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THE planned 10-year review of Oxford's obligatory Employer Justified Retirement Age (EJRA) is apparently already underway. It will necessarily be centered on the need to take heed of the recent Employment Tribunal in the case of Paul Ewart (see below and *Oxford Magazine*, No.415, 0th Week, HT 2020) in which the scheme was ruled unlawful; "The discriminatory effect of the EJRA is clear.... The claimant's dismissal by way of retirement amounted to unlawful discrimination". The University is appealing.

One wonders what line the University's Legal Services and the external Counsel they employ will take. Will the timing of events have the effect that they are influenced by whatever the review – and Congregation's response to it – comes up with?

The 7-day ET and its 323-paragraph judgment were notably thorough and included detailed consideration not only of the arguments supporting Oxford's EJRA and the revisions resulting from the 5-year review but also of how the introduction of the EJRA was decided in the first place. The ET case followed on from the University's rejection of Professor Ewart's application for a second extension of his employment beyond the EJRA limit but the ET judgment hinged not just on determining on the issue of "unfair dismissal" in the specific case but centrally on the legitimacy from the standpoint of age discrimination of the scheme as a whole. In relation to age discrimination, the decision turned on "proportionality", i.e. whether the University's claimed legitimate benefits for maintaining a retirement age corresponded to a real need, were appropriate and necessary for achieving that end, and could and did outweigh the potential discriminatory effects.

The ET took into consideration the provision for ex-

EJRA – what next?

tensions within the EJRA scheme and how extensions are agreed or rejected, but ruled them irrelevant. The "discriminatory effect is not to any substantial degree moderated by the opportunity to apply for an extension ...the focus of the extension process ...is on the needs of the respondent, not the needs of their older employees." (para [259]). The ET was provided with statistics which showed that up to 2015 most applications for (time-limited) extensions were accepted, 125 in total: the fact

that this must – by delaying the freeing up of posts – incidentally have had the contradictory, if small, effect of diminishing the fulfilment of the University's stated objectives justifying the EJRA was, surprisingly, overlooked. No statistics were provided for the period after 2015 – since when processes have perhaps been tightened up – but successive extensions to senior posts are still occurring in the sciences.

Although the ET did not raise the point, it might well have wondered why the EJRA in Cambridge has apparently run without the procedural and legal challenges Oxford has experienced. The answer is, in part, that fewer staff fall under their EJRA scheme, but also it seems because retirement packages are agreed though individual negotiation on a case by case basis. Cambridge will, presumably, be content to let Oxford pick up the costs of settling the legality issues that affect both uni-

NOTICE

Please note that, due to the anticipated strike of Oxford UCU members, the appearance of the 8th Week issue of the *Magazine* may be delayed – eds

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...and much more

versities—along with St Andrews. The remainder of UK universities, of course, reach much the same end result without operating EJRA's.

What emerges from the 10-year review will at some point require the approval of Congregation. The degree of engagement of Congregation (and the whole University) in determining a policy of this fundamental kind will be a real test of our democratic self-governance. The matter is all the more important because it is widely agreed—including by Council—that Congregation is not working well at present.

The role of Congregation was a theme touched on by the ET. Counsel for the University “emphasised that the EJRA had enjoyed the support of Congregation and appeared to enjoy broad support amongst those of the respondent’s employees who were affected by it...” (para[303]). And yet, in the judgment’s view “the proposals simply do not seem to have had a high profile or to have attracted much interest amongst the respondent’s staff at the time [the EJRA was first introduced]”. (para[41.9]). The first statement is accurate in a formal sense: but the record suggests the latter statement is nearer the truth. In any event, the ET was clear as a matter of law that “what would otherwise be unlawful discrimination” could not be justified “by saying that those subject to it have broadly consented to or endorsed it” (para[303]).

The introduction of the EJRA originally involved two University-wide consultations in HT and TT 2011. The Personnel Committee reported that: “The consultation revealed broad support for the EJRA amongst all the divisions, the vast majority of colleges, and those members of the Oxford UCU who responded to the consultation. Two colleges are opposed in principle to the notion of a mandatory retirement age... Of the 19 individuals who responded views were divided 9:10 between those in favour and those against an EJRA”. The *Gazette* of 10th October detailed the scheme formally for approval by Congregation. The meeting was cancelled, by default.

A meeting of Congregation took place on 3rd May 2016; it gave approval to revisions of Statutes XII, XI and XIV which, *inter alia*, established Congregation panels (in place of the University Court of Appeal) for appeal hearings concerning extension refusals. In total there were 181 and 187 votes on amendments.

As part of the 5-year review in which a number of open presentations by members of the review committee had been arranged—and in light of a successful appeal in 2014 against a refusal of an extension in the case of Denis Galligan (*Oxford Magazine*, No. 355, 0th Week, HT, 2015); the judgment by Dame Janet Smith was highly critical of many aspects of the EJRA—a meeting of Congregation was called on 17th May 2016 (*Gazette*, 25th May 2016, Suppl. (1) to No 5133, Vol 146) on a 4-part motion; “That the EJRA be suspended forthwith...”. 121 voted for the motion, 149 against.

A discussion meeting was called on 2nd May 2017 (*Gazette*, 19th May, Suppl (1) to No 5167, Vol 147) for the final approval of the revised EJRA, to which two amendments were put down; 104 voted for the revised scheme, 19 against. A postal vote was called on Amendment 1; 1,142 voted against, 538 for. A second meeting was called for 16th May—before the result of the postal

vote was known—on the future of the EJRA at Oxford (*Gazette*, 24th May 2017, Suppl. (1) to No 5169, Vol 147). On the motion: “That the EJRA in the University of Oxford should be abolished”, 64 voted for, 143 against.

The following questions arise, questions that the 10-year review will hopefully soon be addressing, irrespective of the expected outcome of the University’s appeal.

Can the University’s adoption of an EJRA—which on the face of it has received an exceptionally thorough airing in Congregation—be said to have been representatively agreed to by Congregation? It is relevant to point out that the triggers for the later EJRA debates were disputes about extensions; but the Congregation meetings amply covered the pros and cons of the EJRA itself. On average, attendances at the debates were a mere 5% of the membership of Congregation and in each case it is likely that administrative defenders of the EJRA felt particularly obliged to attend. This low turnout is now the norm; it was similar, for example, for the meeting to give formal agreement to the most recent Strategic Plan on 30th October 2018 (a discussion meeting in which there was no voting) despite its momentous implications. At the meeting on 7th May 2019 to approve Parks College less than 50 members attended; there were 6 speeches (3 on behalf of Council) and only one in obvious opposition (*Oxford Magazine*, No. 410, 8th Week, TT 2019).

Should extensions be abolished? The provision for extensions in the original EJRA may, presumably, have played a part in making the scheme more acceptable than it might otherwise have been. But, the 5-year review showed that 25% of retirees would have preferred to stay on and the ET noted that the decision-processes involved in granting extensions were open to bias. Extensions may even be promised in advance as part of the conditions agreed for some incoming new appointments. Congregation needs to consider abolishing this provision both on grounds of unfairness and in light of the costs that will continue to arise from legal challenges, not forgetting, in particular, the costs to the individual academics involved. The costs to the University of four University Court of Appeal hearings between March 2014 and September 2017 were £613,000 (excluding Legal Services and other internal resource costs).

Are there satisfactory alternatives to extensions? Scientists need labs. If the University offered adequate (costed and funded) space in “research hotels”, for example, the incentive and need to retain University posts after retirement age would effectively disappear. Currently, in support of its EJRA policy, the University—but not funders themselves—debars application for funding to retirees; this would have to change. The ideal must be that every retiree is able to negotiate the package of conditions that best suit their individual objectives after retirement and that the University thereby gets the continuing benefit of their experience and expertise.

Will opinion in Congregation be adequately canvassed this time around and how is this to be achieved? The history of Oxford’s EJRA is an object lesson in the way Congregation is failing in its proper role—a view that is far from new (see *Reminders*). In response to the pensions fiasco in 2018 (*Oxford Magazine*, No. 397, 5th Week, TT 2018) Congregation members put down

a motion demanding radical reforms in the light of “an increasing gulf that has grown between Congregation and the Council, one that clearly led to the breakdown of governance and decision-making withinCouncil itself.” (*Gazette*, 26th April 2018, No. 5202, Vol 148). Council negotiated a cancellation of the proposed Congregation meeting on condition, apparently, that it urgently brought forward its 3-yearly “Effectiveness” review.

The resulting report (*Oxford Magazine*, No. 405, 5th week, HT 2019), now more than a year old, promised measures that sought to address the Congregation problem. Even though some of its recommendations have already been adopted by Council those concerning Congregation’s *modus operandi* appear to be in limbo.

T.J.H



Reminders



The following extracts are taken from the Commission of Inquiry (North) Report of 1997.

One of Oxford’s most distinctive characteristics, much valued by many, is that it remains a self-governing community of scholars, whose members, in theory at least, enjoy the opportunity for a high degree of direct involvement in its governance. (4.45)

Of 72 stated meetings in the four years 1992-96, 12 were held for debate, and a further 6 were held for “technical” reasons; however 41 were cancelled because all the business was straightforward and unopposed, and for the remaining 13 there was no business. (4.49)

[Postal] votes can provide a valuable way of testing opinion within the University and of securing a decisive view on a difficult matter. They are however rare, and even when they take place only a minority of those eligible usually vote. For example in the last 10 years such votes have been held on only seven occasions. The highest response rate was 48 per cent (in the vote in 1997 on the question of the siting of the new Business School), the lowest 19.5 per cent. Nor of course do postal votes allow the exchange of ideas or discussion of options which are a valuable feature of a debate; nor are they without cost. (4.52)

[In elections of Congregation representatives on Council] “three out of the last four of these [involved] approximately one third of the eligible electorate.” (4.55)

[We believe that Congregation should remain the University’s sovereign body, since its authority is a prime expression of Oxford’s identity as a self-governing academic community. However there are... aspects of its present structure which could be improved, and we are concerned that unless they are then the rationale for self-governance will be undermined. In particular, if Congregation is to remain a large body of over 3000 members [now 5000 plus], its responsibilities must be appropriate to a body of such a size, and the procedures through which it discharges them must be effective. (4.46)

We believe that Congregation’s procedures need re-examining so that it can discharge its functions more effectively. (4.48)

We are ...concerned that Congregation’s procedures do not encourage the general discussion of broad policy matters. (4.51)

We recommend that the Council should consider whether it should submit to Congregation a regular report on the business it has conducted and, if so, whether this should be on a termly or annual basis. (Recommendation 9)

The EJRA, an inside story

PAUL EWART

THE Nobel prize-winning economist, Paul Krugman, introduced the notion of a zombie idea, describing it as “an idea that should have been killed by evidence, but refuses to die.” An analogous term might be coined for ideas that depend upon evidence for their validity but have never had any, like a zombie living without any nourishment. Belief in such ideas can be maintained by rhetoric but only by those determined to resist the power of reason. The EJRA is such an idea. Oxford University seems determined to persist with its Employer Justified Retirement Age policy in spite of an Employment Tribunal ruling that it is unjustified age discrimination.¹

In our adversarial judicial system rhetoric is often pitted against reason. As the claimant in the recent Tribunal case I have had a closer look than most members of Congregation at the University’s arguments and operation. I write this piece, on the basis of my notes at the time, to highlight the University’s approach to evidence as it continues in thrall to a zombie idea.

The University justifies the EJRA as essential to “safeguarding the high standards of the University in teaching, research and professional services”. It cites several legitimate aims to justify the policy such as improving gender diversity, inter-generational fairness, succession

planning, etc. It relies also on the report and recommendations of the 5-year Review Working Group (RWG), and the votes in Congregation to endorse and retain the policy. Furthermore, it can cite the Employment Tribunal ruling in its favour in the case of Professor John Pitcher. How are we to assess the validity of this stance in the light of evidence or its absence? Let's consider each of these points in turn and pay particular attention to the University's approach to evidence.

First, there is no evidence that the EJRA has any effect at all on maintaining high standards. In fact, this assertion is naked ageism, implying as it does that academic performance decreases with age.

Second, having legitimate aims is insufficient for justification. The Employment Tribunal in my case focussed on justification and the legal requirement that the policy be *proportionate*. The rhetoric justifying Oxford's EJRA is that it creates vacancies to increase diversity and opportunities for younger people. Proportionate, however, means it must actually contribute to achieving the aim, the discrimination involved must be significantly outweighed by the benefit of the aim and there are no less-discriminatory means that can be used instead. The onus is on the employer to provide objective evidence and to demonstrate proportionality. As the Tribunal commented, this can be done by "*reasoned projections*". (*op. cit.* §269) Although it is recognised that it would be difficult to find direct evidence of any effect on the aims, it is eminently possible to assess the effect on the rate of creating vacancies. The Tribunal noted, "*Despite this, the respondent has never properly attempted to assess or measure the extent to which the EJRA achieves the creation of vacancies which would not otherwise arise.*" (*op. cit.* §276) and "*The only real attempt we have seen to do this is the claimant's attempt,*" (*op. cit.* §277)

My "attempt" is based on the core skill for aspiring scientists that I often looked for when assessing candidates at Entrance to read Physics. It's a variation of the "Fermi problem" – Fermi asked, given there are 1 million people in Chicago, how many piano-tuners are there? My version asks, given there were 120,000 people in Oxford (in 1980s), how many barbers were there? Reasonably accurate answers can be obtained using sensible approximations and any available data. Similarly we can estimate the EJRA's effect on creating vacancies. An EJRA changes only the rate of vacancy creation by bringing forward some vacancies that would occur in any case – no one works for ever! Assuming, initially, that vacancies arise only by retirement and everyone extends their careers by 10%, then the EJRA changes the rate of vacancy creation by, at most, 10%. (Statistical data indicates that most academics who delay retirement do so for only 2 or 3 years i.e. less than 10% of their career.) However, not everyone stays until the EJRA and data show that at Oxford only 40% of vacancies are due to retirement. Thus the 10% more vacancies is reduced to 4%. Of those who stay until the EJRA, data showed that only about 25% wished to stay longer, but even allowing for 50% to do so, the rate change of 4% reduces to 2%. Relaxing the approximations gives an effect in the range 2–4%.

The Tribunal concluded that this was a trivial effect and "*On the question of proportionality the respondent has not shown that the EJRA contributes to or is expected to contribute to achievement of those legitimate aims to a*

sufficient extent to justify the discriminatory effect of the measure on older staff." (*op. cit.* §285)

The comment that such a trivial effect is not expected to contribute to achieving the aims bears upon the Pitcher case, where that judgment was influenced by the argument that "*it would take time*" to see the effect. That Tribunal did not have the benefit of this estimate or the statistical evidence supporting it – but more of that later.

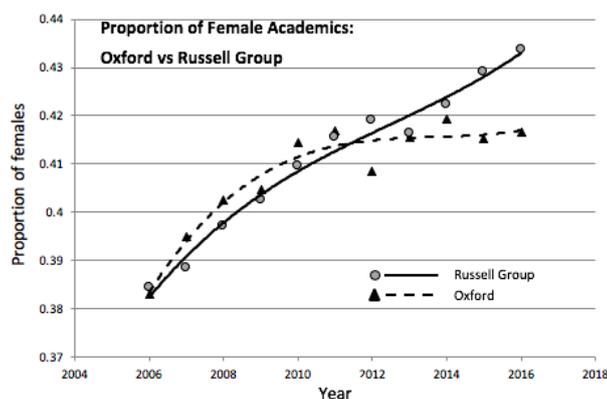
Third, did the RWG produce any evidence to justify its conclusion? When the University introduced the EJRA in 2011 it committed to monitoring its effectiveness by comparison with the rest of the Russell Group of UK universities that did not have an EJRA.² Although reason supports such a comparison, the RWG failed to make the study. Therefore, I commissioned an analysis by the University's own Statistics Consultant, Dr Daniel Lunn, using data from the Higher Education Statistics Agency, HESA, for all the Russell Group over the years 2006–2017. The analysis found no evidence whatsoever of any effect of the EJRA on gender diversity. Nor was there any effect on opportunities for younger people, indicated by the proportion of academics over the age of 67 occupying posts. This lack of evidence is entirely consistent with the "trivial" size of the EJRA's effect on vacancy creation. A previous statistical study by Dr Lunn, using the RWG's own data, had shown that there was no evidence to support the Group's claim that the EJRA was making a "substantial contribution" to achieving the aims.³ The best response that the Chair of the RWG, Professor Irene Tracey, could offer was the rhetorical remark that "*Absence of evidence is not evidence of absence*".⁴

The assertions of the RWG also sit uneasily with the University's submissions to both Employment Tribunals. Council accepted the report's assertion that the EJRA was making a "substantial contribution" by the creation of vacancies but the University then told both Tribunals that it is too soon to tell. This inconsistency shows a cavalier disregard for evidence and borders on the dishonest.

The best the University could do, at Tribunal, was to point to a small increase in the proportion of females at Statutory Professor grade. However, Ms Sarah Thone-mann, the University's witness-in-chief and head of the HR policy responsible for the EJRA, admitted under cross-examination that no causal link could be established between this increase and the EJRA. This admission further undermines the unsubstantiated assertion by Professor Tracey's report that the EJRA was making a substantial contribution.

In light of this admission it seems that Congregation has been seriously misled. It needs also to be remembered that all the votes on the EJRA were taken while the University kept secret from Congregation the two judgments of its own Appeal Court under external judges, Dame Janet Smith (Galligan) and Sir Mark Waller (Edwards), that the EJRA was unlawful. It is also noteworthy that, having lost the argument in its own Court, the University moved the goalposts and prevented any further EJRA appeals to this Court, including mine. My appeal was heard and rejected by an internal panel expressly prohibited from considering the lawfulness of the EJRA. In any case, the votes in Congregation do not change the facts of the case regarding proportionality. The Tribunal ruled, "*The respondent cannot justify what would otherwise be unlawful discrimination by saying that those subject to it have broadly consented to or endorsed it.*" (*op. cit.* §303)

The story of the University's approach to evidence is a sorry tale. At the preliminary hearing in my case in 2017, the University sought a 12–14 day hearing because, it said, they had a lot of statistical evidence to present.⁵ When I sought disclosure of this evidence, none was forthcoming. I then purchased, at considerable expense, data from the Higher Education Statistics Agency, HESA, relevant to the claims made by the RWG regarding diversity and intergenerational fairness. The University could have provided this information to me at no cost but did not do so within the time frame of the FoI request. Without knowing what the data would show I provided it to the University and simultaneously to Dr Daniel Lunn of the University's Statistics Consultancy Service. I made my own analysis of the data which was confirmed in a report by Dr Lunn based on his rigorous statistical analysis. The University objected to having this expert witness evidence at the Tribunal arguing that they had not had the opportunity to obtain their own expert report or agreed a joint-expert. They also made the outrageous accusation that Dr Lunn was biased and an opponent of the EJRA.⁶ This not only egregiously impugned the professional integrity of a highly respected Statistician but is also a plain untruth, denied strenuously by Dr Lunn. The University also sought to have my presentation of the HESA data excised from my witness statement, claiming, again without evidence or truth, that I had "cut and pasted" from Dr Lunn's report.⁷ In the event, the Tribunal decided to proceed without expert opinion but allowed my witness statement and its data evidence to be admitted. This proved to be an important factor because it substantiated the finding of my reasoned projection of the trivial effect of the EJRA on vacancy creation. There was no statistical evidence whatsoever that the EJRA was having the effects claimed for it in terms of gender diversity or intergenerational fairness.



The above figure shows the proportion of women at the same aggregated HESA-defined academic contract levels in Oxford compared with that in the other Russell Group universities.⁸ This figure, which compares like-with-like, is one of several taken from my witness statement to the Tribunal to present graphically the HESA data. The data cover the period 2006/07 to 2016/17, i.e. 5 years before and after the abolition of the default retirement age, DRA, in 2010/11. The trend to improvement in gender diversity in the Russell Group continues even without an EJRA whereas in Oxford, with its EJRA, the improvement stalls after 2011/12. The HESA data also showed that the proportion of academics staying in post beyond 65 in the

Russell Group remained small at 3.8%, 5 years after abolition of the DRA i.e. there is no evidence that posts were being "blocked" by older academics.

The reason why the University objected so strenuously to having this evidence before my Tribunal seems clear. It did not assist its case. The University's counsel therefore abandoned using statistical evidence claiming, instead, that it was obvious, as he put it, that the EJRA would achieve its aims and evidence was unnecessary. The Tribunal disagreed saying, "*The extent to which compulsory retirement increases the rate of vacancy production is not [Cockram]-obvious or a matter of common sense, nor is the related question of whether this outweighs the discriminatory impact on older workers. That is at the heart of the question of proportionality and the challenge that the claimant brings in this case.*" (op. cit. §264)

Finally we note that, in Professor Pitcher's case, the University succeeded in keeping this statistical evidence and reasoned argument out of the Tribunal. Without this crucial evidence, relating to the proportionality issue, this Tribunal reached a different conclusion based on the notion that "*it will take time*" for the scheme to take effect. However, as a matter of law, as the Tribunal in my case stated, "*There is no provision in the Equality Act for such schemes to be permitted on a trial or experimental basis without the need for any justification. The respondent has a duty to justify the discriminatory measure right from the start.*" In any case, the "reasoned projection" of a 2–4% change in vacancy rate shows that the policy can never be proportionate no matter how long we wait. Crucially, there is no justification for delaying action until the completion of the 10-year review. The expectation that this will somehow reveal evidence of a substantial effect is another zombie idea!

In conclusion, I admit that my use of "zombie idea" to describe the EJRA is also rhetoric. In my defence, I used it to capture your attention in the hope of directing thoughts to reasoned argument and evidence. If Congregation is to take its responsibilities seriously it must base its decisions on reason not rhetoric. It needs to move quickly to kill off the EJRA before further reputational damage is done or more active and productive academics are dismissed unnecessarily and unlawfully.

¹ Judgement of Employment Tribunal, Case Number: 3324911/2017 (bit.ly/2SssP9s).

² See, for example, Minutes of Personnel Committee PC(14)41 and Council minutes C(14)121.

³ Report of the EJRA working group, January 2017.

⁴ *University of Oxford Gazette*, Supplement (1) to No 5167, 10 May 2017, page 442.

⁵ Respondent's agenda for preliminary hearing Claim No 3324911/2017, Watford Employment Tribunal, 18 August 2017.

⁶ Letter to Employment Tribunal from University Solicitor Ref: 3324911/2017, 30 June 2018.

⁷ Letter to Employment Tribunal from University Solicitor Ref: 3324911/2017, 12 July 2018.

⁸ Claimant's witness statement, Employment Tribunal Case Number: 3324911/2017.

The diminishment of democracy in Oxbridge

G.R. EVANS

OXFORD and Cambridge are alone in the world in having preserved ultimate academic sovereignty in their universities, in Congregation in Oxford and the Regent House in Cambridge. But the continuing survival of that long-defended academic rule requires a degree of active participation by those privileged to have a part in it.

The franchise

In the early nineteenth century the problem was not too little participation but too much. A key stage in the mid-century was the taking of the decision – for practical reasons – to stop including thousands of their graduates (the present Convocation in Oxford and Senate in Cambridge) in the day-to-day decision-making of the two universities. Decades after graduating, living far away and out of touch with current university politics, many still eagerly wanted to exercise their right to vote.

Lord John Russell pointed out in a debate in the Commons in March 1854 that for Oxford the ‘principal ruling body’ had originally been the ‘Congregation of the leading resident tutors, and professors’.¹ The proposal was to return to that convention, though it was not achieved without controversy.

But was there not a danger that in restricting the vote in the University’s affairs to the comparatively young men who served as Fellows of the Colleges until they married and then often moved to a clerical living elsewhere. Might they not be only too engaged with the University politics of the moment? Joseph Henley (1793-1884), Conservative MP for Oxfordshire, feared that:

*‘if they narrowed down to a small section, which might not be more than 100 persons, they might find 100 young men in Oxford, or in any other place, he did not care where, who might give an impetus to a particular set of principles’.*²

‘There had’, he said, ‘been small sections floating in the University from time to time, composed of young men, who, with their ardent spirits, naturally entertained strong opinions’ and there would be other dangers from factions.³ ‘That would be the governing body, and he did not think it satisfactory’.⁴

At the time, Convocation included all ‘those who were masters of arts and have manifested their attachment to the University by retaining their names in the books’, whether ‘resident at Oxford or not’. But the numerous members of Convocation living elsewhere with ‘sons or relatives to be educated at Oxford’ surely had a close interest in the conduct of its affairs? Also excluded, pointed out the Chancellor of the Exchequer, would be the resident graduate clergy of Oxford and the chaplains of the colleges who were not teaching in the University.⁵ This all took some resolving to allow for the creation of the prototype of the modern Congregation.

The powers of that body of resident teaching (and latterly research) MAs were defended for with success in leg-

islation of 1854, 1877, 1923 and through the framing of new statutes by the Franks Commission and lastly those which came into force two decades ago post ‘North’.

Today the driving concern about the extent of the franchise is rather different. It has come to seem socially less acceptable to separate an enfranchised academic ‘nobility’ from a ‘peasantry’ ‘without the vote. In 1966, the Franks Commission could still accurately describe Congregation as ‘in effect the teaching and research staff’ and it was essentially this academic community which could ‘put forward a Resolution’ or ask a Question.⁶

Now, and especially since the Education Reform Act 1988 s. 203(4) included academic-related staff in its protections, the senior administrators in both universities have voting membership. In the case of Congregation that depends partly on the basis of the grading introduced under Higher Education Role Analysis. In the case of the Regent House the holding of a University Office, that is an established substantive post as listed in the Statutes, remains the fundamental qualification for administrator membership.

The extent of the franchise has been in discussion in both universities. In Oxford controversy has arisen over the exercise of discretion by heads of department and others in the case of a number of post-holders (*Oxford Magazine*, No.406, 8th Week, HT 2019). Cambridge has launched ‘mycambridge’, ‘designed to unlock the potential of our professional services staff in support of the mission of the University’ but not connected with an award of the franchise. Nevertheless, Cambridge has seen a major review extending Regent House membership, for example into unestablished posts, with a hiccup recorded in the *Magazine* (*Oxford Magazine*, No. 416, 2nd week, HT 2020) when the once-a year publication of the Roll of the Regent House left off some new names.

In Cambridge the Board of Scrutiny, whose members – apart from the Proctors who are members *ex officio* – are all elected by the Regent House, makes an Annual Report to the University, which automatically prompts a Discussion. It also merits a published Council Notice in response. The one for this year appeared in the *Reporter* of 5 February.⁷ Among the topics on which the Board of Scrutiny had made recommendations was the slow progress of the ‘Governance Review Working Group’:

‘While it recognises that the University’s constitutional wheels sometimes turn slowly, it is concerned that a working group set up in May 2017 by the Council with a remit to consider three items, viz Regent House membership, Council membership and Discussions, appears to be making such slow progress.’

It requests ‘that the Council publish a timetable for the Governance Review Working Group to conclude its work’. The Council Notice proposes merely ‘indicative votes of the Regent House to gauge support’.⁸

Why the decay in active engagement?

But a body once small enough to meet like Athenians in an Agora has grown far too large to cram itself into the Sheldonian and it has long ceased to be the norm for academic staff to be routinely up-to-the-minute in their grasp of the University's affairs. This may be in part a result of the traditional format of the official record in the *Gazette*, though there would be significant problems with the proposed adoption of an informal and user-friendly language (in the style of the Public Affairs Directorate?).⁹ But a tendency for members of Congregation not to 'keep up' also reflects a widely-acknowledged lack of full and frank transparency by Wellington Square. The *Oxford Magazine* has been pressing hard for better communications (*Oxford Magazine*, No. 405, 5th Week, HT 2019) and the recent *Effectiveness Review* of Council acknowledged the same need.

However, better communications will need to be met by a heightened and active interest by members of Congregation in ensuring that they are told all they need to be told before approving proposals put to them. In the last few years Congregation has bared its teeth several times in Debate. Oxford Debates are much less frequent than Cambridge Discussions though better-attended.

That reflects the different machinery for communicating with the two universities' legislative governing bodies. In Oxford a search of the online (since 1993-4) *Gazette* yields 1,633 hits for 'Meeting of Congregation'. That does not of course mean that so many Debates took place. A given Meeting of Congregation is announced in the *Gazette* more than once and often finally to announce that, no notice of opposition having been received, the Meeting is cancelled. The *Gazette* has published Debates only since 2005, with the exception of special cases, such as when a postal vote meant that it was necessary to enable those who had not been present to read what had been said. The *Oxford Magazine* from 1883 helped fill the gap with lively summaries.

In Cambridge the Council publishes a *Report* to the University, sometimes conjointly with the General Board. By convention it 'begs leave to report to the University as follows' and any proposals take the form of mere Recommendations. All such *Reports* come up for actual Discussion at the next opportunity, usually fortnightly in term. All members of the University may speak and all remarks are published in the *Reporter*. The *Reporter* has long published speeches in Discussions, in reported speech until the mid-twentieth century and then verbatim. After the Discussion there is an opportunity for Council to publish a *Notice* in reply to the remarks, which it usually does when there is controversy, though sometimes only months later. Then Council publishes a Grace, a legislative act for the Regent House to approve, as required for both Statutes and Ordinances. The Grace is automatically approved ten days after publication unless a *non placet* is called or an amendment proposed. That requires a vote, which is always taken by post.

However, the more frequent and less contentious reporting providing regular opportunities for Discussion does not prompt any more regular active academic participation than happens in Oxford. In Cambridge too it is usually only the contentious proposal or 'topic of concern' that fills the Senate House and prompts a long list of speeches. *Reporter* after *Reporter* notes that noone spoke

on a *Report* when it was offered for Discussion, and the Senate House frequently has few attending even when speeches are made.

There is a contrast between the 'all-may-speak' and 'all-must-be-heard' convention of Cambridge Discussions and the highly restrictive 'speak with permission' adversarially-arranged form of an Oxford Debate. This seems to have grown more restrictive of late. Speakers are kept to strict (and short) time limits. Before the debate on Parks College on 7 May last year, the instructions were that:

*'It would be helpful if members of Congregation intending to speak would explain in no more than 25 words whether they wish to speak in support of, or in opposition to, the legislative proposal, the resolution or the amendment to the resolution, and whether there are particular issues they intend to address, to assist with determining the order in which speakers are called.'*¹⁰

A search of the *Gazette* suggests that this form of words has grown more specific in the last few years and now seems to permit a great deal of power to the Vice-Chancellor to control what is said in the time available.

In both Oxford and Cambridge students lack the vote but can prove effective in ensuring that a well-attended Debate or Discussion takes place on a topic of current concern. As I write Oxford is awaiting a Debate on March 10, on a Resolution on the graduate application fee initially prompted by graduate student concern (see article by Benjamin Fernando below). The *Cambridge Reporter* records a mammoth Discussion on 1 May 2018 on the standard of proof in student disciplinary cases. That was promoted by students. Unusually it took three weeks to publish what Cambridge convention describes as 'remarks', because so much spoken text had to be proofed.¹¹

A shifting in the balance of power towards oligarchy?

In Oxford, what was until the end of the century a rotating Vice-Chancellorship among the heads of house has post 'North' become a salaried seven-year term of office. A body of academic-related administrators has expanded to deal with the growing demands of modern legislation and the external regulation of higher education.

A subset of this group works in an indeterminate relationship with the Council, which includes members elected by Congregation and *ex officio* members. Under Statute VI,1 Council:

'shall be responsible, under the statutes, for the advancement of the University's objects, for its administration, and for the management of its finances and property, and shall have all the powers necessary for it to discharge these responsibilities.'

However, in its recent *Effectiveness Review* the Council admits to concerns:

'about the pre-digested nature of much Council business. Some members felt that there should be an opportunity for Council members to be engaged at an earlier stage of the development of proposals.'

It is also noted that:

'It was unclear how members of Council could influence the agenda of meetings, members of Council felt that they lacked a mechanism for raising items of business in a timely way for inclusion in the agenda.'

There is a call for members of Council to be given more information about the 'content of debate at Council committees' so that they could understand the better 'which issues were raised during committee discussions'. Otherwise they were approving their recommendations in the dark.

The 'Senior Leadership Team' is a relatively new expression in Cambridge but increasingly frequently used. The University's HR website also explains that Cambridge has a central senior administrative team, 'responsible for the management of the University'. Neither of these 'teams' seems to appear in the Statutes and Ordinances.

What exactly now falls to these 'senior leading' members?

*'The Council approved a proposal for a new risk management process in January 2019, together with a new risk management framework. The framework is designed to allow the senior leadership team to consider the University's key risks in a more meaningful way, and within the context of the University's evolving priorities, before the University's risk register is scrutinised and approved by the Audit Committee and the Council.'*¹²

The Council's *Annual Report* also notes that:

*'In April 2019, the Council drew on a revised draft of the Priorities Framework to help identify the top priorities for action. In July 2019, following further refinement, the Council saw a first draft 'programmes of action' for the next three years. Over the summer, the Vice-Chancellor circulated the draft programme to various groups for consultation and the senior leadership team met to discuss the draft alongside indicative costings. An updated version with an outline of costings returned to the Council in September 2019.'*¹³

This circulation omitted consultation with the Regent House and mention in the *Reporter* until February 2020.¹⁴

So the reality in both universities has become that in practice much power lies with a small group who have become largely unaccountable to Congregation and only partly accountable to the Council. In Oxford there is the well-documented and salutary example of the secrecy with which the planning of Parks College was conducted and effected by a tiny group of 'senior University officers' (*Oxford Magazine*, No. 406, 8th Week, HT 2019)¹⁵. Aristotle could see merits in an 'aristocracy' in the sense of 'rule by the best', but great dangers in an oligarchy.

A problem shared in both Cambridge and Oxford

The call for 'One Oxford' has its inexact counterpart in Cambridge's cry of 'ourcambridge'. But where at present is the sense in either university of that personal and surely precious membership of a corporate *universitas* on which both were founded? If academics in either university do not want to be sidelined and managed by the new-style 'leaders' it is in their hands whether, by engaging the power available through Congregation and the Regent House, they defend their freedoms, collegiality and values or not.

¹ HC Deb 17 March 1854 vol 131 cc892-915.

² HC Deb 04 May 1854 vol 132 cc1252-75.

³ 'Young men in a hurry' were still a concern in Francis Cornford's *Microcosmographia Academica* (Cambridge, 1908).

⁴ HC Deb 04 May 1854 vol 132 cc1252-75.

⁵ HC Deb 04 May 1854 vol 132 cc1252-75.

⁶ *Report of Commission of Inquiry* (Oxford, 1966), Vol. I, p.293, paras. 446-8.

⁷ <https://www.admin.cam.ac.uk/reporter/2019-20/weekly/6563/section5.shtml#heading2-11>

⁸ <https://www.admin.cam.ac.uk/reporter/2019-20/weekly/6576/section1.shtml#heading2-4>

⁹ *Effectiveness Review* of Council, 2019, not openly published.

¹⁰ https://gazette.web.ox.ac.uk/sites/default/files/gazette/documents/media/congregation_-_1_to_no_5237.pdf

¹¹ <https://www.admin.cam.ac.uk/reporter/2017-18/weekly/6507/section10.shtml#heading2-22>

¹² <https://www.admin.cam.ac.uk/reporter/2019-20/weekly/6573/section2.shtml#heading2-3>

¹³ <https://www.admin.cam.ac.uk/reporter/2019-20/weekly/6573/section2.shtml#heading2-3>

¹⁴ <https://www.admin.cam.ac.uk/reporter/2019-20/weekly/6573/section2.shtml#heading2-3>

¹⁵ <https://staff.admin.ox.ac.uk/structure-and-organisation/senior-university-officers>

Congregation and Central Governance

PETER OPPENHEIMER

ON 31st January, the day of Britain's departure from the European Union, persons with an Oxford University ("ox.ac.uk") email address—through apparently not retirees—received a letter from the Vice-Chancellor. A mere page in length, it offers a rich vein of insight, both comic and serious, into the state of Oxford's central governance.

The Vice-Chancellor signals her distaste for Brexit with a resounding tautology: "We now have no choice but to make the very best of the situation in which we find ourselves". Reassurance is offered "to each one of our European students and staff... that you are as integral a part of this University as you have ever been and that, as a community of students and scholars, we value every member of the community. As a product of a global education myself, I know what it means to study and to work overseas."

Sympathy for Europeans at Britain's departure is touching. One hopes it is reciprocated. But more to the point, what are the implications for the University? The jump from "European" to "global" is absurd. Quite apart from the fact that there is no question of expelling European elements, they comprise quite a modest fraction of Oxford's international contingent. According to the University's own figures, while 48 percent of its academic staff and 42 percent of its students are non-UK nationals, EU citizens make up only 18 percent of its "staff" (i.e. presumably including non-academic) and 16 percent of its students. Oxonians from Europe will henceforth be—at worst—on the same footing as their far more numerous counterparts from the Americas, Russia, the Middle and Far East and Australasia.

Apparently undeserving of sympathy or reassurance, by the way, are Oxford's British students and their families who are worried—sometimes to the point of hysteria—not merely about their current studies and academic exchanges (Erasmus and the like), but about their life-long career chances.

Such lop-sided reactions and confused thinking are, however, trivial. The serious issue is the underlying presumption about who sets University policy. One suspects that the opening "Dear Colleagues..." is a bit of a smoke-screen. So it is. After just a few lines, the epithet re-emerges in its genuine guise: "My colleagues and I are working closely with the government to ensure that the things that matter most to our continued success are protected". The reference is now unambiguously to the dozen or so senior officials who head the massed ranks of the University's central administration, attend on the Vice-Chancellor, and invent the University's policies to suit their personal instincts, with the occasional claim, unfounded, that either circumstances or the government give them no choice. In short, "we are" the University, and this is "our" continued success.

The very next sentence says it again: "We are doing everything we can to preserve—and enhance—our ability to recruit and retain the best students, staff and academics from around the world..." The tail-end mention of "academics", almost as an afterthought, is particularly rich; especially as most of them, once in post, will have no role

in University decision-making and will be subject to institutional harassment aka "performance management" by the central administrative machinery. On the origins of this, and of the present governance malaise, see the present writer's "A Grim Anniversary", *Oxford Magazine*, No. 415, Noughth Week, Hilary Term 2020. And for the calculated efforts of the University's central executive to keep the academic community at arm's length while affecting to welcome communication, see Tim Horder, "Bridging the Divide", *Oxford Magazine*, No. 416, Second Week, Hilary Term 2020.

A reader from Mars would never guess that the University's constitution prescribes academic self-governance, incorporated specifically in the sovereign status of Congregation. This constitutional element is undoubtedly—*pace* the airy claims of the Vice-Chancellor's letter—one of the "things that matter most" to Oxford's continued success. It goes hand in hand with self-governance of Oxford's independently established colleges, which the central bureaucracy aspires likewise to eliminate. It is an open secret, for example, that the colleges are having to resist central efforts to abolish the elements of college autonomy and diversity in the admission of undergraduates.

No wonder the collegiate University is now afflicted with a climate of lurking mistrust and discord, as opposed to the unity and openness which prevailed until the end of the twentieth century. The Vice-Chancellor admits as much by her periodic appeals for compliance in the spirit of "one Oxford". If these appeals fall on deaf ears, it is because they ring hollow. Particularly in the face of incompetent handling of important issues by the centre—which could have been obviated, and could now be remedied, through constructive recourse to Congregation.

Before citing specific areas, the general point needs brief elaboration. Congregation, an assembly of several thousand members, obviously cannot run the University from day to day, or even be relied upon routinely to rule on ticklish questions of policy. On the other hand, it has now been bludgeoned and demoralised into becoming little more than the Strategic Lapdog of the central administration. The challenge is to devise an effective half-way house, in which small inter-faculty bodies properly representative of Congregation (analogous to parliamentary Select Committees) are required to tender advice, both regular and *ad hoc*, to which the central executive must give weight. A mechanism of this kind would not only revive the morale of Congregation. It would, at the same time, hugely strengthen the quality and autonomy of decision-taking by the University Council. The fact that Council itself has failed, notably in so-called Self-Reviews of its own Effectiveness, to identify even remotely the existing structural weakness illustrates what a useless forum it is at present: under the thumb of the central administration in much the same way as Congregation.

Turning to specific areas of central mismanagement, one of them has been pensions policy. More precisely, academic pensions and the financial condition of the Univer-

sities' Superannuation Scheme in a period of ultra-low interest rates. Astonishingly, the possible need for reduced pension entitlements and/or increased contributions was at first considered by Wellington Square solely from the viewpoint of the University's financial comfort. Academic employees were barely informed, let alone consulted. This was of a piece with diminished transparency of academic salaries, oppressive "performance management" and the unspoken threat of victimisation of trouble-makers by withholding merit awards or other selective pay increases. One factor, perhaps causing the administration to reconsider was the possibility of legal action by students to recover tuition fees (as in some other universities) in the event of lecturers taking strike action.

A second zone of gratuitous dispute has been the EJRA, notably the matter of exceptions to a uniform retirement age. Here the central administration, secretive and obstinate, has shown itself unfit for purpose as an arbitrating authority. It has triggered recurrent expenditure of time and money on legal actions, both by the University and by affected individuals. The obvious criticisms were made three years ago (*Oxford Magazine*, Nos. 383 and 384, Noughth and Second Weeks, Trinity Term 2017) and most recently furnished diverse material for three consecutive articles (in No. 415, Noughth Week, Hilary Term 2020). There is a more complex connection between this and the previous (pensions) issue. Early-career academic staff are generally cheaper for the University than those on the verge of retirement. So, depending on the number of their full-time-equivalent years of service, it would be appropriate for anyone postponing retirement beyond the standard age to take a cut in salary as well as cessation of the employer's pension contribution during their extra years.

Further areas of concern include the administration's reckless splashing out on inessential new buildings (rather than giving greater priority to endowments); its nonchalant legacy of debt to future generations (£750m. of centenary bonds issued at the end of 2017, plus a further £250m. so far in 2020); and its underhand creation of "Parks College".

Arguably the worst examples involve omission rather than commission. The degradation of Oxford degree standards has been conspicuously ignored by Wellington Square. They probably welcome it. Certainly it is not discouraged by anything in "performance management". And the drive to recruit a rising share of Oxford undergraduates from "disadvantaged" sections of society can only be assisted by the knowledge that to-day's examiners virtually never award less than a 2:1 degree. At least we have so far been spared embarrassing boasts in *Blueprint* to the effect that Oxford's "world-class" teaching and examining systems result in 97 percent of undergraduates achieving either a First- or an Upper-Second-Class Honours degree.

Much the biggest omission, however, which also pervades the Vice-Chancellor's Brexit letter, is failure to question the assumption that Oxford requires the favours of any government, British or otherwise, to safeguard its finances and its standing as a teaching and research University, both national and international. One has only to pose the question to elicit the obvious negative answer. The boot is on the other foot. It is in the British government's interest to promote the country's higher education sector, notably its leading universities and their intake of students as well as staff from all round the world. Oxford for its part no longer has an indispensable need of British government money, even to pursue the parochial and "social" objective of admitting more British students from disadvantaged milieux. By the same token, it is scarcely worthwhile for Oxford to participate in the Research Excellence Framework 2021.

Oxford's key organisational problem is internal to itself. It needs to revitalise the sovereignty of Congregation and its oversight in practical terms, and then to reassert academic priorities in the University's leadership and development. That includes, for a start, merging the three non-clinical Divisions and restoring a framework for co-operative opinion-formation and decision-taking across faculties. Interdisciplinary policy-making is a great deal more important than interdisciplinary research.

Time's up on the graduate application fee

BEN FERNANDO

THERE is no doubt that a graduate education at Oxford is an incredible privilege, offering opportunities and experiences likely unmatched at an educational institution anywhere in the world. I am certain that among my peers in the current DPhil students of this University are hugely talented individuals who will go on to be Prime Ministers or Presidents, or win the Nobel Prize or the Fields Medal, or in some other way go on to make an enormous contribution to the betterment of society.

The question remains, though – what about those potential students who are good enough, talented enough, dedicated enough to be at Oxford but never apply? Why don't they apply? In the four years that I've been working in graduate access, the same reasons come up time and time again: an off-putting perception of the place, a feel-

ing that they 'won't belong', and the graduate application fee. One of these is very easy to remove as a barrier to the participation of the brightest and best scholars, from both home and abroad.

Oxford charges each prospective DPhil student £75 to apply. It's one of the very few universities to charge at all, and indeed has the highest fee in the country (higher even than Cambridge). When this was introduced in 2008 (then £25), it was done on the grounds that postgraduate applications to Oxford are more competitive than to other leading universities and thus the administrative burden much higher, to be offset through an application charge [citation: see link at end]. In the most recent admissions cycle no waivers were available for graduate applicants from low-income UK or European backgrounds unless

they had taken part in the UNIQ+ scheme (of whom less than 1% had) or were existing PGT students at Oxford.

It's true that Oxford receives greater numbers of applications than most UK Universities. However, it's certainly not the most competitive. Universities like UCL, Imperial, and Bristol, with far smaller total endowments than us, somehow manage to fund the entire system out of their central budgets despite being more competitive on a per-place basis.

So why, then, does Oxford charge where other universities do not? One significant stated reason is to dissuade some prospective students from applying (so-called "frivolous applicants"), reducing the associated workload. This is perhaps a strange but appreciable reason – except that it does not hold up. Departments see none of this income, even if their number of graduate applications – and hence their administrative burden – goes up. The money instead disappears into the central University budget. What happens next is both a source of confusion and wonder, with some senior administrators insisting that it goes only to subsidising the cost of running the graduate admissions system, whilst others claim the income is needed to maintain vital student services such as counselling.

The financial implications of scrapping the fee are not insignificant. Many of the fee's defenders rely not on arguments about whether it should exist or not, but rather insist that we cannot now afford to scrap it. Such an opinion is disingenuous at best and misses the fact that if the University's sole aim is to maintain income, it could indeed be the first UK university to charge undergraduates, staff and academics to apply; thus maximising spendable income. Such a course of action would of course be ridiculous and possibly illegal, yet nonetheless the postgraduate population remains the only part of the university community forced to pay specifically to apply here.

Our motion to Congregation, which has now passed the threshold of signatures required for debate, proposes that by 2024-25 the University should phase out the graduate application fee, bringing it back into line with the vast majority of other UK higher education institutions. Such an action is surely in line with both Oxford's and the Government's stated aims to broaden access to post-graduate higher education by building upon the excellent graduate access work initiated in the last two years.

It is rare that the graduate community as a whole expresses strong opinions about anything – we tend to keep our heads down, work, and try to submit on time. It is rarer still that the graduates, the undergraduates, the staff, and the academics of our University are together so unified in support of the same aim – to broaden graduate access by scrapping this unfair and exclusionary fee. Over 1,100 people from our community have signed a petition in support and we hope that many of them, and you, will attend Congregation in Week 8 to speak up in defence of those who cannot themselves speak – the current and future graduate students of this University and all those who do not apply here simply because they cannot afford to.

Further information, including citations for the above information, can be found here: <https://bit.ly/2OpQ4QD>

The motion itself can be found here: <https://bit.ly/3bv5ug2>

The 8th Week meeting of Congregation will be held in the Sheldonian Theatre at 2pm on Tuesday 10th March. We expect this motion to be opposed by the University administration and hence a debate and possible postal ballot are likely to follow.

Academic Citizenship

DAVID MIDGLEY

THE question of how the state of health of a university's core academic activities relates to the way it is governed is by no means a new one. Adam Smith, who is commonly quoted on how poorly motivated the teaching was at the self-governing University of Oxford in his day, went on, in the very next paragraph of *The Wealth of Nations*, to deplore the climate of fear prevailing in universities that were governed by an "extraneous" authority, leaving the humble academic with no effective protection other than "obsequiousness to the will of his superiors". (He was probably thinking of universities in pre-revolutionary France.)

When Graeme Moodie and Rowland Eustace¹ investigated the operations of university governance in the 1970s, on the other hand, they were trying to establish exactly how the systems of authority within British universities at that time – many of which had only acquired self-governing status relatively recently – functioned in practice. They found that under the conditions of the 1970s the senate was typically the most influential decision-making body in a university, but that the tendency to

delegate decisions to proliferating networks of committees made it difficult to determine precisely how decisions were arrived at.

It is a very different historical situation again that Michael Shattock and Aniko Horvath (both currently researchers at the UCL Institute of Education) address in *The Governance of British Higher Education*.² They are assessing the impact of government policies and legislation on the operation of British universities over the last decade, and since their research draws on 95 interviews conducted in 2016-17 with experienced academics and senior managers from a cross-section of institutions it may fairly claim to be the most extensive empirical study of the topic since the work of Moodie and Eustace. They also review developments since the 1980s in order to establish how the present situation came about, as well as what that situation entails, and why it is desirable to progress beyond it. The three sections that follow will therefore focus on each of those three aspects in turn.

I. How we got here

The process of change that HE institutions in the UK have undergone in the last decade will be readily apparent to all who experienced it as post-holders in British universities. But *The Governance of British Higher Education* reminds us that the recent changes, radical as they were, need to be understood in the context of a sequence of developments reaching back over the previous thirty years, which relate to both the impact of government policies and the nature of institutional responses to those policies.

The story begins with the changes in the institutional culture of British universities that occurred in the 1980s, when the University Grants Committee (UGC), originally constituted in 1919, responded to government funding cuts by adopting the practice of differential allocation of funds according to the perceived quality of individual institutions. As Shattock and Horvath note, this dirigiste approach “damaged the trust in which [the UGC] was held in the universities and [...] gave it a political salience that brought it into conflict with the government and its political priorities” (p. 43). That dual effect was subsequently intensified by the addition of the competitive approach to research funding entailed in the Research Assessment Exercise (initially introduced in 1986 and now replaced by the Research Excellence Framework), the step-by-step transition after 2000 to the full marketisation of HE via a funding regime for teaching based predominantly on tuition fees, and now also the move from quality assurance based on academic judgements to the assessment of (extraneous) teaching outcomes by the metrics of the (arbitrarily imposed) Teaching Excellence Framework.

In the domain of university governance, landmark changes occurred with the Further and Higher Education Act of 1992, which eliminated the binary divide between universities and other kinds of further and higher education institution, but entrenched significant differences in the way either type of institution was governed. The Act confirmed the unicameral authority of governing bodies at post-1992 universities (where it had been established by the Education Reform Act of 1988), with the Vice-Chancellor acting as chief executive officer and the functions of academic boards effectively limited to such mundane issues as course approvals, academic regulations and examinations. In pre-1992 universities, by contrast, the senates “remained the beating heart of university governance”, with governing bodies largely exercising “a ‘long stop’, ‘critical friend’ role” (p. 96). Over time, however, as these institutions responded to changes in funding structures, the demands of reputational aspiration, the creation of a market in student patronage, and the impact of the REF and the TEF, a much more differentiated picture has emerged: examples of bottom-up governance still exist, but there are also cases of top-down management where “a lay-dominated governing body takes the lead in deciding to raise entry standards and improve institutional REF scores” (p. 99), with many variations in between, in both pre-1992 and post-1992 institutions.

The impulse towards treating higher education as a market, and towards running universities like businesses, was signalled long before the wholesale commitment to these approaches that came with the Higher Education and Research Bill of 2016. The latter tendency—explicit in the Jarratt proposals³ of 1985—

was given additional impetus by the Dearing Report⁴ in 1997, while the former had been floated as early as 1991 in the White Paper “Higher Education: A New Framework” as a means of compelling greater attention to the “customer”. It was then taken up by both the Dearing Report and the 2003 White Paper “The Future of Higher Education” before it became associated, in the Browne Review, with the jejune doctrine that market competition on its own could be relied on to drive up quality.

It is in a more specific context, however, that Shattock and Horvath speak of a recent change as the crossing of “an academic Rubicon” (p. 32), and that is the area of quality assurance. The 1992 Act had assigned responsibility for the quality assessment of teaching to a Quality Assurance Committee that was formally under the control of the Higher Education Funding Council for England (HEFCE) and designed to be representative of the sector as a whole. Since assessments were made by a panel of academics, the authors argue, accountability was achieved, while the formalities of academic responsibility were preserved. In an effort to give governing bodies an “unambiguous identity”, however, the Dearing Report recommended that their brief should include formal responsibility for academic standards, a suggestion that was readily taken up by politicians. For Shattock and Horvath, the Rubicon moment came in 2016 when HEFCE decided to endorse that recommendation, because this opened the gates to lay intervention in what had until then been exclusively matters of academic judgement.

This takes us to the heart of their findings about the current state of university governance.

II. The current situation

The impact of the developments described in section I has been far from uniform. In addition to the differences in governance structure between pre-1992 and post-1992 universities that were entrenched by the 1992 legislation, significant variations have emerged in the way pre-1992 universities in particular have adapted organisationally to changing circumstances. Factors influencing their governance procedures include the nature of specific funding opportunities and the particular conditions obtaining in the various constituent parts of the UK, as well as the financial imperative to recruit students under the present funding regime, which has led to a substantial growth in the size of some universities. The situation that Shattock and Horvath depict is one in which it has become difficult for institutions to determine exactly where the boundary between governance and management should run. In the words of one Vice-Chancellor they quote, a “challenge to good governance” arises when there is no scrutinising body strong or skilful enough to hold the executive properly to account, and there is a tendency to assume that the way round any problem is to adopt additional business practices (p. 104). Meanwhile, the spirit of subservience encouraged in ordinary academics by such ways of operating is succinctly summed up by the observation of “a lecturer at a Russell Group university” that there are “people higher up in the university” who make the decisions, responding to whatever conditions the government decrees (p. 68).

In their analysis of processes of governance, the authors distinguish between three levels of autonomy: the

system level, the institutional level, and the individual professional level. Against the claim that, under the terms of the Higher Education and Research Act of 2017, the autonomy of universities has been preserved, they repeatedly report evidence that institutional autonomy has become effectively limited to operational autonomy, which is itself “circumscribed by the new Framework Regulations”, while “governance at the system level, which was formerly mediated by the HEFCE as a designated intermediary body, has passed into the hands of the minister because the OfS [Office for Students], at least as designated, is no more than a regulator *unless the minister chooses to use it in some other way*” (p. 67—emphasis added). As for the autonomy of the individual academic, that has become attenuated in ways that the authors consider likely to inhibit the future potential of HE institutions in the UK.

Shattock and Horvath have particularly trenchant things to say about the record of the “alternative providers” that governments of the last decade have been so keen to promote. They note the National Audit Office report of December 2017, “The Higher Education Market”,⁵ which issued a warning that the government ignored, namely that, rather than driving up quality, market competition would tend to create a two-tier system in which weaker institutions would merely fulfil the borderline requirements of “economically viable recruitment and teaching quality” (p. 55), thus reinforcing “the social class differentiation between students at higher- and lower-ranked institutions” (p. 56). They also highlight the extraordinarily lax conditions that alternative providers are required to meet by contrast with the “stringent” provisions of the Regulatory Framework for the OfS regarding other aspects of the operation of universities (p. 60). “Questions of internal governance have been ignored,” they add, and “governing bodies are dominated by owner interests,” while most staff at such institutions are “employed on short-term or easily terminated contracts” (p. 63), making this the sharp end of the sharp practices that have afflicted universities in general with the debilitating effects of casualisation in recent years⁶. Curiously, such new providers are bunched in London, with none at all appearing in Wales, Scotland or Northern Ireland.

A separate chapter of the book is devoted to developments in the devolved territories, not only because there are significant differences in the political background situation that need to be taken into account, but because the practical differences in governance that emerge provide a basis for meaningful comparison with the position of universities in England. Scotland has sternly resisted both the introduction of tuition fees and the acceptance of teaching-only universities, and the strong historical reputation of its universities has enabled it to assert its independence of England (only 6% of Scottish students choose to study at English universities); but the resistance to tuition fees has prompted Scottish universities to compensate for the resulting funding shortfall by competing vigorously for international students, including English students who bring their £9,000 fee with them, while academic performance is constrained by a bureaucratic burden of accountability that is not dissimilar to England’s. Both Wales and Northern Ireland urgently need investment in education to remedy historical disadvantage, and while Wales, with its strong tradition of public support for education, has found ways to mitigate the negative social impact of the student loan scheme, the Northern

Ireland Executive has focused its attention more at school level with the result that Northern Ireland universities, faced with budgetary reductions, have resorted to reducing student intakes, which has depressed the proportion of Northern Ireland applicants admitted to a university to 75% by comparison with 85% in England (p. 90).

The authors acknowledge that developments in England exert an inescapable influence on higher education in all parts of the UK because they affect 83% of the student population as well as being instigated by the UK government. But in the light of that, the differences are all the more instructive. Both the Scottish and the Welsh HE systems show greater “cultural cohesion and resilience” (p. 88) than their English counterpart, and in the case of Wales this has meant that when rationalisation was required it could be handled in an orderly fashion through collaboration between institutions. The fact that all Scottish universities are expected to be research-active has made for “happier and better-balanced institutions” than in England (p. 86), and the sense of a cohesive academic community is also sustained by the fact that course reviews are carried out in a spirit of mutually beneficial quality enhancement rather than assessment against benchmarks. In Northern Ireland, as in England, the tendency towards tighter central control of decision-making has been reinforced by pressures to recruit international students, but Shattock and Horvath also found clear evidence there that “the essential principles of academic autonomy have been maintained”, leaving staff with “freedom to manoeuvre”, and confidence that new initiatives could still come from faculty level (p. 92).

This brings us to the key aspect of their recommendations for improving the current position of UK higher education.

III. How to move on

Like other analysts⁷ of the current situation,⁸ Shattock and Horvath bring out very clearly the deleterious effects of marketisation and the senses in which these have been exacerbated by the removal of the student numbers cap and the policy of refusing official support to any institution that gets into financial difficulty. The impact of competitive student recruitment varies from one institution to another, but in many cases marketing and programme planning have been taken out of the hands of academics, while the burden of administration on them has simultaneously grown: “The accretion of top-down management,” the authors find, “mostly arising from increased demands for accountability, is in danger of stifling individual initiative and originality” by subordinating them to an institutional management agenda (p. 147f), the nature of which is largely determined by agencies of the state like the OfS (p. 186). The financial insecurity that the “disequilibrium of the new student market” inflicts on institutions can also inhibit the development of promising new research (p. 138), while the incorporation of the Research Councils into UKRI (UK Research and Innovation), combined with the separation of teaching from research under the regulatory prescriptions of the 2017 Act, looks likely to diminish the range of available sources of research funding (p. 134f).

The interviews revealed a particular managerial blind-spot with regard to global developments and the govern-

ance issues that potentially arise from these. Shattock and Horvath devote a special chapter to this issue too. In a remarkable parallel to the findings of Moodie and Eustace in the 1970s, they found a “mushrooming of specialist committees and back offices” tasked with interpreting multi-layered, multi-modal relations and the various regulations that these generate, but not officially recognised as “part of institutional governance” (p. 175). At the same time, perceptions of what “governance” meant tended to be obscured by the notion of higher education as an export industry and of the UK system as a “landscape” ordained by the government, to which the influence of developments in Europe and the world at large did not apply (p. 177f). This too is an area in which Shattock and Horvath suggest that the considerable experience of UK academics with diverse forms of international collaboration could contribute much to the understanding of the implications of emerging practices and of the need for their harmonisation at international level, and thus to the development of good governance in practice.

The most hopeful sign the authors detect is indeed the evidence that a traditional academic culture—characterised by open discussion and a collaborative pursuit of effective solutions to educational challenges as well as research problems—persists beneath the carapace of a predominantly top-down management system. Their argument is essentially that—in the interests of the future vitality of British higher education—that creative force needs to be liberated from a business model of governance that is overly hierarchical in its approach to decision-making and excessively regulated towards prioritising accountability and precaution over risk-taking. The conclusions they draw from their survey are indeed highly persuasive:

‘the more research-active a university is, the more likely it is to have a higher level of academic participation in governance and the more likely it is to be innovative, to teach and research creatively and to rely more on the individual professionalism of the academic community than on management authority and an enormous burden of regulation. The British higher education system needs to be trusted more to govern itself in the best interests of its core business of teaching and research or it will lose those qualities that have given it its success. (p. 152)’

Their key proposal for averting that danger is to restore the power of academic boards, in both pre- and post-1992 universities, thus replacing the business model with a recognised system of “shared governance” (p. 202).

This concept is not new, but it may fairly be said to have enjoyed a more secure tradition in the USA than in the UK. In the American context, as Shattock and Horvath note, lay governance tends to be perceived as the “moat and bridge” that protects the academic community while also connecting it with the wider public, while the term “trustee” implies, as they put it, “a more long-term concern for the interests of the institution” than the British “governor” (p. 130). They note how remarkable it is that the Higher Education Governance Code promulgated by the Committee of University Chairs (CUC)—an organisation which began life as an association of chairs of university governing bodies as they existed before the legislation of 1988 and 1992—only briefly refers to the role of senates and academic boards, and “conveniently forgets to mention that Britain’s two most successful universities in

world league table terms are entirely academically self-governed and have no lay governing bodies at all” (p. 200).

While that comment perhaps reveals a naive underlying assumption about the extent to which Oxford and Cambridge (which are not represented on the CUC) have been shielded from the effects of the managerial culture that has taken such a firm hold elsewhere, the general case for a bicameral structure, in which the executive would report to the senate or academic board as well as to the governing body, is well made. It rests on the notion of shared governance as “a sui generis form of governance appropriate to institutions of higher learning whose core business is teaching and research” (p. 200f). The implementation of this proposal would, as Shattock and Horvath see it, “rekindle the sense of academic citizenship that may have been lost in the developments of the last two decades” and stimulate academic performance by providing “the conditions in which good academic work can thrive” (p. 201).

A review of Shattock and Horvath’s book that appeared in *Times Higher Education* in January 2020⁹ suggested that only a government committed to renouncing the use of universities as instruments of social and economic engineering could be expected to grant the restoration of academic autonomy in the sense that the authors have in mind. In so far as such a move would require substantial changes to the current legislation governing higher education, government support would of course be entirely necessary. But it is equally evident that, in addition to their revealing diagnosis of the manifestly counterproductive tensions with which English universities in particular are currently riven, Shattock and Horvath demonstrate very persuasively that meaningful participation by academics in the governance of the institutions in which they serve is an essential precondition of the future resilience of the higher education system of the UK.

¹ <https://www.routledge.com/Power--Authority-in-British-Universities-1st-Edition/Moodie-Eustace/p/book/9781138006409>

² Michael Shattock and Aniko Horvath, *The Governance of British Higher Education* (London: Bloomsbury 2019) <https://www.bloomsbury.com/uk/governance-of-british-higher-education-9781350074033/>

³ <http://www.educationengland.org.uk/documents/jarratt1985/index.html#05>

⁴ <http://www.educationengland.org.uk/documents/dearing1997/dearing1997.html#ana>

⁵ <https://www.nao.org.uk/wp-content/uploads/2017/12/The-higher-education-market.pdf>

⁶ https://www.ucu.org.uk/media/10336/Counting-the-costs-of-casualisation-in-higher-education-Jun-19/pdf/ucu_casualisation_in_HE_survey_report_Jun19.pdf

⁷ <http://cdbu.org.uk/a-robust-analysis-of-the-crisis-in-universities/>

⁸ https://www.theguardian.com/commentisfree/2020/feb/04/universities-competition-disastrous-lecturers-humanities?utm_term=RWRpdG9yaWFsX0d1YXJkaWFuVW5pdmVyc2l0aWVzLTlwMDIwNw%3D%3D&utm_source=esp&utm_medium=Email&utm_campaign=GuardianUniversities&CMP=unis_email

⁹ <https://www.timeshighereducation.com/books/governance-british-higher-education-impact-governmental-financial-and-market-presures-michael-Bloomsbury>

Persevera – Per Severa – Perse || Vera*

Bells

There's plenty to be said about stressed and unstressed syllables and the stressed and unstressed writers who count them up, but the important question (for me) is whether you hear ... a hurrying, incremental kind of music or whether you hear something more to and fro and rewinding like birdsong

from Alice Oswald, *Introduction to Sir Thomas Wyatt, Selected Poems* (Faber and Faber, 2008)

Peals

Grandsire Triples
Grandsire Caters
Stedman Triples
Stedman Caters
Stedman Cinques
Union Triples
College Single Triples
Bob Major
Bob Royal
Double Oxford Major
Double Norwich Major
Duffield Major
Oxford Treble Bob Major
Kent Treble Bob Major
Kent Treble Bob Royal
Kent Treble Bob Maximus
Duffield Royal
Superlative Surprise Major

Changes

upon the campanological side
carelessness leaves bells high up
some windy inaccessible tower un-
visited save by owls and jackdaws
precarious ladders, dangerous steps

after two hours the long draught at Totnes
made the 7th and tenor unpealable
at Exeter Stedman Caters came to
grief the seven front bells inaudible
to strangers unaccustomed to the belfry

many failures follow due in each case to
bells not ringers at Saint Finbarr's Fowey
the bad go of the bells entangled ropes
made even call-changes impossible
at Kenwyn Superlative Surprise failed

STEPHEN YEO

* This motto heads the title page of *AMONG THE BELLS, THE RINGING CAREER WRITTEN BY HIMSELF OF THE REV. F. E. ROBINSON M.A. VICAR OF DRAYTON BERKS, MASTER OF THE OXFORD DIOCESAN GUILD* (c.1909). I want to thank Amanda Woolley who gave me this book from her campanologist father's collection and from which I derived the Lists and Founds of this poem.

Stephen Yeo taught and wrote social history at the University of Sussex for over twenty yeears before becoming Principal of Ruskin College in Oxford (1989-1997). Since then he has worked closely with the Co-operative Movement and College in Manchester and continued to write and publish poetry and social history.

Trends in American Universities

DAVID PALFREYMAN

The '*Chronicle of Higher Education*' produces an 'Almanac' for \$49—here are a few edited highlights from the latest edition.

—Student loans debt—a total of \$1.5 trillion is now owed and 11% of that debt is 'seriously delinquent', exceeding credit-card debt or auto debt or mortgage debt. Unlike the UK declaring personal bankruptcy does not shake off the debt—in the USA a degree may be for life, but so is the debt to get it.

—Humanities graduates earn least on leaving college, and business grads the most; by their early-40s STEM grads are earning most and still doing so at 60, with Humanities lowest again from the late-40s onwards; and Business closely tracks STEM.

—By 'midcareer' Pharmacy (sic) tops the scale at \$115k *p.a.*, closely followed by Engineering, IT, Physics, Economics 'majors'—Liberal Arts tips in at \$60k, followed

down the table by Sociology at \$56k and ending with Primary Education at \$43k or Early-Childhood Education at \$41k.

—The States continue their long retreat from funding HE—led by Alaska and Oklahoma; and hence 'tuition' steadily increases at public institutions (e.g. Berkeley now at \$14k, Virginia \$17.5k); while in contrast private HE tips in at, say, \$58k for Chicago, \$55k at Dartmouth, \$56k at Duke, and \$54k at Notre Dame (there can be, of course, no suggestion of any collusion over prices or of any anti-competitive price-fixing!).

—Endowments range from \$38b at Harvard, \$29b at Yale, \$26.5b at Stanford, and \$25b at Princeton—via \$16.5b at MIT, \$11b at Notre Dame, \$8.5b at Duke; to \$3b at CalTech (but only 3000 or so students), £2b at Carnegie Mellon, and \$1b at Middlebury. Harvard raised new donations of \$1.5b in 2018, and Stanford \$1b. Oxford and Cambridge each have endowments of c\$10b, in-

cluding dosh held within the colleges – and depending on quite how one values OUP as our trading empire; and, crazily, each have far too many undergraduates over which the endowment is too thinly spread, especially given the intensive/costly teaching method (tutorials/supervisions) and the low tuition fees fixed at US state/public levels for the bulk of our UG customers.

—Tenure is decreasing—down to around 55% of full-time faculty at public institutions, and c65% at private ones.

—Average pay at elite research HEIs is c\$140k for tenured profs at the publics, fading to about \$85k at teaching-only public HEIs. Females are at 90-95% of pay for male profs. For private HEIs the corresponding figures are: \$194k and \$109k. The highest average pay for ‘full’ profs at public HEIs is at UC Los Angeles (\$201k) and

Berkeley (\$188k) – but across the Bay at private and sunny Stanford the pay is \$244.5k (housing in Palo Alto is even more expensive than in Oxford or Cambridge): \$226k at Harvard, \$223k at MIT, \$194.5k at Duke.

—College presidents rake in on average even more ludicrous amounts than Vice-Chancellors here – an average of c\$482k *p.a.* for public research elites, and c\$690k at private ones (but the outliers are at truly ridiculous extremes compared to the UK: Columbia, \$3.9m; Chicago, \$1.6m; NYU, \$1.5m; Stanford, \$1.2m – some publics, however, are not far behind: Arizona State, \$1.15m). English university Vice-Chancellors are £250-275k average, with outliers around £450k.

David Palfreyman is a member of the Office for Students Board. He writes here in a personal capacity.

Distorting and Falsifying Data: How Trustees Can Prevent It

ROBERT SCOTT

COLLEGES and universities [in the USA] are chartered by a state to be dedicated to the pursuit of truth through evidence that is not affected by individual beliefs or superstitions. They have missions dedicated to the advancement of knowledge, the preparation of new generations of learners through transformational teaching, and service to the society that grants them special status. For the most part, the higher education enterprise has fulfilled these mandates for many hundreds of years.

Therefore, it is especially troubling when college administrators distort and falsify data in order for their institutions to appear to be what they are not. Those that succumb to such temptations for competitive reasons, such as college rankings or in response to unrealistic goals, tarnish the image of higher education at large and mislead the public that expects accurate information.

As recent news articles have revealed, some colleges and universities have been found to falsify admissions, academic, and financial data. Inside Higher Ed has reported instances of institutions fudging the numbers, often in an attempt to rise in the U.S. News & World Report “Best College” rankings. There are reports of institutions incorrectly reporting their graduation rates, over-stating the average financial aid awarded, and under-reporting enrollment so that the average funding per student appeared higher than it actually was. Other examples include inflated data on research grant funding, claims of higher rates of medical school graduates entering primary care practice, and incorrect data on the number of full-time faculty.

Institutions also have been known to reduce the number of alumni counted in the denominator of its annual giving calculation so as to show a higher percentage of donors. Still, others have been known to omit the SAT scores of students in an “opportunity program” in order

to increase the average reported. Another “trick” is to count gifts from bequests as current donations even when the documented commitment was made and recorded years earlier. Still another tactic is to report enrollment projections without showing the assumptions. Unfortunately, demographic forecasts may increase the pressures of competition.

Most examples of “gaming the numbers” seem related to public relations attempts to appear stronger than the institution’s competition. Others seem designed to impress the board of trustees, as well as those on campus, with the financial success gained from one year to the next. In these cases, the astute board member should note whether the source of data for each year is different. For example, one case appeared to use financial results for the current year by not mentioning that the draw from endowment income was included, when it was not when citing the previous year. The result: a surplus in the more recent year and a deficit in the prior year.

Often, outside agents, including publication editors, investigative reporters, and accrediting agencies review the data and question the reports. However, these and other examples illustrate why board members should be prepared, in a collegial and noncombative manner, to question assumptions and request back-up material to support claims that may not appear quite right. In order for this to happen, trustees require orientation, training, and access to reading materials and conference attendance, not just at the time of election but throughout their terms on the board.

Campus presidents and board leaders should develop and maintain a calendar of development activities for board members. These can include briefings with campus officers and faculty leaders, readings, attendance at state, regional, and national conferences on relevant topics,

consultants, and role-playing with “table-top” exercises. The goal is to help trustees understand higher education dynamics and know how to ask the right questions.

The president and senior staff should “think like trustees” when preparing board meeting materials. The president and board chair should review the agenda topics and discuss them in advance of the meeting with a small group of trustees comprising the chairs of the different committees. This gives the president and board chair an opportunity to discuss and clarify potentially complicated or contentious issues.

In addition, the president can send a confidential memorandum to the full board in advance of the meeting in order to highlight particular issues and invite questions.

Finally, board agenda items for decision and discussion can be organized in a way that helps the board understand the issues more thoroughly. For decision items such as a tuition increase, a bonus for a vice president, or a purchase of equipment, the agenda item should include:

1. **Background**, putting the recommended decision in context
2. **Alternative** courses of action and Assumptions that were considered
3. an **Assessment** of the pros and cons of the recommended action

4. the probable **Implications** of the recommended action; and
5. the **Recommendation** in Resolution format.

A similar template can be used for presenting discussion items that might be either preparatory for a future decision or a report on progress in fundraising or college rankings. These items should include:

1. **Background** as to why this topic is important to discuss
2. **Considerations**, i.e., what are the assumptions, alternatives, and implications of any action related to the topic
3. **Next steps**, i.e., what might be proposed for action in the future and why; and
4. **Attachments** that give further explanation.

Thoughtful preparation can help the board do its work efficiently, effectively, and thoroughly, thus helping to avoid unintended consequences of actions that were insufficiently analyzed. By being given training and information, trustee questions can be better informed and strategic.

This article originally appeared in *HigherEdJobs*, January 30th, 2020.

This Penchant

Told him how the wind made a wound
in the waves.

Shoreside on Lake Champlain
& mescaline in '71 on our way to Montreal
& Queen Elizabeth Hotel's red sheets,
red pillowcases, snails
in the basement café.

He knew all about such things, that glow
off the water of the Pripyat River draining
into the Dnieper without interrupting
its flow during his diplomatic post
for the State Department in Kiev, when
ten years earlier Chernobyl blew
& continued to send invisible,
active particles his way.

I have this penchant for preferring today
to memory.

Not a Song, but a Jot

Spent the day writing a composition
later become a song
unlike me, not

unlike Whitman, whose silver
Bicentenary Medal sits atop
our largest bookcase along

with letters from William Heyen
& the man had it minted.
Night fell on a page

out of Akhmatova's first notebook.
She's twenty in Kiev,
reminiscing past an age

memory can't dredge up
without the aid of trauma,
& hint of multiple tragedies

to come: overhears voices say
someone is taking her sick child
on a long journey at that moment

rummaging
around the dark room
for clean bonnet & coverlet...

ROBERT GIBBONS

Robert Gibbons's memoir, *Labors in Vineyards of Desire*, is forthcoming from Adelaide Books, 244 Fifth Avenue, NYC. Former Chairman of PEN New England, Richard Hoffman, calls it “a masterpiece of autobiography.”

Languages

Sir – Megan Bowler puts a question mark at the head of her highly competent survey ‘A Language Crisis?’ (*Oxford Magazine*, Noughth Week). But yes, it most decidedly is a crisis, has been an educational one since a Blair government did away with the requirement to take a language to GCSE, and is now a political, an ideological crisis. At least, it is if Ms Bowler is anywhere near right when she says that ‘multilingualism and multiculturalism are now politically contentious – to use other languages is to be associated with an internationalist mindset’. Not difficult to imagine where that hostility will trickle down from.

If it even needs to. There is already a *Guardian* report this morning (3 February) about a block of flats where printed warnings were put up that speaking foreign languages would not be tolerated and their speakers should go back to their own countries. Such stuff clearly comes up from the lower depths of English society, and it was vigorously slapped down by the local Council. But it’s clear that the lower depths have been stirred up by Brexit and its agents, and more of the same is only too likely.

If you have a foreign language, do take any chance to use it in public places.

Yours sincerely

JIM REED

The Queen’s College

Brexit

Sir – On BREXIT Day the Vice-Chancellor sent around an email talking as if ‘the University’ was reluctant to be leaving the EU and seemingly apologising for the BREXIT decision taken in the 2016 referendum and at last implemented on 31 January 2020. Thereby was perfectly captured the arrogance and elitism of the London-Oxbridge establishment bubble.

First, ‘the University’ has no formal constitutional view on Brexit since Congregation has not debated it; but perhaps Council, as Chaired by the VC, might be thought to be able to speak on behalf of the University? If so, we wonder if it has ever formally taken a minuted stance on the matter? And we doubt many College GBs have taken a recorded vote on Brexit – just as neither has the Conference of Colleges.

The VC, we suggest, can’t properly claim to speak for ‘the University’, but probably can claim to be mimicking the likely Remainer stance of, say, a majority of academic staff and students. As we are all aware, however, the University is far more than its academics and students – it also comprises the many thousands of employees across its departments and in its colleges who help make life productive and comfortable for those academics and students, and, as with the nation at large, a possible majority of whom (or at least locally across Oxford/shire very probably a sizeable mi-

TO THE EDITOR

nority) will have voted Leave.

It is sad, therefore, that, just as Prime Minister Johnson called on that same day for a sense of national unity in our all now moving on after the past three long years of convoluted attempts to thwart the democracy of the referendum result, ‘the University’ (if it can be said to be have spoken via the VC’s circular) should issue a divisive message that is also insulting to the very many of us associated with it who voted Leave. We deserve an apology from ‘the University’.

Yours sincerely

DAVID PALFREYMAN, OBE

New College

JOSEPH CONLON

New College

PETER EDWARDS, FRSc

Chemistry

DAVID LOGAN

Chemistry

Arrogance

Sir – I have no idea what – if any – is the evidential basis for the statement on the front page of the last issue of the *Oxford Magazine* (No. 416, Second Week, HT 2020) that ‘from the point of view of non-academics, i.e. academic related, professional and support (*sic*) staff, academics are probably seen as argumentative, uncooperative or worse, privileged, dismissive and arrogant’. I may say, however, that this list of undesirable qualities in this academic’s experience, when encountering some of Oxford University’s senior administrators, can be applied the other way round.

‘Privileged’? My attempt to initiate a harassment process against one high-ranking administrator was extensively delayed by that individual’s being absent on ‘annual leave’ (during term time). ‘Uncooperative’? My attempt foundered when I was informed that the harassment process was envisaged as purely voluntary on the part of the alleged perpetrator, and that the relevant individual declined to participate. ‘Dismissive and arrogant’? When I protested about untrue statements about me forwarded by my Division to the Senior Appointments Committee I was told that it was not open to the author to discuss the matter.

I am of course presuming that the *Magazine’s* definition of administrators is the same as mine, though the first word of the

phrase ‘support staff’ gives me pause. I can see that this letter is not exactly in the spirit of mutual understanding which the context of the passage quoted enjoins, but before such understanding can be reached, the actual facts of the situation must be understood.

Yours sincerely

MALCOLM DAVIES

St John’s

What Price Loyalty? The Bodleian Library Opening Hours Staff Consultation, 2020

Sir – As noted in edition 416 the *Oxford Magazine* is often accused of ‘negative bias’ when raising points that are ‘critical of management’ – especially when related to the denizens of Wellington Square. And whilst it is undoubtedly the case that the perceived remoteness of the ‘Centre’ to the wider ‘working’ University seems to characterise much of this criticism there are other pressing issues currently affecting members of staff that go beyond, for example, University Governance, the Employer Justified Retirement Age (EJRA) and USS pension contributions.

Though often less visible to more senior ranks of the University there are vast numbers of clerical-grade employees that provide sterling though often unacknowledged service to the University. One such group are those employed by Reader Services at the Central Bodleian Library who were presented on February 6th with an ‘Opening Hours Staff Consultation’ document. The proposal (for as Senior Staff such as James Legg and Vanessa Corrick leading the ensuing ‘Consultation Meetings’ make clear any responses will not lead to any reappraisal of the changes enshrined in the document) is presented as a means of addressing the supposed demand for extended opening hours at the Central Bodleian Library site.

Now this is a subject that I am sure members of staff would be willing to engage in genuine consultation over. After all, the current mix of Term, Vacation, Saturday and Sunday opening hours can be a cause of confusion for Readers and also results in a complex work rota for employees that can, on occasion, be difficult to manage. Despite this the good-will of regular staff ensures that during evenings and weekends (so-called non-core hours) the Central Bodleian is staffed by employees who bring a wealth of experience and knowledge to post which is beneficial to Readers and the reputation of the Library.

Given this the proposals advanced by Senior Management for the Humanities Libraries, whilst couched in the language of a ‘consultation on opening hours’, is nothing of the sort. It is rather an ill-disguised and ill-conceived attempt to abolish existing post-5pm and weekend working patterns and replace them with a new fixed rota that

will impose a weekly working commitment ranging from 8.5 hours to almost 29 hours over a 4 week rota cycle (depending on the model adopted) and an average weekly commitment of over 18.5 hours per week which includes compulsory Saturday and Sunday working.

To put the proposed change in context the current rota encompasses slot-specific commitments between 5pm and closing time (7pm in Vacation and 10pm during Term) Monday to Friday and specific contracts for weekend work. Now I am sure that many would argue that existing arrangements are indeed complex to manage and that the average 18 hour weekly commitment proposed to replace this is a sensible and non-onerous development. To do so would however completely misunderstand the strength of the current arrangements which allow for experienced staff to elect to work defined additional slots beyond 5pm during the week and/or weekend shifts according to preference and need. As most Reader Services staff occupy relatively low-grade clerical positions the current flexible rota allows staff to supplement their relatively modest pay with additional shifts which are also beneficial to the Library as experienced staff remain on duty beyond 5pm and during weekend shift patterns.

The proposed changes would abolish such flexible working patterns and any incidental opportunity for skilled yet modestly paid staff to supplement their income whilst enhancing the service provided to Readers. In their place would be a new monolithic working rota that represents an additional full-time commitment to any member of staff that contemplates applying for one of the new positions created. Of course, irrespective of whether actively wishing to take on one of the new positions or compelled to apply due to lost income from abolished former shifts, staff have no guarantee of 'redeployment' and the ultimate arbiters as to who will be appointed are the self-same

Management team that has wilfully caused the disruption in the first place. This is an invidious position to place employees in who over decades have ensured that the Bodleian has knowledgeable and dedicated staff invested in the Library and who have been 'coal-face' guardians of its reputation to generations of scholars across the globe.

What emerges from the 'Consultation' is that when it comes to the Humanities Libraries Senior Management Team loyalty only cuts one way and existing staff must either—at the risk of labouring the point—commit to an additional full-time job or forego the 'opportunity' and forfeit the supplementary though important income altogether.

What the library will gain as a result of the proposed changes is a moot point. Of course there are potential efficiencies to be gleaned from fewer fractional FTE posts but this is of course conditional on staff retention, and evidence that the new arrangements represent a solution to this has been singularly lacking. In reality there is no guarantee at all that the new cadre of staff that will potentially fill the new rota pattern will be as invested in the library as current staff and they may well lack the goodwill that is essential to the efficient and effective running of the library—especially during non-core hours. A very real consequence of the proposals is that most daytime staff will just vacate the library at 5pm whilst other experienced staff will walk away from long-established weekend shifts leaving the library to stumble on during these non-core periods. And stumble is the word for the proposed new work rota which represents a significant paring back of staff numbers with no commensurate reduction in duties. This will leave 'coverage' stretched to the extreme with no slack in the rota, with even breaks having to be 'taken within the building in which a member of staff is on duty' in order to provide sufficient cover in case of emergencies.

Given this I politely request that readers of *Oxford Magazine* give the implications arising from the proposals relating to the 'Bodleian Library Opening Hours Consultation' some thought. Please request a copy of the 'Consultation' document from the Humanities Libraries Management Team if you wish to understand exactly what is being proposed and I would urge you to feedback any concerns you may have. They state that they seek transparency so should welcome any such engagement with the proposals.

Ensuring that Oxford retains its international standing and reputation goes beyond issues such as EJRA and USS pension contributions (important though they are to many Academic grade staff), with vitally important contributions also being made by dedicated and experienced clerical grade staff across the University. Staff currently employed by Reader Services at the Bodleian are one such group of lowly clerical grade workers truly invested in the success of the institution and I implore readers of this magazine to demonstrate a degree of loyalty to them that has been sorely lacking by a Management Team that seems determined to disregard any contribution they make to the success of the Bodleian on the alter of a 'plan' that will do untold damage to the reputation of the library and living standards of its employees. Of course such considerations may not even register in the calculations of the architects of the plan, for after all, they will be moving on to their shiny new Humanities building soon, after which the trashing of actual Reader Service and employee goodwill at the Central Bodleian will be someone else's problem.

Yours sincerely

NAME SUPPLIED BUT WITHHELD
BY REQUEST

The editors invite and welcome contributions from all our readers.
The content of *Oxford Magazine* relies largely on what arrives spontaneously on the editors' desk and is usually published as received.

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700,000,000

This is the increase (over 639,157,443,900) since our last issue. These figures refer to the estimated cumulative emissions (in tonnes of carbon) from fossil fuel use, cement production and land-use change since industrialization began, as estimated on 27th January 2020. To avoid more than 2°C of warming we need to limit total cumulative emissions to below 1,000,000,000,000 tonnes. We will be monitoring changes that occur over the year prior to the UN climate meeting in Glasgow. For details see; <http://trillionthtonne.org/>