

Chapter 3

The battle for collegiality in Tasmania **The 1955 Royal Commission and the Orr aftermath**

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When the University was established in 1890, Tasmanian politicians, reluctant to pay for the convenience of a local university, cut costs by initially appointing three *lecturers*, not professors. Further cheese-paring upgraded the status of the University staff, at the expense of their pay.¹ The first University of Tasmania professors were thus a tribute to penury. Initially they were anything but self governing. The Council, though it contained some alumni from other institutions, was a lay body, elected partly by graduates and partly by parliament. At first academics were excluded from election. Only in 1900, W.H. Williams, a foundation professor, was admitted after election by the Senate of graduates.

Academic management before 1936 lay with the Board of Studies, in which teaching staff were a minority. The Professorial Board appears to have first met on 20 August 1896, with the four professors in attendance. It had little power or significance in the face of the University Council and the Board of Studies, both bodies having an overwhelming lay majority. Nevertheless, the first meeting foreshadowed a rift between academics and administrators; the Professorial Board, opposing the Board of Studies, denied the existence of a universal principle for determining grades in every subject.² The Professorial Board was then mainly a student disciplinary body, concerned with prohibiting card playing on campus, ending vandalism in the student common-room, checking disruptive behaviour at degree ceremonies,³ and preventing Council from removing the tiny library from the registrar's office to more restricted accommodation.⁴

Staff, wishing to exert some influence on their institution, were forced to stand for Council, or endeavour to influence one or more of the academic councillors. By the 1920s, elections in the Senate of graduates for positions on Council led to passionate campaigns, complete with preferential tickets, supported by the new staff association. Teaching conditions were primitive, salaries were pitifully low, and pensions, if provided at all, depended on the whim of the Council. Nevertheless, Tasmanian academics in the first three decades had a strong sense of *esprit de corps* and academic freedom. When, in 1916, Council attempted to censure an academic for remarks about the institution, he was upheld by a protest of staff, who included Professor D.B. Copland, later Sir Douglas, a distinguished economist and vice-chancellor of the Australian National University. Academics, it was asserted, were not servants of the Council, but had a perfect right to criticise their institution. Council backed down.⁵

Until 1933, the Vice-Chancellor of the University of Tasmania was a non-academic, elected by Council. Now, at last an academic was elected. When a colleague was forced by health to stand down, the professor of philosophy and psychology, Edmund Morris Miller, secured what was still a part-time position. Undoubtedly the most lively and energetic Tasmanian academic of his time, Morris Miller, who had taken part in the 1916 protest, had a 'collegial' attitude to his duties. In his memoirs he refused to see himself as a 'chief' or 'boss,' but rather a coordinator, balancing academics and Council. He desired a staff unrestricted in their 'creative functions' by officialdom.

More power to the Professorial Board

Exercising his considerable political influence, Morris Miller masterminded the 1935 University Act which abolished the Board of Studies, replacing it by an upgraded Professorial Board. Previously each Department had negotiated individually with Council for funding; now the Professorial Board would coordinate demands, present a united front and arrange the distribution of the money granted. As academics had standing in the organisation of their institution, the dispute over their status as 'servants' of the Council appeared to have been settled in their interest. According to Morris Miller, his proposals 'won immediate favour' from the delighted staff.⁶

Despite the disarming remarks in his memoirs, Morris Miller was not without ambition. He secured the title 'Chief Executive,' though his powers were not defined. He liked to get his own way by finesse, and senior colleagues considered that he 'took too much on himself.' Previously, Miller, despite his talents and enthusiasm, had been unpopular with sectors of the staff who considered him too familiar with potential opponents of academic values in the Tasmanian community. The chief check on his power was the chairman of the Professorial Board, who, in the upgraded institution, now assumed a role almost coordinate with that of the vice-chancellor. The 'Chief Executive' of the 1930s had to tread very warily, in comparison to his successors in the 2000s.

Morris Miller was still Vice-Chancellor at the outset of the Second World War in September 1939, which all but suspended the advance of the University. By the end of the war, Miller had had enough. A lively and opinionated Chancellor, Chief Justice Sir John Morris, was sufficiently difficult to handle without opposition from below. Miller's critics insisted that Professorial Board business be handled in Council by its chairman, not the vice-chancellor. Miller continued, however, as a professor. Four years later, the first full-time vice-chancellor was appointed in the person of Torleiv Hytten, formerly a Tasmanian student and professor.

Council versus Board

After the War the University of Tasmania began to expand beyond its limited facilities on the Hobart Domain. New staff demanded better conditions and more influence in their institution. A fine site at Sandy Bay was earmarked for the University but the local government and University Council were slow to achieve the transition. The Professorial Board and Staff Association, reinforced by new members, clashed with Council. Council, containing some members extremely hostile to the pretensions of the new imported academics, attempted to interfere in matters such as the minimum attendance of students.

The most sensitive issue proved to be matriculation; Council demanded easier entrance standards, but the Professorial Board insisted on the inclusion of a language and mathematics. Council cited the English *Spens Report*, while the Professorial Board quoted R.M.

Hutchins and Bruce Truscott's *Red Brick University*. An unilateral decision by Council to relax requirements in 1948 provoked further Board resistance.⁷ In 1951 the Chancellor, Sir John Morris, personally intervened of behalf of an individual applicant. The Professorial Board's attempt to censure Morris was rescinded when the chancellor demonstrated that he was himself an *ex officio* member of the Board. The myth developed that Morris had physically ripped the offending resolution from the minutes. He appeared vindicated when the student, Christopher Koch, not only achieved first class honours, but became one of Australia's most distinguished novelists. Though active in demanding higher salaries and superannuation for academics, Morris was regarded as an enemy by most University staff.

The Royal Commission of 1955

By 1953 there was a full-scale crisis in the University over working conditions, low salaries, the failure to make progress with the new site, poor housing for staff and other issues. The Staff Association and Professorial Board, backed by the student body, demanded action. Sydney Sparkes Orr, who had succeeded Morris Miller as professor of philosophy in April 1952, threw himself into the struggle. Orr, who had a first class honours BA and an MA with special commendation from the Queen's University, Belfast,⁸ with university teaching experience at Queen's, St Andrews and Melbourne, was typical of the new post-war staff, impatient with the slow progress of the University of Tasmania. Despite later criticism that he had exaggerated his qualifications,⁹ Orr was a good appointment by the standards of the day. A colleague, Bob Baker, secured the chair of law immediately after acquiring an Oxford BLitt.¹⁰ Orr had, however, no official position in the Tasmanian academic leadership and colleagues were concerned when, despite the current negotiations, he produced his fateful public letter [see below] of 29 October, appealing to the highest academic values and demanding an inquiry. Ultimately, 35 colleagues, about half the staff, decided to sign the statement.¹¹

Would there have been a Royal Commission on the University of Tasmania without Orr? Very probably, yes. There had already been demands for arbitration by the staff. However, the government's decision to appoint a full royal commission may have been partly

pique at the interloper Orr's temerity in criticising a local institution, and the chance to subject irritating academics to the brutal interrogation of experienced counsel.

So it turned out. The Professorial Board and the Staff Association appointed their own counsel in the face of two outstanding politician-lawyers, Reginald Wright and Mervyn Everett. Members of staff, giving evidence to the Commission, were cross examined like criminals. Orr was accused of plagiarism in his lectures. Counsel for the Professorial Board, James Young, later Chief Justice of Victoria, protested vigorously at such treatment, and insisted on full recognition for the Board in University administration.¹² The matriculation dispute between Board and Council was argued in detail.

In his ultimate summary of the numerous issues in contention, counsel advising the Royal Commission, Esler Barber, later a judge of the Victorian Supreme Court, dismissed some, though not all, of the complaints against Council as exaggerated, but recommended a clear division of responsibility between Professorial Board and Council, provided the latter had the last word. The Commission (Justice James Walker, Western Australia, Professors A. D. Trendall and J.S. Turner) found the Council was unrepresentative with some of its members mistaking their functions. The small professoriate, containing senior members who had 'grown up with the University, and become inured to existing conditions,' had not been sufficiently forceful in presenting the staff case to Council. The Commission rejected the claim that the Professorial Board should be the final arbiter on academic matters. However, it maintained that Council should not legislate on academic matters without reference back to the Board.

The Melbourne system, where the university act laid down procedure in the event of disagreement between Council and Board, was recommended. Academic and non-academic matters should be listed. The general control of all examinations by the Professorial Board should be clarified in an amended university act. The Commission pointed out that 'Universities of the highest quality have survived and continue to flourish without Council; they cannot even exist without academic men.' It was the vice-chancellor's duty to mediate between staff and Council. He could not remain neutral in this role, remembering that 'the present method of control in a Commonwealth university is only a substitute for true academic self-government.'¹³

Such a remark indicates the huge gulf between the 1955 Royal Commission and the academic managerialism of the 1990s.

After the Royal Commission: the Orr case

The Tasmanian government and many members of the old University Council were furious with the *Report* and its implementation proved slow. The University now had to endure the ten-year trauma of the Orr case. Orr's summary dismissal on a morals charge in early 1956 was merely noted by the Professorial Board, more concerned at the manner in which a new professor had been appointed. There was no protest over Orr, as there had been over matriculation in 1948. The Board was divided. Some professors had participated in the committees which found against Orr, others were glad to see him go, while some supported him strongly, but in different arenas. The case went to the courts, was eventually taken up by the Federal Council of University Staff Associations of Australia (FCUSAA), by Australian philosophers, and by churchmen. The Tasmanian chair of philosophy was boycotted. Some Tasmanian academics hammered out a settlement with Orr and achieved a strong tenure system in 1966, the year of his death, while others remained passionately opposed to the agreement. Staff antagonisms, based on the Orr case, lasted till well into the 1970s.

One subsidiary aspect of the case, when Orr sued for wrongful dismissal, had an important bearing on academic tenure. Orr's lawyers invoked the old insistence that he was not a 'servant' of the Council to be dismissed at will. His contract, terminable by due notice, was to render 'services,' not 'personal service.' Orr therefore offered his intellect and academic training to the University of Tasmania, which contracted with him to fill the independent position of Professor of Philosophy. Summary dismissal was accordingly a breach of contract. As the student magazine, *Togatus*, put it, University staff were shown to have as much security of tenure as a "gut-runner" at the abattoirs.'¹⁴

An alternative version of this argument declared that Orr, as a corporator of the University of Tasmania, was part of the community that made up the University and could not therefore be sacked without notice by Council.¹⁵ The right of the Professorial Board to represent

university self-government, recognised in part by the 1955 Commission, depended on the notion that a university comprises a collective of self-governing scholars. The Tasmanian Supreme Court in 1956 and the High Court of Australia in 1957, however, rejected such arguments, thus apparently laying down the principle that academics were indeed the ‘servants’ of their employing agency. This was to prove significant in the managerial age of the 1980s, 1990s and 2000s. It was in part belied by the fact that the Orr settlement in 1966 established what must have been one of the strongest explicit systems of tenure in any British Commonwealth university.

Progress and reversal

Meanwhile the Professorial Board, later democratised to include elected sub-professorial staff, increased its control of the academic activities of the University. Eventually most of the academic changes recommended by the Royal Commission were embodied in practice. The 1957 Commonwealth *Murray Report* ultimately transformed the situation by encouraging to the replacement of state by federal funding of universities. Hailed by Tasmanian academics of the 1950s as a wonderful breakthrough, Commonwealth financial authority appeared in a different guise to their successors in the 1990s and 2000s. Serious quarrels between Council and academics, however, became rarer when finance was less directly involved. By 1966, with the University of Tasmania resettled on a spectacular new campus at Sandy Bay, the miseries of the past seemed over.

In the 1960s even conservative governments of Australia and New Zealand believed in the ideal of the university as a free, disinterested seeker of truth in all its guises. Economic rationalism had not yet required universities to sell qualifications to students using their degrees as sources of personal profit, of only indirect benefit to the community. Orr had explicitly rejected economic analogies by denying that the University Council was the equivalent of a Board of Directors. The 1955 Royal Commission had generally supported his assertion that the Professorial Board should be the main authority, if not ‘the final arbiter,’ in academic matters, especially in ‘research and the pursuit of truth.’¹⁶

Academic leadership to Orr was essential to the functioning of a good university. For a number of years, such ideas prevailed, but by 2002 at the University of Tasmania, as in other institutions, the Professorial Board has been replaced by top-down management. The Federal Government and DETYA have superseded the State Government and the University Council as the dominant external authorities. Academic influence appears to have declined to the level experienced in the early 20th century. Although Orr's Open Letter may be dismissed as hopelessly outdated in the present context, it may contain the seeds of long-term reform.

OPEN LETTER TO THE PREMIER, THE HON. ROBERT COSGROVE, MINISTER FOR EDUCATION, TASMANIA

Sir,

It is rarely that a Professor is compelled to make a public appeal concerning the welfare of his University. But the attitude of the University Council, as revealed at its meeting on Friday, 22nd October, and its continuous failure, even under pressure from staff and students, to give any concrete evidence of its willingness to effect any of the improvements necessary to create a genuine University, leaves me no alternative. For the issues at stake, which are concerning members of the academic body, are far wider and graver than any question of staff remuneration. My decision to step down from the academic rostrum into the arena of public discussion is taken in the light of experience in the Queen's University, Belfast, and in the Universities of St. Andrews and Melbourne, and is strengthened by the knowledge that for well over a century the law of England and the law of Tasmania, reflecting as they do the fundamental political principles of our democratic way of life, recognize in each and every citizen, however humble, however weak, the right to comment on and criticize public institutions, public affairs and the men who, by participating in them, are trustees for the community. Only by the exercise of this right can freedom be preserved. ...

... I consider it my public duty, both as a citizen and as a Professor of the University to re-emphasize that, under existing conditions, we are still along way from having in Tasmania what in most British communities is dignified with the name of a University. The responsibility for this falls directly upon the University Council, whose primary function it is to ensure that the State of Tasmania shall have a University. This does not mean merely 'tertiary education.' It means that there shall be, as part of the Tasmanian way of life, a forum for the dissemination and discus-

sion of those principles and values in which our democratic civilization is cradled and upon the vitality of which its life depends. It means further that members of the academic staff are not servants and students are not children, and neither can be, nor should be, treated as such. It also means that a University is a community within a community, and upon the continuance of the freedom of its members, be they professors, lecturers, or students, the freedom and dignity of the individual citizen, that is, of the larger community, depend. The consequence of failure to maintain this ideal has been sufficiently demonstrated in the totalitarian regimes during our own lifetime. The function of the Council of a University is not that of the Board of Directors either of a public utility or of a private industrial undertaking. Its function is to make available and maintain the material conditions which are necessary to enable the academic community (staff and students) to carry out in the community the vital role already mentioned. Beyond that it cannot and should not go. On matters academic, whether of qualifications for entrance to the University, of research and the pursuit of truth, in all fields, and the methods deemed desirable, the senior academic body (in the University of Tasmania the Professorial Board) is, and should be, the final arbiter.

It is self-evident that the Council of the University of Tasmania, as a result of apathy, neglect and maladministration over recent years, has failed completely to discharge its most vital duty to the Government and the people of Tasmania, of maintaining the traditional ideals of, and essential prerequisites for, a University.

What is most significant is the attitude of the Chancellor and the Council at its last meeting towards the Professors, lecturers and students (the academic community, as stated above) of the University, in answer to their well-founded and fully documented request that the present grievous state of the University be remedied. Instead of such requests receiving a patient and courteous hearing, they were treated with resentment as 'general reviling and vilification' of the Council. Efforts by the University Staff Association to obtain an independent assessment of salary claims were stigmatised by the Chancellor as 'a grave affront' and the student who, on behalf of the student body, requested to speak to the motion before the Council was treated as if he were a juvenile requiring correction. Does this mean that the Council regards itself as above criticism?

Equally typical is Council's intervention in wholly academic matters, as exemplified by its extraordinary treatment of the Professorial Board some years ago, when, in defiance of that body's unanimous and repeatedly given advice, it drastically lowered the standard of matriculation, and, as if to emphasize the fact that its word was absolute, resolved that it would not permit

the question of matriculation to be raised before it for another twelve months. Is it to be wondered at then, that one of the University's most senior professors, Professor Pitman, was at length compelled to say at the last meeting of Council 'the Professorial Board no longer has confidence that the Council will treat its recommendations with the consideration and respect they deserve'? WHY? The only possible explanation can be that the Council has nothing but contempt for the opinion of the Professorial Board on academic matters.

The effect of this serious state of affairs on staff and students is already public knowledge. But what must be of equal concern to the Government and people is the fact that any weakness in the structure of higher education, or distortion of the academic ideal, must inevitably be reflected throughout the whole educational system, and result in a deterioration in the quality of leadership in every department of community life, and a general lowering in the appreciation of, and attachment to, spiritual and cultural values. ...

... This is an appeal, therefore, to the Government of Tasmania to take, in performance of its duty to the people of Tasmania, the one step that the present situation clearly demands, that is, the immediate institution of a searching and thorough inquiry into the whole question of University conditions. In this way, and this way only, will we keep faith with those who, in more difficult times and under conditions of greater stress of circumstances had the courage and the vision to found a University in this State. In this way and this way only will we be enabled to maintain the ideals of the distinguished scholars who have served this University in the past. In this crisis there is clearly now an opportunity for the public to decide whether or not this State is to have a University measuring up to the ideals and conditions existing in other parts of the democratic world, whether or not, that is to say, there is to be created in this island a worthy home for scholars and scholarship, in which present and future generations of young Tasmanians may acquire those qualities of courage, magnanimity of mind and enlightened leadership which are so urgently needed in the modern world.

Yours etc.,
Sydney S. Orr, M.A.,

Professor of Philosophy in the University of Tasmania.

Notes

1. Richard Davis, *Open to Talent: The Centenary History of the University of Tasmania, 1890-1990*, Hobart (University of Tasmania), 1990, p. 34.
2. Professorial Board Minutes, University of Tasmania, 1896-1938, University of Tasmania Archives, 20 August 1896.
3. When the Professorial Board banned the 1934 'Mock Commem,' students appealed to the Council.
4. Davis, op. cit., pp. 33, 64-65, cards, 81.
5. For episode, see *ibid.*, pp. 71-2.
6. *Ibid.*, p. 96.
7. The Professorial Board accepted the legal right of the Council to pass regulations but insisted that the accepted practice was for the Professorial Board to decide on academic matters. 'The Board believes that the Council, by accepting a proposal to lower matriculation requirements which was brought forward without specific notice to the Council and without reference to the Board, departed from this important principle.' Quoted from 1948, Minutes of the University of Tasmania Professorial Board, 1952-55, p. 224 (facing).
8. John Polya and Robert Solomon, *Dreyfus in Australia*, Sydney, 1996, p. 217.
9. Cassandra Pybus, *Gross Moral Turpitude: The Orr Case Reconsidered*, Melbourne (Heinemann), 1993, pp. 167-71. The accusation that Orr lied when claiming to have an MA with first class honours, when such degrees were unclassified, seems to ignore the fact that, at that time, the classification of the first degree was considered more important than subsequent research. Orr had a first-class honours BA and received an MA with special commendation. Oxbridge professors, whose MAs were obtained without further examination beyond the BA, sometimes regarded research degrees with disdain.
10. Bob Baker, *Tasmania Now and Again* [Hobart, 1983], pp. 73-4.
11. For insiders' account of the crisis and subsequent events, see Polya and Solomon, op. cit., *passim*.
12. Transcript of evidence before the Royal Commission on the University of Tasmania, 1955, pp. 1732-33.
13. *Report of the Royal Commission on the University of Tasmania, Tasmania*, 1955, N. 18, pp. 7 and 15-17, 23.
14. *Togatus*, 27 November 1956.
15. C.W. Bartholomew & P.G. Nash, 'Tenure of Academic Staff,' *Vestes: The Bulletin of the Federal Council of University Staff Associations of Australia*, Vol. 1, No. 5, December 1958, pp. 10-13.
16. *Mercury*, 29 October 1954, quoted in W.H.C. Eddy, *Orr*, Brisbane (Jacaranda), 1961, pp. 9-12.