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UNIVERSITY OF  
CAMBRIDGE

**NOTICES****Calendar**

5 February, *Sunday*. Preacher before the University at 11.15 a.m., Professor M. W. Dube, of the University of Botswana.

7 February, *Tuesday*. Discussion at 2 p.m. in the Senate-House (see below).

13 February, *Monday*. Lent Term divides.

18 February, *Saturday*. Congregation of the Regent House.

**Discussions at 2 p.m.**

7 February

21 February

6 March

20 March

**Congregations**

18 February, *Saturday at 2 p.m.*

24 March, *Saturday at 10 a.m.*

**Notice of a Discussion on Tuesday, 7 February 2012**

The Vice-Chancellor invites those qualified under the regulations for Discussions (*Statutes and Ordinances*, p. 107) to attend a Discussion in the Senate-House, on Tuesday, 7 February, at 2 p.m., for the discussion of:

1. Report of the General Board, dated 11 January 2012, on the establishment of an MRC Research Professorship of Biostatistics (*Reporter*, 2011–12, p. 388).
2. Report of the of the General Board, dated 23 December 2011, on the establishment of a Chong Hua Professorship of Chinese Development (*Reporter*, 2011–12, p. 389).
3. Report of the General Board, dated 11 January 2012, on the establishment of a Florence Nightingale Foundation Professorship of Clinical Nursing Research (*Reporter*, 2011–12, p. 390).
4. Report of the General Board, dated 11 January 2012, on the establishment of a Professorship of Statistics (*Reporter*, 2011–12, p. 391).
5. Report of the General Board, dated 11 January 2012, on future arrangements for the Interdisciplinary Centres in the School of the Humanities and Social Sciences (*Reporter*, 2011–12, p. 392).
6. Joint Report by the Council and the General Board, dated 23 January 2012 and 11 January 2012, on student membership of the two bodies (*Reporter*, 2011–12, p. 405).

**Notice of a benefaction**

30 January 2012

The Vice-Chancellor gives notice that he has received with gratitude donations amounting to approximately £12,500 in total to date, which have been contributed by subscribers to a Scott Polar Scholarship Fund which has been established to commemorate the centenary of the year in which Captain R. F. Scott and his four companions reached the South Pole and perished on their return journey, to mark their achievements and the scientific legacy of Scott's Discovery and Terra Nova expeditions to Antarctica.

The Council is submitting a Grace to the Regent House (Grace 2, p. 425) for the approval of regulations to govern the fund.

**Election of student members of the Council and of the General Board: Notice**

30 January 2012

**Student members of the Council**

Notice is given that an election of three students to serve as members of the University Council in accordance with Statute A, IV, 2 (class (d)) will be held on Thursday, 15 March 2012. Members are to be elected in the following two categories (*Statutes and Ordinances*, p.114):

- (i) two students elected by and from among all eligible students in the University;
- (ii) one graduate student elected by and from among all eligible graduate students in the University.

No person shall be nominated in both categories. Members elected are to serve for one year from 1 July 2012.

**Student members of the General Board**

Notice is given that an election of two students to serve as members of the General Board in accordance with Statute C, I, 4 (d) will be held on the same day, Thursday, 15 March 2012. Members are to be elected in the following two categories (*Statutes and Ordinances*, p.117):

- (i) one undergraduate student elected by and from among all eligible undergraduate students in the University;
- (ii) one graduate student elected by and from among all eligible graduate students in the University.

Members elected are to serve for one year from 1 July 2012.

### The elections

The Registry will publish before 14 February 2012 electoral rolls of all persons who are eligible, under the provision of Statutes A, IV, 2 and C, I, 4 and of the regulations governing the conduct of these elections and rules made under the regulations, to vote and to stand as candidates. Copies of the full electoral rolls will be available for inspection in the University Offices Reception, The Old Schools, Trinity Lane, and appropriate sections of the rolls will be available in the Colleges. The elections are conducted under the Single Transferable Vote regulations.

In order to be eligible a candidate must be nominated on a nomination form sent to the Deputy Returning Officer, Registry's Office, The Old Schools, so as to arrive not later than **1 p.m. on Thursday, 8 March 2012**. Nomination forms may be obtained from the University Offices Reception, from CUSU, or the Graduate Union; they may also be downloaded from <http://www.admin.cam.ac.uk/offices/secretariat/general/studentelections.html>. The forms contain (a) a statement, which must be signed by eight students eligible to take part in the election in the relevant category, certifying that they nominate the candidate for election, and (b) a statement which must be signed by the candidate, consenting to be nominated and agreeing to serve if elected. Nomination forms should be accompanied by a statement by the candidate for the information of voters. Nominations will be posted on the Senate-House noticeboard as they are received. Not later than the day following the last date for the receipt of nominations, a complete list of nominations will be sent to Colleges and subsequently will be published in the *Reporter*.

Voting will take place on **Thursday, 15 March 2012**, in person, in Colleges. The hours of voting in each College will be determined by local College Returning Officers but the polls must be open for at least four hours within the period 8.30 a.m. to 7 p.m., including the hours 12.30 p.m. to 1.30 p.m. and 6 p.m. to 7 p.m.

The University Draftsman is the Deputy Returning Officer.

### Annual Reports: Notice

The following Annual Reports have been received by the Council and the General Board during the Michaelmas Term 2011 and the Lent Term 2012 and are available on the websites indicated:

Annual Report of the Health and Safety Executive Committee	<a href="http://www.admin.cam.ac.uk/offices/safety/publications/hsd139m/">http://www.admin.cam.ac.uk/offices/safety/publications/hsd139m/</a>
Annual Report of Cambridge University Library	<a href="http://www.lib.cam.ac.uk/About/annual_report_2010-11.pdf">http://www.lib.cam.ac.uk/About/annual_report_2010-11.pdf</a>
Annual Report of the University of Cambridge Local Examinations Syndicate	<a href="http://www.cambridgeassessment.org.uk/ca/digitalAssets/199094_Cambridge_Assessment_Annual_Report_and_Accounts_2010-2011.pdf">http://www.cambridgeassessment.org.uk/ca/digitalAssets/199094_Cambridge_Assessment_Annual_Report_and_Accounts_2010-2011.pdf</a>
Scott Polar Research Institute Review 2010	<a href="http://www.spri.cam.ac.uk/about/sprireview/2010/">http://www.spri.cam.ac.uk/about/sprireview/2010/</a>

### VACANCIES, APPOINTMENTS, ETC.

#### Vacancies in the University

A full list of current vacancies can be found at <http://www.admin.cam.ac.uk/offices/hr/jobs/>.

**Professorship of Comparative Oncology and Genetics**; informal enquiries: Professor Duncan Maskell, Head of the Department of Veterinary Medicine (email [djm47@cam.ac.uk](mailto:djm47@cam.ac.uk)); closing date: 2 March 2012; further particulars: <http://www.admin.cam.ac.uk/offices/academic/secretary/professorships/>

**Professorship of Education (1938)**; informal enquiries: Professor Peter Gronn (tel. 01223 767517, email [pg348@cam.ac.uk](mailto:pg348@cam.ac.uk)); closing date: 1 March 2012; further particulars: <http://www.admin.cam.ac.uk/offices/academic/secretary/professorships/>

**Professorship of Finance and Directorship of the Cambridge Endowment for Research in Finance**; informal enquiries: Professor Christoph Loch, Director of the Judge Business School (email [academic.enquiries@jbs.cam.ac.uk](mailto:academic.enquiries@jbs.cam.ac.uk)) or Professor Raghu Rau, Head of the Finance and Accounting Group (email [r.rau@jbs.cam.ac.uk](mailto:r.rau@jbs.cam.ac.uk)); closing date: 29 February 2012; further particulars: <http://www.admin.cam.ac.uk/offices/academic/secretary/professorships/>

**Serena Professorship of Italian**; informal enquiries: Dr Adam Ledgeway, convenor of the Board of Electors (email [anl21@cam.ac.uk](mailto:anl21@cam.ac.uk)); closing date: 28 February 2012; further particulars: <http://www.admin.cam.ac.uk/offices/academic/secretary/professorships/>

*The University values diversity and is committed to equality of opportunity.*

*The University has a responsibility to ensure that all employees are eligible to live and work in the UK.*

**NOTICES BY THE GENERAL BOARD****Committee of Management for the Degree of Bachelor of Theology for Ministry: Notice**

(*Statutes and Ordinances*, p. 586)

**With effect from 1 October 2012**

The General Board, on the recommendation of the Faculty Board of Divinity and the Management Committee of the Bachelor of Theology for Ministry, have amended Regulation 1 in respect of student representatives serving in class (*d*) of the Committee of Management for the Degree of Bachelor of Theology for Ministry so as to allow one student representative to be elected in the Michaelmas Term to serve for one year from 1 January next following their election, and one member to be elected in Lent Term to serve for one academic year from 1 October next following their election (in place of two being elected in the Michaelmas Term for one calendar year with effect from 1 January next following their election). This will both encourage first-year students to stand for election, and enhance student representation on the Committee of Management.

Regulation 1.

By replacing the final sentence of Regulation 1 with the following sentence so as to read:

One member in class (*d*) shall be elected in the Michaelmas Term to serve for one year from 1 January next following their election, and one member in class (*d*) shall be elected in the Lent Term to serve for one academic year from 1 October next following their election.

**NOTICES BY FACULTY BOARDS, ETC.****Mathematical Tripos, Part III, 2012: Amendment**

Further to their Notice of 26 October 2011 (*Reporter*, 2011–12, p. 88), the Faculty Board of Mathematics give notice that the following paper has been cancelled:

Paper 2. Topics in calculus and algebra

The Board are content that no candidate's preparation for the examination will be affected by this change.

**GRACES****Graces submitted to the Regent House on 1 February 2012**

The Council submits the following Graces to the Regent House. These Graces, unless they are withdrawn or a ballot is requested in accordance with the regulations for Graces of the Regent House (*Statutes and Ordinances*, p. 107), will be deemed to have been approved at 4 p.m. on Friday, 10 February 2012.

1. That the recommendations in paragraph 4 of the Report of the Faculty Board of Clinical Medicine, dated 28 November 2011, on the M.D. Degree (*Reporter*, 2011–12, p. 314) be approved.
2. That a Scott Polar Scholarship Fund be established in the University to be governed by the following regulations:<sup>1</sup>

**SCOTT POLAR SCHOLARSHIP FUND**

1. The Scott Polar Scholarship Fund was established at the centenary of the year in which Captain R. F. Scott and his four companions reached the South Pole and perished on their return journey, to mark their achievements and the scientific legacy of Scott's Discovery and Terra Nova expeditions to Antarctica.

2. The income from the Fund shall be used to contribute to the fees, maintenance, and field research of postgraduate students at the Scott Polar Research Institute, to enable them to undertake scientific and other related research on polar topics. Scholarships supporting such research, in whole or in part, shall be advertised from time to time by the Managers of the Fund.

<sup>1</sup> See the Vice-Chancellor's Notice on p. 423.

**3.** The Managers of the Fund shall be the Director of the Scott Polar Research Institute and two persons, who would normally be based in the Scott Polar Research Institute, appointed by the Faculty Board of Earth Sciences and Geography to serve for periods of four years at a time.

**3.** That, on the recommendation of the Board of Graduate Studies, Regulation 12 of the General Regulations for admission as a Graduate Student and Regulation 16 of the General Regulations for the M.St. Degree, be amended in each case by deleting the words ‘by the Secretary to the candidate’ in the first paragraph and by inserting the following text at the end of each of those regulations.<sup>2</sup>

A student, or her or his Tutor with the student’s consent, may seek review of a decision in relation to that student made by the Board of Graduate Studies. A request for review shall be made in writing, stating the grounds of review, normally within one month of written notification of the Board’s decision (unless, in exceptional circumstances, the Registry or a deputy permits a longer period). If the request includes, in the opinion of the Chair of the Board, relevant additional information not previously available, the Board will reconsider its decision at its next meeting following receipt of the request. If no such additional information is included or if, on reconsideration, the decision is reaffirmed by the Board, the procedure described in the following paragraphs shall apply.

The Registry or a deputy shall appoint a reviewer. Exceptionally, a panel of three reviewers may be appointed. If so, references below to ‘the reviewer’ shall be construed accordingly.

The reviewer will consider the request, the documentation available to the Board (less any confidential medical information), the Ordinances which apply to the Board’s decision, and the Board’s Notes of Guidance. He or she will obtain an opinion from the Board, seek such other information as he or she may require and, at her or his discretion, may hold a hearing (but there is no obligation to hold a hearing). The reviewer will issue an adjudication in writing as soon as possible, stating findings of fact, conclusions, and, if any, recommendations, for consideration by the Board. The reviewer shall be concerned with determining whether there is evidence of: inadequate consideration of the matter by the Board; the Board having made a decision, to the detriment of the student, which is inconsistent with the relevant Ordinances or its own Notes of Guidance; or material circumstances of which the Board was unaware and which were of such a nature as, had the Board been so aware, to have been likely to cause the Board to have reached a different decision.

The Board shall normally accept the recommendation of the reviewer. If, exceptionally, the reviewer’s recommendation is not accepted a written explanation shall be provided to the reviewer, the student, and her or his Tutor. The Board may decide not to accept a recommendation in any instance in which: (i) the reviewer has sought to make a decision replacing that of the Board; (ii) the reviewer’s recommendation is inconsistent with the Ordinances governing Allowances; or (iii) the reviewer’s recommendation is such that, were it to be accepted, it would set a precedent which would not be in the interests of the proper conduct of the Board’s business or in the wider interests of the University.

The conclusion of the consideration by the Board of Graduate Studies of any recommendation by a review shall be the normal final point of decision within the University. A reviewer may summarily dismiss an application which seems to her or him to be vexatious or frivolous.

**4.** That Regulations 1, 3, and 4 for the Prince Philip Scholarships Fund be amended so as to read:<sup>3</sup>

**1.** The sums provided for scholarships by the Friends of Cambridge University in Hong Kong shall form a fund called the Prince Philip Scholarships Fund. The income of the Fund shall be applied to provide scholarships for students who are Hong Kong Permanent Identity Card holders at the time of application and have ordinarily resided in Hong Kong for a continuous period of not less than 7 years, in order that they may become matriculated members of the University following courses leading to a degree or other qualification of the University.

**3.** The first charge on the Fund shall be the provision of scholarships, called Prince Philip Scholarships, for Hong Kong Permanent Identity Card holders at the time of application who have ordinarily resided in Hong Kong for a continuous period of not less than 7 years and who are intending to study for the B.A.

<sup>2</sup> *Statutes and Ordinances*, pp. 415 and 519. By Grace 2 of 21 July 2010, approval of Master’s level qualifications was devolved from the Board of Graduate Studies to the relevant Degree Committees. The reference to the Secretary of the Board is therefore no longer appropriate. The proposed amendment to the regulations further sets out a procedure for review of a decision by the Board in respect of allowing a candidate a degree or other qualification or allowing examination or re-examination.

<sup>3</sup> *Statutes and Ordinances*, p. 870. The Managers of the Fund, with the concurrence of the Friends of Cambridge University in Hong Kong, have proposed that Prince Philip Graduate Scholarships should in future be restricted to candidates from Hong Kong, as was the original purpose of the Fund, rather than being open also to students from the People’s Republic of China and from Taiwan.

Degree. Not fewer than three Prince Philip Scholarships shall be awarded in each year, provided that candidates of sufficient merit present themselves.

4. Subject to the provisions of Regulations 1 and 3, any unexpended income of the Fund may be used by the Managers to provide scholarships, called Prince Philip Graduate Scholarships, for Hong Kong Permanent Identity Card holders at the time of application who have ordinarily resided in Hong Kong for a continuous period of not less than 7 years and who are intending to undertake postgraduate study leading to a degree or other qualification of the University.

## ACTA

### **Approval of Graces submitted to the Regent House on 18 January 2012**

All the Graces submitted to the Regent House on 18 January 2012 (*Reporter*, 2011–12, p. 396) were approved at 4 p.m. on Friday, 27 January 2012.

J. W. NICHOLLS, *Registrar*

**END OF THE OFFICIAL PART OF THE ‘REPORTER’**



## REPORT OF DISCUSSION

**Tuesday, 24 January 2012**

A Discussion was held in the Senate-House. Pro-Vice-Chancellor Dr Jennifer Barnes was presiding, with the Registrar, a Pro-Proctor, a Deputy Proctor, and seventeen other persons present.

The following Reports were discussed:

*Annual Report of the Council for the academical year 2010–11, dated 21 November 2011* (*Reporter*, 2011–12, p. 216)

Professor G. R. EVANS (Emeritus Professor of Medieval Theology and Intellectual History):  
Madame Deputy Vice-Chancellor,

### *Statutes review and questions of governance*

There is worrying wording in para. 10. Proposals for internal consultation were put forward last July and we read that ‘it is intended thereafter that proposals for approval in principle will be put forward within the University’. It is not clear by what mechanism, for it is apparently not to be by Report. Somehow, it seems, approval is to be secured without one. Then, ‘when the process of approval is complete, the new Statutes will be submitted by the Council to the Regent House in the form of a Report to the University’. This is supposed to be happening by Easter 2012. We have had no hint of the working party’s response to the responses to the consultation so far. What is happening and who is giving this ‘approval’ to what in fact is radical statute change to the University’s domestic legislation, out of sight of the legislative body?

Erosion of the principle that Ordinances shall be approved by Grace is detectable in the ‘Sites and Buildings’ Report also being discussed today. The proposal is that:

new Sites and Buildings Regulations will be issued by joint Notice of the Council, the Finance Committee, and the General Board, and included after the Financial Regulations in Ordinance Chapter XIII,

and thereafter ‘the Regulations will be kept under review and amended by joint Notice of the Council, General Board, and Finance Committee’. It is not clear what the status of these Regulations will be but they seem to be in intention Ordinances. One wonders what practical difference this new mechanism might have made to the building of the ill-fated Lift in the Regent House, alias the Combination Room.

It is frustrating not to be able to read the Shakeshaft Report to the Council on ‘the submission and presentation of business’ and ‘broader matters concerning the Council’s role and functioning’. ‘The Working Group will be making its first report to the Council in the Michaelmas Term 2011’. Did it? May we see?

The recent Woolf Report on the LSE–Gadaffi scandal gives examples of problems with the conduct of Council business which all Councils may face. Lord Woolf comments that ‘Some Council members have expressed concern to me that they feel, generally, that they are ‘managed’ (3.134).<sup>1</sup> One Council member told him:

I felt that some of the information we had been given was being a little, kind of, metered. It was a very uncomfortable discussion, because they wanted what they wanted, they did not like being asked questions...

I felt in that first meeting, we were being blocked. It was total them and us. And it started with a paper not being circulated in the first place.<sup>1</sup>

Lord Woolf elicited in his interviews a process of management determination of what the governors should be allowed to know, whether they should be told things in writing or orally, how they should be encouraged to identify the question they had to answer. The Secretary and Director of Administration told Lord Woolf that what he had seen himself ‘as doing was to manage the discussion in the sense of trying to get the best outcome in terms of a decision of principle’ (3.90).<sup>1</sup>

It seems odd timing (para.18) to dismiss the Standing Advisory Committee on Student Matters when Government is keen to see universities put students at the ‘heart’ of their work and HEFCE is to be required to have regard to the collective student interest in all things. In this connection, it is disappointing to read the University’s response to the OIA Pathway 3 Consultation on future provision for ensuring that student complaints are resolved speedily and within the institutions where they arise.<sup>2</sup> The Consultation was launched in direct compliance with a White Paper proposal and that context should have been taken into account.

The Cambridge response evinces a degree of ignorance of the potential for alternative dispute resolution which can only protract the handling of student complaints. The list of in-house mediation services in HEIs is now very considerable and Cambridge could set up its own provision for students at minimum cost. Given that Human Resources has actually done this, it is hard to see why the possibility is so robustly resisted for students and the assumption made that the use of mediation involves hiring paid mediators:

We have no interest in using our resources to pay for ‘professional’ mediation services which are very unlikely indeed to command the confidence of our academic community.

And whoever wrote:

The introduction of ADR would, in our view, only lead to additional costs and to another layer in the consideration of complaints with, assuming any resolutions proposed via this route were non-binding, yet more delay,

clearly does not understand how alternative dispute resolution works. The University should not put its name to strong assertions in responses to national consultations without ensuring that it has got its facts right. There is, too, no hint of awareness of the BIS consultation on the proposed EU Directive on ADR, which may well make such attitudes untenable if the Directive comes into force. Did the Council really discuss this important submission and approve all this without demur?

When appraisal for academic staff in Cambridge was first introduced it was on the clear understanding that an academic’s research remained his or her own business. This has now been overtaken by the imposition of a University ‘research strategy’ with a Research Strategy Office which is ‘to progress the strategic networks and priorities designated by the Research Policy Committee’. It is of course now the case as it was not in the late 1980s that research is a source of income for the University so important that this interference may be justified. I note with some amusement that appraisal guidance on the Human Resources website seems to bear clear marks of the need to accept that academics need to be handled at arms’

length and without intrusive questioning if they are to be persuaded to have anything to do with appraisal at all.

#### *Subsidiary companies*

The work done on the University's relationship with its subsidiary companies is important. 'The review found that governance was generally sound, with examples of best practice, but that a watching brief was needed and some strengthening of the relationship between the University and some of its subsidiaries.' The full report may be read on the intranet.<sup>3</sup>

<sup>1</sup> The Woolf Inquiry: An inquiry into the LSE's links with Libya and lessons to be learned (November, 2011), <http://www.woolfse.com/dl/woolf-lse-report.pdf>.

<sup>2</sup> [http://www.admin.cam.ac.uk/cam-only/offices/education/consultations/oia\\_pathway3.pdf](http://www.admin.cam.ac.uk/cam-only/offices/education/consultations/oia_pathway3.pdf).

<sup>3</sup> <http://raven.intranet.admin.cam.ac.uk/committee/council/CouncilMeeting/2011/2011-09-26-26Sep2011/ItemC1FCMin72SubsidiaryCompanyGovernanceReviewReport.pdf>.

Mr D. J. GOODE (Faculty of Divinity and Wolfson College): Madame Deputy Vice-Chancellor, I speak today as Vice-president of Cambridge University and College Union (Cambridge UCU).

I welcome the Annual Report of the Council for the academical year 2010–11 before us today, and propose to make only a very few comments thereon.

The Report notes that analysis suggests the University is falling behind key competitors in realizing external research grant funding. This is a worry for a research-intensive University that is used to being a (if not the) major player in the already research-intensive Russell Group of universities. We simply cannot afford to slip behind key competitors, and addressing this decline should be a priority.

In addition to falling behind key competitors in realizing external research grant funding, the University is also taking a hit on the funding that it has realized: Research Council cuts to indirect costs and equipment will cost us around £4m a year in lost income, and cuts in capital infrastructure funding as much as £20m a year. On top of that, Cambridge Assessment and the University Press, traditionally generous contributors to the Chest, face problems of their own in an adverse economic climate that will also affect our investment income.

Even with measures planned, or in place, to improve efficiency, including reviews of the UAS and IT and new initiatives to improve research competitiveness, and an across-the-board cut in allocations to Schools and institutions, the Chest is still expected to incur a cumulative loss of £36m between now and 2015–16.

In the face of all this gloom, I welcome the decision by the Council to allow that deficit to accumulate, undesirable though it is, rather than to embark on a programme of deeper cuts and damaging redundancies.

But there is one small, rather tentative ray of sunshine trying to pierce that gloom, Madame Deputy Vice-Chancellor.

Cambridge UCU, along with UCU local associations and branches in pre-92 and a handful of post-92 USS institutions, has been in dispute for most of the last twelve months over changes to the Universities Superannuation Scheme (USS). Members took two full days of strike action last March, and another full day on 30 November 2011 with colleagues in public sector pension schemes, and have been in continuous action short of a strike since last October in an effort to make the employers' representatives return to the negotiating table.

As a result of this action, several meetings of the UCU USS negotiators and the employers' representatives took place in December and earlier this month, and some progress was made, to which I give a cautious welcome.

In light of the progress, the UCU USS negotiators and the Higher Education Committee have proposed to suspend the current dispute to allow ongoing negotiations on future scheme design, and have called a conference on 31 January 2012 to debate and vote on suspension of the dispute.

As UCU is a democratic union, I conducted a consultative poll of Cambridge UCU members last week in order to inform and guide Cambridge UCU's delegates to that conference. The result of the consultative poll, Madame Deputy Vice-Chancellor, shows that an overwhelming majority of Cambridge UCU members in dispute<sup>1</sup> agree with the USS negotiators' and Higher Education Committee's proposal to suspend the current dispute to allow ongoing negotiations on future scheme design.

<sup>1</sup> Of the members in dispute, 87 per cent agree that the dispute should be suspended, and 13 per cent disagree, with a 26 per cent turnout.

#### ***Annual Report of the General Board to the Council for the academical year 2010–11, dated 21 November 2011 (Reporter, 2011–12, p. 222)***

Professor G. R. EVANS (Emeritus Professor of Medieval Theology and Intellectual History):

Madame Deputy Vice-Chancellor, 'The General Board present this Annual Report on their work for the academical year 2010–11.' What became of 'beg leave to submit?'

#### *Executive education*

The Board have set up, ... , a Board of Executive and Professional Education (BEPE) which will promote, and monitor, these increasingly important types of activity across the University.<sup>1</sup>

It is alarming that this Board has been set up without reference to the Regent House, because it is to have significant academic responsibilities, including responding 'to requests from the Education Committee concerning proposals for new accredited programmes' and reviewing 'Memoranda of Understanding for wholly owned University companies which are engaged in relevant educational provision'.<sup>1</sup>

A job advertisement has appeared for a post in Judge Business School Executive Education Ltd, one of the University's subsidiary companies. (There is still time to apply.) It is written in management-speak but its drift is clear:

The role will work closely with major clients to design and deliver innovative, tailored and custom programmes. This position serves as an important interface between Cambridge Executive Education and the market, responsible for building and maintaining effective partnerships between the School and leading public and private organisations.

The paragon sought will 'have the ability to apply a global mindset to programme design and delivery.' As far as I can see from the further particulars this 'role' is not that of a University officer but a mere employee of the Company, yet the 'position' will be building those partnerships between the 'School' and others and the advertisement sits directly on the JBS website not on a company website.<sup>2</sup>

Executive Education is, no doubt, a nice little earner, but it is important that executives availing themselves of it



should not be under the impression that they are gaining a Cambridge qualification.

We are told that the M.Phil. course in Management Research was rescinded, but not why. It would be interesting to know.

#### *International matters*

The General Board has also been thinking more purposefully about ‘the extent and range of international collaborations throughout the University and the opportunities that exist for strategic engagement’. It promises that ‘the year ahead will focus on identifying those collaborations that would benefit from strategic designation and associated support.’ The ‘General Board’s development of a strategy for the University’s international activities’ hints at a number of ambitious schemes for areas of operation, including ‘the University’s engagement with India and China, working with the Research Strategy Office and the Development Office’. It is comforting to see reasserted ‘the basic principle that there will be no Cambridge University campuses overseas’.

However, the Board of Executive and Professional Education, is also to help ‘assess the benefits’ of ‘the University’s overseas activities in these areas’.<sup>1</sup> Among other things, the Board will:

regularly review Memoranda of Understanding for wholly owned University companies which are engaged in relevant educational provision.<sup>1</sup>

Imperfect supervision of the delivery of ‘accredited programmes’ by subsidiary companies could well lead to reputational damage, if not to the sort of giant meltdown recently experienced by the University of Wales.

The fact is that there has been a fair amount of independent deal-making around the University. So the General Board:

are developing a protocol that will support Schools, Faculties, and Departments in initiating international partnerships, while providing better coordination of international activities and ensuring that legal and reputational factors are given due consideration.

Perhaps all will be well, for:

The appointment of a new Head of the International Strategy Office together with a refocusing of the Office’s responsibilities have given added momentum to the General Board’s development of a strategy for the University’s international activities.

Yet if this is to be done, as promised by, ‘working with the Research Strategy Office and the Development Office’, the purely academic and academic-led features of all this activity seem in danger of getting buried, mislaid even.

#### *Human resources*

It will be interesting to see how Cambridge gets on with that University and Colleges’ Joint Lectureship Scheme. I wonder how clearly it is realized that one consequence of the use of joint appointments in Oxford is to adjust the balance of power in the University in favour of the Colleges?

As to the ‘Modifications to the Senior Academic Promotions Procedure’. The Regent House let changes to all that out of its hands. It handed control over to the General Board. It may come to regret that.

<sup>1</sup> <http://www.admin.cam.ac.uk/committee/bepe/bepe.pdf>.

<sup>2</sup> <http://jobs.guardian.co.uk/job/4398190/senior-advisor/> and <http://www.jbs.cam.ac.uk/jobs>.

#### *Reports and Financial Statements for the year ended 31 July 2011 (Reporter, 2011–12, p. 227)*

No remarks were made on these Reports.

#### *Joint Report of the Council and the General Board, dated 28 November and 2 November 2011, on the provision of sites and buildings regulations (Reporter, 2011–12, p. 269)*

Professor S. J. YOUNG (Pro-Vice-Chancellor of Planning and Resources):

Madame Deputy Vice-Chancellor, the regulation and oversight of all the building and maintenance work carried out every year across the University is currently achieved through provisions spread throughout Statutes and Ordinances, as well as various *ad hoc* working practices involving a number of Committees. The purpose of this Report and the draft Regulations is to bring together and record all of the existing provisions and practices in one place. The draft Regulations will hopefully bring much clarity and light where there is currently fog and darkness. They will improve risk management by providing a coherent and complete set of rules for approving works and expenditure related to our estate. They will increase transparency and provide much needed clarity for staff.

There is no intention to make any substantive change to any existing provisions. However, out of necessity, some provisions previously absent have been added to provide consistency and completeness. In particular,

- the basis on which responsibility for minor works can be delegated to Departments has been clarified with responsibility for the management of any delegations being given to the Buildings Committee.
- the threshold for capital projects at which Cambridge Assessment must seek approval from the Finance Committee has been set at £15m.
- a scheme is proposed for the publication of works for which a Grace is considered not to be required, publication to be in the *Reporter* as well as on site.

It is proposed that these new regulations are promulgated by joint Notice rather than by Ordinance since, unlike the current regulations, they deal with detailed technical approval matters rather than constitutional issues. The need to submit a Grace each time a small change is needed would be unnecessarily cumbersome and hamper the ability to respond to frequent changes in legislation and best practice. In order to be comprehensive, the proposed regulations describe what is currently included in *Statutes and Ordinances*, alongside the working practices which have been established in this area. To include these regulations in Ordinances would create an unhelpful duplication. As with the Financial Regulations, their primary purpose is to ensure that we have robust operational quality controls regarding the management of the University’s estate. They will assist in ensuring that due and appropriate attention is given to managing risks relating to health and safety (including fire regulations), legal obligations, insurance cover, and cost controls.

The Buildings Committee will monitor and update these regulations on a regular basis (at minimum every three years), as does the Finance Committee for the analogous Financial Regulations.

Note that matters currently contained in Statute are completely unaffected. Thus, for example, decisions relating to very substantial property-related matters such

as the erection of new buildings, remain as they should do with the Regent House.

I commend the Report and its recommendations to the Regent House.

***Joint Report of the Council and the General Board, dated 12 December and 30 November 2011, on a retirement policy for University staff*** (Reporter, 2011–12, p. 347)

PROFESSOR J. K. M. SANDERS (Pro-Vice-Chancellor for Institutional Affairs and Chair of the Human Resources Committee):

Madame Deputy Vice-Chancellor, members of the Regent House will be aware that national regulations came into force during 2011 limiting an employer's ability to impose a standard mandatory retirement age on its staff. Since our Statutes specify that officers must retire on the 30th September following their 67th birthday, a working group chaired in the first instance by Professor White, my predecessor, and then by me, carried out a detailed examination of the available options.

The proposal that emerged was for an Employer Justified Retirement Age (EJRA) of 67 for all established officers, and no default retirement age for unestablished or assistant staff. This went to a broad consultation across the University during 2011, and the detailed points that emerged during the consultation have informed the final version of this Report. The declaration of an EJRA at 67 for established officers has the support of all six Councils of Schools and most individual responses.

The key evidence in support of this EJRA is summarized in Table A of Appendix 1: almost half of all the vacancies in established posts are created by retirement, so a sudden cessation of retirements would lead to a dramatic fall in the number of vacancies and a delay in bringing in new blood.

So, refreshing the Academy is a key objective. Another component was the consideration that those retiring are overwhelmingly men, while the gender distribution of those we are appointing is more balanced. An EJRA will obviously have an impact on older workers, but it will assist in reducing gender imbalance. For academic-related officers the evidence in Table B of Appendix 1 clearly supports this idea, even on relatively small numbers. For academic officers, the evidence is in the expected direction, but is disappointingly weak, showing how far we still have to go in even approaching gender equality.

Accompanying the principle of an EJRA has to be a detailed policy, including the management of extensions: the draft retirement policy is laid out in Appendix 2 of the Report. The central point, of course, is that what individuals feel is best for them is not necessarily in the best interests of the University as a whole, and it is the latter which needs to be at the heart of the policy. The key criterion for granting an extension is laid out in the bold sentence of 5.2.6.:

the overriding principle [is] that employment will not be continued unless the individual will make an exceptional contribution to the University in the future, such that her or his continued employment will generate a net benefit to the University.

It is not appropriate to treat officers who are extended on an unestablished basis as if they are like any other unestablished staff: they will remain a special class of staff, subject to a deferred EJRA, having been granted fixed-term extensions for exceptional and time-limited reasons.

The situation is quite different for assistant staff: on average, their tenure as employees of the University is

much shorter; relatively few currently stay on to retirement; and on the basis of current behaviours, the abolition of the retirement age will have little impact on the overall rate of posts falling vacant. Any future changes in the assistant staff pension scheme and shifts to a later state pension age may well change behaviour in the long run but even so the impact is likely to be limited. From the University's perspective, therefore, there is no case for an EJRA for assistant staff. The unions representing assistant staff support the abolition of the retirement age for their members.

The Council and the General Board have taken legal advice and believe that the proposed terms of the policy comply with existing legislation and in particular that the proposal to retain the retirement age for University officers is justifiable on the grounds set out in this Joint Report.

PROFESSOR P. A. MCNAUGHTON (Department of Pharmacology):

Deputy Vice-Chancellor, the University's proposal to introduce a compulsory retirement age of 67 is a breach of a fundamental human right, namely to be judged solely on an ability to do a job, and not on a physical characteristic irrelevant to performance in the job (in this case age).

It would of course in today's world, and with today's legislation, be considered outrageous to judge a black person as inferior and unworthy of being given a job simply from the colour of their skin. It would likewise be morally unacceptable, and moreover illegal, not to offer a job to a woman because she 'might' get pregnant. In all such cases the only proper and reasonable consideration is the ability of the person concerned to actually carry out the job in question.

Why should it be any less outrageous to deny employment to a person simply because of a single characteristic which bears no relation to their ability to do the job, namely their age? This is discrimination of the most naked kind. Just because mental function tends to decline with age does not mean that a person can be automatically deemed to be incompetent at the moment the clock ticks 67. A very considerable body of research shows that aging takes place at very different rates in different people. Some fortunate individuals continue to fire on all cylinders, in both research and teaching terms, well past the retirement age. It is a loss to the University to force such people into idleness when they still have much to contribute. It is a needless charge on the country's purse to force people into dependence on the welfare state, in the form of a pension, when they could still be earning an income.

The only way forward consistent with human rights is to judge the ability of academic staff actually to do their jobs, and to retire them when they cease to perform at a high level. This is also the only way forward consistent with what should be a primary aim of a world-class University – to retain the services in research, teaching, and administration of the best academics.

PROFESSOR T. W. KÖRNER (Department of Pure Mathematics and Mathematical Statistics):

Deputy Vice-Chancellor, there are no old athletes, old opera singers, or old snooker players. Age improves wine up to a certain point, but, after that point, deterioration sets in. The second book of an author may be better than the first, but it is rare for the tenth book to be anything but the repetition of old themes in the old manner.

If we have failed to make a sufficient offering at the temple of knowledge by the time we are sixty-seven, it is

difficult to see why a few more years should make a difference.

Security of tenure is a vital guarantee of academic freedom, but it will be still harder to defend if it is combined with unlimited length of tenure. A previous Master of my College who was, as he said, 'of a modest, but not a retiring disposition' chose to remain under the old statutes when the new, retirement based, statutes were introduced. He admitted that this made him an anomaly, but that he 'intended to stay on until he became an abuse'. In the opinion of those competent to judge, he succeeded. Of course, if retirement becomes a voluntary matter, most of those who stay on will not be abuses, but decent folk doing a decent job. A toffee factory can run quite decently if everybody does a decent job, and decent folk can run a decent university, but this hardly seems sufficient for an institution which aspires to world class.

It is not proposed that the University will stop us thinking or writing after we retire. It is not even proposed that retirement will be automatic at a particular age. (I hereby inform Human Resources that I intend to try for a few extra months.) It is simply proposed that the University and not the individual will judge whether they are sufficiently valuable to make deferred retirement worthwhile.

Like most of those speaking here today, I know that my lectures have, if anything, improved with age. I know that my wisdom is essential to the smooth running of my Department and that my opposition to all change reflects years of experience. I am clear that the research topics of my youth retain their centrality. For some reason, my younger colleagues disagree. However wrong-headed they may be, they should have the chance to prove their point. *Place aux jeunes!*

Mr N. M. MACLAREN (University Computing Service): Deputy Vice-Chancellor, it is unkind to say that this Report reads like the justification of a pre-decided conclusion, but I am afraid that it does. In particular, it has not addressed the points raised in the previous Discussion and elsewhere, especially those that might be used as evidence in legal challenges. My remarks are not about the principle, but about the aspects the Report chooses to ignore and which the courts may well consider to be relevant.

Paragraph 23 refers to legal advice, but that means little if the question being asked was too narrow. It does not fill one with confidence that the Council has chosen to not even summarize the advice for the Regent House.

The Report uses evidence on assistant appointments, which have always been known not to be an issue, but then applies the same rules to senior unestablished ones, including those made permanent by paragraph 8 of The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002. I am grateful to the staff of Human Resources for providing me with some data on unestablished staff numbers very promptly.

At Lecturer grade 9, 53% of staff are unestablished. The numbers are too small to be sure, but Table A in the Report indicates that an increasing proportion of unestablished staff leave by retirement, and it seems likely that in the future the majority of those at grade 9 will. Requiring only half of them to retire at 67 will significantly constrain promotion possibilities for junior staff.

A numerically lesser, but potentially far more serious, problem concerns staff in positions where they control the innovation and career progression of others. Even at grades 11 and 12, about 8% of staff are unestablished; it seems likely that most of those will be in senior managerial positions. As many of the established grade 12 staff will be

'ordinary' Professors without extra managerial roles, it seems likely that many of the senior managerial positions will be unestablished.

It cannot be regarded as objective to require a Lecturer to retire, using the rationale presented in this Report, but to not require a director with responsibilities for managing a research area and controlling its direction to do so. This issue will assuredly cause trouble, either because elderly directors or similar will refuse to let go of their posts or because an officer will challenge the policy citing a comparable position with no retirement age.

Related to this is the point that I raised in the previous Discussion about anomalies in the Statutes, which is especially relevant for such secondary positions as Heads of School, where there is no requirement for the holder to be an officer. Those have immense power to control the direction of innovation, or even to stifle research and teaching of which they do not approve. Far worse, they are paid positions, presumably covered by employment law, so why should a 75 year old in an unestablished position not be able to claim discrimination if passed over for Head of School on the grounds of age?

Overall, I do not see how the University will be able to claim objectivity unless it addresses the issues of senior unestablished and controlling positions. Also, even if the courts accept that the membership of senior committees and boards is a separate issue, the anomalies in their age limits will not help achieve the objectives stated in the Rationale of this Report. And, of course, the courts might choose to regard them as evidence of a lack of objectivity in the University's policies.

Furthermore, I cannot see why a fixed-term contract referred to in paragraph 5.2.3 of the Policy described in this Report might not be regarded by the courts as succeeding the fixed-term contract of an officer, and thus automatically become permanent under paragraph 8(1) of The Fixed-term Employees Regulations 2002. Both contracts satisfy the definition of 'fixed-term contracts' in paragraph 1(2) of those Regulations.

I am afraid that the policy proposed in this Report will inevitably lead to challenges, unfavourable publicity, and possibly worse. The Council should think again, and consider all of the age limits in Ordinances, most definitely including retirement for senior unestablished staff – or it could simply abolish all retirement ages.

Professor M. H. KRAMER (Faculty of Law):

Deputy Vice-Chancellor, let me begin by noting that I shall use the phrase 'mandatory retirement age' rather than 'default retirement age' throughout my comments, because a default retirement age is a mandatory retirement age.

When I made some fairly extensive remarks at a May 17th Discussion on the proposal by a University Working Group to retain a mandatory retirement age, I was under the impression that I was taking part in a process of consultation. To be sure, it was clear that the members of the Working Group were resolutely determined to have the University retain a mandatory retirement age; I did not naively assume that my remarks or anyone else's remarks would change the firmly made-up minds of those members. Still, I had thought that the University's Council and General Board would feel a need to respond to the objections that had been raised against their proposal, especially given the overwhelmingly high likelihood that that proposal will be subjected to legal challenges if it comes into effect. My expectation of even that limited degree of responsiveness was unfounded. The result of the so-called consultation process has been a stark affirmation of the Working Group's proposal with even scantier



supportive argumentation than was provided by the Working Group itself. The Council and General Board have not responded to any of the objections that were broached in the May 17th Discussion or in other parts of the so-called consultation process.

Pervading the Council/General Board Report are some objectionable assumptions. The first of them is that the 2010 Equality Act did not eliminate the mandatory retirement age, at least as far as Cambridge academics are concerned. Instead – so the members of the Council and General Board assume – that Act simply loosened the existing procedures under which Cambridge academics can apply as supplicants to work beyond the mandatory retirement age. A second objectionable assumption is that Cambridge academics approaching the mandatory retirement age should indeed be reduced to the role of supplicants – dependent on the good graces of relevant University administrators – if they wish to remain in employment beyond that age. Regardless of how brilliantly any Cambridge academics perform their scholarly and pedagogical responsibilities, they will have to petition humbly to keep their positions. (I will shortly recount another objectionable assumption that pervades the Report.)

Given that the Council and General Board have not responded to any of the queries that were raised about the Working Group's proposal, I'm tempted to reiterate all the remarks that I made on May 17th. However, since those remarks are available in the May 26th *Reporter*, I'll confine myself here to responding to a few aspects of the Council/General Board Report. In anticipation of the litigation that will be triggered by the implementation of that Report, I wish to point out that unsubstantiated assertions and assumptions are insufficient as a basis for the University's effort to flout the 2010 Equality Act.

Many of the data in the Council/General Board Report are presented in order to establish that

retirement is proportionately a much more significant source of new vacancies amongst established staff than it is among unestablished staff.

As far as I am aware, nobody has ever suggested anything at odds with the statement which I have just quoted. In one respect, then, this portion of the Report is puzzling. Why are the Council and General Board endeavouring to prove a point that has never been doubted by anyone? However, what clearly underlies the presentation of data on that point is another objectionable assumption that pervades the Report: the assumption that large numbers of Cambridge academics will seek to remain in their positions for long periods past the normal retirement age if the mandatory retirement age is eliminated.

The assumption just mentioned, which I will henceforth designate as the 'Clinging-On Assumption,' is indeed explicitly stated in the Report:

[T]he proportion of academic staff who currently chose to work beyond their pensionable age and up to the current retirement age is significant and very much greater than in the case of other staff categories. It is reasonably to be inferred that many academic staff would elect to continue in employment beyond the age of 67 if they were able and this inference is supported by the experience of universities in countries where no retirement age is applied and by the results of surveys of employee intentions.

The inference drawn in the second of these two quoted sentences is a *non sequitur*, since there are clear pension-

related reasons why many Cambridge academics might choose to work beyond the state-pension age up to the normal retirement age in Cambridge even though they would not be inclined to work (much if at all) beyond the normal retirement age.

The Council and General Board seek to bolster their *non sequitur* near the end of the passage just quoted, by invoking 'the experience of universities in countries where no retirement age is applied' and 'the results of surveys of employee intentions.' As is indicated in my May 17th remarks, the experience of universities in the USA in fact points in exactly the opposite direction. The data to which I referred there are readily available in the public domain. As those data reveal, the vast majority of academics in the USA do not behave in the manner envisaged by the Council and General Board. I don't know what data the Council and General Board have in mind, since they don't cite any. However, the figures from the USA show the opposite of what the Council and General Board want to show.

As for the results of surveys of employee intentions, these have never been mentioned before. What studies are these, and what is their methodology? When and where were people questioned, what were the sizes of the samples, what were the questions asked, and what were the responses? In keeping with the overall character of the so-called consultation process during this past year, we have been told nothing whatsoever about these surveys. The passing mention of them in the Report is unaccompanied by any information about them. What a way to conduct a process of consultation!

The Clinging-On Assumption is further evident in the following passage, which is in need of some attention:

The responses from the consultation exercise generally supported the proposition that within an academic community a balanced mix of collaborators across a range of generations is vital to invigorating the academic dialogue which is essential to developing cutting-edge research at an international level and agreed that the University's leading status in this regard could be jeopardized if this balance were to be displaced by the removal of a retirement age.

One of the ironies of this passage is that the desirability of a mix of academics 'across a range of generations' is proclaimed by people who want to force out all highly capable academics from Cambridge past a certain age (except insofar as some of those academics are prepared to impetrate the relevant administrators with sufficient servility for permission to stay on). Another irony relates to the claim that Cambridge's international academic status will be jeopardized by the removal of the mandatory retirement age. In the Working Group's proposal, Harvard was invoked as the example of a university where the mix of ages had become skewed in the direction of older academics. I have never previously heard anyone maintain that the way for a university to damage its international academic standing is to become more like Harvard.

At any rate, the key point about the passage just quoted is that it is redolent of the Clinging-On Assumption. In the teeth of substantial evidence to the contrary from the USA, the Council and General Board are supposing that large numbers of Cambridge academics will remain in their posts for long periods past the normal retirement age if the mandatory retirement age is eliminated. As I have already remarked, no evidence whatsoever is adduced by the Council and General Board in support of that assumption. Even at Harvard (and at Columbia), the proportion of academics beyond the retirement age at any given time is

slightly under 10%. Across the American university sector as a whole, including other elite universities, the proportion is somewhat under 2%.

Moreover, if the elimination of the mandatory retirement age is supposed to be so detrimental to a university's international academic standing, it's hard to explain why the elite British universities outside Oxbridge have complied straightforwardly with the 2010 Equality Act's elimination of the mandatory retirement age. I admittedly haven't checked every one of the major non-Oxbridge universities in this country, but I have checked quite a few of them, and each one of those checked has straightforwardly done away with a mandatory retirement age for academics as well as for other members of staff. My College, Churchill, is adopting a similar course through the amendment of its Statutes and Ordinances.

Let me move to one further effort by the Council and General Board to justify their insistence on retaining a mandatory retirement age for academics:

A fixed retirement age... provid[es] a means of ending an academic's formal employment at a specific point without the need for career-long performance management processes.

This statement is the only reference in the Report to performance-management. I remain bemused by the University's tenacity in resisting the proposition that a system of performance-management – i.e., a suitably light-handed system of performance-management – should not be in place for Cambridge academics.

As I pointed out at some length in my May 17th remarks, the relevant techniques of performance-management are already in place in the form of REF monitoring and teaching-evaluation forms. After all, as I have said in those remarks, the judgements that have to be reached in a system of performance-management are not fine-grained judgements of proficiency but are instead coarse-grained judgements of general competence. For judgements of the latter sort, the existing techniques just mentioned are sufficient. Do members of the Council and General Board really think that, if some academic in Cambridge regularly receives mainly zeroes and ones on course-evaluation forms while also having to be excluded from every REF submission, he or she should not be subject to any performance-management measures?

In the May 17th Discussion, Professor Simon Deakin, a member of the Working Group, warned that under a system of performance-management

[d]ismissals for under-performance, or redundancies incorporating an element of selection based on performance, would probably become more common.

Professor Deakin was here presupposing that there probably are – or probably will be – a number of incompetent members of the academic staff in Cambridge who are protected by inadequate systems of monitoring. I don't share his view on that point, but he might be correct. What I don't understand is why he or anyone else would want to perpetuate the state of affairs that is presupposed by his warning. In the litigation that will arise from the implementation of the Council/General Board Report, I will look forward to hearing the University argue that the incompetent members of its academic staff should be shielded from even light-handed scrutiny. (As I noted with a quotation in my May 17th remarks, a key purpose of the government in enacting the relevant portion of the 2010 Equality Act was to induce employers to move toward

reliance on performance-management and away from the lazy discriminatory device of a mandatory retirement age.)

The litigation just mentioned will be of interest to people well outside Cambridge, since an acceptance of the Report's stated rationales for retaining a mandatory retirement age would drive a coach and horses through the 2010 Equality Act's elimination of the mandatory retirement age. It's difficult to think of any other line of work in regard to which the case for a mandatory retirement age is weaker than in regard to academia. Thus, if the Report's rationales were to prevail, the relevant portion of the 2010 Equality Act would be eviscerated.

The Report states that the

Council and the General Board have taken legal advice and believe that the terms of the draft policy comply with existing legislation and in particular that the proposal to retain the retirement age for University officers is justifiable on the grounds set out in this Joint Report.

I don't know how much has already been expended by the University on legal advice concerning this matter, but that advice will turn out to be costly indeed. The courts will not be favourably impressed by the University's effort to wish away its legal obligation to end age-based discrimination in its treatment of academics.

Dr J. M. WHITEHEAD (Faculty of Education and Wolfson College):

Deputy Vice-Chancellor, the Working Party, of which I was a member, was set up primarily to consider what the retirement arrangements should be within the University following the abolition, by the Government, of a default retirement age. The working party considered a range of options, one of which was to simply abolish the current retirement ages within the University and allow all categories of staff to continue working within the University until such time as they choose to retire.

It very quickly became clear to the Working Party that this apparently simple solution was far from simple and that a decision to have no retirement age would have far reaching consequences for the University, and for all staff within the University, irrespective of their age.

These implications are discussed in the Report and it is not my intention to go through these in detail but to add a number of observations on them.

Although the Report itself says virtually nothing about the processes the University would need to implement if the retirement age were to be abolished for established academic and academic-related staff, the Working Party did consider this issue and it is important to give consideration to some of the likely outcomes. If there were no retirement age it should be clear to all that the University could not adopt a *laissez-faire* attitude to this and allow individuals to continue in employment for as long as they choose, irrespective of the quality of their contribution. The University is accountable for the quality of its teaching both to its students and to the Government; and for the quality of its research to those who fund it.

In an earlier report to the Regent House the Working Party spelt out some of the steps it felt the University would have to take to ensure contributions will continue to be of high quality. These including increased monitoring of performance for all staff and the possibility that dismissal proceedings would become more common. In the open meetings that were held these points were raised and a number of speakers felt that that these were not serious issues.

I hold a different view. Taking steps to dismiss individuals, on completely valid grounds, is an extremely distressing process for all concerned; those who have to make the case, those who have to sit on tribunals, but primarily for those who are subject to dismissal proceedings. I know this from first-hand experience because during my time as President of CAUT, now CUCU, I was involved in a number of such cases. The psychological costs to individuals of these procedures should not be underestimated or ignored.

Turning now to the content of the current Report: the proposal to introduce an Employer Justified Retirement Age (EJRA) reflects the Working Party's view that it was important to consider the careers of all individuals within the University, irrespective of age, and not just those close to the retirement age.

The Report, therefore makes reference to the issue of intergeneration fairness both in terms of promotion in mid-career and of new career opportunities in the University for those at the beginning of their careers. My own personal view is that these, along with increasing the diversity of the workforce, are very strong arguments for having an EJRA. In the current economic climate, and for the foreseeable future, the University will not be able to expand its workforce. Even maintaining a 'steady state' at its current levels of staffing will be difficult. Under the current circumstances, therefore, the University can expect to have a numerically static workforce. If the retirement age were abolished and many of the current staff choose to continue working beyond 67 then there is no doubt that this would have the effect of denying employment opportunities at Cambridge University for younger people, particularly young academics. I do not think this is in the best interests of the University.

I say this as someone who will retire, slightly early, from the University at the end of this academic year. I have enjoyed my time in Cambridge and feel immensely privileged to have been able to spend much of my academic career here. I am sure I could continue to make a valuable contribution but I believe there comes a time when you should step aside to allow opportunities to others. To help this to happen the suggested EJRA of 67, a continuation of current practice, seems to me to be entirely appropriate, particularly as it would be combined with the option of requesting to work beyond the retirement age.

This is a value judgement, and this, I think, highlights the key issue about this debate. It is about value judgements. In a static employment situation where it is impossible to satisfy the wishes of everybody, whose needs should be given priority – those who are approaching the current retirement age but who do not want to retire, those in mid-career who hope for promotion, or those of young people who aspire to a career at Cambridge University?

This is the value judgement that the Regent House is now being asked to make.

Professor L. K. TYLER (Department of Experimental Psychology and Clare College) (read by Professor L. W. SHERMAN, Institute of Criminology):  
Deputy Vice-Chancellor, I believe that, contrary to the University's intentions, compliance with the Equality Act 2010 which ends forced retirement is the best, the most humane, and the fairest option, and one which ensures an appropriate mix of competent staff to the maximum benefit of the University.

In my view, the University should not challenge the new legislation and should accept the abolition of the retirement age. The arguments backing this position range from issues of human rights and equality, the benefits of having a

mixed workforce, to recent scientific research which is generating a major re-evaluation of how we think about normal ageing and the consequences of normal brain ageing. Ageing is no longer seen as an inexorable progressive decline in neural and cognitive fitness. Instead, a much more differentiated – and more positive – view is emerging of the nature of the developmental change from early to late adulthood. This research reveals how the brain remains adaptive and plastic throughout life. The widespread neural changes which accompany ageing do not lead to inevitable cognitive declines; rather the brain can reorganize and adapt to these changes and in doing so maintain cognitive functions. This research is rapidly overturning the existing stereotypes of ageing as being synonymous with cognitive decline. This goes hand in hand with other research showing that calendar age *per se* is a weak predictor of academic performance specifically and of cognitive performance generally. This invalidates the assumption that older people are necessarily and uniformly less competent, a widespread prejudice which underlies many of the arguments put forth in support of a default mandatory retirement age.

The University claims that the abolition of forced retirement will lead to various negative outcomes. One of these is an increase in unproductive workers. This presupposes that older academics are less productive than younger ones – a claim that is not substantiated by the evidence. Research shows that age is a weak predictor of productivity. The best predictor is past performance (Stroebe, 2010). If the aim of the EJRA is to ensure that the University is constituted of the highest quality academics who are research productive and effective in teaching at both the undergraduate and postgraduate levels, then the primary criterion should be the quality of each individual staff member and not their age (see Peter Lawrence's article in *Nature* 2008).

Instead of putting in place discriminatory processes, the University could ensure that *all* academics are productive by adopting enhanced performance management procedures instead. This would be within the spirit of the UK legislation and the EU directive on age discrimination and it would satisfy legislation on human rights. Moreover, it would follow the lead of many organizations which use regular performance management assessment as a necessary measure to ensure a competent workforce. This would also deal with another negative consequence of mandatory retirement – that it may disadvantage women who usually take longer to achieve their full success, typically because of domestic responsibilities.

In its supporting document, the University counters the advantages of performance-related assessment with arguments about its disadvantages – most saliently, that it will deprive academics of the freedom to carry out controversial research. I challenge this claim. First, this will only be true if the evaluation process were set up in such a way that it favoured conservative research programmes. Second, if there is such a link between tenure and freedom of thought, why is there so little concern about the academic freedom of the vast numbers of untenured academics in the UK? Moreover, why would organizations such as the MRC, which employs many thousands of scientists, assess all of its scientists in a five-yearly performance-related evaluation process? If the MRC (which, incidentally, no longer has a retirement age) is not worried about restricting academic freedom – and indeed supports a great deal of ground-breaking and free-thinking research – why should the University of Cambridge be concerned? If this is such an important element in academic



life why is it denied to so many?

The University's Consultation document of May 2011 used Harvard University as an example of the negative consequences of ending mandatory retirement since it has an especially aged academic community. Since Harvard is consistently ranked as the leading university in the world, this suggests that the productivity and international standing of an institution is in fact enhanced by retaining its senior staff. This is consistent with research showing that the productivity of senior faculty does not decline with age and may even increase (Stroebe, 2010). Hiring older academics with a stellar track record seems to be a distinct asset to a University. In fact, Cambridge is aware of this: it intends to delay the retirement of academics whose CVs they wish to include in the next research assessment exercise [REF].

Each of the detailed points raised in the Consultation document could have been evaluated against relevant statistical evidence from countries such as the USA, Canada, and Australia, which abolished forced retirement some years ago. However, the University failed to do this, preferring instead to rely upon anecdote and assertion. For example, the Consultation paper argued that unless older workers retire they will create a logjam and prevent younger academics from obtaining jobs. This presupposed that older academics will routinely want to stay in work. The USA statistics show that only a small proportion of older academics chose to stay in work beyond their late 60s. Moreover, people typically only stay in work a few years past their retirement date. This means that any putative logjam would be short-lived.

The Consultation document ignored the many advantages of retaining older academics. Senior scientists bring experiences and knowledge that can make them inspiring teachers and mentors for students and post-doctoral researchers. Also, given their expansive knowledge built through years of learning and research, senior academics are uniquely positioned to make continued advances at the frontiers of science. Moreover, older faculty often have well-funded labs which provide employment and excellent training grounds for large numbers of post-docs, and early career scientists. Forced retirement represents an extraordinary waste of human resources.

Moreover, it is disingenuous to link problems in equality and diversity to the potential disappearance of mandatory retirement. In Cambridge, as in the UK university sector in general, there has been dispiritingly slow progress in improving equality and diversity over the many decades when forced retirement has been in place. I am unconvinced by the claim that the abolition of forced retirement would make the problem worse. The factors that have created a systemic under-representation of women and of ethnic minorities – especially at the higher levels of the system – reflect a failure to take the appropriate measures to combat this (and the difficulty of determining what these measures should be). Retirement age has nothing to do with this.

For the reasons outlined above, I urge the University to abandon its plans to re-introduce a mandatory retirement age.

Professor L. W. SHERMAN (Institute of Criminology):  
Deputy Vice-Chancellor, age discrimination against adults in the workplace is morally wrong, just as surely as it is wrong to discriminate on the basis of race and gender. Since the enactment of the Equality Act 2010, age discrimination in this country has also been illegal. And what does that law say? It says that the only possible

exception to the ban on mandatory retirement is the one this University seems to be pursuing: the provision in Schedule 9 of that Act, where section 1.1. allows the law to be 'contravened' if and only if the employer can prove that

having regard to the nature or context of the work—  
(a) [the contravention] is an occupational requirement,  
(b) the application of the requirement is a proportionate means of achieving a legitimate aim, and  
(c) the person to whom [the employer] applies the requirement does not meet it.

No one has yet claimed that it is an 'occupational requirement' for an individual academic to be under age 67. At the individual level, such a claim is clearly falsified by a long history of academics at Cambridge and elsewhere serving with distinction well beyond age 67. Rather, what this University is discussing is a question at the institutional level: whether a great institution of higher education requires compulsory retirement age in order to remain great.

What this University has not discussed is the key requirement of the law: the evidence to prove that a policy of forced retirements is a proportionate means of achieving a legitimate aim, such as increasing opportunities for younger academics. What the law means by the word 'proportionate' is that the severity of the harm caused by age discrimination must not exceed the value of the benefit achieved by inflicting that harm. Yet in all the justifications offered to date for forcible retirement at Cambridge, not one of them has systematically addressed the level of harm to individual academics done by a policy of forcible retirement.

There is, for example, a substantial epidemiological literature on the question of whether compulsory retirement literally kills people. Has the University reviewed this literature in the *Lancet*, *BMJ*, and elsewhere? Is it ready to defend its claim of proportionality on the basis of an objective assessment of that evidence in a court of law? Do we know whether the mortality rate of academics under default retirement is higher than without it? Do we know whether losing an established post raises coronary risks by forcing academics to beg for year-to-year permission to keep their lab space or College room?

Nonetheless, most retired academics will live on for many years, which creates a different kind of harm. That harm is the moral hazard of healthy people being prohibited from earning their own daily bread. It is said in my College that Cambridge academics can stay on with their pensions and work for free. But how harmful is it to create a society in which young people are more heavily taxed so that healthy older people do not have to work for pay? In Greece there is a ratio of one retired person for every person in work. Do we want Cambridge to look like Greece? It may well do, if life expectancy keeps rising. Latest estimates place average life span into the early 90s, or almost 30 years beyond the now-illegal Default Retirement Age. This problem may bankrupt all of Europe, which remains in denial of the demographic reality that current retirement ages are unaffordable.

In the long run, University pension schemes cannot possibly withstand the impact of increasing longevity on their solvency. That is one reason the Equality Act 2010 was passed: to reduce demands on pensions by perfectly healthy and productive people who can, and should, remain in work without drawing on pensions funded by taxing younger people.

The proportionality of the harm that forced retirement causes may be measured in another way by the courts. The

Government's website at DirectGov ([http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG\\_10026429](http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026429)) says this about what is required for mandatory retirement to be truly proportionate to a legitimate aim, such as increasing opportunities for younger academics:

Your employer should have no reasonable alternative other than to introduce an age-based practice.

It seems clear that Cambridge cannot meet this test. There are many reasonable alternatives. They may be less convenient, but they are also far less harmful, which is the only acceptable test under the new law. The obvious example is one the University rejects, but without legally adequate justification: the alternative of performance reviews for all ages. Under the law that requires proportionality, it is much less harmful to have performance reviews at all ages than to declare older people categorically unacceptable.

Even without performance reviews, there is an alternative way to create more jobs for younger academics. That alternative would be to abolish forced retirement, thus retaining many older, more accomplished academics who obtain funding for more junior research and teaching posts. That alternative would see that unestablished posts will be the main area of growth of academic employment for the foreseeable future, with more younger academics hired because the established posts are predominantly held by older people who can raise the money, although more so in science and social science than in humanities. That alternative would retain more highly accomplished people at the top of their careers, as Ivy League universities do, for a long period of generativity in mentoring and promoting the careers of younger scholars.

A third alternative is to rely on the good judgement of Departments and academics to promote voluntary retirement when appropriate, as Ivy League and Australian universities do. As Professor Kramer notes, reports of the 'clinging-on' problem have been greatly exaggerated. At my own former university in the Ivy League, most academics I knew had retired voluntarily before age 70.

It is unwise for this University to defy the law in the way that has been recommended to the General Board. Litigation against that policy is already being planned, and the University could incur large legal costs in repeated Tribunals. A group called Cantabs Against Discriminatory Retirement Age (CADRA) has a new website that in a few days has already attracted signatures from academics in eleven different Departments of the University. What they have supported is the following petition:

We, the undersigned members of the University of Cambridge, call on the General Board not to adopt an Employer Justified Retirement Age, or any other policy of forced retirement based solely on age.

The group invites all members of the University who find age discrimination morally abhorrent to sign the petition and to consult about further opposition to any illegal statutes that the present leadership of this great University may mistakenly choose to adopt. The website can be found at <http://sites.google.com/site/cadracampaign/>

Dr D. J. H. GARLING (Department of Pure Mathematics and Mathematical Statistics) (read by Dr S. J. COWLEY, University Council and Department of Applied Mathematics and Theoretical Physics):

Deputy Vice-Chancellor, I strongly support the introduction of an Employer Justified Retirement Age. My main reason for this is the need for inter-generation fairness: at 67, it is

time to make room for the next generation. I retired more than a decade ago; since then, I have followed the progress of my successor with a great deal of pleasure.

Retired academic staff can however make a valuable contribution to academic life. I served for four years as Executive Secretary of the London Mathematical Society, and was appalled to learn of the way that some universities treated their retired staff. Not only were they denied an office, or indeed desk space, but the use of their University Library and other facilities was denied them; they were no longer welcome in their own universities. I am sure that this University will never want to go down this path, but it must spell out clearly the ways in which it will continue to recognize and respect the needs of retired academic staff

Professor N. GAY (University Council and Department of Biochemistry) (read by Dr S. J. COWLEY, University Council and Department of Applied Mathematics and Theoretical Physics):

Deputy Vice-Chancellor, I would like to commend the report of the Council and General Board on the introduction of an employer justified retirement age (EJRA) and urge members of the Regent House to support it.

Although most of the important arguments are laid out in the Report, one issue that is not discussed in detail is the question of performance review. If an EJRA is not agreed it is inevitable that frequent career-long performance reviews will be introduced. This would place academic staff under continuous pressure to produce tangible results from the moment they are appointed and in order for such reviews to be effective Heads of Departments or Institution would be empowered to dismiss or take other sanctions against those deemed by the procedure to be unproductive. Is this the best way to foster and promote research and scholarship of the highest calibre? I am reminded of the case of Francis Crick who for some period in the 60s and 70s published little or nothing of any note. The powers that be at the Medical Research Council became concerned and wrote to the President of the Laboratory of Molecular Biology for an explanation. Max Perutz's response ('Dr Crick has been thinking') was brief but definitive. And for me this is the essence of academic freedom, to have the time and space to develop new ideas and to be creative.

This concept of academic freedom is enshrined in Statute U of the University and the corresponding provisions of the Colleges. Recent attempts to dilute these protections were voted down decisively by Regents in 2009 but nobody should doubt that the issue will return with renewed urgency in the absence of an EJRA. Indeed the ugly little brother of performance review, the (in my view) entirely worthless appraisal arrangements,<sup>1</sup> lurk in every Department and Faculty. It would take very little indeed to convert this procedure into a mandatory performance review although, no doubt, Human Resources would need a lot more human resources to administer it.

Career-long performance review would fundamentally alter the ethos of the University and undermine our ability to deliver world-class research and scholarship. I ask all Regents who want to remain in control of their Faculties to support the EJRA.

<sup>1</sup> <http://www.admin.cam.ac.uk/reporter/2003-04/weekly/5945/14.html>

Dr N. J. HOLMES (Department of Pathology) (read by Dr S. J. COWLEY, University Council and Department of Applied Mathematics and Theoretical Physics):

Madame Deputy Vice-Chancellor, I would like to speak in support of the proposals from the Council and General Board for an employer justified retirement age (EJRA) for

University officers. I believe that the introduction of an EJRA is not only proportionate but essential to maintain opportunities for entry and avoid an increasing stagnation in the intellectual life of the institution. It is important that there be a turnover of academic post-holders to maintain a sense of intellectual freshness. The level of turnover amongst Cambridge academics is already considerably lower than in other areas within and outside the University – the turnover amongst Cambridge academics is only some 4% annually. In my view, suggestions by some that this will not significantly slow even further if there is no retirement age are at best misguided.

Let us be quite clear that this policy would not introduce a new provision to discriminate against those over 67. The University has, from time out of mind, had a compulsory retirement age of 67 for established staff. Under this policy, some 40 academic staff retire every year thereby creating over half the opportunities for new recruitment to our Faculty. Study of the data provided with this Report, suggests that, were this policy to be adopted, a similar number of retirements would be expected in the future. We must face the reality that future recruitment of new academic staff depends heavily on this steady stream of retirements. If practice here were to follow that at similar institutions in the US (see next paragraph), then the abolition of any default retirement age will see about half of our currently-obligated retirees delay their retirement and we will recruit some 100 fewer new staff within the next five years.

It has been suggested by some that the experience of US universities shows that abolition of default retirement has not led to problems. I do not agree with that assessment. The comparison with US universities is not straightforward, for a number of reasons, not least important differences in pension systems. However, academic research has found that abolition of the mandatory retirement age in universities in 1994, then already age 70, led to a significant proportion of faculty choosing to stay in post beyond 70.<sup>1</sup> This situation has been most observed in private research-intensive institutions similar to our own. At some institutions the fraction of faculty aged over 60 had reached 30% by 2001;<sup>2</sup> in 2008, 55% of tenured faculty in humanities at Yale were over 60 years of age.<sup>3</sup>

There are two further important points I wish to make. The first is that past practice demonstrates that a default retirement age of 67 does not prevent many academics from continuing their scholarly work beyond retirement. The proposed policy should allow for academics to continue to work in an unestablished capacity as well as 'voluntarily' (that is supported by their pension). If I have a criticism of the proposals, it is that they should make it easier for individuals to transfer from established to unestablished status where they are able to secure external funding to support themselves, and where appropriate research teams.

The second issue, which research has clearly established has a major impact on voluntary retirement decisions regardless of default ages where present, is the level of pension expectations which staff enjoy. Where individuals have accumulated a sufficient pension entitlement, they are, not surprisingly, more likely to retire even before any compulsion. Here our institution can play an important immediate role. If we are to continue to expect our established staff to retire by default at 67, they should be able to expect a pension which will support them, whether they continue with their academic activities or not. Our University is part of the employers' organization UUK which effectively imposed major changes on the USS

pension scheme last October which will lead to lower pensions for all scheme members. The scale of these changes on future academics, those joining after October last year, is such that a new academic can typically expect a reduction in pension of about 25% compared to those retiring last year. The degree of disadvantage imposed is brought into sharp contrast by the recent offer made by the Government to academics in post-1992 universities who are members of the TPS. UUK negotiators have recently agreed, without prejudice, to a comparative analysis of the new USS CARE scheme with those proposed for other public sector schemes. It is vital that Cambridge University recognizes its responsibilities to future staff and supports the revision of the USS CARE scheme. There are two critical points at issue. One is the accrual rate – if the TPS rate is used the reduction of pension is reduced by about two thirds – and the other is the revaluation rate – the TPS rate of CPI+1.6% is intended by the Treasury as a conservative substitute for average earnings and together these changes alone render the scheme more or less cost neutral for the average academic, when compared to the former USS final salary scheme.

I consider that the restoration of USS pensions to an adequate level of support is an important *quid pro quo* to accepting the EJRA. I urge the administration to use its considerable influence to encourage this outcome; in turn I urge members of Regent House to support the proposals in the Report.

<sup>1</sup> Ashenfelter, O. and Card, D. (2001) *Did the Elimination of Mandatory Retirement Affect Faculty Retirement Flows?* Bonn: IZA Discussion Paper 402.

<sup>2</sup> *Ibid.*

<sup>3</sup> Yale University Office of Institutional Research.

Dr S. J. COWLEY (University Council and Department of Applied Mathematics and Theoretical Physics):

I spoke in favour of an Employer Justified Retirement Age (EJRA) for University officers at the Discussion on 17 May 2011 (*Reporter*, 2010–11, p. 871).<sup>1</sup> I gave two main reasons. The first centred on the need for a mix of collaborators across a range of generations (including significant numbers of younger staff). The second revolved around the protections afforded by Statute U, which I argued would be put at risk by the need to introduce performance review if there was no EJRA. I will not repeat in detail the arguments I gave then. Instead I wish to address in part some of the points that have been raised by Cantabs Against a Discriminatory Retirement Age (CADRA).

CADRA have a number of good points, for instance the top-rated American universities are indeed world leaders without having had any mandatory retirement for the past two decades. However, I do not buy all their arguments.

CADRA argues that forced retirement on the basis of age is discrimination. Yes it is, but it is lawful discrimination *if* it can be shown to be objectively and reasonably justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary. Last May I noted that the abolition of the Default Retirement Age (DRA) might well be in the best interests of myself as an individual, however as a Regent, and as a Charity Trustee, I believe that the decision as to whether or not to introduce an EJRA should be based on the best interests of the institution.

CADRA argues that anyone at any age can be dismissed if they are not performing their duties. My answer to this is yes and no. Yes, because Statute U provides dismissal in the case of



conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of the office.

However, this is a high hurdle; indeed those of us who fought the Statute U reforms in 2009 were keen to preserve this high hurdle as a key protection of academic freedom. No, because (to put the height in context) I believe that the hurdle has not been jumped.

CADRA argues that the University's proposals to exempt non-academic staff from forced retirement are manifestly unfair to academic staff. On the other hand, non-academic staff (or, to be more precise, staff who are not officers) have, instead of Statute U, a hurdle that can be jumped. As the Report argues,

Officers of the University have the benefit of unique and specific protections which preserve academic autonomy and freedom throughout the course of their careers;

an EJRA is a *quid pro quo* for the protections of Statute U.

CADRA argues that people over 67 frequently obtain resources and funding for younger academics that can only be obtained by highly accomplished senior scholars. However, as the Report makes clear, such academics have the right to request working beyond the retirement age, and the University has a track record of granting such requests.

CADRA argues that generational justice requires that young people not be forced to support older people and that older academics should be allowed to support themselves on salary and not on pension. Certainly, as Nick Holmes has observed, the University should ensure that our pensions should continue to be sufficient, and (as I noted last May), with the recent changes to the USS, the management of the university sector as a whole seems to have shot itself in both feet. (Which brings me to a remark that while I was drafting this speech I was worried was a little over the top; comments by a previous speaker convince me otherwise.) Nevertheless, while our pensions are far from lavish, they are not yet beneath the headline. Further, suppose we turn the argument round. An older academic, high up the salary scale who continues past 67 may well deny one or more younger academics a job (my estimate last May was a decrease in 10%–15% in the number of posts), and may even be forced to support them through unemployment benefit. Inter-generational fairness arguments cut both ways, and in relation to my previous point we should not forget that there is an important distinction between being a senior scholar bringing money in to support *subordinate* budding academics, and freeing up established positions to allow younger academics to blossom as *independent* scholars.

Finally, CADRA argues that there is no evidence that academics stay on past their use-by date if forced retirement is abolished and that most US academics retire voluntarily. My anecdotal evidence is that the first point is not necessarily true, and the key word in the second point is 'most'. If there is no EJRA, then as I argued last May and as Nick Gay has argued today, the University will need to introduce performance review to tackle the difference between 'most' and 'all'; that will not be the beginning of the end of Statute U, it will be the end of Statute U. And if you do not believe me that there will be a difference, ask a colleague at Imperial where the scrutiny is far from light-handed.

Dr M. R. CLARK (Department of Pathology):

Madame Deputy Vice-Chancellor, let me first start out by declaring that I am currently serving as the Pensions Representative for the Cambridge branch of the University and College Union (UCU). The UCU position on compulsory retirement, is that it is against age discrimination and that it would regard a compulsory retirement age for academic staff as being discriminatory. UCU would thus consider taking on and defending the rights of any of its members subject to such a policy.

However having declared the official position of UCU, I'll now state my own views as a member of Regent House. I find the data presented within Appendix 1 attached to the Report quite compelling and it clearly shows in Table A that the turnover of staff within established academic posts is very dependent on vacancies generated through retirement. Also within Table B it can be seen that the age and gender profile amongst our established academic staff is very biased towards males over 50, I declare myself to fall into that category. Removal of the compulsory retirement age would almost certainly result in a reduction in staff turnover within the established academic category and a continued and more marked skewing of the age and gender balance. Obviously an important aspect of established posts is that they are governed by Statute U and thus provide enhanced protection of the individual's Academic Freedoms and stronger protection from redundancy. These are principles that I strongly defend, but at the same time I acknowledge that there has to be a balance for these extra privileges. I agree with the comments of Nick Gay and Stephen Cowley and my own view is that performance management can easily be manipulated by line management to undermine the important protection of Academic Freedom, so I for one do not see it as reasonable alternative safeguard. Mention has been made of the working practices of the Medical Research Council (MRC). What was not mentioned is that the MRC along with the BBSRC and other Research Councils is very keen to transfer responsibility for employment contracts for many of its research staff onto universities. The question is, why is that? I think that it is in the best interests of the University for there to be a mechanism for the opening up of established posts to subsequent generations and a mechanism to establish a balance in the age and gender profile of our established academic staff. Thus I broadly support the principle of a set age at which an academic is required to vacate an established post governed by Statute U. There are some extra points that I would make to go alongside this position. The recent changes in the USS pension scheme have a significant bearing on the likely financial position of members upon reaching the proposed retirement age. Current members of the scheme, and in particular those aged over 55 on October 2011, have the benefit of the final salary pension scheme, whereas others following on are less fortunate. Many face the prospect of a greatly reduced pension provision based upon Career Average Revalued Earnings (CARE) and with capping of the revaluation below the likely rate of salary inflation. Our own Registry, Dr Jonathan Nicholls, in an individual capacity was acting as an employer representative on the USS negotiating committee and is probably pleased to have forced a settlement on the scheme that is likely to result in greatly reduced direct financial costs to the University in the medium to long term. However those savings in direct financial costs may have negative consequences to the academic balance of the University in the long term, particularly if academic staff are less able to fund their

<sup>1</sup> See <http://www.admin.cam.ac.uk/reporter/2010-11/weekly/6226/section8.shtml#heading2-24>.

retirement plans and feel obliged to try and continue in full time employment. What is now emerging is that the USS pension settlement that has been imposed upon us is far more detrimental than the settlements likely to be reached by other public sector pension schemes. Two important principles of the scheme need urgently to be reconsidered and changed. One is the accrual rate of 1/80 which remained unaltered between final salary and CARE. Other pension schemes that have adopted CARE have shifted their accrual rates to values closer to 1/50 in order to provide a fairer transition in calculated employee benefits. The other principle is how salary inflation is accounted for, and again other settlements in the public sector have involved calculating values above CPI, and without a cap imposed on that value. So if the argument is that established academic staff are expected to retire for the good of the University, the University ought to ensure that the pension provision is attractive and a just balance for being forced into retirement from an established post. Another question I have is whether the proposals within the attached policy in Appendix 2 fits easily with the current wording of our Statutes governing established posts. For example, although Appendix 2 sets out proposals for early and phased retirement, allowing a member of staff to effectively work and then be paid on a part-time basis, it is not clear how the Statutes governing Residency and Duties of an Officer allow easily for such part time working. I would appreciate the Council and General Board clarifying the provision under our University Statutes for part performance of the Duties of an Officer. Finally one important point to make is that there can be no barrier in law to an academic competing for and taking up an unestablished post with the University beyond the age of 67.

Professor S. F. DEAKIN (Faculty of Law):

Deputy Vice-Chancellor, throughout the process of formulating a position on the question of the retirement age, the Working Group has sought feedback from University employees likely to be affected by any change of practice, and from other interested parties, including the trade unions. A number of open meetings have been held over the course of the last few months for the purpose of presenting the options open to the University and canvassing views. The Working Group did not view the issues as clear cut. On the contrary, we acknowledged that they are finely balanced. We conducted our work on the basis that we should make an evaluation of the functions performed by the retirement age and the likely consequences of removing it. The change made to the law does not equate mandatory retirement with age discrimination, as has sometimes been suggested in the course of the discussions that we have been having. The change to the law makes it clear that mandatory retirement is differential treatment on the grounds of age, but this does not in itself amount to discrimination. There is only unlawful discrimination if a practice cannot be justified. The abolition of the default retirement age requires employers to justify mandatory retirement, not to remove it. If the practice cannot be justified, it should be removed. The European Directive from which the UK law on age discrimination is derived sets on numerous possible justifications for differential treatment on the grounds of age. The Court of Justice of the European Union has, in the course of the last eighteen months, given a broad reading to these justifications, and has indicated to the courts of the Member States that they should be interpreted flexibly. It is clear that the framers of the EU Directive did not intend it

to lead to the abolition of the institution of retirement, and the Court has maintained this approach in its rulings. Thus EU law cannot be read as necessitating the ending of the practice of mandatory retirement, at least where it is combined with access to effective income replacement in the form of pension provision, and where it serves the goal of promoting labour market access on the part of younger workers. In the view of the Working Group, these conditions are met in the case of the University's rule of mandatory retirement from established academic and academic-related offices. In the case of established offices, but not in the case of other University employments, retirement will block the employment opportunities of younger academics. Thus there is a real issue of inter-generational fairness at stake here, alongside the interest that the University has in ensuring a sustainable flow of new entrants into the academic profession. There are also issues of the effectiveness of employment procedures to consider. Replacing mandatory retirement with career-long performance appraisal, a perpetual, internally focused REF, will inevitably be costly, and will affect the autonomy currently enjoyed by established academic officers. Some have suggested that the University should move away from the model of academic autonomy and embrace a more systematic performance review process. The Regent House recently rejected modest proposals to amend Statute U, which amounted to tidying up the University's statutes on discipline and dismissal of academic staff and removing a highly problematic provision allowing the Regent House to vote on which individuals should be selected for dismissal in the event of redundancy. If the retirement age for officers is to be abolished, we will, I think, have to take another look at performance appraisal procedures.

These are the considerations which influenced the Working Group. We at no point suggested that a supposed deterioration in performance on the part of older workers was a relevant factor, and arguments for abolishing the retirement age from recent research on ageing are of no relevance to our present discussion. As I have said, the issues, in general, are very finely balanced. Whatever the arguments in favour of retaining mandatory retirement, we should not proceed if there is not a consensus in the Regent House, and more broadly among the academic staff of the University (which is by no means coterminous with the Regent House), in support of this step. If we do decide to keep the retirement age, the practice will have to be kept under review in the light of the changing legal framework and perceptions of what is in the University's best interest. If, however, we decided now to abolish mandatory retirement, it will not be legally impossible to bring it back, but it will be practically very difficult to do so.

*Report of the Faculty Board of Clinical Medicine, dated 28 November 2011, on the M.D. Degree (Reporter, 2011–12, p. 314)*

No remarks were made on this Report.

**COLLEGE NOTICES****Elections****Robinson College**

Elected into a Fellowship in Class B with effect from 1 April 2012:

Dr Kendra Strauss, B.A. (McGill, Montreal), M.Sc., D. Phil. (Oxford)

Elected into a Fellowship in Class B with effect from 1 October 2012:

Dr Brian D. Sloan, B.A., LL.M. (*R*), Ph.D. (*CAI*)

**Trinity College**

Elected into a Professorial Fellowship under Title D with effect from 25 November 2011:

Oliver Bruce Linton, Professor of Political Economy

Chosen for election into Junior Research Fellowships under Title A with effect from 1 October 2012:

Florence Brisset-Foucault, for research in Political Science

George Patrick Corbett, *T*, for research in Italian Literature

Nicholas Hardy, for research in the History of Scholarship

James Thomas Hodgkinson, *DAR*, for research in Biochemistry

Alexis Litvine, *T*, for research in Economic History

Nir Navon, for research in Experimental Physics

Duy Phuoc Nguyen, *T*, for research in Molecular Biology

Peter Paul Varju, for research in Mathematics

**Vacancies**

*Clare College*: William Senior Studentship in Comparative Law or Legal History; tenure: three years; closing date: 30 March 2012; further particulars: <http://www.clare.cam.ac.uk/The-William-Senior-Studentship-Comparative-Law-or-Legal-History>.

*Robinson College*: Fellow in Physical/Theoretical Chemistry; tenure: five years in the first instance; closing date: 29 February 2012; further particulars: <http://www.robinson.cam.ac.uk/about/jobs.php#204>.

*Wolfson College*: Librarian; salary: £30,073–£32,952 a year; closing date: 20 February 2012; further particulars: <http://www.wolfson.cam.ac.uk/jobs>.

**EXTERNAL NOTICES****Oxford Notices**

*Department of Zoology*: Professorship of Zoology; closing date: 12 March 2012; further particulars: [http://www.ox.ac.uk/about\\_the\\_university/jobs/fp/](http://www.ox.ac.uk/about_the_university/jobs/fp/).

*St Edmund Hall*: Part-time Archivist (two days a week); salary: £25,854–£30,870 a year *pro rata*; two-year, fixed-term contract with possibility of extension; closing date: 16 February 2012; further particulars: <http://www.seh.ox.ac.uk>.

*St Hilda's College*: Four-year Career Development Fellow in French, from 1 October 2012; salary: £30,688–£31,769 a year; closing date: 12 noon on 21 February 2012; further particulars: <http://www.st-hildas.ox.ac.uk>.

*St Hugh's College and the Faculty of History*: Tutorial Fellow and Titular University Lecturer (CUF) in History; salary: £42,733–£57,431 a year; closing date: 17 February 2012; further particulars: <http://www.st-hughs.ox.ac.uk>.

*Worcester College*: Two-year, six-hour Lecturership in Ancient History; salary: £12,185–£13,714 a year; closing date: 1 March 2012; further particulars: 'Notices' section of <http://www.worc.ox.ac.uk>.

**Maison Française d'Oxford**

The Maison Française d'Oxford is holding a conference entitled '*La maison et le monde: la romanisation et ses variations juridiques*' on Wednesday, 8 February 2012, from 9.30 a.m. to 5 p.m. Further details are available from <http://www.mfo.ac.uk>.

Notices for publication in the *Reporter* should be sent to the Editor, Cambridge University Reporter, Registry's Office, The Old Schools, Cambridge, CB2 1TN (tel. 01223 332305, fax 01223 332332, email [reporter.editor@admin.cam.ac.uk](mailto:reporter.editor@admin.cam.ac.uk)). Copy should be sent as early as possible in the week before publication; short notices will be accepted up to 4 p.m. on Wednesday for publication the following Wednesday. Inclusion is subject to availability of space.