

PERSONAL.



From the Baroness Cox

May 15, 1988

Dear Prime Minister,

The Education Reform Bill: Composition of Governing Bodies for Polytechnics and Colleges

I thought I should alert you urgently to the latest duplicity from the DES.

For months the Polytechnic Directors have been saying that they need a management structure if they are to manage their institutions effectively. For months the DES civil servants have been saying that the Government is so fearful of public reaction, principally from NATFHE and the students, that the Directors must accept a collegiate model of governance, which is now in Schedule 5 of the Bill.

The Directors hoped that even if the composition of the new governing bodies had to be inappropriate, the Articles of Government would allow them to manage effectively. However, the DES produced draft Articles in March which will make matters worse by giving too much power to Academic Boards.

At a meeting in the DES last Friday May 13 Richard Bird accused several Directors of wanting a "Teutonic" model, and made it plain that the Articles were to remain collegiate.

At the request of Sir Kenneth Green (Director of Manchester Polytechnic) I have therefore tabled amendments to schedule 5 for debate tomorrow which would remove the nominees (up to 8 in number) of local authorities, academics and students from governing bodies.

However, I fear I shall be a rather lone voice, and may only be supported publicly by some 12-14 Polytechnic Directors after the debate. So if the collegiate composition of governing bodies has really gone too far to be retrieved, a compromise might be for the DES to agree managerial Articles of Government, satisfactory to Sir Kenneth Green and his friends, before the Bill comes back to us at Report on or about June 20.

An entirely different future would be in store for the non-university sector, however, if the Government were to agree tomorrow to take my amendments away and consider them.

Yours sincerely,

Caroline Cox.

From the Director

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Sir Kenneth Green MA

12 May 1988

The Baroness Cox
House of Lords
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Dear Caroline,

I am writing to ask you, in moving an amendment to the Education Bill currently under discussion in the House of Lords, to express the concern that many Polytechnic Directors share regarding those sections dealing with the Governance of Polytechnics and Colleges outlined in Schedule 5.

I have received letters which entirely share my view from Harry Law, President of Portsmouth Polytechnic, Ken Barker, Director of Leicester Polytechnic, Gerry Fowler, Director of North East London Polytechnic and Clive Booth, Director of Oxford Polytechnic. In addition, my own comments, which were forwarded to Kenneth Baker in my letter to him of 29 March, have been supported in conversation with me by Ray Rickett, Director of Middlesex Polytechnic, Ken Durrands, Director of Huddersfield Polytechnic, Peter Toyne, Rector of Liverpool Polytechnic, Peter Knight, Director of Birmingham Polytechnic, Michael Robbins, Director of Plymouth Polytechnic, Bob Smith, Director of Kingston Polytechnic, Alf Morris, Director of Bristol Polytechnic and Terry Burlin, Rector of the Polytechnic of Central London.

on 12th April

At the CDP Conference the view was taken that it would probably be difficult to get the Bill changed and that the CDP should direct its efforts particularly to ensuring that the Articles and Instrument reflected a tough managerial model. This was supported by 90% of the Polytechnic Directors present and, therefore, to the names above you can add Laing Barden, Director of Newcastle upon Tyne Polytechnic, Geoffrey Hall, Director of Brighton Polytechnic, Peter Hart, Rector of Sunderland Polytechnic, Christopher Price, Director of Leeds Polytechnic, John Stoddart, Principal of Sheffield Polytechnic and Keith Thompson, Director of North Staffordshire Polytechnic. There are two sets of issues, the one relating to the Bill, Schedule 5, and the other to the Articles and Instrument of Government.

Continued

*Plus
Pauline Perry
(South Bank)*

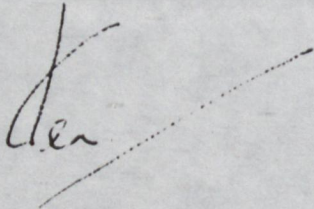
In relation to the former, no rationale is provided for the hybrid of managerialism and representationalism reflected in the membership of the Boards of Governors of these new incorporated bodies. It is essential that such arrangements should reflect clear logic of responsibility and accountability in which decision taking can be located. Anything less will inhibit the recruitment as governors of the right kind of people from industry, business and the professions, the exercise of proper management and leadership at senior levels within institutions, and the achievement of the radical objectives outlined in the Government's White Paper "Meeting the Challenge".

In relation to the latter, Articles and Instrument have not yet been produced but there are genuine fears abroad amongst Directors that these may not provide a proper framework for the future conduct of these institutions. The particular concerns are that the Governing Body should be clearly responsible for the identification of corporate strategy and all aspects of policy, and ensuring that the institution is properly managed; that the Director, as the Chief Executive, should be accountable to the Governing Body, as would the Chief Executive of any other company, for all aspects of policy advice; that the Academic Board should be concerned with the quality assurance of existing provision and enabled only to advise the Chief Executive in matters relating to policy and strategy.

I am enclosing the two paragraphs you might wish to use, plus a copy of my paper which was sent to Kenneth Baker.

If you care to discuss these matters with me over the telephone I shall be pleased to do so.

As ever,



P.S. I have done what I could with the draft attached.

Enc

Many thanks for pursuing this matter!

higher education and they do not necessarily all have to be written into a Bill of this kind.

Amendment, by leave, withdrawn.

Schedule 4 agreed to.

Clauses 105 and 106 agreed to.

Clause 107 [*Provisions supplementary to sections 105 and 106*]:

Baroness Cox moved Amendment No. 237:

Page 106, line 13, at end insert—

("() In relation to the initial appointment to the Board of Governors of the Corporation to take effect on vesting day, the Secretary of State shall have the same powers as provided in paragraph 5 of Schedule 5 below.")

The noble Baroness said: I have been asked by my noble friend Lord Onslow to move this amendment on his behalf as unfortunately he has been delayed abroad. For the convenience of the Committee I should point out that there is a printing error in the Marshalled List. The amendment should refer to page 133, line 16. It should therefore be placed in the Marshalled List in a position which refers to Clause 136. With the leave of the Committee, perhaps I may have permission to deal with it at this point in time. It is only a very brief and probing amendment.

The amendment refers to the unique position of the ILEA polytechnics. Since these are already corporate bodies the desirable reform of their governing bodies is not achieved by other provisions in the Bill which will ensure smaller and more effective governing bodies for polytechnics outside London. It would therefore perhaps be particularly unfortunate if the Secretary of State lacked the powers to approve the initial appointment of a board of governors of ILEA polytechnics after they leave the control of the local authority. Surely they deserve assurances that their governing bodies will be revised in line with the revisions promised to their other colleagues elsewhere.

This amendment proposes that Clause 136 should be revised to give to the Secretary of State the same powers that are provided for him in paragraph 5 of Schedule 5 to the Bill; namely, that he should be the appointing authority in relation to the appointment of the first members of an ILEA corporation and that he shall secure that at least half of all the members of the corporation as first constituted are independent members. Basically I understand that this has given comparability to the ILEA polytechnics as to other polytechnics outside that authority. On behalf of my noble friend, I beg to move.

The Lord Chancellor (Lord Mackay of Clashfern):

On the assumption that one alters the wording to "Page 133, line 16" the position is that the concern expressed by my noble friend on behalf of the noble Lord, Lord Onslow, relates specifically to the position of the inner London polytechnics. The Government accept that some changes will be needed to the composition of their governing bodies and their articles of government following their transfer to the HEFC sector. Once Clause 136 of the Bill has passed into law it will allow the Secretary of State to make

amendments. Officials have written to the institutions about this matter.

With those assurances, perhaps my noble friend will feel able to withdraw the amendment. In other words, we feel that although the powers that are to be used in this connection are not precisely the ones to which the amendment refers, the point is covered otherwise.

Baroness Cox: I am most grateful to my noble and learned friend the Lord Chancellor for those assurances, and with gratitude I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 107 agreed to.

Schedule 5 [*The higher education corporations*]:
[Amendment No. 238 not moved.]

Baroness Cox moved Amendment No. 238A:

Page 186, line 9, leave out ("twelve") and insert ("eight").

The noble Baroness said: In moving Amendment No. 238A I shall speak also, with the leave of the Committee, to Amendments Nos. 239A to 239D, 240A to 240C and 242A to 242F, because they all deal with proposals for strengthening the future governance of the polytechnics and larger colleges of higher education. If I seem a somewhat lone voice in support of the changes that are advocated in these amendments, let me assure the Committee that I am speaking at the behest of many polytechnic directors. I can but hope that the rest of the educational establishment will not lightly disregard the wishes of polytechnic directors, who, after all, are the people who will have to run the new institutions.

It is perhaps worth reminding the Committee that when the non-university sector, as it used to be called, came into being in its present form in 1966 the intention was that it should enjoy parity of esteem with the universities. The polytechnics and colleges, as I am sure the Committee will agree, have earned such esteem. Unfortunately, that is not reflected by representation in this Chamber. Indeed, I think that I may be the only Member on these Benches who has teaching experience in a polytechnic, and I reached only the level of head of department. I believe that the Benches opposite may be better stocked with Members who have experience of the public sector of higher education and I hope that they will support the concerns of polytechnic directors.

At this stage I should perhaps stress that academic freedom, in which I believe passionately, will in no way be compromised by these amendments. Academic quality and freedom must remain the exclusive province of academic boards; overall management and planning should belong to directors and governing bodies.

These amendments deal with the composition of the future governing bodies. Their main effect is to be found in Amendments Nos. 239C and 239D. Paragraph 3(2)(a) of Schedule 5 to the Bill as drafted envisages up to 13 members who must have experience of and have shown capacity in industrial, commercial or employment matters or the practice of

[BARONESS COX.]

any profession. Amendment No. 239C requires the capacities shown to have been managerial. In view of all the new responsibilities being given to directors and governing bodies under Clause 108 of this Bill, I feel sure that the directors are right in their wish to have strong managerial experience in their governing bodies. Amendment No. 239D is designed to enhance and streamline further the decision-making competence of governing bodies.

The basic effect of these two amendments is to produce a new paragraph 4 of Schedule 5 which would require the appointed members to choose up to four further members, at least one of whom would have to have educational experience. The appointed members would thus be free to invite representatives of local authorities, academics and students to join them on the governing body if they so wish. This system would have the added advantage that local authority members most suitable to the tasks set by the Government could be appointed by governing bodies, whereas under the present proposals they might well be excluded.

Perhaps I may just remind the Committee that the Government have laid great emphasis on the wide powers to be exercised by the boards of governors of these corporations, as is evidenced in Clause 108. In addition to their responsibilities for the provision of higher and further education and the conduct of research and other such activities, these institutions are to become more entrepreneurial, to own their own buildings, estates and other assets, employ their own staff, supply goods and services, acquire and dispose of property, borrow and invest and, in short, operate more nearly like any other company.

I also remind the Committee that the Government themselves have emphasised the enhanced role to be undertaken in the governance of these institutions by those of wide experience of industry, commerce and the professions. If the boards of governors are to be effective they must be sufficiently small to be cohesive and so constituted as to undertake the functions that they are expected to discharge. They must not discourage successful and busy people by inappropriate composition and discussion.

Surely it cannot be appropriate for the composition currently envisaged in the Bill to determine matters relating to overall strategy, the employment of staff, the acquisition and disposition of assets, the supply of goods and services, and borrowing and investment. The proposals as they now stand call into question the role of the polytechnic directors themselves as chief executives in these corporations although the Government have made it plain in another place in Standing Committee on 11th February that it is their expressed intention that that is how they are expected to function.

In conclusion, the unease generated by the lack of an apparent rationale for the provisions of governance outlined in Schedule 5 is compounded by the fact that these must be considered in the absence of any firm knowledge of whether the articles of governance referred to in Clause 109 will reflect a clear logic of responsibility and accountability in which decisions can be taken. There is a general

concern among polytechnic directors that unless these articles clearly delineate the directors themselves as chief executives responsible to these boards, then the polytechnics will be incapacitated in their ability to achieve the objectives identified for them by Government.

My honourable friend the Minister in another place summed up the Government's rather muddled position—as it appears to me—when he argued that the Government have had to make a judgment about whether to opt for an exclusively management-directed governing body or a representative governing body. He confessed that the Government decided on a hybrid of the two.

However, I suggest that a hybrid model is a recipe for confusion. The polytechnic directors have indicated that they need governing bodies that will enable them most effectively to fulfil the demanding responsibilities laid upon them. I have been asked to represent their concerns to Members of the Committee. I sincerely hope that the Committee will consider them sympathetically. I beg to move.

The Lord Chancellor: The Government's consultations on the higher education White Paper produced two different views on the size and composition of the boards of governors for the higher education corporations. Some argued, as my noble friend has just done, that the proposals in the Bill did not go far enough to limit the size of these boards. Others argued that these plans went too far: that the board should be as fully representative of staff, students and other bodies as many governing bodies now are.

In the new situation, differing from the present, the boards will be responsible for the overall character, strategy and finance of the institutions. The Government fully recognise that the boards will need to include a strong voice for people from business, industry and the professions to ensure that the institutions are responsive to the wider world and in particular to the needs of employers and to help foster a spirit of enterprise in the institutions. But we also recognise that there is a long, and generally useful, tradition of representative involvement in the government of academic bodies. We think it desirable that staff and students should be party to decisions which affect them. Representation on the board of governors is a means of giving effect to that aim.

My noble friend argues that the representative element unnecessarily inflates the size of the board and—and perhaps this is her particular point—that thereby effective decision making is hindered. We certainly agree strongly that the new boards need to be smaller than many existing governing bodies. The upper limit of 25 set in the schedule means that they will be. At the same time the schedule permits institutions which wish to have a smaller governing body to go as low as 13 members, including the director or principal.

It is also suggested—and I think that this is implicit in what my noble friend said—that the representative element may well side with the staff against management. That risk is inherent in having students and staff on the board, but equally others have

med, as one of the strengths of the representative tradition, that it involves staff and students in the management of the institution and often makes them more understanding of, and responsive to, the pressures and opportunities that face management. The case for local authority representation rests on the regional significance of the higher education which these institutions provide and on their role in the local provision of further education.

The approach that we have followed is to give representatives of the staff, the students and the local education authorities a voice on the governing body so that they can be heard. But the director and the independent members will have a clear majority. There is no question of their being overwhelmed.

I think that nobody would deny that there needs to be strong management in the institutions to ensure that they fully meet their potential. The head of the institution must be able to manage. These are really matters for the conduct of the institution and the articles of government. We wish the articles to include a clear statement of the respective roles of the board of governors and the director and to give the director the necessary authority to manage within the overall responsibilities of the board of governors. The Department of Education and Science will shortly be circulating draft model articles for consideration, seeking to give effect to these principles.

I am grateful to my noble friend for stimulating, through this amendment and the related ones, a debate on the membership of higher education corporations. I shall certainly draw what she has said to the attention of my right honourable friend the Secretary of State. However, at the present we remain unpersuaded that it would be right to follow the line that she has proposed. The effectiveness of management is quite clearly recognised, but this is the way in which we hope to effect it. I hope that, with these considerations before her, my noble friend may feel able to withdraw this amendment.

Baroness Seear: I very much want to agree with the Government in wishing to keep the representational element. Colleges are essentially places in which it is the staff who determine whether the colleges will be successfully run and will meet their primary objective, which is to provide good courses and good research. There is a tendency at the present time to overdo the managerial element in the running of colleges and not to recognise sufficiently that unless the staff have a very considerable say on a collegiate basis in the way the institutions are run, those institutions will suffer very severely. I am very glad indeed to hear that the Government intend to keep the representational element for the staff, and for the students. That is essential in the running of the college.

Baroness Cox: Let me say how grateful I am to my noble and learned friend for his clarification of the Government's position. I shall read with great care the details of what has been outlined. I was especially interested in the points relating to the articles, because the articles and the structure must be seen together as a totality. I am also most grateful to him for the assurance that he will draw these matters to

the attention of his right honourable friend the Secretary of State. In the meantime I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

[Amendments Nos. 239 to 239C not moved.]

Baroness David moved Amendment No. 239CA:

Page 186, line 17, at end insert ("or to represent community interests served by the institution").

The noble Baroness said: This amendment tries to widen the representation a little and to make sure that community interests are involved, because the present clauses narrow the representative base of these bodies compared with what goes on at the moment. As these governing bodies will have more responsibilities than the present ones, it seems important that there should be very wide representation on them.

The Bill appears to have failed to acknowledge the important contribution that a broad range of community interests can make, or indeed the valuable experience built up by the present governing bodies over the last 20 years. Governing bodies set up by this Bill must be seen to be at least as accountable as their predecessors if the credibility of the newly independent institutions is to be assured.

A very wide range of educational interests are concerned to achieve increased accountability and community representation on the governing bodies of the higher education corporation. So I hope that the noble and learned Lord will be willing to put in this amendment, because it will give satisfaction to a great number of people. I beg to move.

The Lord Bishop of Manchester: I should like to support this amendment as strongly as I can before the noble and learned Lord replies. It seems to me that as the schedule is drafted at the moment the words:

"industrial, commercial or employment matters or the practice of any profession",

are not wide enough to include the great diversity that we now get in many areas of our country which are served by these great institutions of higher education. I hope very much that the Government will see their way to including this wording.

The Lord Chancellor: The Government's plans as set out in *Higher Education: Meeting the Challenge* provide for boards of governors to have strong representation from industry, commerce and the professions. We want this to foster effective management in the institutions, to ensure that they are responsive to the needs of employers and to develop a strong enterprise approach in them.

The Bill therefore provides for the boards of governors to have at least half of their members from business, commerce and the like. The inclusion in the independent category of community representatives who do not have strong links in business and so on could detract from this. But there is absolutely no reason why people who have such links should not be representative of the community. I cannot therefore accept this amendment.



File 1000

10 DOWNING STREET

THE PRIME MINISTER

20 May 1988

Dear Lady Cox,

Thank you for your letter of 15 May about the composition of governing bodies for polytechnics and colleges. I am pleased that you were able to welcome the Lord Chancellor's response when your amendments were considered in Committee on 16 May.

Yours sincerely

Margaret Thatcher

The Baroness Cox

John