure." The third possibility was "suspending the college's operation at the conclusion of academic year 2007–08." The seven-page report followed from the authors' review of "several years'" worth of university financial records and a discussion with the university's chief financial officer of "the ramifications of the university's financial situation." It concluded that the college was in a state of financial exigency, that the "university system's current cash-flow forecast shows the system running negative by May 2009," and that "management's proposed suspension of operations plan is more likely to be successful in preserving the viability of the university as a whole and providing an opportunity to reinvent the college than other alternatives." The report was not shared with the faculty.

While discussions regarding the college's financial situation were being conducted at the university level during early 2007 with little, if any, consultation with the faculty, the college's AdCil continued to meet regularly during fall 2006 and winter 2007. Discussions of budget data at these meetings, according to faculty members who served on AdCil at the time, were unusually brief, with college administrators distributing copies of the budget at the meetings for council members' immediate review and collecting those copies at the end of the meeting. Detailed financial information was no longer reaching the Antioch College faculty, and financial reports (if they occurred at all) were limited to short presentations of numbers not subject to alteration. Sometime beginning in March 2007, moreover, most AdCil meetings were canceled, even as university administrators and consultants were actively considering the future of the college and of the university as a whole. AdCil meeting minutes from fall and winter 2006–07 were quite brief compared with those from the previous academic year. One faculty leader, who served on the senate steering committee and as the senate's first chair, reported to AAUP staff regarding senate participation in the decision to suspend college

14. The Association of Governing Boards had joined with the American Association of University Professors and the American Council on Education in formulating the 1966 *Statement on Government of Colleges and Universities*.

operations that, “[w]hile I served on the Steering Committee of the Faculty Senate, there was no consultation of any kind regarding suspension of college operations. In fact, there was no mention that the possibility was on the table.” Both AdCil and President Lawry were focused on the latter’s plan to improve the college’s financial situation: merging the college and Antioch McGregor and advocating for a separate governing board for the college.

Prior to the board’s regularly scheduled June 2007 meeting, the trustees received a May 31 internally prepared ULC plan setting forth the university administration’s position with regard to the financial sustainability of Antioch College and proposing two “scenarios” for its future status. “It is now apparent,” the report began,

that the enrollment and finances of the College are not sufficient for the College to sustain current operations. The University management team has reviewed the finances of the College and has determined that the survival of the College and perhaps even the University is increasingly at risk due to the depletion of funds, if the College remains open and operating at a deficit. Cash-flow predictions indicate that Antioch University will not be able to meet monthly payroll obligations to faculty, staff, and creditors sometime in late 2008 with a margin of error of thirty days without suspending operations at Antioch College. . . . Therefore, it is the recommendation of Antioch University management that the College declare financial exigency in June 2007 and operations be suspended on or around June 30, 2008.

With regard to the two scenarios, the first detailed plans for “permanent closure” of the college, and the second proposed “to suspend operations of Antioch College for a fixed period (three years) with a design process in place to reopen it as a state-of-the-art, twenty-first-century residential undergraduate program within a comprehensive Antioch University Yellow Springs campus and a dynamic multi-campus national university.” The board resolution to suspend the college’s operation, which ultimately followed from its June 7 meeting, called for the suspension of college operations for no longer than four years, one year longer than what was recommended in the May ULC plan. The decision to close the college came less than halfway into the five-year period the university administration and board had promised the Antioch College faculty to realize the results of the administration- and

board-mandated new curriculum. The investigating committee finds that the determination about the college’s state of financial exigency and the decision on suspending operations were unquestionably reached without faculty participation.

President Lawry acknowledged, in a letter to the faculty dated June 18, 2007, that the *Faculty Personnel Policies and Procedures* of Antioch College mandated consultation with AdCil to prepare a plan and timetable for abating the financial exigency, and he indicated his intent to meet that mandate. Nevertheless, consultation with the faculty once again did not occur. By July 26, 2007, Chancellor Murdock had received a letter of resignation from President Lawry and named an interim replacement, Andrzej Bloch, with, according to the AdCil minutes, “full executive power as COO [chief operating officer] & CAO [chief academic officer].” The minutes also indicate that the chancellor had recognized that this change in college leadership was made without consultation with AdCil or any other governing body of the college, and she cited “the Board’s announcement of suspension of operations” as justification for circumventing the faculty’s role. The minutes further indicate that AdCil members discussed the implications of circumventing shared governance and questioned the chancellor about the issue. The replies recorded lack any commitment to reestablishing shared governance. Instead, the chancellor stated to AdCil members, “I don’t know how we will gain trust,” and “I wonder whether we can ever work together again.” The minutes of this AdCil meeting also have Chancellor Murdock reporting that, at the time of the decision to suspend operations, “we are looking at a March 2008 bankruptcy of the entire university.” The declaration of financial exigency, however, was limited to the college.

As events unfolded, Interim President Bloch did not carry out the commitment expressed by his predecessor. Instead of consulting with the faculty as mandated to prepare a plan and timetable for abating the financial exigency, he issued letters to the faculty on November 9, 2007, reiterating that the declaration of financial exigency stood and that notices of termination remained in force and effect. Regulation 4c of the Association’s *Recommended Institutional Regulations on Academic Freedom and Tenure* states that,

[i]f the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to

a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5 [dismissal for cause], but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include: (i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition.

Since no hearings were held, Antioch College faculty members were denied the opportunity to examine or challenge the decisions to declare financial exigency and to invoke the most drastic abatement approach by ceasing operations of the college.

The issue of adequate consultation with the faculty regarding the closing or sale of a major component of a university or college should include consideration of the precedents examined in a previous investigation, addressed in a 1970 Association report, "College and University Government: Long Island University," which is relevant to the present matter.¹⁵ In that case, the investigating committee questioned the intent of the trustees to exercise unilaterally their legal right to dispose of a university campus, the Brooklyn Center, the institution's original core, notwithstanding its inevitably profound effect on the entire academic community. "It should be asked," the report queried, whether a majority of the Board of Trustees can effectuate plans for educational buildings, and the teaching and learning therein, without consultation with the faculty: the body which possesses primary responsibility for the academic program. Can these controlling Trustees, in fact, sell one part of a university and use the resulting dollars for the development of those parts which remain, without hearing from the members of the faculty? Can they rest on the position that the Trustees are charged by law with these responsibilities and rights and that they have within themselves the competence to take such action?

This investigating committee concurs in the finding of the Long Island University investigating committee that "[t]hese questions must under accepted academic standards be answered strongly in the negative." The spirit of the finding seems directly applicable to the

current investigation, perhaps even more so in the Antioch case, where the entire college faculty has suffered termination of appointment, than in the Long Island University case where, had the trustees been allowed to go through with the closing, the tenured members of the faculty would have had the opportunity to transfer to another LIU campus.¹⁶ The committee observes that in the case of a reopened Antioch College, its administration should observe the spirit of the AAUP's Regulation 4c(6) on the reinstatement of faculty members terminated for reasons of financial exigency, lest the closure and reopening have the appearance of simply seeking to eliminate tenure.

The closure of Antioch College raises broader issues involving the responsibilities of trustees. The basic fiduciary responsibility of trustees is commonly recognized, but in the case of an organization created to oversee the operation of an educational establishment, is it not reasonable to expect the trustees to have responsibilities beyond avoiding financial bankruptcy? It seems to the investigating committee not at all unreasonable to have expected the trustees to pursue the goal (the operation of Antioch College) for which the enterprise had been established. The 1980 Antioch University Articles of Incorporation state this purpose explicitly:

Article II: Purpose

The objects of the said corporation are to possess and carry on at Yellow Springs, Greene County, Ohio, and at such other places as the Board of Trustees may determine, a College or educational establishment where instruction in every branch of useful learning may be given.

Because this statement of purpose predates the establishment of Antioch McGregor, it refers to possessing and carrying on Antioch College as the primary purpose that could be augmented, but not replaced, by carrying on with other establishments. Unfortunately, the trustees and the administration of Antioch University seem to have lost sight of this purpose.

C. THE DECLARATION OF FINANCIAL EXIGENCY AT ANTIOCH COLLEGE

The 1940 *Statement of Principles on Academic Freedom and Tenure* provides for the termination of continuous faculty appointments under extraordinary

15. Unlike the Long Island University case, Chancellor Murdock points out, the sale of Antioch College was never considered.

16. The closing required approval by the council of the city of New York. Confronted by strenuous protests from a united Brooklyn Center academic community once the community learned of the plan, the city council declined to approve it.

circumstances because of a demonstrably bona fide condition of financial exigency. Regulation 4c(1) of the Association's derivative *Recommended Institutional Regulations* defines financial exigency as an "imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means" than the termination of continuing faculty appointments. The regulation calls upon an institution to pursue "all feasible alternatives" to terminating faculty appointments. This provision raises two questions: (1) was there an imminent financial crisis that affected the survival of the institution as a whole? and (2) were there feasible alternatives to terminating all faculty appointments and closing the college, and if so did the university administration consider them?

There can be little doubt that Antioch College's financial problems were in no small measure a product of managerial decisions made without faculty consultation, including a curricular experiment that was connected to a decline in enrollment and a decision to reduce financial support to the college from the university. As explained earlier in this report, after the new curriculum was implemented, enrollment at the college fell dramatically. The university administration and the board of trustees asserted that the college had survived in recent years only by receiving subsidies from the five nonresidential campuses of Antioch University. They claimed that the university could no longer both "subsidize" the college and "remain competitive in . . . local markets." The support the college received from the other units had been negotiated and set, was relied upon by the college, and could not be easily replaced.

In declaring financial exigency for the college, the board of trustees asserted that the college's crisis was causing a crisis at the university, necessitating the suspension of college operations. A member of the board of trustees stated in an e-mail message to an AAUP staff member that, although the issue of saving the college versus saving the university was raised at the executive committee meeting as a potential subject of board discussion, Chancellor Murdock would not allow the discussion to occur. In fact, the wording of the Gateway report indicates that the administration had expressed its desire at the outset to declare financial exigency and close the college.

The investigating committee examined three measures of the university's financial health, using data from the university's IRS 990 forms and the audited financial statements from 2003 to 2008: the budget

surplus or deficit, the cash-flow position, and a composite index developed by the Ohio State Board of Regents based on ratios used to assess the creditworthiness of an institution. Although none of these measures is indicative of a financially strong Antioch University, the investigating committee finds that the data examined do not support a conclusion that the entire university was in "imminent financial crisis" or that the university, at least for the immediate future, could not have absorbed the college's financial crisis. Not only were alternatives to the declaration of financial exigency not explored, but, after the board did decide to declare financial exigency at the college, there was also no opportunity for the community to consider alternatives to suspending operations at the college. The investigating committee was able to identify a variety of suggestions that had been made before the declaration of financial exigency by, for example, the Gateway Commission and past presidents of the college that appear not to have been explored. Among these suggestions were salary and benefit concessions from the college faculty and staff; a larger payout of endowment income; an appeal to alumni prior to the declaration of financial exigency; the sale of certain assets, including the license of the college's public radio station; merging the college and Antioch McGregor and creating a separate board of trustees for the college, the absence of which was identified as a deterrent to alumni giving; and streamlining the university administration. The alumni, when they learned of the college's closing, proposed purchasing the college. As of the writing of this report, agreement has been reached for the alumni to purchase and reopen the college under its own governing board. Had the alumni known earlier of the severity of the financial crisis and, further, of the board's plan to close the college, they might have been able to work with the board to formulate a mutually acceptable resolution to the crisis without resorting to suspension of operations.

It may well be that a series of years like the 2007–08 academic year, with the college remaining open, would have ultimately led to the closing of the entire university. There is little evidence, however, that any alternatives to closing the college were given serious consideration.

D. DENIAL OF EMERITUS STATUS

All members of the Antioch College faculty received notice of termination of their appointments effective in summer 2008. Faculty members who had worked for the college for many years knew that this would be

their last academic position. On March 11, 2008, Interim President Andrzej Bloch solicited requests for emeritus status, summarizing the criteria in the faculty personnel policies: the candidate “(1) has completed at least ten (10) years of service to the College; (2) is at least 60 years of age; and (3) has attained the rank of associate or professor or equivalent.” At least two of the professors who requested emeritus status were not favorably recommended to the board by that body’s joint academic affairs and finance committees, even though both had fulfilled the criteria enumerated by President Bloch. Each professor had been at Antioch College for more than thirty years. One had served as the college’s president; the other professor had in 2005 negotiated retirement commencing January 2009. In the letter communicating the decision of the joint committees, which had considered five candidates for emeritus status, Chancellor Murdock stated that “the primary consideration for award of Emeritus is outstanding contribution to the institution in the areas of academic achievement/scholarship, teaching, and service. . . . Those candidates who were not recommended to the board were recognized as having excelled in a sustained way in the areas of service and teaching; however, there was no evidence of scholarly activity in many years, or the overall results of scholarly work were far below expectations set by the policy for the award of the title Professor Emeritus. Since scholarly activity is a prime consideration for the award of the honor of Emeritus, your name was not recommended by the joint committees to the Board.”

The two professors denied emeritus status, with whom the investigating committee spoke, were not aware of the criteria stated by Chancellor Murdock. They were surprised to learn that the finance committee of the board was involved in the decision, since virtually no financial obligations were involved in the decision to confer emeritus status and historically the finance committee had not been involved. The professors were never asked to provide supporting material regarding their scholarship or professional activity and, therefore, questioned the evidence on which the decisions were made. Finally, while the status of the Antioch College Faculty Personnel Policy in relation to a draft of a university policy on emeritus status is not clear to the investigating committee, even the February 2, 2007, draft of the university policy does not specify scholarly activity as the “primary consideration.” If a new policy succeeded the old policy, no faculty member with whom the investigating committee spoke was aware of any distributed announcements of changes in

criteria developed by the board. In fact, there seems as late as June 2008 to have been some confusion at the board level about criteria as evidenced by a description of the academic affairs committee meeting where faculty members’ requests for emeritus status had been discussed.

The investigating committee sees the criteria outlined by President Bloch as reflecting those criteria normally used by boards to reward emeritus status to professors whose scholarship, teaching, and service had already been evaluated as they moved through the ranks over their years at an institution. These evaluations are made primarily by those most capable of doing so: the faculty. Members of the board are not the appropriate persons to assess the scholarship of faculty members. If the university board did decide to use achievement in scholarship as a criterion for emeritus status, it should have developed with the faculty a procedure by which scholarship would be evaluated by those qualified to do so. The investigating committee finds that the two faculty members, both full professors with more than three decades of service to Antioch College, were denied emeritus status based on criteria previously unknown to them and applied without supporting evidence by persons, namely members of the board, not in an appropriate position to make such judgments.

E. THE FUTURE OF ANTIOCH UNIVERSITY AND ANTIOCH COLLEGE

Questions of faculty governance and academic due process will undoubtedly remain of paramount importance to Antioch College’s former faculty and will be critical for the future of Antioch University as a whole and for Antioch College, if, as now planned, it reopens as an institution independent of Antioch University.¹⁷ With Antioch College the only part of the university in which a tenure system was in place, issues of faculty

17. On June 30, 2009, the governing boards of Antioch University and of the Antioch College Continuation Corporation (an organization founded and funded by college alumni, members of the faculty and staff, and students) announced an agreement to establish a new Antioch College in Yellow Springs, legally separate from Antioch University and separately accredited, with its own governing board and administration. In addition to the Antioch name, the two institutions “will share common history and a continuing commitment to innovation in higher education.” The announcement anticipates the college’s reopening, with a very small entering class, for the 2011–12 academic year.

governance will continue to be a concern for the remainder of the university as well as a concern for a reopened college.

Currently Antioch University is more like a university system than a single college or university. Each campus sets its own tuition, with approval from the university's board of trustees, and its own salary scale and some fringe benefits, excluding retirement plans and health-care coverage common to all. Each campus currently has its own faculty handbook, although, as a result presumably of the recommendations of the Blue Book Commission, efforts appear to be under way to standardize faculty policies across the university.¹⁸ Faculty appointments are made and evaluations are conducted through separate sets of procedures developed at each campus, and degrees, programs, and curricula are also determined on a campus-by-campus basis. Similarly, each campus appears to formulate its own admissions standards, online and team-taught courses, and grading systems. There is very little contact between and among faculty members at the different campuses. With the decision by the Antioch University board to move to amend its bylaws effective February 2009 in order to create a new board of governors overseeing the entire university and new boards of trustees for each campus, the movement toward the university's becoming in fact a university system has accelerated.

The new campus boards will become the operating boards of each unit and will be expected to expand and encourage philanthropic support for each unit; to review and approve campus budgets, new programs, and new construction; to select the campus presidents; to review the campus president's performance; and actively to involve local and regional citizens who are committed to the values and traditions of a "true Antiochan education and philosophy." Simply put, the units will be functioning largely as independent institutions that are part of a university system, with the new board of governors acting as a planning and goal-setting body that will maintain ultimate control over the decisions of the campus boards and ownership of

the university's assets. A sound structure of faculty governance at each of the individual campuses, and at the university level when decisions of concern to the entire faculty are made, will be essential for the quality of higher learning in the system's future.

The 1994 AAUP statement *On the Relationship of Faculty Governance to Academic Freedom* emphasizes that "a sound system of institutional governance is a necessary condition for the protection of faculty rights and thereby for the most productive exercise of essential faculty freedoms. Correspondingly, the protection of the academic freedom of faculty members in addressing issues of institutional governance is a prerequisite for the practice of governance unhampered by fear of retribution." Similarly, the 1940 *Statement of Principles on Academic Freedom and Tenure*, which the AAUP jointly authored with the Association of American Colleges (now the Association of American Colleges and Universities), emphasizes the fundamental importance of a tenure system for the protection of academic freedom in teaching and research and for the provision of "a sufficient degree of economic security to make the academic profession attractive to men and women of ability." The *Statement on Government of Colleges and Universities* calls for the faculty, because it has primary responsibility for the teaching and research done at an institution, to have the key role in decision making in matters dealing with the academic program.

Clearly the current policies at the functioning units of Antioch University do not conform with the principles espoused in the above documents. Faculty members are not appointed under a system of indefinite tenure following a successful probationary period. Until the recent report of the Blue Book Commission, almost all full-time faculty members worked under one- or two-year appointments, renewable at the administration's discretion. The report urges the trustees to provide for three-year or longer term appointments. The investigating committee's interviews with faculty members from two of the campuses (Seattle and McGregor) suggest that their short-term appointments have an adverse effect on the expression of loyal opposition. According to these individuals, faculty members have felt they had to respond in a "hush-hush" manner to avoid possible negative repercussions.

Indeed, efforts to establish an AAUP chapter at Antioch McGregor collapsed when a key leader of the chapter being formed was peremptorily dismissed. The investigating committee cannot say whether this

18. "Report and Recommendation from the Blue Book Commission" (February 2008). This commission was created by the university, and its members included university administrators and a core faculty member from each of the university's units. Its charge was to analyze university-wide academic policies, employee contracts, and faculty evaluations.

action was retribution for his AAUP activities. Several faculty members interviewed from Antioch Seattle also report that during Chancellor Murdock's presidency of the Antioch Seattle campus, they perceived the academic environment as oppressive and hostile to faculty activists, especially those colleagues who were involved in a no-confidence vote against her.

The Antioch University administration has demonstrated a strong inclination toward secrecy. At times, the emphasis on secrecy effectively created gag orders in which faculty members were prohibited from speaking to the press on particular issues (such as a major capital project for Antioch McGregor) without specific permission from the administration and prohibited in general from communicating with trustees. Cases were reported in which a student newsletter was removed from campus mailboxes because of criticism of the McGregor building project (which also led to attempted censorship of the student graduation speaker), and the mere possibility of a faculty newsletter's reaching Antioch trustees was sufficient to prompt threats of disciplinary action against faculty members by the administration at Antioch Seattle. The emphasis on secrecy and top-down command and control of communication, it seems fair to say, has not been conducive to freedom of expression on Antioch campuses.

Faculty government at the campus level varies from campus to campus, with most campuses having faculty councils or assemblies. The Blue Book Commission survey of core faculty members at all of the campuses, which had a response rate of almost two-thirds, concluded that while a high percentage of faculty members were satisfied with the (then) current state of shared governance at their department level, only a small percentage (28 percent) agreed or strongly agreed with the statement that they were satisfied with campuswide governance, and the vast majority were dissatisfied with governance at the university level. The investigating committee's interviews with faculty members from the two campuses suggest that, absent tenure, while faculty members have some influence on academic matters, the lack of protection that tenure would afford them makes them unwilling to stand up to administration directives.

The Blue Book Commission report was written in the midst of a period when Antioch University was grappling with the question, "What is Antioch University without Antioch College?" The commission's recommendations were proposed "as initial steps within the context and vision of creating and nurturing an Antioch University with a new compact between faculty

and the institution; a robust academic environment built on our best traditions; a strong collaborative and supportive academic integrative center; security and growth for faculty and improved faculty work-life; and high expectations for engagement in scholarship, student learning, service, and institutional citizenship." Without developing a tenure system and a strong system of shared governance in which faculty members have the freedom to express their viewpoints without fear of repercussion, what is envisioned is highly unlikely to be achieved.

What about the new Antioch College? The committee is concerned about the role that the Antioch faculty members who were released when operations were suspended will play in the development of the academic program at a reopened Antioch College and in teaching there when operations resume. The investigating committee trusts that the Antioch College Continuation Corporation will appreciate the fundamental importance of the tenure system and will offer reinstatement to those whose appointments were terminated with the closing, restoring their tenure rights. Moreover, the committee trusts that the corporation will approve a system of shared governance when the college reopens, ensuring primary faculty responsibility for academic matters as called for in the *Statement on Government of Colleges and Universities*.

VI. Conclusions

The *Statement on Government of Colleges and Universities*, section 2b, paragraph 2, states, "When an educational goal has been established, it becomes the responsibility primarily of the faculty to determine the appropriate curriculum and procedures of student instruction." The Antioch University administration usurped the faculty's responsibility for the Antioch College curriculum by mandating the adoption of a renewal plan that called for a completely new curriculum that the faculty neither initiated nor approved. The ensuing events are an object lesson in the dangers of usurping the faculty's role; the administration- and board-mandated curriculum had a devastating effect on enrollment, student retention, and the general state of Antioch College. The intrusions of the administration and governing board into areas of primary faculty responsibility culminated in the decision to declare financial exigency for Antioch College and suspend its operations, terminating the employment of almost the entire faculty and staff, without meaningful prior consultation with a faculty whose normal governance responsibilities in the area were ignored. Members of the

Antioch College faculty, despite the difficult administrative conditions under which they served the institution, went on record with persistent analyses and warnings that, had they been heeded, might have averted the fiscal crisis.

The Role of the Faculty in Budgetary and Salary Matters, moreover, provides that “the faculty is expected . . . in its primary responsibility for the educational function of the institution, to participate also in broader budgetary matters primarily as these impinge on that function.”

The investigating committee, believing that the impetus for the new curriculum was primarily financial, finds that the administration and the board proceeded with its implementation without having revealed to the faculty the reasons for their decision to mandate a new curriculum and without having included the faculty in considering alternative solutions for the college’s financial problems.

The Role of the Faculty in Budgetary and Salary Matters further states:

At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and as specifically as possible of significant impending financial difficulties. The faculty . . . should participate at the department, college or professional school, and institution-wide levels in key decisions as to the future of the institution and of specific academic programs within the institution. . . . The faculty should play a fundamental role in any decision that would change the basic character and purpose of the institution, including transformation of the institution, affiliation of part of the existing operation with another institution, or merger, with the resulting abandonment or curtailment of duplicate programs.

The committee finds a lack of consultation with the faculty regarding both the college’s financial condition prior to the June 7, 2007, declaration of financial exigency and the process by which university administrators and board members had reached that decision. The determinations about the college’s state of financial exigency and the decision to suspend operations were unquestionably reached without faculty participation.

While the 1940 *Statement of Principles* provides for the termination of a continuous faculty appointment under extraordinary circumstances because of a demonstrably bona fide condition of financial exigency, Regulation 4c(1) of the Association’s derivative *Recommended Institutional Regulations* defines

financial exigency as an “imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means” and calls upon an institution to pursue “all feasible alternatives” to terminating faculty appointments. The investigating committee finds that the Antioch University administration violated these essential standards for continuing faculty appointments by issuing a declaration of financial exigency without having considered feasible alternatives.

Regulation 4c(2) of the *Recommended Institutional Regulations* states that “if the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full hearing before a faculty committee.” Since no hearings were held, Antioch College faculty members were denied the right to examine or challenge the decisions both to declare financial exigency and to invoke the most drastic abatement approach by ceasing the operations of the college.

* * *

In the remainder of this section of its report, the investigating committee sets forth a number of violations of cited provisions of the *Statement on Government* resulting from actions taken by the Antioch University administration and board of trustees.

Section 2c, paragraph 2 states, “Effective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or university. The channels of communication should be established and maintained by joint endeavor.” The Antioch administration and board violated this standard by moving budgetary oversight from Antioch College to the Antioch University administration without providing a direct mechanism for the exchange of information between the Antioch College faculty and Antioch University administrators and trustees. Antioch College faculty members were discouraged and even prohibited from communicating directly with Antioch’s board of trustees. Even the president of Antioch College was eventually barred from communicating with board members except through the university chancellor.

According to section 2c, paragraph 4 of the *Statement on Government*,

The allocation of resources among competing demands is central in the formal responsibility of the governing board, in the administrative authority of the president, and in the educational

function of the faculty. Each component should therefore have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections.

The Antioch University administration systematically reduced the flow of budgetary information to the Antioch College faculty and its governance bodies, including the Administrative Council. The Antioch University administration eliminated the position of chief financial officer at Antioch College, decreased the amount of financial information to basic levels, and eliminated any real input into the budget from the Antioch College faculty.

Section 2c, paragraph 5 of the *Statement on Government* provides that

Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon a cooperative search by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. The president should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty. The president's dual role requires an ability to interpret to board and faculty the educational views and concepts of institutional government of the other. The president should have the confidence of the board and the faculty.

The Antioch University administration named new presidents for Antioch College without meaningful consultation with the Antioch College faculty.

According to section 2d, paragraph 3 of the *Statement on Government*, "The right of a board member, an administrative officer, a faculty member, or a student to speak on general educational questions or about the administration and operations of the individual's own institution is a part of that person's right as a citizen and should not be abridged by the institution." The Antioch University administration repeatedly acted to limit the speaking rights of faculty members. Direct faculty communication with trustees was prohibited, and, as reported by faculty members interviewed, the mere possibility of a faculty newsletter reaching a trustee was sufficient to prompt threats of disciplinary action. Antioch McGregor faculty members were prohibited from speaking to the press regarding a major

capital construction project without specific permission from the Antioch McGregor administration.

Section 3, paragraph 1 of the *Statement on Government* provides that "[t]he governing board has a special obligation to ensure that the history of the college or university shall serve as a prelude and inspiration to the future." It hardly needs saying that the Antioch University board of trustees fell vastly short of meeting this special obligation.

According to section 3, footnote 3 of the *Statement on Government*,

Traditionally, governing boards developed within the context of single-campus institutions. In more recent times, governing and coordinating boards have increasingly tended to develop at the multi-campus regional, systemwide, or statewide levels. As influential components of the academic community, these supra-campus bodies bear particular responsibility for protecting the autonomy of individual campuses or institutions under their jurisdiction and for implementing policies of shared responsibility. The American Association of University Professors regards the objectives and practices recommended in the *Statement on Government* as constituting equally appropriate guidelines for such supra-campus bodies, and looks toward continued development of practices that will facilitate application of such guidelines in this new context.

Not only did the Antioch University administration and board of trustees fail to protect the autonomy of Antioch College. They also significantly undermined it by approving a shift of administrative functions from Antioch College to the university administration without ensuring means for communication or sharing of governance.

Section 4, paragraph 4 states that

[i]t is the duty of the president to see to it that the standards and procedures in operational use within the college or university conform to the policy established by the governing board and to the standards of sound academic practice. It is also incumbent on the president to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly, the faculty should be informed of the views of the board and the administration on like issues.

The chancellor, who is the chief administrative officer of Antioch University, failed to execute (or effectively delegate) these duties. Standards of sound academic governance, such as primary faculty responsibility for

the curriculum, meaningful faculty involvement in decisions on capital projects and resource allocation, and communication between faculty members and trustees all suffered at the hands of the university administration. Voices of faculty dissent were stifled by communication prohibitions.

According to section 5, paragraph 6, Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty. The Antioch University administration violated this basic principle of governance by not providing agencies for faculty participation in governance at the university level. The removal of administrative and budgetary control from Antioch College to the university administration deprived the faculty at Antioch College (and other Antioch campuses) of the opportunity to participate significantly in budgetary decisions. Moreover, the decision to cease operations of Antioch College raised issues of possible conflict with the institution's articles of incorporation, and reaching the decision without significant faculty consultation was clearly inimical to fundamental principles of academic governance.

VII. Final Observations

Antioch College was once a very special place with a unique mission and a clear niche among liberal arts colleges. Small residential liberal arts colleges can be costly to run and, by their nature, filled with faculty members and students who question decisions and who wish to take an active part in decision-making processes. These fundamentals form the core of a liberal arts education and make the best of these institutions dynamic and creative, and often a challenge to administer. Over decades, as the Antioch University administration turned its attention to other units—units without significant physical plants to maintain, without residential students, without tenured faculty members, and without strong systems of faculty governance—Antioch College gradually became the campus with the problems. In the absence of a board or university administration with a strong commitment to the centrality of Antioch College among the other university units, to the unique mission of this small residential

liberal arts college, and to an enduring system of shared governance, these factors inevitably led to the eventual closing of the college.

Just as violations of the AAUP principles enumerated in this report reveal a dysfunctional governance system at the college, as well as at the university, applicable AAUP-supported principles also provide a blueprint for shared governance designed to foster constructive engagement among members of the university community. Had each group—governing board, administrators, faculty members, and other concerned people—worked together, respected each other's competencies, and at the same time, not lost sight of the college's mission, Antioch University might have developed a sound renewal plan for the college's future. While respect for the principles of shared governance may not have been sufficient to ensure the life of Antioch College, without an active system of shared governance, the college had little chance of surviving as a healthy Antioch University institution.¹⁹ ■

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Investigating Committee

19. Chancellor Murdock commented on the foregoing conclusion as follows: "As with 'Monday morning quarterbacking,' second-guessing the actions of those in leadership roles is always tempting, and hindsight is done at leisure. In the real world of managing institutions of higher education, in real time, some decisions are difficult to say the least and they bring a variety of consequences which have [to] be weighed by those leaders. It is not surprising that some past trustees knew as little as they did about the non-residential campuses since the Board's agenda was always highly concentrated on college concerns and the grave issues facing that campus. That some college faculty were so ill-informed speaks to poor communication from the college leadership and lack of involvement of faculty within AdCil."

The Committee on College and University Governance has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

Chair: LARRY G. GERBER (History), Auburn University

Members: LENORE A. BEAKY (English), LaGuardia Community College, City University of New York; MARSHALL S. CLOUGH (History), University of Northern Colorado; NEIL W. HAMILTON (Law), University of St. Thomas; IRENE T. MULVEY (Mathematics), Fairfield University; PATRICIA A. SIMPSON (Human Resources and Industrial Relations), Loyola University Chicago; CARY R. NELSON* (English), University of Illinois at Urbana-Champaign, ex officio; GARY D. RHOADES (Higher Education), AAUP Washington Office, ex officio; MARY A. BURGAN (English), Washington, D.C., consultant; LAWRENCE S. POSTON (English), University of Illinois at Chicago, consultant; DAVID T. WITT (Family and Consumer Services), University of Akron, liaison from Collective Bargaining Congress; CATHERINE WARREN (English), North Carolina State University, liaison from Assembly of State Conferences

*Did not participate in the deliberation or the vote.