

R E P O R T S

Academic Freedom and Tenure HILLSDALE COLLEGE (MICHIGAN)¹

I. BACKGROUND

Hillsdale College is an independent coeducational liberal arts college located in Hillsdale, Michigan, a town of approximately 8,500 inhabitants some ninety miles west of Detroit and not far from the borders of Indiana and Ohio. Founded in 1844 in the town of Spring Arbor by a group of Free-Will Baptists under the name of Michigan Central College, in 1853 the institution was moved to Hillsdale and two years later it adopted the name of its new location. For most of this century the college was affiliated with the body now known as the American Baptist Convention, but it no longer maintains a formal church relationship. Current enrollment totals slightly more than 1,000 students, and there are approximately seventy full-time faculty members.

Hillsdale College presents itself to the public as a "conservative" institution, defining its conservatism primarily in terms of support for the free enterprise economic system and for traditional moral and social values. The college has refused to accept government money or to submit information under Title IX of the Education Amendments of 1972 relating to sex discrimination. After the Supreme Court's 1984 decision in *Grove City College v. Bell*, Hillsdale College raised some \$30 million to establish a grant-and-loan fund for students, eliminating their dependence upon federal aid programs.

Dr. George C. Roche III, president of Hillsdale College since 1971, received his Ph.D. degree in history from the University of Colorado, and on occasion he offers a seminar in history at Hillsdale College. Dr. Russell L. Nichols was vice president for academic affairs until June 30, 1987, when he left to assume the presidency of Hanover College in Indiana. Dr. John S. Reist,

Jr., who had been director of Hillsdale College's Christian Studies Program, succeeded Dr. Nichols as vice president for academic affairs on July 1, 1987.

This report is concerned with the decision of the Hillsdale College administration not to renew the probationary appointment of Dr. Warren Treadgold, an assistant professor of history. By letter of August 11, 1987, Professor Treadgold was informed that his faculty contract would not be extended beyond the spring semester of 1988. Professor Treadgold sought assistance from the Washington office of the Association, alleging that the administration's decision was based upon reasons that violated his academic freedom. Subsequent correspondence between the Association's staff and President Roche led to no resolution of the matter, whereupon the general secretary authorized the appointment of the undersigned *ad hoc* committee to investigate Professor Treadgold's case.

The investigating committee visited Hillsdale College on December 8 and 9, 1987. It met with Professor Treadgold and with eleven other members of the college faculty, including several who also hold administrative titles. Unfortunately, the committee was not provided with the opportunity to meet with President Roche, with Vice President Reist, or with the chair of the administrative division that houses the department of history and political science, Professor John Willson. President Roche had earlier written to the staff, and Vice President Reist to the members of the investigating committee, questioning the jurisdiction of the Association and rejecting its "offer" to investigate. While the committee could not meet with the administrative officers, it believes that the available written record and the testimony of those it interviewed are sufficient to support the findings and conclusions that follow.

II. THE CASE OF PROFESSOR WARREN TREADGOLD

Professor Treadgold completed his undergraduate and graduate studies at Harvard University, where he

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

received his Ph.D. degree in Byzantine Greek in 1977. Since then he has been prolific as a published scholar in the field of Byzantine history, authoring numerous scholarly articles and reviews and two monographs. His book, *The Byzantine Revival, 780-842*, is now in process of publication by the Stanford University Press, and he is currently working on a textbook, *A History of the Byzantine State and Society (284-1461)*.

After earning his doctorate, Professor Treadgold was faced with a scarcity of regular faculty positions in the field of his academic specialization. He secured an appointment as lecturer in classics at the University of

California, Los Angeles, during the 1977-78 academic year and another as lecturer in history and classics at Stanford University running from 1980 to 1982. He also held a series of fellowships, which permitted him to pursue his research interests. Still unable to find a regular position in a research university, Professor Treadgold accepted appointment beginning in September 1983 at Hillsdale College, where he has taught courses in ancient and medieval history.

During his second year (1984-85) at Hillsdale College, Professor Treadgold was granted a reduced teaching load in order to continue work on his *The Byzantine Revival*. He applied unsuccessfully for a Fulbright fellowship for the 1985-86 academic year and then secured support from the Earhart Foundation in Ann Arbor to finance a leave for the fall semester of 1985, which he spent at Oxford University completing the book. The Hillsdale College administration next approved a leave of absence for him for the 1986-87 academic year, so that he could accept a National Endowment for the Humanities fellowship. He then received an unexpected offer to teach at the University of California, Berkeley, as a visiting assistant professor of history and classics during the fall semester of 1986. The administration gave its approval for him to accept this appointment, and it subsequently approved an extension of Professor Treadgold's leave of absence through the fall semester of 1987 in order to allow him to have the full year of the fellowship in addition to the semester at Berkeley.

In a letter dated January 31, 1986, in which he approved Professor Treadgold's application for leave during the 1986-87 academic year, Vice President Nichols wrote: "I share the sense of pride in your work, Warren. I wish you success." He did point out that the leave would mean postponing a decision on tenure until the 1988-89 academic year, "assuming continuous teaching upon your return." Professor Treadgold replied on February 23, indicating his own plan to apply for tenure during the academic year 1987-88 and requesting a review of his salary. He noted that he had received very small salary increases, even though his "teaching evaluations are high and get higher every term. . . . Is my research not grounds for early tenure and for a salary of at least \$25,000?" Vice President Nichols responded on March 28 that the college tenure committee "did not want to hear early [tenure] requests," but he agreed to a "hypothetical (since you will be on unpaid leave) salary" of \$25,000 for the 1986-87 academic year.

On March 3, 1987, Professor John Willson, chair of the division and also an historian, submitted a merit evaluation of Professor Treadgold to the vice president. He wrote that "Dr. Treadgold sets the college standard for professional growth and publication. . . . His scholarship is of the highest quality as well as of superior quantity. . . . Hillsdale should not demand Warren's productivity for all its faculty members, but Hillsdale should continue to support at least some scholars of his ambition and intensity." Professor Willson also stated that Professor Treadgold's "teaching is clearly above the average." He continued, however, with the following cautionary statements: "It is not clear to me whether he [Professor Treadgold] will ever bring his enormous energy and powerful intellect fully to bear upon his teaching and advising. That is a matter of his choice rather than a matter of ability. His goals

are largely professional, putting teaching and institutional matters in second place. . . . Warren's direct service to the college community has suffered because of his unique scholarly opportunities, but in the short term we should not penalize him in this merit evaluation." Professor Willson concluded that Professor Treadgold "deserves a merit increase, based on good teaching and superior scholarship."

Two weeks later, on March 20, 1987, Vice President Nichols wrote to Professor Treadgold, enclosing his faculty contract for the spring semester of the 1987-88 academic year (i.e., for the semester following his return from leave). The salary quoted was based on a 4 percent annual increase as against "the baseline of 3½ percent for meritorious work."

The 1986-87 academic year was a time of controversy for several members of the Hillsdale College faculty, controversy which in its origin antedated Professor Treadgold's arrival. Some members of the faculty became convinced that the college needed to raise its academic standards, with a few of them talking of turning the institution into the "Harvard" or "Amherst" of the Midwest. They were encouraged in their ambitions by the success of President Roche in raising money, but when the administration decided to build a field house rather than devote these funds to the support of the academic program, as they would have wished, they became increasingly critical. The dispute became quite strident in tone, and in time the dissidents made charges of personal misconduct against the president. Many members of the faculty believed that those charges were unwarranted and that the criticism had become both irrational and disruptive.

The most outspoken of the dissidents appear to have been three members of the history and political science faculty; all subsequently resigned, two to accept teaching positions elsewhere and one to enter law school. They had played a role in the search process which brought Professor Treadgold to Hillsdale College, and he seems to have identified with them although he was not an active participant in the controversy. As indicated earlier, Professor Treadgold was on leave throughout the 1986-87 academic year when the controversy reached its peak. He spent the fall semester at Berkeley, but he returned to live in Hillsdale for the spring semester while working on his new book.

The student newspaper, *The Hillsdale Collegian*, reported in its issue of April 30, 1987, that the college's dean of women had initiated litigation against a member of the faculty whom she accused of making slanderous remarks about her to Dr. Reist (whose appointment as the next vice president for academic affairs had been recently announced). The lawsuit stemmed from a controversy involving the dean's role in the selection of a new editor for the newspaper. The defendant faculty member was one of those who had been an outspoken critic of the administration, and he had already submitted his resignation, effective at the end of the academic year. The newspaper further reported concern among some faculty members over the lawsuit. The article stated that Professor Treadgold and two other faculty members had prepared a letter to the editor questioning the propriety of the legal action. Commenting on the decision to submit the letter, Professor Treadgold was quoted as stating: "I felt the lawsuit was outrageous. There can be disagreements without placing the matter in the courts." The

letter appeared elsewhere in the same issue of the *Collegian*, signed by sixteen faculty members in all. It expressed concern that "this lawsuit endangers the mutual trust that must exist between our faculty and our administration." It called upon the dean to withdraw her suit and asked Dr. Reist to "do everything in his power to remove the threat of lawsuits from relations between administration and faculty."

In the months immediately following publication of the letter in the student newspaper, Professor Treadgold discussed the content of that letter and his future status at the college with Professor Kendall Brown, chair of the department of history and political science, with the chair of the division (Professor Willson), and with the vice president-designate (Dr. Reist). In June, according to Professor Treadgold, Professor Brown informed him that Vice President Nichols had proposed that his contract not be renewed on the grounds that he did not "fit in" at Hillsdale College. Professor Brown recommended that he talk with Professor Willson, who in turn suggested that he meet with Dr. Reist. Both Drs. Willson and Reist were upset by the letter, according to Professor Treadgold, but he assured them that the letter should not be taken as part of a broader protest against the college. Professor Treadgold states that he felt reassured by these discussions. Dr. Reist told him, in Professor Treadgold's words, "that despite disagreements he considered me a valuable member of the Hillsdale community."

Nevertheless, on August 11 Dr. Reist, by then the vice president for academic affairs, wrote to Professor Treadgold that "your contract for the 1988 spring semester will be the final contract issued to you." Two days later Professor Treadgold replied to the vice president, stating that the August 11 letter "came to me as a great surprise." He referred to Professor Willson's earlier favorable evaluation and to the merit salary increase granted the previous March. He noted that he had been on leave of absence during the 1986-87 academic year and that hence there could be no basis for a change in the evaluation of his performance. He also noted the conversations in June in which "both you and Dr. Willson not only indicated that I was a valued member of the Hillsdale community but saw no difficulty with my plans to apply for tenure this fall." Professor Treadgold concluded by requesting a written explanation for the decision not to renew his appointment. Receiving no response, he wrote twice again during the following weeks, reiterating his request for a written statement of reasons for the administration's action.

Professor Treadgold wrote to the Washington office of the Association in August, seeking its advice and assistance. The staff, in a letter to President Roche dated September 11, set forth the Association's concerns with respect to the notice of nonrenewal sent to Professor Treadgold and its potential ramifications for academic freedom. Vice President Reist replied on behalf of President Roche, stating that he was waiting for Professor Treadgold to make an appointment with him to discuss the administration's decision. He further stated that the Hillsdale College faculty handbook

"does not require that we supply in writing the reasons for the termination of any faculty member's contract if that faculty member is not on tenure."

The Association's staff encouraged Professor Treadgold to meet with Dr. Reist, and he did so on October 8, accompanied by Professor Brown. The meeting lasted approximately fifteen minutes and, according to Professor Treadgold's account, the discussion centered on Dr. Reist's contention that Professor Treadgold had impugned his integrity during a telephone conversation a few days earlier. Dr. Reist refused to discuss the matter of the notice of nonrenewal until Professor Treadgold had apologized for this alleged insult. Soon after this meeting Professor Treadgold wrote to the vice president confirming his spoken explanation for the remarks to which Dr. Reist had taken exception. Professor Treadgold also sought an explanation for a remark during their meeting he attributed to Dr. Reist that Professor Treadgold was "reaping the consequences of the things you have done." Is my assumption correct, wrote Professor Treadgold, "that you were referring to my part in writing and circulating the letter by faculty members to the *Collegian* of last April 30?"

In a letter dated October 22, Vice President Reist replied that Professor Treadgold's "assumption and assertions are incorrect" and confirmed that he would meet with Professor Treadgold on October 26, "but only without Professor Brown and without any other person at the conference." At that meeting, Professor Treadgold reports, Dr. Reist expressed his opinion that Professor Treadgold's action in writing and circulating the letter to *The Hillsdale Collegian* was "unwise, unbecoming, and unprofessional," but the vice president stated once again that he was unable to give an official reason for the administration's decision not to renew his faculty appointment. In sum, the Hillsdale College administration has refused to explain its action to Professor Treadgold or to the Association's staff or to the members of the investigating committee.

During its visit to Hillsdale College, the investigating committee met with Dr. Keith Meyers, assistant professor of early childhood education, who was by then serving in his seventh and final year on the faculty. Professor Meyers had been recommended for tenure by his program chair and by unanimous vote of the faculty tenure committee, but in May then-Vice President Nichols informed him that his candidacy for tenure was rejected. According to Professor Meyers, the vice president said to him orally that he was perceived as being "aloof from the faculty" and as having "been caught in a bad situation." Professor Meyers reported that Vice President Nichols later agreed to give him a written statement of reasons, but then called to say that the college's "guidelines" prevented him from doing so. The investigating committee is not in a position to comment on the substantive reasons for the administration's decision to deny tenure to Professor Meyers, but it does believe that the experience he recounted gives support to its concerns over the issues posed by Professor Treadgold's case, which will be expressed below.

III. ISSUES AND FINDINGS

A. Procedural Issues

The Association's 1971 *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* calls

for providing a faculty member who receives notice of nonreappointment, upon request, with an oral explanation for the decision; if the faculty member then requests

the reasons in writing, they are to be provided. The *Statement on Procedural Standards*, incorporating Regulation 10 of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*, calls further for a faculty member who alleges that a decision against reappointment was based significantly upon considerations violative of academic freedom to be afforded the opportunity for review of the allegation by a faculty committee under specific procedural safeguards.

The investigating committee finds that the Hillsdale College faculty handbook does not address these matters, and in his letter of September 21 to the Association's staff Vice President Reist specifically stated that the handbook "does not require that we supply in writing the reasons for the termination of any faculty member's contract if that faculty member is not on tenure." The administration's refusal to provide reasons in either oral or written form leaves abundant room for Professor Treadgold and others in the college community to question its motives. The investigating committee believes that an administration, in refusing to give reasons for notifying a faculty member of non-reappointment, becomes responsible for any impression of unfairness its action creates and for any resulting damage to faculty morale.

The faculty handbook of Hillsdale College is not only silent about furnishing reasons. It also fails to provide for a faculty appeals or grievance procedure, even in cases in which a violation of academic freedom is alleged. There was no formal internal procedure or mechanism available to Professor Treadgold through which he could pursue his allegation that the administration's decision was based upon considerations that violated his academic freedom. This committee finds that Professor Treadgold was denied the procedural safeguards that are commonly accepted in the academic profession and to which he was entitled under Association-recommended standards. The committee finds that the lack of these safeguards leaves the faculty of Hillsdale College with inadequate protection against an improper exercise of administrative power.

B. Academic Freedom

The 1940 *Statement of Principles on Academic Freedom and Tenure* provides that "during the probationary period a teacher should have the academic freedom that all other members of the faculty have." The investigating committee finds that Professor Treadgold was well within his rights as a faculty member when he helped to write and submit the April 30 letter that appeared in *The Hillsdale Collegian*. While some might question the decision to address this letter to the editor of the student newspaper rather than directly to the parties involved, the committee finds that the action fell well within the limits of the freedom of expression in matters of institutional concern which should be expected in an academic community. The investigating committee notes that the opinion expressed in the letter (i.e., that whenever possible academic disputes should be settled within the academic community) is an opinion shared by most faculty and administrators. Indeed, if there were a formal grievance system at Hillsdale College, the particular dispute that gave rise to the letter might well have been resolved through that system.

The refusal of the Hillsdale College administration to give reasons, to afford opportunity for appeal, and to enter into discussion with the investigating commit-

tee has hampered the committee in exploring Professor Treadgold's allegation that the decision of the administration not to reappoint him was based upon his role in writing and submitting the letter published in the *Collegian* and, hence, that he was not reappointed in violation of his academic freedom. The committee, in attempting to glean the reasons aside from the letter that the administration may have had, has had to construct what it can from statements of opinion and from evidence that is largely hearsay or circumstantial in nature. Under these circumstances, the committee's resulting comments should be considered tentative rather than conclusive.

From what the investigating committee could ascertain, many members of the Hillsdale College faculty were resentful of Professor Treadgold's absences from campus and of what they considered to be his failure to become more involved in the day-to-day work of the faculty. While Professor Treadgold was widely respected for his scholarship, he was not perceived as having made the kind of commitment to the institution which his colleagues expect. During his five years on the faculty of Hillsdale College, Professor Treadgold was on leave nearly half the time, for a total of four semesters distributed over three academic years, and he carried a reduced teaching load during two other semesters. Because of his absences from campus he has few student advisees. He is reported as having voiced his impatience with the ways of the institution on a number of occasions (having, for example, made clear his objections to participation in Parents' Weekend, a traditional event during which faculty members are expected to meet with parents visiting the campus). Indeed, Professor Treadgold informed the investigating committee that he had been seeking another regular position since his second year at Hillsdale College and that he would gladly accept such a position if one were offered.

The investigating committee senses that there was a difference of opinion over the adequacy of Professor Treadgold's commitment to Hillsdale College, much of it stemming from the difference in values and expectations between the typical small liberal arts college and the large research university. The committee was informed that Professor Treadgold's absences and his perceived lack of involvement in the day-to-day work of the institution had been a subject of discussion among the division chairs for at least two years prior to the decision not to reappoint him. Professor Willson, his division chair, expressed this concern in this previously quoted portion of his otherwise favorable evaluation dated March 3: "It is not clear to me whether he [Professor Treadgold] will ever bring his enormous energy and powerful intellect fully to bear upon his teaching and advising. That is a matter of his choice rather than a matter of ability. His goals are largely professional, putting teaching and institutional matters in second place." Professor Treadgold informed the investigating committee that he had been vaguely aware of these concerns, but that the administration had never expressed them directly to him.²

²Commenting on the text of this report sent to him prior to publication, Professor Treadgold stated that the administration has consistently stressed the importance of faculty publications and grants, that other faculty members have had leaves of absence and reduced teaching loads, and that he began to hear of concerns about his college service only after the administration began to suspect that he sympathized with its critics.

The investigating committee thinks it likely that Professor Treadgold's perceived lack of sufficient commitment to the Hillsdale College program played a major role in the administration's decision not to reappoint him. Had this commitment not been a matter of concern, the committee doubts that the letter in the April 30 *Collegian* would have led the administration to notify him of nonreappointment when it did. On the other hand, had the letter not appeared, the concern as to commitment may have resulted in a notice of nonreappointment at some future time, perhaps when Professor Treadgold would have been evaluated for tenure.

The committee is struck by the following sequence of events. In approving a leave of absence for Professor Treadgold for the 1986-87 academic year (later to be extended through the fall semester of the next academic year), Vice President Nichols had referred to the resulting postponement of a decision on tenure until the academic year 1988-89. On March 20, 1987, Vice President Nichols sent Professor Treadgold, then in the second semester of his three-semester leave of absence, a contract for the following spring that indicated an increase in salary slightly higher than the baseline for meritorious performance. On April 30, the Treadgold letter appeared in the *Collegian*. In June, Professor Treadgold reports, he was told by his department chair

that Vice President Nichols had proposed not reappointing him. Professor Treadgold reports that conversations that same June with Dr. Reist, who was about to succeed Dr. Nichols as vice president for academic affairs, led him to believe that Dr. Reist was supportive and was amenable to his applying for tenure in the fall. By letter of August 11, however, Vice President Reist provided Professor Treadgold with notice of nonreappointment.

It is apparent to the investigating committee that between March 20 and August 11, 1987, the Hillsdale College administration decided against retaining Professor Treadgold on the faculty beyond the one additional semester for which a contract had already been issued. If anything occurring during these months other than the appearance of the April 30 letter contributed to that decision, the administration has not revealed what it is. Indeed, the administration has consistently refused to give reasons for its decision. The investigating committee accordingly finds *prima facie* evidence, unrebutted by the administration, that Professor Treadgold's activity in the writing and publication of the April 30 letter, activity in which he had a right to engage under generally accepted principles of academic freedom, was the determining factor in the administration's decision to issue notice of nonreappointment when it did.³

IV. CONCLUSIONS

1. The administration of Hillsdale College, in notifying Professor Warren Treadgold of nonreappointment and refusing to provide him with any reasons and any opportunity for faculty review of the decision, denied him the generally accepted procedural safeguards to which he was entitled under the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*. The absence of these procedures leaves the Hillsdale College faculty poorly protected against any improper administrative action.

2. There is *prima facie* evidence that the Hillsdale College administration's decision to notify Professor Treadgold of nonreappointment when it did was determined by his activity, in the writing and publishing of the April 30 letter, that should have been protected under generally accepted principles of academic freedom.

EDWARD F. ROBINSON (History)
Bloomfield College, *Chair*

JOHN A. WILLIAMS (Physics)
Albion College

Investigating Committee

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

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

MEMBERS: JOAN S. GIRGUS (Psychology), Princeton University; PAUL A. KETCHUM (Biology), Oakland University; DANIEL C. MAGUIRE (Theology), Marquette University; THOMAS D. MORRIS (History), Portland State University; JOEL T. ROSENTHAL (History), State University of New York at Stony Brook; EDWARD F. SHERMAN (Law), University of Texas at Austin; CAROL SIMPSON STERN (Performance Studies), Northwestern University; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology; SAUL TOUSTER (Legal Studies), Brandeis University; WILLIAM W. VAN ALSTYNE (Law), Duke University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; JULIUS G. GETMAN (Law), University of Texas at Austin, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; MARY W. GRAY (Mathematics), American University, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.

³President Roche, writing to acknowledge receipt of a prepublication text of this report, reiterated the administration's decision not to participate in the investigation or report. He asserted that "the termination of Professor Treadgold's services was accomplished in full compliance with the college's published requirements," that "no abridgement of academic freedom has occurred," and that "it is unfair for AAUP to claim otherwise."